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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

Karen Esteffany MADRIGALES
VASQUEZ; Jonathan Hidelberto ZETINO
AGUIRRE; S.Z.M.; and T.Z.M.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 3:23-cv-5397

COMPLAINT

INTRODUCTION

1. Plaintiffs are a family of asylum seekers—two minor children and their parents—who fled Guatemala and came to the United States in search of protection from persecution.

2. After a long and arduous journey on foot and by bus, Plaintiffs arrived in the U.S. on February 21, 2021. Upon their arrival, federal immigration officers arrested them and then dropped them off under an international border bridge in or near McAllen, Texas, where hundreds of other migrants were similarly being held.

3. During the initial registration at the site, Plaintiffs indicated to the immigration officers that they had come to the United States to apply for asylum. But instead of treating

1 Plaintiffs with respect and care—especially given their particularly vulnerable status—
2 Defendant’s employees detained them under the bridge in wholly inhumane and unsafe
3 conditions that violated their basic rights and sense of dignity as human beings.

4 4. During their detention, Plaintiffs lacked adequate access to even the most basic
5 necessities, including food, clothing, shelter, and medical care. They were exposed to the
6 elements at all times and forced to live and sleep on the bare dirt ground, with hardly any
7 protection from the frigid weather during the nights. When one of the adult Plaintiffs became ill
8 and sought medical attention, she was denied medical care.

9 5. Moreover, Defendant’s employees put Plaintiffs at an unreasonable risk of
10 contracting COVID-19, at a time when a vast majority of the population in the United States and
11 throughout the world remained unvaccinated. Inside the holding area, Plaintiffs had no access to
12 running water or essential hygiene items like soap, and social distancing was simply impossible
13 because the site was extremely overcrowded.

14 6. Defendant’s employees detained Plaintiffs in these inhumane and unsafe
15 conditions for three days. During that time, they refused to provide Plaintiffs with any
16 explanation regarding their situation, why they were detained, or what would happen to them.

17 7. Upon information and belief, Plaintiffs’ detention under the bridge occurred
18 pursuant to a federal policy or practice of holding recent entrants under a border bridge to
19 facilitate and expedite their potential expulsion.

20 8. As a direct result of Defendant’s employees’ unlawful conduct, Plaintiffs suffered
21 severe physical, mental, and psychological harms. Due to the harsh conditions in the holding
22 area under the bridge, Plaintiffs experienced significant physical pain and discomfort, and they
23 constantly felt cold, sore, famished, and exhausted. In particular, S.Z.M. and T.Z.M.—the two

1 minor Plaintiffs who were only nine and three years old at the time, respectively—suffered
2 severely under these conditions, and they spent most of their days and nights crying.

3 9. Plaintiffs also suffered psychological damage due to the inhumane conditions, and
4 were constantly filled with desperation. They felt extremely scared, anxious, and worried, as
5 Defendant’s employees refused to provide any information about their situation. For weeks after
6 their release from detention, Plaintiffs experienced flashbacks of their time under the bridge—a
7 manifestation of their psychological trauma.

8 10. Plaintiffs bring this action to seek compensation for the significant harms they
9 suffered at the hands of the federal government.

10 11. Defendant is liable for the tortious conduct of its employees under the Federal
11 Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2671–80.

12 **JURISDICTION**

13 12. This Court has jurisdiction over the subject matter of this complaint under 28
14 U.S.C. §§ 1331 (federal question) and 1346(b) (United States as defendant).

15 **EXHAUSTION**

16 13. On June 21, 2022, Plaintiffs submitted a Notification of Incident and Claim for
17 Damages under the FTCA to the U.S. Customs and Border Protection, the U.S. Immigration and
18 Customs Enforcement, and the U.S. Department of Homeland Security. Each Plaintiff also
19 completed a Standard Form 95 and provided a detailed description of the basis of their claim.

20 14. On November 3, 2022, Defendant mailed to Plaintiffs a written notice stating that
21 their administrative claims had been denied. Accordingly, Plaintiffs have exhausted all potential
22 administrative remedies. *See id.* § 2675(a).

1 **VENUE**

2 15. Venue is proper in the Western District of Washington because Plaintiffs reside in
3 this district. *See id.* § 1402(b).

4 **PARTIES**

5 16. Plaintiff Karen Esteffany Madrigales Vasquez is a citizen of Guatemala who
6 resides in Tacoma, Washington. Fearing persecution and torture, she fled Guatemala with her
7 husband and two minor children, and sought refuge in the United States.

8 17. Plaintiff Jonathan Hidelberto Zetino Aguirre is a citizen of Guatemala who
9 resides in Tacoma, Washington. Fearing persecution and torture, he fled Guatemala with his wife
10 and two minor children, and sought refuge in the United States.

11 18. Plaintiff S.Z.M. is a citizen of Guatemala who resides in Tacoma, Washington.
12 She fled Guatemala and came to the United States with her parents and brother. S.Z.M. was nine
13 years old at the time of the tortious conduct alleged in this complaint, and was a minor at all
14 times during which Defendant’s employees detained her.

15 19. Plaintiff T.Z.M. is a citizen of Guatemala who resides in Tacoma, Washington.
16 He fled Guatemala and came to the United States with his parents and sister. T.Z.M. was three
17 years old at the time of the tortious conduct alleged in this complaint, and was a minor at all
18 times during which Defendant’s employees detained him.

19 20. The United States of America has waived sovereign immunity as to claims
20 brought under the FTCA, and is properly named as a defendant to each of Plaintiffs’ claims
21 under the Act. *See id.* §§ 1346(b), 2679(a).

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FACTUAL ALLEGATIONS

Defendant’s Employees Subjected Plaintiffs to Inhumane and Unsafe Detention Conditions When They Entered the United States to Seek Asylum.

21. Plaintiffs are a family of four who fled Guatemala to escape persecution, and who came to the United States to seek asylum.

22. After a long, arduous journey that spanned weeks, Plaintiffs entered the United States on February 21, 2021, arriving in Texas.

23. Shortly after crossing the border, they encountered U.S. Customs and Border Protection (CBP) officers, who asked for their names and identification documents. The officers then instructed Plaintiffs to get into a Border Patrol vehicle.

24. Immigration officers then delivered Plaintiffs to an international border bridge in or near McAllen, Texas. Plaintiffs were escorted from the vehicle to an area under the bridge and instructed to wait there. They were given no explanation about what was happening or why they were forced to wait under the bridge. Plaintiffs arrived under the bridge on the evening of February 21.

25. Under the bridge, CBP had set up a makeshift detention and processing site—a fenced area where hundreds of migrants were being held.

26. When they first arrived at the site, Plaintiffs were instructed to queue in a long line for registration and processing. Due to the large number of people waiting to be processed, they had to stand in line all night.

27. During the registration and processing, immigration officers took Plaintiffs’ photographs and fingerprints. Plaintiffs indicated that they wanted to apply for asylum, but the officers did not ask any questions and merely told them to go back outside and wait.

1 28. Like the other migrants held under the bridge, Plaintiffs were prohibited from
2 leaving the holding area, which was secured with fences.

3 29. The conditions of detention under the bridge were dangerous and inhumane.
4 Other than a small area used for registration and processing, and another for medical services,
5 there were no structures, walls, or even tents under the bridge. As a result, Plaintiffs were forced
6 to be in open air and exposed to the elements at all times.

7 30. The weather in McAllen, TX, became very cold at night—for instance, as low as
8 35 degrees Fahrenheit on February 21, 2021.¹ But Plaintiffs were given only a thin aluminum
9 blanket, which was not enough to keep them warm.

10 31. Moreover, no beds, cots, mattresses, or chairs were provided, and Plaintiffs were
11 forced to sleep on the cold and bare dirt ground.

12 32. During the day, they had to spend most of their time sitting on the hard ground.

13 33. S.Z.M. and T.Z.M.—who were only nine and three years old at the time,
14 respectively—especially suffered in the cold and spent the nights crying.

15 34. Defendant’s employees violated CBP’s internal policies relating to the provision
16 of bedding to detained juveniles. For instance, the agency’s Hold Rooms and Short Term
17 Custody Policy (HRSTCP) mandates that “[j]uveniles detained longer than 24 hours will be
18 given access to . . . a blanket[] and a mattress.” Hur Decl. Ex. A, at 8, 11. Likewise, CBP’s
19 National Standards on Transport, Escort, Detention, and Search (NSTEDS) states that “[c]lean
20 bedding must be provided to juveniles.” *Id.* Ex. B, at 17, 22.

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23 ¹ See Nat’l Weather Serv., *Climatological Data for McAllen, TX – Feb. 2021*, <https://www.weather.gov/wrh/Climate?wfo=bro> (choose “McAllen, TX” for location; then set date to “2021-02”; then click “Go”).

1 35. Moreover, Plaintiffs were deprived of adequate food, receiving only one or two
2 meals a day. As a result, they often went without food for many hours, and constantly felt weak
3 from hunger.

4 36. This, too, violated CBP's internal policies. The NSTEDS requires that adult
5 detainees be "provided with food at regularly scheduled meal times," and "with snacks between
6 regularly scheduled meal times." *Id.* Ex. B, at 18. Similarly, the HRSTCP states: "Detainees will
7 be provided snacks and juice every four hours." *Id.* Ex. A, at 8. The fact that the number of meals
8 Plaintiffs received each day varied between one and two, indicates that they were not provided
9 with food "at regularly scheduled meal times." *Id.* Ex. B, at 18. They also did not receive snacks
10 and juice every four hours.

11 37. CBP's policies impose more stringent requirements for the provision of food to
12 juveniles. For instance, the NSTEDS requires that juveniles be provided with a meal every six
13 hours, at regularly scheduled meal times. *Id.* Ex. B, at 22. "At least two of those meals" must be
14 "hot." *Id.* Moreover, juveniles "must have regular access to snacks, milk, and juice." *Id.* The
15 HRSTCP imposes the same requirements. *See id.* Ex. A, at 8.

16 38. Defendant's employees plainly failed to abide by these requirements, as S.Z.M.
17 and T.Z.M. received only one or two meals a day, and no other food. They were never offered
18 any snacks, milk, or juice, as required by CBP policies.

19 39. Plaintiffs were also denied access to adequate sanitation facilities and basic
20 hygiene items.

21 40. There were only about four portable toilets for the hundreds of people there, and
22 Plaintiffs often had to wait for a very long time to use them.

1 41. And even though many migrants, including Plaintiffs, were held under the bridge
2 for days, they were not provided with any soap, hand sanitizer, toothbrushes, or toothpaste.

3 42. In fact, they did not even have access to running water for hand-washing and
4 other hygiene-related purposes.

5 43. Defendant’s employees violated CBP’s internal policies requiring the provision of
6 basic hygiene items to detainees. For instance, the NSTEDS states: “Detainees must be provided
7 with basic personal hygiene items, consistent with short term detention and safety and security
8 needs.” *Id.* Ex. B, at 17. Likewise, the HRSTCP requires that detainees be provided with
9 “hygiene supplies,” including “soap.” *Id.* Ex. A, at 3, 8, 11.

10 44. The lack of these basic health and hygiene necessities created an unreasonable
11 risk of COVID-19 infection for Plaintiffs, at a time when the vast majority of people in the U.S.
12 (and throughout the world) had not yet been vaccinated.²

13 45. Further compounding this risk was the fact that the holding area under the bridge
14 was extremely overcrowded, which made social distancing impossible.

15 46. Moreover, Plaintiffs were denied access to medical care during their detention
16 under the bridge.

17 47. At the time, Plaintiff Karen Madrigales Vasquez experienced symptoms of a cold
18 or flu, including fever, coughs, and a sore throat.

19 48. When she asked the officers for medication to help relieve her symptoms, they
20 told her to go to a tent inside the holding area where she could be examined.

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22 ² See *U.S. administers 75.2 million doses of COVID-19 vaccines: CDC*, Reuters, Feb. 28, 2021,
23 <https://www.reuters.com/article/us-health-coronavirus-usa-cdc/u-s-administers-75-2-million-doses-of-covid-19-vaccines-cdc-idUSKCN2AS0MO> (reporting that, as of February 28, 2021, about 50 million people in the U.S.—or about 15 percent of the population—had received *any* vaccine dose, and that only about 25 million—*less than 8 percent of the population*—had been fully vaccinated).

1 49. But when Ms. Madrigales Vasquez went to the tent, no one was there.

2 50. At a later time, she visited the tent again to seek medical care, but still no one was
3 there.

4 51. As a result, Ms. Madrigales Vasquez suffered from her illness for all three days in
5 detention, and she was never provided with any medical care.

6 52. By denying Ms. Madrigales Vasquez access to medical care, Defendant’s
7 employees violated CBP’s internal policies.

8 53. Under the NSTEDS, Defendant’s employees were obligated to provide her with
9 “appropriate medical care . . . in a timely manner,” when she reported her illness and sought
10 medical attention. *Id.* Ex. B, at 14, 23. Likewise, the HRSTCP mandates that detainees “have
11 access to appropriate medical services” and “medications.” *Id.* Ex. A, at 7, 13.

12 54. Upon information and belief, Plaintiffs’ detention in these inhumane and unsafe
13 conditions occurred pursuant to a federal policy or practice of holding recent entrants under
14 border bridges to facilitate and expedite their expulsion.

15 55. For instance, in March 2021, a Border Patrol spokesman explained to the media
16 that a CBP holding site under the Anzalduas International Bridge near McAllen, TX, “was
17 created so that agents could easily expel eligible migrants to Mexico via the bridge.” Molly
18 Hennessy-Fiske, *Border Patrol holds migrant families for days under a south Texas bridge*, L.A.
19 Times, Mar. 24, 2021, [https://www.latimes.com/world-nation/story/2021-03-24/texas-migrants-](https://www.latimes.com/world-nation/story/2021-03-24/texas-migrants-border-bridge)
20 [border-bridge](https://www.latimes.com/world-nation/story/2021-03-24/texas-migrants-border-bridge).³

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23 ³ Based on the available information on the timing and approximate location of their detention, it appears likely that Plaintiffs were held at this site.

1 56. In recent years—including in 2021—CBP has set up and used other similar sites
2 under international bridges to hold thousands of migrants in harsh and dangerous conditions.⁴

3 57. On February 24, 2021, after three days of being detained in these inhumane
4 conditions, Plaintiffs were finally able to leave the holding site under the bridge. They were
5 instructed to get on a bus and then taken to a nearby shelter. After two additional days, they were
6 released from government custody.

7 58. Upon their release, Plaintiffs made their way to Tacoma, Washington, where they
8 have been residing ever since.

9 59. Their removal proceedings are currently pending before the Seattle Immigration
10 Court, and their next hearing date is December 5, 2023.

11 60. Plaintiffs intend to apply for asylum during their removal proceedings.

12 **The Conduct of Defendant’s Employees Harmed Plaintiffs and Violated Their
13 Constitutional Rights.**

14 61. Defendant’s employees caused Plaintiffs to suffer severe physical, emotional, and
15 psychological harm by detaining them for three days in unsafe and inhumane conditions under an
16 international border bridge.

17 62. While being detained, Plaintiffs were constantly exposed to the elements and
18 deprived of adequate access to even the most basic necessities fundamental to human dignity—
19 including food, shelter, and medical care.

20 63. Plaintiffs experienced significant physical pain and discomfort, as they were
21 forced to live and sleep outside on the bare dirt ground for multiple days, without enough food or

22 ⁴ See, e.g., Rosa Flores and Ray Sanchez, *Thousands of migrants held in squalor under Texas bridge*,
23 CNN, Sept. 19, 2021, <https://www.cnn.com/2021/09/17/us/texas-del-rio-migrants-bridge/index.html>;
Simon Romero, *Migrants Are Detained Under a Bridge in El Paso. What Happened?*, N.Y. Times, Mar.
29, 2019, <https://www.nytimes.com/2019/03/29/us/el-paso-immigration-photo.html>.

1 protection from the cold weather. These harsh conditions were especially difficult to bear for
2 S.Z.M. and T.Z.M., who spent much of the time crying.

3 64. Furthermore, while Ms. Madrigales Vasquez reported feeling ill and sought
4 medical attention, Defendant’s employees failed to provide her with any medical care. As a
5 result, she suffered additional physical pain and discomfort due to her symptoms.

6 65. At the time of their arrival in the United States, Plaintiffs had already been feeling
7 weak, sore, fatigued, malnourished, and dehydrated from weeks of traveling on foot and by bus.

8 66. The inhumane conditions of their detention significantly exacerbated their
9 physical suffering.

10 67. Moreover, Defendant’s employees put Plaintiffs at an unreasonable risk of
11 contracting COVID-19, a deadly virus that has killed more than a million people in this country
12 alone.⁵

13 68. Even though regular handwashing or sanitizing was widely accepted and
14 recommended as a crucial tool for preventing COVID-19 transmission,⁶ Defendant’s employees
15 failed to provide Plaintiffs with any soap or hand sanitizer, or even running water.

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18 ⁵ See Ctrs. for Disease Control & Prevention, *COVID Data Tracker*, <https://covid.cdc.gov/covid-data-tracker/#datatracker-home> (last visited Apr. 19, 2023).

19 ⁶ See, e.g., Ctrs. for Disease Control & Prevention, *How to Protect Yourself & Others* (July 26, 2021),
20 <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html> [[https://public4.
pagefreezer.com/content/CDC%20Covid%20Pages/30-07-2021T14:07/https://www.cdc.gov/coronavirus/2019-
21 2019-ncov/prevent-getting-sick/prevention.html](https://public4.pagefreezer.com/content/CDC%20Covid%20Pages/30-07-2021T14:07/https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html)] (“Wash your hands often with soap and water for at
22 least 20 seconds especially after you have been in a public place[]”); see also Ctrs. for Disease
23 Control & Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-19) in
Correctional and Detention Facilities* (June 9, 2021), [https://www.cdc.gov/coronavirus/2019-ncov/
community/correction-detention/guidance-correctional-detention.html](https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html) [[https://public4.pagefreezer.com/
content/CDC%20Covid%20Pages/30-07-2021T14:07/https://www.cdc.gov/coronavirus/2019-
ncov/community/correction-detention/guidance-correctional-detention.html](https://public4.pagefreezer.com/content/CDC%20Covid%20Pages/30-07-2021T14:07/https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html)] (recommending that
detention facilities provide detainees “no-cost access” to soap, running water, and hand sanitizer).

1 69. Likewise, Defendant’s employees failed to heed the prevalent public-health
2 guidance emphasizing social distancing as a COVID-19 prevention tool.⁷

3 70. Packed with hundreds—if not thousands—of migrants, the holding area under the
4 bridge was extremely overcrowded, and Plaintiffs found it impossible to adequately distance
5 themselves from others.

6 71. As explained above, these inhumane and unsafe conditions of detention violated
7 CBP’s internal policies, which require that all detainees “be held under safe and humane
8 conditions.” Hur Decl. Ex. A, at 13.

9 72. Moreover, Defendant’s employees failed to comply with CBP’s policy requiring
10 its staff to “treat all at-risk populations”—which includes “family units” like Plaintiffs—“with
11 dignity, respect and special concern for their particular vulnerability.” *Id.* Ex. B, at 19.

12 73. The harsh and unsafe detention conditions created by Defendant’s employees also
13 violated Plaintiffs’ constitutional rights.

14 74. Under the Fifth Amendment’s Due Process Clause, civil detainees—including
15 noncitizens detained by the federal government—“enjoy[] constitutionally protected interests in
16 conditions of reasonable care and safety.” *Youngberg v. Romeo*, 457 U.S. 307, 324 (1982).

17 75. Notably, the Supreme Court has emphasized that “the essentials of [such] care”
18 include “adequate food, shelter, clothing, and medical care.” *Id.*

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22 ⁷ See, e.g., Ctrs. for Disease Control & Prevention, *How to Protect Yourself & Others*, *supra* note 6
23 (recommending that people “[s]tay 6 feet away from others” and “[a]void crowds”); see also Ctrs. for
Disease Control & Prevention, *Interim Guidance on Management of Coronavirus Disease 2019 (COVID-
19) in Correctional and Detention Facilities*, *supra* note 6 (recommending that detention facilities ensure
social distancing of six feet between detainees).

1 76. Thus, Defendant and its employees had an “affirmative duty” to ensure conditions
2 of reasonable health and safety, and “to provide for [Plaintiffs’] basic human needs.” *DeShaney*
3 *v. Winnebago Cnty. Dept. of Soc. Servs.*, 489 U.S. 189, 199–200 (1989).

4 77. Here, Defendant’s employees plainly fell short of this duty. They failed to provide
5 for Plaintiffs’ basic needs—including adequate food, shelter, clothing, and medical care—or to
6 ensure Plaintiffs’ reasonable health and safety from the COVID-19 pandemic.

7 78. Thus, their conduct violated Plaintiffs’ due-process rights. *See id.*

8 79. Moreover, the Due Process Clause forbids punishment of civil detainees. *See Bell*
9 *v. Wolfish*, 441 U.S. 520, 535 n.16 (1979). A condition of detention is unconstitutionally punitive
10 if the harm it causes “significantly exceed[s], or [is] independent of, the inherent discomforts of
11 confinement.” *Demery v. Arpaio*, 378 F.3d 1020, 1030 (9th Cir. 2004). Punitive intent may be
12 inferred where the condition bears no reasonable relation to, or is an excessive means of
13 pursuing, a legitimate government objective. *See Doe v. Kelly*, 878 F.3d 710, 714, 720 (2017).

14 80. Here, the inhumane and unsafe conditions of Plaintiffs’ detention were
15 unconstitutionally punitive. Defendant’s employees deprived Plaintiffs of basic human
16 necessities like adequate food and shelter without any legitimate government purpose, and the
17 harms Plaintiffs suffered “significantly exceed[ed], or [were] independent of, the inherent
18 discomforts of confinement.” *Demery*, 378 F.3d at 1030.

19 81. As a result of being detained in such inhumane conditions that compromised their
20 sense of safety and dignity, Plaintiffs also suffered significant mental and psychological harms.

21 82. During their detention, Plaintiffs had no idea why they were being detained, how
22 long they would be kept in the harsh and unsafe conditions under the bridge, or what was going
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1 to happen to them, as Defendant's employees refused to provide them with any information
2 about the situation.

3 83. While detained under the bridge, Plaintiffs asked the officers what was going to
4 happen to them and what the procedure was for detaining and processing them. But they never
5 received any answer.

6 84. Furthermore, even though Plaintiffs had expressed their intent to apply for asylum
7 during their registration on the first day, Defendant's employees did not provide any indication
8 as to whether they would ever get the opportunity to pursue protection.

9 85. This uncertainty left Plaintiffs feeling extremely scared, anxious, and worried.

10 86. As a lasting effect of their psychological trauma, Plaintiffs experienced flashbacks
11 of their time under the bridge for weeks after their release. To this date, minor Plaintiffs S.Z.M.
12 and T.Z.M. still describe their experience under the bridge with terror, whenever their memory is
13 triggered.

14 87. As a result of the tortious conduct of Defendant's employees, Plaintiffs suffered
15 risks and actual, foreseeable harms to their physical and mental health.

16 88. Defendant is therefore liable to Plaintiffs under the FTCA.

17 **CLAIMS FOR RELIEF**

18 **I. Intentional Infliction of Emotional Distress**

19 89. All the foregoing allegations are repeated and realleged as though fully set forth
20 herein.

21 90. Defendant's employees acted intentionally and/or recklessly in detaining
22 Plaintiffs under an international border bridge and subjecting them to inhumane and unsafe
23 conditions for multiple days.

1 91. Defendant's employees engaged in conduct that was extreme and outrageous.

2 92. Defendant's employees engaged in conduct that caused Plaintiffs severe physical,
3 emotional, and psychological harm.

4 93. This tortious conduct violated CBP's internal policies as well as Plaintiffs'
5 constitutional rights under the Due Process Clause of the Fifth Amendment.

6 94. Under the FTCA, Defendant is liable to Plaintiffs for intentional infliction of
7 emotional distress.

8 **II. Negligence**

9 95. All the foregoing allegations are repeated and realleged as though fully set forth
10 herein.

11 96. Defendant's employees owed a duty to Plaintiffs to act with ordinary care and
12 prudence so as not to cause foreseeable harm or injury to them while they were in government
13 custody.

14 97. Defendant's employees failed to act with ordinary care and thereby breached
15 their duty of care owed to Plaintiffs.

16 98. As a direct and proximate result of the conduct described in this complaint,
17 Plaintiffs suffered substantial damages.

18 99. The tortious conduct of Defendant's employees violated CBP's internal policies
19 as well as Plaintiffs' constitutional rights under the Due Process Clause of the Fifth Amendment.

20 100. Under the FTCA, Defendant is liable to Plaintiffs for negligence.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

- a. Compensatory damages in the total amount of \$400,000 for harm to Plaintiffs resulting from Defendant’s conduct (\$100,000 for each Plaintiff);
- b. Such other and further relief as the Court deems just and appropriate, including all equitable relief to which Plaintiffs are entitled.

Dated: May 2, 2023

Respectfully submitted,

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