August 10, 2015

By Express Mail
Via Email: ogc@dhs.gov

Office of the General Counsel
U.S. Department of Homeland Security
Washington, D.C. 20258
EK991612614US

U.S. Customs & Border Protection
Office of the Chief Counsel
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229
EK991612591US

Office of the Principal Legal Adviser
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20024
EK991612695US

Re: Administrative Notice of Federal Tort Claims Act Claims for:

Dear Counsel:


Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

R. Andrew Free, Esq.
CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

1. Submit to appropriate Federal agency:
   U.S. Department of Homeland Security
   U.S. Immigration and Customs Enforcement
   U.S. Customs and Border Protection
   See attachment

2. Name, address of claimant, and claimant's personal representative if any.
   (See instructions on reverse) Number, Street, City, State and Zip code.
   c/o R. Andrew Free
   P.O. Box 90568
   Nashville, TN 32709

3. Type of employment
   [ ] Military  [X] Civilian

4. Date of birth
   [ ] Separated

5. Marital status
   [ ] Separated

6. Date and day of accident
   July 4-27, 2015

7. Time (A.M. or P.M.)

8. Basis of claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).
   See attachment.

9. Property damage
   NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip code).
   BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
   (See instructions on reverse side).

10. Personal injury/wrongful death
    STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDEINT.
    See attachment.

11. Witnesses
    NAME
    ADDRESS (Number, Street, City, State, and Zip code)
    See attachment.

12. (See instructions on reverse.)
    AMOUNT OF CLAIM (in dollars)
    12a. PROPERTY DAMAGE 12b. PERSONAL INJURY
    500,000.00

   12c. WRONGFUL DEATH

   12d. TOTAL (Failure to specify may cause forfeiture of your rights).
   500,000.00

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. Signature of claimant (See instructions on reverse side).

13b. Phone number of person signing form
    (615) 432-2842

14. Date of signature
    08/10/2015

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)

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95-109

NSN 7840-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.2
INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes  ☐ No  If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes  ☐ No  If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code).

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant must submit a separate claim form.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DUTY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14.

Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian, or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of the treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization or incapacity, attaching itemized bills for medical, hospital, or burial services actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested persons, or, if payment has been made, the itemized signed receipts evidence thereof.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant shall submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims.

C. Routine Use: The Notice of Systems of Records for the agency to which you are submitting this form for this information.

D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

STANDARD FORM 95 REV. (2/2007) BACK
AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I hereby authorize R. Andrew Free to file an Administrative Tort Claim on my behalf pursuant to the Federal Tort Claims Act to pursue damages arising out of the tortious and unlawful conduct of federal law enforcement officials.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Printed Name: [Redacted]
Signature: [Redacted]
Date of Birth: [Redacted]
A-Number: [Redacted]
Date: 5/08/2075
1. Submit to Appropriate Federal Agency:

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
500 12th Street, N.W.  
Washington, D.C. 20024

Office of the Chief Counsel  
U.S. Customs & Border Protection  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

8. Basis of Claim:

On July 2, 2015, Claimant entered the United States near Antelope Wells, New Mexico with her seven year-old son and four year-old grandson. They did not leave by choice; nor did they make the dangerous journey north seeking out economic opportunity. Rather, they fled their native Guatemala after Claimant’s husband, who had physically and emotionally abused her for many years with impunity, struck her so forcefully in the head that it caused her to lose consciousness and left her unable to hear out of one ear. Although she was in excruciating pain, Claimant fled Guatemala with the two young boys she had been raising out of fear that her husband’s next beating could be one that ended her life.

After crossing the U.S.-Mexico land border, Claimant and her boys located the nearest border patrol agents to turn themselves in and seek asylum. They eventually located U.S. Customs and Border Protection (CBP) Border Patrol officers at the El Paso Station. Because Claimant only speaks the indigenous Guatemalan language Achi fluently and cannot read or write proficiently in any language, she was unable to effectively express her fear to the CBP officials she encountered. No official ever attempted to provide Claimant and Achi interpreter before placing her into removal proceedings on July 4, 2015 and transferring her to the refugee family internment camp operated by U.S. Immigration and Customs Enforcement (“ICE”) and its for-profit private prison contracting partner, the Corrections Corporation of America (“CCA”), in Dilley, Texas, known officially as the South Texas Family Residential Center.

Despite the facility’s name Claimant’s whole family did not make it the so-called “family” residential center. Because her four year-old grandson is not her immediate relative, the
government classified him as an unaccompanied minor and separated him from the woman who had cared for and protected him most of his life. This separation was the direct result of a blanket DHS-ICE-CBP agency policy of detaining roughly 15-20% of female heads of household apprehended while crossing the Southwestern border in order to deter a future influx of migration from Central American countries, regardless of those individuals’ flight risk or danger to the community. Moreover, this blanket deterrence policy is the result of DHS’s deliberate and calculated rejection of the empirical fact that nearly all (almost 87%, by the agency’s own count) are bona fide asylum seekers, rather than “economic migrants,” as the agency has chosen to mischaracterize them.

Claimant and her son’s detention was also a facet of CBP’s “consequence delivery system,” in which family detention is unlawfully used as a punitive measure to deter individual migrants from re-entering the United States following removal, regardless of their eligibility for relief such as asylum, withholding, or protection under the Convention Against Torture.

Once she arrived at the detention facility, Claimant attempted to seek out medical care for her injury to the ear and the extreme pain it caused. In response, she received a cotton ball, eardrops, and a mild painkiller. No medical professional ever communicated with her in Achi. Claimant’s son soon developed a severe cough, which persisted for eight days without adequate medical treatment. He grew listless and had a fever. Claimant’s dire concerns about child’s health and that of her child went unaddressed by medical personnel and staff at the facility.

Throughout her time there, no CCA, ICE, or other employee at the Dilley internment camp attempted to communicate with Claimant in Achi about the nature and purpose of her detention, her legal rights, and the process for obtaining medical and other care for her child. As a result, Claimant and her child spent nearly three weeks in the facility – from on or around July 4, 2015 until on or around July 24, 2015 – in almost constant fear, pain, uncertainty, and doubt.

Claimant remains unable to hear out of her injured ear, and she and her son have been severely traumatized by their time in detention.

ICE officials and those they contracted owe Claimant and her son Constitutional, statutory, regulatory, sub-regulatory, and contractual duties of care. These duties include, but are not limited to, the duty to provide access an interview with an asylum officer upon expressing a fear of return, the duty to ensure the health and safety of individuals temporarily detained in CBP custody, the duty to provide adequate medical screening and emergent care, the duty to provide language services allowing individuals to understand the nature and reasons for their detention, the duty to promptly serve documents such as a Notice to Appear upon detainees and the Immigration Court, the duty to provide educational access to school-aged minors, the duty to facilitate access to legal counsel and advise detainees of their potential rights under federal court settlements and injunctions, the duty to preserve and honor parental rights, and the duty to
provide adequate nutrition and sustenance. Moreover, ICE was under duty by virtue of its decades-old settlement agreement with a class of juveniles not to detain Claimant’s son in a secure, unlicensed facility. ICE and its agents breached these duties, causing Claimant and her minor child damages.

10. Nature and Extent of Injuries Forming Basis for the Claim:

The deprivations Claimant experienced during her time in the Dilley detention facility constitute negligence, gross negligence, negligent entrustment, negligent hiring, negligent training, negligent supervision, false imprisonment, and intentional infliction of emotional distress on the part of ICE law enforcement officers and supervisors. Claimant’s detention violated ICE’s own binding policies, settlement agreements, contracts, regulations, and statutes, as well as the U.S. Constitution’s clearly established Due Process rights governing immigration detainees. As such, this tortious conduct is not subject to the FTCA’s discretionary function exception, or any other FTCA exception.

ICE officials’ tortious conduct caused Claimant to suffer non-economic damages, including physical pain and suffering, several mental and emotional pain and anguish, loss of enjoyment of life, and other non-pecuniary losses. She therefore brings this administrative tort claim for damages on behalf of herself and as parent and next friend of her minor child.

11. Witnesses:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claimant</td>
<td>c/o R. Andrew Free, Esq. PO Box 90568 Nashville, TN 37209</td>
</tr>
<tr>
<td>Thomas Homan</td>
<td>c/o ICE Office of Principal Legal Advisor</td>
</tr>
<tr>
<td>Ronald Vitiello</td>
<td>c/o CBP Office of the Chief Counsel</td>
</tr>
<tr>
<td>John L. Lafferty</td>
<td>c/o DHS General Counsel</td>
</tr>
<tr>
<td>Diana G. Fernandez</td>
<td>c/o CBP Office of Chief Counsel</td>
</tr>
</tbody>
</table>
CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

1. Submit to Appropriate Federal Agency:

U.S. Department of Homeland Security
U.S. Customs and Border Protection
U.S. Immigration and Customs Enforcement
See attachment

2. Name, address of claimant, and claimant's personal representative if any.
(See Instructions on reverse) Number, Street, City, State and Zip code.

Gro R. Andrew Free, Esq.
P.O. Box 90568
Nashville, TN 37209

3. TYPE OF EMPLOYMENT

☐ MILITARY  ☒ CIVILIAN

4. DATE OF BIRTH

5. MARITAL STATUS

Single

6. DATE AND DAY OF ACCIDENT

6/11/15-7/31/15

7. TIME (A.M. OR P.M.)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary)

See attachment.

9.

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
(See instructions on reverse side).

10.

PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

See attachment.

11.

WITNESSES

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

See attachment

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

1,000,000

12c. WRONGFUL DEATH

12d. TOTAL (Failure to specify may cause forfeiture of your rights).

1,000,000

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

13b. PHONE NUMBER OF PERSON SIGNING FORM

(615) 432-2642

14. DATE OF SIGNATURE

08/10/2015

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

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NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
28 CFR 14.3
INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? ☐ Yes ☐ No If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number.

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes ☐ No If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code).

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DUTY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN ACCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY.

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The amount claimed should be substantiated by competent evidence as follows:

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(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

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STANDARD FORM 95 REV. (2/2007) BACK
AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I hereby authorize R. Andrew Free to file an Administrative Tort Claim on my behalf pursuant to the Federal Tort Claims Act to pursue damages arising out of the tortious and unlawful conduct of federal law enforcement officials.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Printed Name: 

Signature:  

Date of Birth:  

A-Number:  

Date: 08/06/2015
1. **Submit to Appropriate Federal Agency:**

   Office of the General Counsel  
   U.S. Department of Homeland Security  
   Washington, D.C. 20528

   Office of the Principal Legal Advisor  
   U.S. Immigration and Customs Enforcement  
   500 12th Street, N.W.  
   Washington, D.C. 20024

   Office of the Chief Counsel  
   U.S. Customs & Border Protection  
   1300 Pennsylvania Avenue, N.W.  
   Washington, D.C. 20229

8. **Basis of Claim:**

   On June 11, 2015, at approximately 9:56 p.m., Claimant, a 29 year-old Honduran mother of two young children ages 4 and 6, presented herself and her children to U.S. Customs and Border Protection (“CBP”) officials at the San Luis, Arizona port of entry and sought asylum in the United States. A CBP officer named “Barredo” referred Claimant and her children to pedestrian secondary inspection for further interviewing. The pedestrian secondary station then referred Claimant and her children to the Fraud Unit for an interview. There, she explained to a CBP officer named Aracely Caro that she was seeking asylum in the United States due to escalating threats of violence, kidnapping, and extortion targeted against her and her children from the notorious Honduran 18th Street criminal organization. By 1:40 a.m. on June 12, 2015, CBP contacted the father of claimant’s children, who provided an address where he was living in Atlanta, Georgia and a phone number where he could be reached.

   After the interview, CBP officials charged Claimant and her children with being inadmissible under Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (“INA”). Officer Caro, a CBP official named “SCBPO Pinson”, and a CBP supervisor named “Chief Clark” approved of placing Claimant and her children into expedited removal proceedings. Based on her unequivocally expressed desire to apply for asylum in the United States, CBP officials transferred Claimant and her children to the custody of U.S. Immigration and Customs Enforcement (“ICE”) – Enforcement and Removal Operations (“ERO”) in Yuma, Arizona to await a credible fear interview with an asylum officer.
Claimant and her children arrived in Yuma later the same morning, on June 12, 2015. Just as soon as they arrived, DHS officials in Yuma exercised their discretion to grant Claimant and her young children humanitarian parole into the United States for a period of six months pursuant to Section 212(d)(5)(A). 8 U.S.C. § 1182(d)(5)(A). As a result of the parole decision, Claimant and her children were no longer subject to the mandatory detention provisions governing individuals with expedited removal orders. See INA § 235(b)(1)(B)(iii)(IV); 8 U.S.C. § 1225(b)(1)(B)(iii)(IV). Simply put, DHS’s June 12, 2015 parole of Claimant and her two minor children entitled them to release on June 12, 2015.

But ICE officials did not release Claimant and her children. Instead, DHS-ICE-CBP applied a blanket agency policy of detaining roughly 15-20% of female heads of household who are apprehended by the government while crossing the Southwestern border or while turning themselves in at ports of entry to seek asylum. The express purpose of this agency policy is to deter a future influx of migration from Central American countries, regardless of those individuals’ flight risk or danger to the community. This blanket agency deterrence policy is the direct result of senior DHS officials’ deliberate and calculated rejection of the empirical fact that nearly all (almost 87%, by the agency’s own count, and even more when immigration judge reversals of adverse determinations by asylum officers are considered) are bona fide asylum seekers, rather than “economic migrants,” as the agency has consistently decided to mischaracterize them in public statements. Claimant and her children’s detention was also a facet of CBP’s “consequence delivery system,” in which family detention is unlawfully used as a punitive measure to deter individual migrants from re-entering the United States following removal, regardless of their eligibility for relief such as asylum, withholding, or protection under the Convention Against Torture.

As a result of these unlawful policies, Claimant and her children languished for over six weeks in the refugee family internment camp operated by ICE and its for-profit private prison contracting partner, the Corrections Corporation of America (“CCA”), in Dilley, Texas, known officially as the South Texas Family Residential Center. The deplorable conditions of their 40-day confinement had devastating effects on Claimant and her children.

Toward the end of June, Claimant began vomiting and experiencing chest pain on a daily basis. These episodes of vomiting and pain continued non-stop for a period of nine (9) days. On the first day, she visited the on-site medical clinic to seek treatment. After waiting from 1pm until 7pm, she was turned away without receiving any actual medical treatment. When a medical worker finally saw her, he told her it was “probably a virus,” and gave her a pill. But apparently the pill was just a painkiller that actually made her even sicker. On the seventh day of her illness, Claimant waited from 1pm until 8pm for medical treatment. She received a pill to control nausea and instructions to eat fruit. While the pill offered short-term relief, she still felt terribly ill. In the five weeks between her arrival in the facility on June 13, 2015 and July 20, 2015, Claimant lost 13 pounds – nearly 8% of her body weight.
Claimant’s children did not fare much better. Around five days after they arrived, facility officials forcibly injected both Claimant’s children with a varicella vaccination, despite Claimant’s objection that they had received this vaccination in Honduras. Claimant even presented their Honduran vaccination card to medical officials, who promptly ignored it. This vaccination left both children’s arms itchy and inflamed for several days.

Then, on July 1 or 2, two officials rousted Claimant and her children out of bed at 4:30 in the morning, claiming they had a medical appointment at 5:00 a.m. in one of the chapels. Though Claimant showed the officials the children’s vaccination cards, they ignored her, and instead maintained the children were still missing vaccinations. Over Claimant’s objections, medical professionals gave Claimant’s son one shot and her daughter two. As it turned out, Claimant’s children were among the approximately 250 whom ICE mistakenly injected with adult doses of the Hepatitis-A vaccine.

The effects of the forced injections had a psychologically traumatic effect on both Claimant’s children. Being pulled out of bed in the middle of night and stuck with needles over their mother’s insistent objections—along with large numbers of other crying children in the chapel—left Claimant’s children scarred and constantly terrified of essentially all personnel at the facility. In what can be charitably described as a profoundly tone-deaf act of attempted charity, facility officials placed syringes without needles that looked like the ones used to administer the vaccines in the children’s play area located inside the legal and visitation area of the facility.

Claimant and her legal advocates at the facility repeatedly complained to ICE that she and her children should not be detained there as a result of the June 12, 2015 parole decision, and the demonstrated, confirmed address for the children’s father in Atlanta. Instead of immediately releasing Claimant and her children consistent with the parole order, ICE attorneys and officials conspired to make the record appear as though she was properly detained. They did so by having an asylum officer issue a Notice to Appear in Immigration Court on July 19, 2015, which reflected that Claimant had passed a credible fear interview. This vacated the Expedited Removal Order, and thus, the original basis for parole. However, because the NTA charged Claimant as an Arriving Alien under the INA, ICE subjected her to mandatory detention for an additional thirteen days. ICE Supervisory Detention and Deportation Office K. Lawrence swore out an arrest warrant for Claimant and her children on July 21, 2015.

In other words, the same agency that previously concluded on June 12, 2015 that Claimant was an asylum-seeker who was neither a flight risk nor a danger to the community and that her parole into the United States would be a significant public benefit or in the humanitarian interest reversed its position when confronted with evidence of her false or mistaken imprisonment and instead decided on July 21, 2015 that she should be detained without bond, and without parole. It took ten more days of intense advocacy, including the threat of a federal habeas corpus action, for ICE to finally release Claimant and her children.
ICE officials and those they contracted owe Claimant and her son Constitutional, statutory, regulatory, sub-regulatory, and contractual duties of care. These duties include, but are not limited to, the duty to provide access an interview with an asylum officer upon expressing a fear of return, the duty to ensure the health and safety of individuals temporarily detained in CBP custody, the duty to provide adequate medical screening and emergent care, the duty to provide language services allowing individuals to understand the nature and reasons for their detention, the duty to promptly serve documents such as a Notice to Appear upon detainees and the Immigration Court, the duty to provide educational access to school-aged minors, the duty to facilitate access to legal counsel and advise detainees of their potential rights under federal court settlements and injunctions, the duty to preserve and honor parental rights, and the duty to provide adequate nutrition and sustenance. Moreover, ICE was under duty by virtue of its decades-old settlement agreement with a class of juveniles not to detain Claimant’s children in a secure, unlicensed facility. ICE and its agents breached these duties, causing Claimant and her minor children damages.

10. Nature and Extent of Injuries Forming Basis for the Claim:

The deprivations Claimant and her children experienced during their time in the Dilley detention facility constitute negligence, gross negligence, negligent entrustment, negligent hiring, negligent training, negligent supervision, abuse of process, false arrest, false imprisonment, and intentional infliction of emotional distress on the part of ICE law enforcement officers and supervisors. Claimant’s detention and mistreatment therein violated ICE’s own binding policies, settlement agreements, contracts, regulations, and statutes, as well as the U.S. Constitution’s clearly established Due Process rights governing immigration detainees. As such, this tortious conduct is not subject to the FTCA’s discretionary function exception, or any other FTCA exception.

ICE officials’ tortious conduct caused Claimant to suffer non-economic damages, including physical pain and suffering, several mental and emotional pain and anguish, loss of enjoyment of life, and other non-pecuniary losses. She therefore brings this administrative tort claim for damages on behalf of herself and as parent and next friend of her minor children.

11. Witnesses:

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Ronald Vitiello c/o CBP Office of the Chief Counsel
John L. Lafferty c/o DHS General Counsel
Aracely Caro c/o CBP Office of Chief Counsel
SCBPO Pinson c/o CBP Office of Chief Counsel
Chief Clark c/o CBP Office of Chief Counsel
Nathan Herbert c/o ICE OPLA
SDDO K. Lawrence c/o ICE OPLA
DO Quach c/o ICE OPLA
Audrey McDonnell c/o DHS General Counsel
Brian Hoffman c/o CARA Pro Bono Project
    P.O. Box 18070 Dilley, TX 78017
Aseem Mehta c/o CARA Pro Bono Project
    P.O. Box 18070 Dilley, TX 78017
CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

1. Submit to Appropriate Federal Agency:

U.S. Department of Homeland Security
U.S. Customs and Border Protection
U.S. Immigration and Customs Enforcement
See attachment

2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code.

c/o R. Andrew Free, Esq.
P.O. Box 90568
Nashville, TN 37209

3. TYPE OF EMPLOYMENT

☐ MILITARY  ☑ CIVILIAN

4. DATE OF BIRTH

5. MARITAL STATUS

Single

6. DATE AND DAY OF ACCIDENT

See attachment

7. TIME (A.M. OR P.M.)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).

See attachment

9. PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side)

10. PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDED.

See attachment

11. WITNESSES

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

See attachment

12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)

<table>
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<tr>
<th>12a. PROPERTY DAMAGE</th>
<th>12b. PERSONAL INJURY</th>
<th>12c. WRONGFUL DEATH</th>
<th>12d. TOTAL (Failure to specify may cause forfeiture of your rights)</th>
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<tr>
<td>4,000,000</td>
<td>1,000,000</td>
<td>5,000,000</td>
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I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

13b. PHONE NUMBER OF PERSON SIGNING FORM

14. DATE OF SIGNATURE

(615) 432-2642

08/10/2015

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Fine, imprisonment, or both. (See 18 U.S.C. 267, 1001.)
**INSURANCE COVERAGE**

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? [ ] Yes [ ] No  
If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. [ ] No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? [ ] Yes [ ] No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? [ ] Yes [ ] No  
If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code) [ ] No

---

**INSTRUCTIONS**

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANYING A CLAIM FOR MONEY.

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

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**PRIVACY ACT NOTICE**

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552(a)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims.

C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

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**PAPERWORK REDUCTION ACT NOTICE**

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.
AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I hereby authorize R. Andrew Free to file an Administrative Tort Claim on my behalf pursuant to the Federal Tort Claims Act to pursue damages arising out of the tortious and unlawful conduct of federal law enforcement officials.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Printed Name:
Signature:
Date of Birth:
A-Number:
Date: 08/07/2015
1. Submit to Appropriate Federal Agency:

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
500 12th Street, N.W.  
Washington, D.C. 20024

Office of the Chief Counsel  
U.S. Customs & Border Protection  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

8. Basis of Claims:

A. The 2013 Detention.

On December 26, 2013, U.S. Customs and Border Patrol (“CBP”) Border Patrol agents apprehended Claimant while she was attempting to cross the United States-Mexico border at or near the Hidalgo, Texas Port of Entry. Claimant fled Honduras, where she lived as a 20 year-old single mother of her 4 year-old daughter, after being approached by a member of a violent criminal organization and told she would serve as the sexual property and concubine of his boss.

Pursuant to a CBP longstanding policy and practice called the “Consequence Delivery System,” which is designed to punish undocumented migrants apprehended while attempting to cross the Southwestern border and deter future unlawful migration, CBP officials in the Rio Grande Valley Sector detained Claimant in a series of frigid temporary holding cells referred to by government officials and detainees alike as “hieleras” (roughly translated as “freezers” or “iceboxes”). Also pursuant to this policy, CBP officials told Claimant she would be deported no matter what, even when she informed them she was afraid to return, and failed to document her claim to a fear of returning to Honduras.

When she arrived in the hielera, CBP officials forced Claimant to remove all outer layers of clothing and enter an overcrowded cell. Officials denied her a bed or blanket, a change of clothes, adequate food and water, and the opportunity to speak with an attorney. The lights in the hielera remained on 24 hours per day, which, combined with the frigid cold and lack of bed or bedding, deprived Claimant of sleep for days on end. She was not offered toothpaste or a toothbrush, or the opportunity to bathe while in the hieleras. Toilet paper and hand soap were in
short supply. Only two meals of frequently putrid food were served each day, and the water offered was often not potable.

Claimant realized shortly after being detained that she was pregnant. She developed severe pain in her abdomen, and began experiencing heavy bleeding. She worried she would have a miscarriage. Claimant repeatedly and urgently requested CBP officials allow her to see a doctor. But CBP officials refused to allow her access to adequate medical treatment. And they ignored their own binding internal policy guidance requiring the release of women who are pregnant or nursing from detention except under extraordinary circumstances.


Claimant continued to experience severe pain and bleeding once in Honduras, and ultimately, her unborn child died. Claimant remained in serious condition following her detention and deportation due to CBP’s failure to afford her prompt and appropriate medical treatment.

B. The 2015 Detention.

After months of increasingly serious threats, stalking, and violent physical attacks in Honduras from the same criminal organization who previously sought to sexually enslave Claimant, including an attack in which she was beaten unconscious and almost dragged into a waiting vehicle by members of the organization, Claimant and her daughter (who was then 5 years old) fled to the United States to seek asylum and humanitarian protection.

On or around January 13, 2015, Respondent and her daughter surrendered to CBP officials shortly after entering the United States through the U.S.-Mexico land border. Again, CBP detained Claimant in hieleras for several days. And again, the conditions in those holding facilities there were deplorable.

On January 24, 2015, the Department of Homeland Security (“DHS”) reinstated Claimant’s prior, unlawful expedited removal order. See INA § 241(a)(5); 8 U.S.C. § 1231(a)(5). Soon thereafter, ICE transferred her to the refugee family internment camp operated by U.S. Immigration and Customs Enforcement (“ICE”) and its for-profit private prison contracting partner, the Corrections Corporation of America (“CCA”), in Dilley, Texas, known officially as the South Texas Family Residential Center. Because ICE reinstated her prior removal order, it subjected her to mandatory, no-bond detention pending removal from the United States. See INA § 241(a)(2); 8 U.S.C. § 1231(a)(2).

By reinstating Claimant’s expedited removal order rather than exercising its discretion to issue her a Notice to Appear in immigration court and place her in removal proceedings that
would render her bond-eligible pursuant to INA § 236(a), 8 U.S.C. § 1226(a), DHS-ICE-CBP applied a blanket agency policy of detaining roughly 15-20% of female heads of household who are apprehended by the government while crossing the Southwestern border or while turning themselves in at ports of entry to seek asylum. The express purpose of this agency policy is to deter a future influx of migration from Central American countries, regardless of those individuals’ flight risk or danger to the community.

This blanket agency deterrence policy is the direct result of senior DHS officials’ deliberate and calculated rejection of the empirical fact that nearly all (almost 87%, by the agency’s own count, and even more when immigration judge reversals of adverse determinations by asylum officers are considered) are bona fide asylum seekers, rather than “economic migrants,” as the agency has consistently decided to mischaracterize them in public statements.

Claimant and her daughter’s detention was also a facet of CBP’s “Consequence Delivery System,” in which CBP and ICE unlawfully use family detention as a punitive measure to deter individual migrants from re-entering the United States following removal, regardless of their eligibility for relief such as asylum, withholding, or protection under the Convention Against Torture.

Claimant again informed immigration officials that she feared persecution or death if she and her daughter were forced to return to Honduras. Unlike in 2013, this time DHS afforded her the statutorily required interview with an asylum officer. On February 12, 2015, a trained asylum officer found Claimant’s claims credible and determined that she had demonstrated a reasonable possibility that she and her daughter would be persecuted based on account of a protected ground or tortured if the government deported them to Honduras. Accordingly, the asylum officer referred Claimant to an immigration judge for withholding-only removal proceedings.

Because she was now entitled to pursue her claims for relief before the immigration court, Claimant no longer fell within “removal period” contemplated by Congress, see INA § 241(a)(1)(A), and thus, the mandatory detention provision of INA § 241(a)(2) no longer applied. ICE nevertheless denied Claimant and her daughter the opportunity to apply for a bond. Consequently, she and her daughter have remained in custody without any opportunity for release for nearly six months after DHS confirmed that they have a reasonable possibility of prevailing on their claims for relief.

For both Claimant and her daughter, ICE’s prolonged, no-bond detention has proved physically and psychologically devastating. Beginning in February and March, Claimant was treated repeatedly for frequent, severe headaches, chest pains, difficulty breathing, and heart palpitations. She was prescribed ibuprofen for possible inflammation of chest cartilage and medication for possible reflux disorder. As her time in detention increased, Claimant and medical staff agreed that her physical symptoms were manifestations of corresponding increases
in anxiety and depression. But medical staff consistently downplayed the severity of Claimant’s physical symptoms in their official medical records.

Beginning in April, Claimant received mental health treatment that resulted in diagnoses of severe depression and anxiety, accompanied by symptoms of insomnia, lethargy, and panic attacks. She was referred to a psychiatrist who prescribed her medication. In addition, because Claimant was self-treating her anxiety by making herself vomit, her psychologist began treatment for panic disorder without agoraphobia and eating disorder, unspecified.

As their time in custody grew longer, Claimant’s daughter—now 6 years old—saw more and more women and children being released as their family languished. She grew very angry with her mother and began to exhibit physical and emotional symptoms of anxiety and depression as well.

As her merits hearing in immigration court approached, Claimant became increasingly depressed and anxious. One day, she was afflicted by a terrible headache and intense anxiety. She took the sleep medication she had been prescribed in the hopes of escaping the pain. She woke up to go the bathroom, which was some distance away from where she slept. Claimant felt weak, faint, and nauseated, and her eyesight was affected. When a CCA official noticed her and asked what was wrong, she was unable to respond. She then slumped to the ground and lost consciousness. She woke up later in the clinic and was returned to her room.

Though additional mental health treatment was recommended, Claimant did not receive it. This was because both her psychologist and her psychiatrist left the facility in early May without implementing a plan for continuity of care Re-establishing trust with new treatment providers during this period of trauma and crisis proved effectively impossible. Claimant’s new psychiatrist told her that based on his review of her medical record, he wrote a letter to ICE recommending she and her daughter be immediately released. Inexplicably, no record of this letter exists in Claimant’s medical record, and ICE has repeatedly refused to release Claimant despite this doctor’s orders.

Upon learning in early June that an Immigration Judge had denied her application for relief after her previous attorney failed to so much as speak to her in advance of her hearing, Claimant entered a state of psychiatric emergency. She began crying hysterically and uncontrollably. Her co-detainees took her to the medical clinic, where officials gave her a sedative to calm down. ICE and CCA officials took Claimant’s daughter away from her and informed Claimant they would look after her. Once reunited with her daughter, Claimant learned that ICE and/or CCA personnel had told her six year-old daughter that she had to be separated from her mother because they feared her mother would harm her. This further exacerbated Claimant’s already fragile emotional state.
Shortly thereafter, Claimant’s daughter began refusing food. She then began vomiting blood. Claimant took her to the medical clinic several times for treatment, but she received no medication, and no advise as to how to help her child. Her daughter continued to vomit blood for a week, and in addition, suffered from severe diarrhea. After approximately one week of enduring these acute symptoms and receiving no meaningful treatment, on June 15, 2015, Claimant’s daughter lost consciousness. Only at that point did CCA personnel call an ambulance and transport Claimant and her daughter to an emergency room.

Following an evaluation on July 13, 2015, Clinical and Forensic Psychologist concluded Claimant:

[I]s suffering from severe Post Traumatic Stress Disorder and severe depression and anxiety. During the nearly six months that she has been detained she has suffered from many physical symptoms of anxiety — headaches, chest pains, constricted breathing, fainting spells, heart palpitations, insomnia, nausea and self-induced vomiting — that have required much medical and mental health interventions. Although she swears that she would never attempt suicide, her PTSD, anxiety and depression are severe. It is my opinion that, unless her stress level decreases, she is at risk for a psychotic break. That concern may have been in the minds of her caregivers when they took charge of [Claimant’s daughter] when [Claimant] was having an out-of-control crying episode.

[Claimant’s daughter] also is suffering from symptoms of PTSD, depression, and high levels of anger. She can’t understand why she and her mother are incarcerated when other families are released. She is resisting going to school or playing with other children. During the evaluation session, [Claimant’s daughter] repeatedly came into the room where [Claimant] was, to make sure that her mother hadn’t disappeared.

Extended detention is exacerbating the emotional suffering of this young mother and child. Research studies from all over the world have established that extended incarceration of children amounts to child abuse, and puts young children at risk for long-term emotional, cognitive, and social problems. The stress of detention also impedes mothers’ abilities to heal from trauma and to effectively parent their children.

Despite repeated requests from her counsel, supported by the above medical evidence, and in spite of the Secretary of Homeland Security’s own pronouncement on June 24, 2015 that individuals, like Claimant and her child, who are in family detention and who pass a reasonable fear interview will be released subject to reasonable conditions, ICE has continued to detain Claimant and her daughter, at great risk to their health, safety, and long-term emotional stability.
ICE officials and those they contracted owe Claimant and her child Constitutional, statutory, regulatory, sub-regulatory, and contractual duties of care. These duties include, but are not limited to, the duty to provide access an interview with an asylum officer upon expressing a fear of return, the duty to ensure the health and safety of individuals temporarily detained in CBP custody, the duty to provide adequate medical screening and emergent care, the duty to provide language services allowing individuals to understand the nature and reasons for their detention, the duty to promptly serve documents such as a Notice to Appear upon detainees and the Immigration Court, the duty to provide educational access to school-aged minors, the duty to facilitate access to legal counsel and advise detainees of their potential rights under federal court settlements and injunctions, the duty to preserve and honor parental rights, and the duty to provide adequate nutrition and sustenance. Moreover, ICE was under duty by virtue of its decades-old settlement agreement with a class of juveniles not to detain Claimant’s child in a secure, unlicensed facility. ICE and its agents breached these duties, causing Claimant and her minor child damages.

10. Nature and Extent of Injuries Forming Basis for the Claim:

The deprivations Claimant and her daughter have experienced and continue to experience during their time in the Dilley detention facility constitute negligence, gross negligence, negligent entrustment, negligent hiring, negligent training, negligent supervision, negligent infliction of emotional distress, abuse of process, false arrest, false imprisonment, intentional infliction of emotional distress, and wrongful death of Claimant’s unborn child.

Claimant’s detention and mistreatment in 2013 and 2015 violated ICE’s own binding policies, settlement agreements, contracts, regulations, and statutes, as well as the U.S. Constitution’s clearly established Due Process rights governing immigration detainees. As such, this tortious conduct is not subject to the FTCA’s discretionary function exception, or any other FTCA exception.

ICE officials’ tortious conduct caused Claimant to suffer non-economic damages, including physical pain and suffering, several mental and emotional pain and anguish, loss of enjoyment of life, and other non-pecuniary losses. She therefore brings this administrative tort claim for damages on behalf of herself and as parent and next friend of her minor daughter.

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M.D.

Brian Hoffman

c/o CARA Pro Bono Project
P.O. Box 18070 Dilley, TX 78017

Aseem Mehta

c/o CARA Pro Bono Project
P.O. Box 18070 Dilley, TX 78017

Ph.D.

Elanie Cintron

den 1601 Vine Street
Denver, Colorado 80206
1. Submit to Appropriate Federal Agency:

U.S. Department of Homeland Security
U.S. Customs and Border Protection
U.S. Immigration and Customs Enforcement

See attachment

2. Name, address, and claimant's personal representative if any.

(See instructions on reverse). Number, Street, City, State and Zip code:

See attachment

3. TYPE OF EMPLOYMENT

☐ MILITARY ☒ CIVILIAN

4. DATE OF BIRTH

5. MARITAL STATUS

Single

6. DATE AND DAY OF ACCIDENT

12/27/14 - present

7. TIME (A.M. OR P.M.)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death. Identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary):

See attachment

9. PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side)

10. PERSONAL INJURY/WRONGFUL DEATH

STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.

See attachment

11. WITNESSES

NAME

ADDRESS (Number, Street, City, State, and Zip Code)

See attachment

12. (See instructions on reverse).

AMOUNT OF CLAIM (in dollars)

12a. PROPERTY DAMAGE

12b. PERSONAL INJURY

12c. WRONGFUL DEATH

2,500,000

2,500,000

2,500,000

12d. TOTAL (Failure to specify may cause forfeiture of your rights)

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

12a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

13a. PHONE NUMBER OF PERSON SIGNING FORM

13b. DATE OF SIGNATURE

14. DATE OF SIGNATURE

(615) 432-2642

08/10/2015

The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3726).

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

FINE, IMPRISONMENT, OR BOTH. (See 18 U.S.C. 287, 1001.)

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

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Previous Edition is not Usable

95-109

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)

PRESCRIBED BY DEPT. OF JUSTICE

28 CFR 14.2
INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident insurance? □ Yes □ No If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. □ Yes □ No

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? □ Yes □ No 17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? □ Yes □ No If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code) □ Yes □ No

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DUTY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN ACCIDENT ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or funeral expenses actually incurred.

(b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.

(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

(d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims.

C. Routine Use: See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.

D. Effect of Failure to Respond: Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.
AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I hereby authorize R. Andrew Free to file an Administrative Tort Claim on my behalf pursuant to the Federal Tort Claims Act to pursue damages arising out of the tortious and unlawful conduct of federal law enforcement officials.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Printed Name: 
Signature: 
Date of Birth: 
A-Number: 
Date: 7/8/2015.
1. Submit to Appropriate Federal Agency:

Office of the General Counsel  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Office of the Principal Legal Advisor  
U.S. Immigration and Customs Enforcement  
500 12th Street, N.W.  
Washington, D.C. 20024

Office of the Chief Counsel  
U.S. Customs & Border Protection  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

8. Basis of Claim:

A. The November 2014 Detention and Deportation.

Claimant originally fled Honduras in October of 2014 after barely surviving years of severe physical and psychological abuse against herself and her daughter at the hands of her daughter’s father. This abuse included him beating Claimant, kicking her, throwing her into walls, smashing her skull with a pot so hard that she lost consciousness; throwing a hot iron at her and hitting her daughter with it, leaving a permanent scar on the child’s back at age 3; repeatedly raping Claimant; and threatening her and her daughter with death. In addition to the horrific domestic physical, sexual, and psychological abuse, Claimant and her family fell prey to the extortion, threats, and murderous violence of one of Honduras’s most violent criminal organizations. When her uncle was unable to pay the extortion demands of the organization, members of the criminal organization came to his house and murdered him with large knives in front of Claimant and her aunt. The criminal organization then shifted its extortion demands to Claimant. She eventually reported the extortion to the police, who refused to help her. So she left her daughter with her mother and fled the country for safety in the United States.

CBP officials apprehended Claimant near McAllen, Texas on or around November 12, 2014. Though she told them she feared returning to Honduras, CBP officials falsely claimed that she made no such statement. When Claimant called her mother to inform her that she had been arrested and detained while attempting to seek asylum in the United States, her mother told her that two members of the criminal organization had come to her daughter’s school looking for her, and that her daughter’s father was attempting to find her daughter, too. So Claimant agreed to accept what she thought was a “voluntary return” to Honduras so that she could go and rescue

B. The Present Detention.

After reuniting with her daughter in Honduras in November 2014, Claimant immediately fled the country again to seek safety in the United States. On or about December 27, 2015, Claimant and her seven year-old daughter surrendered themselves to Border Patrol agents in the Rio Grande Valley of Texas near the Weslaco Station, and announced their desire to seek asylum in the United States.

On December 28, 2015, reinstated Claimant’s prior expedited removal order. See INA § 241(a)(5); 8 U.S.C. § 1231(a)(5). Soon thereafter, the CBP transferred her to the refugee family internment camp operated by U.S. Immigration and Customs Enforcement (“ICE”) and its for-profit private prison contracting partner, the Corrections Corporation of America (“CCA”), in Dilley, Texas, known officially as the South Texas Family Residential Center. Because ICE reinstated her prior removal order, it subjected her to mandatory, no-bond detention pending removal from the United States. See INA § 241(a)(2); 8 U.S.C. § 1231(a)(2).

When it reinstated Claimant’s expedited removal order rather than exercising its discretion to issue her a Notice to Appear in immigration court and placing her in removal proceedings that would render her bond-eligible pursuant to INA § 236(a), 8 U.S.C. § 1226(a), DHS-ICE-CBP applied a blanket agency policy of detaining roughly 15-20% of female heads of household who are apprehended by the government while crossing the Southwestern border or while turning themselves in at ports of entry to seek asylum. The express purpose of this agency policy is to deter a future influx of migration from Central American countries, regardless of those individuals’ flight risk or danger to the community.

This blanket agency deterrence policy is the direct result of senior DHS officials’ deliberate and calculated rejection of the empirical fact that nearly all (almost 87%, by the agency’s own count, and even more when immigration judge reversals of adverse determinations by asylum officers are considered) are bona fide asylum seekers, rather than “economic migrants,” as the agency has consistently decided to mischaracterize them in public statements.

Claimant and her daughter’s mandatory detention was also a facet of CBP’s “consequence delivery system,” in which family detention is unlawfully used as a punitive measure to deter individual migrants from re-entering the United States following removal, regardless of their eligibility for relief such as asylum, withholding, or protection under the Convention Against Torture.
On January 2, 2015 Claimant again informed immigration officials—that she feared persecution or death if she and her daughter were forced to return to Honduras. Unlike in 2014, this time DHS afforded her the statutorily required interview with an asylum officer. On January 15, 2015, a trained asylum officer interviewed Claimant and her daughter. The next day, he issued an opinion explaining that he found Claimant’s claims credible and determined that she had demonstrated a reasonable possibility that she and her daughter would be persecuted based on account of a protected ground or tortured if the U.S. government forced them to return to Honduras. Accordingly, the asylum officer referred Claimant to an immigration judge for withholding-only removal proceedings on January 16, 2015.

Because she was now entitled to pursue her claims for relief before the immigration court, Claimant no longer fell within “removal period” contemplated by Congress, see INA § 241(a)(1)(A), and thus, the mandatory detention provision of INA § 241(a)(2) no longer applied to her. ICE nevertheless has denied Respondent the opportunity to apply for a bond for the past seven and a half months. Consequently, she and her daughter have remained in custody without any opportunity for release for nearly eight months after DHS confirmed that they have a reasonable possibility of prevailing on their claims for relief.

This prolonged period that Claimant and her daughter have spent in mandatory detention has had devastating physical and psychological consequences for both of them. Following an independent evaluation on July 15, 2015, a Board-Certified Texas Psychiatrist diagnosed Claimant with Post Traumatic Stress Disorder, Generalized Anxiety Disorder, and Major Depressive Disorder. Noting Claimant’s continuous neck pain and muscle tension, inability to focus well or achieve restful sleep, constant sadness, spontaneous crying, anhedonia, decreased appetite, constant fatigue, and suicidal ideation, the physician concluded Claimant’s mental condition seems to be deteriorating as her confinement continues into the seventh month. She appears to have worsening depressive and anxiety symptoms. Also her PTSD symptoms are being exacerbated by being held without any distractions to keep her mind off of the severe trauma she has experienced.

Over the course of her nearly eight-month imprisonment, Claimant’s now 8-year old daughter has regressed to breastfeeding as a result of the psychological trauma inflicted upon her by their extended time in detention.

Despite repeated requests from her pro bono immigration counsel, in spite of the Secretary of Homeland Security’s own pronouncement on June 24, 2015 that individuals, like Claimant and her family, who are in family detention and pass a reasonable fear interview will be released subject to reasonable conditions, ICE has continued to detain Claimant and her daughter, at great risk to their health, safety, and long-term psychological stability.
ICE officials and those they contracted owe Claimant and her daughter Constitutional, statutory, regulatory, sub-regulatory, and contractual duties of care. These duties include, but are not limited to, the duty to provide access an interview with an asylum officer upon expressing a fear of return, the duty to ensure the health and safety of individuals temporarily detained in CBP custody, the duty to provide adequate medical screening and emergent care, the duty to provide language services allowing individuals to understand the nature and reasons for their detention, the duty to promptly serve documents such as a Notice to Appear upon detainees and the Immigration Court, the duty to provide educational access to school-aged minors, the duty to facilitate access to legal counsel and advise detainees of their potential rights under federal court settlements and injunctions, the duty to preserve and honor parental rights, and the duty to provide adequate nutrition and sustenance. Moreover, ICE was under duty by virtue of its decades-old settlement agreement with a class of juveniles not to detain Claimant’s daughter in a secure, unlicensed facility. ICE and its agents breached these duties, causing Claimant and her minor child damages.

10. Nature and Extent of Injuries Forming Basis for the Claim:

The deprivations Claimant and her daughter have experienced and continue to experience during their time in the Dilley detention facility constitute negligence, gross negligence, negligent entrustment, negligent hiring, negligent training, negligent supervision, negligent infliction of emotional distress, false imprisonment, and intentional infliction of emotional distress.

Claimant and her daughter’s detention and mistreatment violates ICE’s own binding policies, settlement agreements, contracts, regulations, and statutes, as well as the U.S. Constitution’s clearly established Due Process rights governing immigration detainees. As such, this tortious conduct is not subject to the FTCA’s discretionary function exception, or any other FTCA exception.

ICE officials’ tortious conduct caused Claimant to suffer non-economic damages, including physical pain and suffering, several mental and emotional pain and anguish, loss of enjoyment of life, and other non-pecuniary losses. She therefore brings this administrative tort claim for damages on behalf of herself and as parent and next friend of her minor daughter.

11. Witnesses:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claimant</td>
<td>c/o R. Andrew Free, Esq. PO Box 90568</td>
</tr>
<tr>
<td></td>
<td>Nashville, TN 37209</td>
</tr>
</tbody>
</table>
Thomas Homan  c/o ICE Office of Principal Legal Advisor
Ronald Vitiello  c/o CBP Office of the Chief Counsel
John L. Lafferty  c/o DHS General Counsel
Alejandro Suarez, Border Patrol Agent  c/o CBP Office of Chief Counsel
William A. Ramsey, Acting Patrol Agent in Charge  c/o CBP Office of Chief Counsel
William Figueroa  c/o CBP Office of Chief Counsel
Johnny D. Cavazos, Border Patrol Agent  c/o CBP Office of Chief Counsel
Robert Gonzalez  c/o CBP Office of Chief Counsel
Erika D. Gonzalez, Border Patrol Agent  c/o CBP Office of Chief Counsel
Daniel Poe, Border Patrol Agent  c/o CBP Office of Chief Counsel
Matthew Depaola, Acting Patrol Agent in Charge  c/o CBP Office of Chief Counsel

DO, Board Certified Psychiatrist

Brian Hoffman  c/o CARA Pro Bono Project
P.O. Box 18070 Dilley, TX 78017

Aseem Mehta  c/o CARA Pro Bono Project
P.O. Box 18070 Dilley, TX 78017
CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROVED
OMB NO. 1105-0006

1. Submit to Appropriate Federal Agency:
   U.S. Department of Homeland Security
   U.S. Customs and Border Protection
   U.S. Immigration and Customs Enforcement
   See attachment

2. Name, address of claimant, and claimant's personal representative if any.
   (See instructions on reverse) Number, Street, City, State and Zip code.
   G/o R. Andrew Free, Esq.
   P.O. Box 90568
   Nashville, TN 37209

3. TYPE OF EMPLOYMENT
   [ ] MILITARY  [X] CIVILIAN

4. DATE OF BIRTH
   [ ] Single

6. DATE AND DAY OF ACCIDENT
   6/7/15-8/3/15

7. TIME (A.M. OR P.M.)

8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).
   See attachment

9. PROPERTY DAMAGE
   NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).

   BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED.
   (See instructions on reverse side).

10. PERSONAL INJURY/WRONGFUL DEATH
    STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDED.

    See attachment

11. WITNESSES
    NAME
    ADDRESS (Number, Street, City, State, and Zip Code)

    See attachment

12. (See instructions on reverse)
    AMOUNT OF CLAIM (in dollars):
    12a. PROPERTY DAMAGE
    1,000,000
    12b. PERSONAL INJURY
    1,000,000
    12c. WRONGFUL DEATH
    12d. TOTAL (Failure to specify may cause forfeiture of your rights).

I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.

13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).

   CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM
   The claimant is liable to the United States Government for a civil penalty of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729)

   CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS
   Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001)

13b. PHONE NUMBER OF PERSON SIGNING FORM
    (615) 432-2642

14. DATE OF SIGNATURE
    08/10/2015

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95-109

NSN 7540-00-634-4046

STANDARD FORM 95 (REV. 2/2007)
PRESCRIBED BY DEPT. OF JUSTICE
20 CFR 14.2
INSURANCE COVERAGE

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INSTRUCTIONS

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PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. Authority: The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

B. Principal Purpose: The information requested is to be used in evaluating claims.

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AUTHORIZATION TO FILE ADMINISTRATIVE TORT CLAIM

I hereby authorize R. Andrew Free to file an Administrative Tort Claim on my behalf pursuant to the Federal Tort Claims Act to pursue damages arising out of the tortious and unlawful conduct of federal law enforcement officials.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

[Redacted]

Printed Name

Signature

Date of Birth

A-Number

Date: 08/06/2015
1. **Submit to Appropriate Federal Agency:**

   Office of the General Counsel  
   U.S. Department of Homeland Security  
   Washington, D.C. 20528

   Office of the Principal Legal Advisor  
   U.S. Immigration and Customs Enforcement  
   500 12th Street, N.W.  
   Washington, D.C. 20024

   Office of the Chief Counsel  
   U.S. Customs & Border Protection  
   1300 Pennsylvania Avenue, N.W.  
   Washington, D.C. 20229

8. **Basis of Claim:**

   On or about June 7, 2015, Claimant and her then-three year-old son surrendered to U.S. Customs and Border Protection (“CBP”) Border Patrol officials after entering the United States at or near Rio Grande City, Texas. Claimant promptly announced her attention to seek asylum in the United States based on her severe past persecution in her native El Salvador.

   Specifically, after growing up in a foster home since as early as she could remember until around age seven, Claimant went to live with her grandmother, where her step-father began regularly beating her, tying her up, and raping her. She later moved out, and had her son when she was a teenager, and encountered significant persecution by members of brutal criminal organizations.

   In early 2015, MS gang members kidnapped Claimant for several days, and five members of the gang raped and tortured her, including breaking her fingers and her wrist, until a $4000 “fine” was paid. They released Claimant with a message: If you report this, we will kill you. After going to the hospital for her injuries, she made a police report. But because of endemic corruption, the police immediately notified the MS gang members of her report. They, in turn, notified Claimant that she had only three days left to live. So Claimant took her son and the clothes on her back and fled El Salvador to seek safety and security in the United States for herself and her child.

   After detaining Claimant and her son in “hieleras” for several days, CBP transferred Claimant and her son to the refugee family internment camp operated by U.S. Immigration and Customs Enforcement (“ICE”) and its for-profit private prison contracting partner, the
Corrections Corporation of America ("CCA"), in Dilley, Texas, known officially as the South Texas Family Residential Center. This transfer and detention occurred because DHS-ICE-CBP applied a blanket agency policy of detaining roughly 15-20% of female heads of household who are apprehended by the government while crossing the Southwestern border or while turning themselves in at ports of entry to seek asylum. The express purpose of this agency policy is to deter a future influx of migration from Central American countries, regardless of those individuals’ flight risk or danger to the community. This blanket agency deterrence policy is the direct result of senior DHS officials’ deliberate and calculated rejection of the empirical fact that nearly all of these migrants (almost 87%, by the agency’s own count, and even more when immigration judge reversals of adverse determinations by asylum officers are considered) are bona fide asylum seekers, like Claimant, rather than “economic migrants,” as the agency has consistently decided to mischaracterize them in public statements.

Claimant and her son’s detention was also a facet of CBP’s “consequence delivery system,” in which family detention is unlawfully used as a punitive measure to deter individual migrants from re-entering the United States following removal, regardless of their eligibility for relief such as asylum, withholding, or protection under the Convention Against Torture.

On July 8, 2015, a trained asylum officer interviewed Claimant and concluded she had demonstrated a significant possibility that she and her son would be persecuted based on account of a protected ground or tortured in El Salvador. Accordingly, the asylum officer made a positive credible fear finding and referred Claimant to an immigration judge for withholding-only removal proceedings on July 8, 2015. But ICE did not release Claimant or her son, as promised by the Secretary of Homeland Security in his June 24, 2015 announcement. It did not even serve the documents on the Immigration Court so that she could seek a bond from an immigration judge for at least a week. Instead, Claimant and her son languished in detention for an additional 28 days after passing the credible fear interview.

Throughout their detention, Claimant and her son—both survivors of horrific trauma—received shockingly substandard medical care and treatment. Claimant repeatedly sought treatment for her broken wrist and fingers. On her third day in Dilley, June 11, 2015, she went to tell medical personnel that her hand was broken and she needed treatment. In response, facility personnel told her that her hand did not need treatment, and that she should drink more water. Next, she asked to see a doctor. The person she believed was the doctor looked at her hand and told her nothing was going to work, and once again said that she needed to drink a lot of water. Claimant’s injury is painfully obvious—even the asylum officer later noted it. Her pinky finger and ring finger and have been snapped into bending the opposite direction that they should. She is unable to feel or move these fingers. Moreover, her wrist is also clearly and visibly broken. The pain was so bad that Claimant could not sleep. She was unable to write. By July 6, 2015, Claimant had still received no medical attention whatsoever for her broken fingers and wrist.
Claimant’s son received even more blatantly incompetent and negligent care. The first time she took him to the medical clinic, he was fatigued, vomiting and had a fever. They waited six hours in the Texas son to see a medical professional, only to be told he needed to drink water, and that there was nothing physically wrong with him. Instead, the medical professional informed Claimant that it must be psychological, and suggest she try and get him in to see a psychologist. A second visit in mid-June came after another round of vomiting and a very high fever. When Claimant asked for immediate medical attention, a facility staffer informed her she and her son would have to wait in the son for a minimum of six hours. Worried that this would only worsen his condition, Claimant refused. Consequently, the facility personnel made her sign a form saying she refused medical attention for her son.

Over time, Claimant’s son became so ill that he barely ate for than a few bites a day for a period of a week. He developed a severe cough that woke him up frequently in the night. As he approached his fourth birthday in mid-July, Claimant’s son dropped from 50 pounds when they got to the family internment camp to 39 pounds. In the third week of June, Claimant’s son’s medical condition got so bad that she sought the assistance of her pro bono lawyers in the legal visitation area of the facility. Upon observing the listless, limp, discolored child and confirming that the only medical treatment he’d received in over forty days at the facility was to drink more water, an attorney called an ambulance. Claimant’s son was rushed to an emergency room in San Antonio, where physicians informed her that he was very, very sick. He had a virus that had apparently gone untreated for a dangerously long period of time. Hospital personnel had to treat Claimant’s son for five days.

ICE officials and those they contracted owe Claimant and her son Constitutional, statutory, regulatory, sub-regulatory, and contractual duties of care. These duties include, but are not limited to, the duty to provide access an interview with an asylum officer upon expressing a fear of return, the duty to ensure the health and safety of individuals temporarily detained in CBP custody, the duty to provide adequate medical screening and emergent care, the duty to provide language services allowing individuals to understand the nature and reasons for their detention, the duty to promptly serve documents such as a Notice to Appear upon detainees and the Immigration Court, the duty to provide educational access to school-aged minors, the duty to facilitate access to legal counsel and advise detainees of their potential rights under federal court settlements and injunctions, the duty to preserve and honor parental rights, and the duty to provide adequate nutrition and sustenance. Moreover, ICE was under duty by virtue of its decades-old settlement agreement with a class of juveniles not to detain Claimant’s son in a secure, unlicensed facility. ICE and its agents breached these duties, causing Claimant and her minor child damages.

10. Nature and Extent of Injuries Forming Basis for the Claim:
The deprivations Claimant and her son experienced during their time in the Dilley detention facility constitute negligence, gross negligence, negligent entrustment, negligent hiring, negligent training, negligent supervision, negligent infliction of emotional distress, false imprisonment, and intentional infliction of emotional distress.

Claimant and her son’s detention and mistreatment violated ICE’s own binding policies, settlement agreements, contracts, regulations, and statutes, as well as the U.S. Constitution’s clearly established Due Process rights governing immigration detainees. As such, this tortious conduct is not subject to the FTCA’s discretionary function exception, or any other FTCA exception.

ICE officials’ tortious conduct caused Claimant to suffer non-economic damages, including physical pain and suffering, several mental and emotional pain and anguish, loss of enjoyment of life, and other non-pecuniary losses. She therefore brings this administrative tort claim for damages on behalf of herself and as parent and next friend of her minor son.

11. Witnesses:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
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<tbody>
<tr>
<td>Claimant</td>
<td>c/o R. Andrew Free, Esq. PO Box 90568</td>
</tr>
<tr>
<td></td>
<td>Nashville, TN 37209</td>
</tr>
<tr>
<td>Thomas Homan</td>
<td>c/o ICE Office of Principal Legal Advisor</td>
</tr>
<tr>
<td>Ronald Vitiello</td>
<td>c/o CBP Office of the Chief Counsel</td>
</tr>
<tr>
<td>John L. Lafferty</td>
<td>c/o DHS General Counsel</td>
</tr>
<tr>
<td>Brian Hoffman</td>
<td>c/o CARA Pro Bono Project</td>
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<td></td>
<td>P.O. Box 18070 Dilley, TX 78017</td>
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<td>Aseem Mehta</td>
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