

1 LATHAM & WATKINS LLP  
 Belinda S Lee (Bar No. 199635)  
 2 Belinda.Lee@lw.com  
 Nicholas Y. Lin (Bar No. 268154)  
 3 Nicholas.Lin@lw.com  
 505 Montgomery Street, Suite 2000  
 4 San Francisco, California 94111  
 Telephone: +1.415.391.0600  
 5 Facsimile: +1.415.395.8095

6 ASIAN AMERICANS ADVANCING JUSTICE –  
 ASIAN LAW CAUCUS  
 7 Angela F. Chan (Bar No. 250138)  
 angelac@advancingjustice-alc.org  
 8 Saira A. Hussain (Bar No. 300326)  
 sairah@advancingjustice-alc.org  
 9 Winifred V. Kao (Bar No. 241473)  
 winifredk@advancingjustice-alc.org  
 10 55 Columbus Ave  
 San Francisco, California 94111  
 11 Telephone: +1.415.848.7707  
 Facsimile: +1.415.896.1702

12 Attorneys for Plaintiff  
 13 Pedro Figueroa Zarceno

14 (additional counsel on signature page)

16 UNITED STATES DISTRICT COURT  
 17 NORTHERN DISTRICT OF CALIFORNIA

19 Pedro Figueroa Zarceno,  
 20 Plaintiff

21 v.

22 The City and County of San Francisco,  
 Acting Chief of Police Toney Chaplin,  
 23 Sheriff Vicki Hennessey in their official  
 capacities; Sergeant Eric Balmy, Public  
 24 Service Agent Nicole Chambers, Officer  
 Kevin Clifford, Sergeant Trevor Kelly,  
 25 Central Warrant Bureau Agent Dayna  
 Thibeaux individually and in their official  
 26 capacities; DOES 1-50 inclusive,

27 Defendants.

CASE NO. 3:17-cv-229

COMPLAINT FOR DECLARATORY AND  
 INJUNCTIVE RELIEF AND DAMAGES

**DEMAND FOR JURY TRIAL**

1 Plaintiff Pedro Figueroa Zarceno alleges, upon personal knowledge as to himself and  
2 upon information and belief as to all others, as follows:

3 **I. INTRODUCTION**

4 1. This case arises from the unlawful arrest and detention of Plaintiff Pedro Figueroa  
5 Zarceno at the hands of the San Francisco Police Department.

6 2. Mr. Figueroa’s car was stolen in November 2015. Within days, Mr. Figueroa was  
7 informed that the San Francisco Police Department had recovered his car and towed it to an  
8 impound lot. On December 2, 2015 following the Police Department’s instructions,  
9 Mr. Figueroa went to the impound lot, where he was then directed to the nearest police station to  
10 get the paperwork necessary to retrieve his car. However, instead of being assisted by the police,  
11 Mr. Figueroa was victimized yet again when he was unlawfully arrested and detained by San  
12 Francisco Police Department officers.

13 3. Working together, San Francisco Police Department officers and the San  
14 Francisco Sheriff’s Department identified a civil immigration warrant for Mr. Figueroa, and then  
15 proceeded to violate San Francisco’s Sanctuary Ordinance by contacting federal immigration  
16 authorities, providing them with Mr. Figueroa’s location, and coordinating to hold him in  
17 custody long enough for federal immigration agents to arrive at the police station. When the  
18 officers finally “released” Mr. Figueroa, they led him—still handcuffed—to a side exit of the  
19 police station, where immigration agents were waiting just outside the station door. In truth, this  
20 was anything but a “release.” The San Francisco Police Department directly transferred  
21 Mr. Figueroa to Immigration and Customs Enforcement custody, where he remained for the next  
22 two months. To add insult to injury, the San Francisco Police Department auctioned off  
23 Mr. Figueroa’s car while he remained in custody and without providing any notice to him or his  
24 family. Immigration and Customs Enforcement continues to seek to deport Mr. Figueroa.

25 4. San Francisco is a sanctuary city—a city of refuge for immigrants, where  
26 everyone should be safe to report crimes to law enforcement. Mr. Figueroa’s plight is not the  
27 first time that San Francisco Police Department personnel have unlawfully and wrongfully  
28 arrested or detained the victim of a crime based solely on a civil immigration matter, nor is it the

1 first time that San Francisco Police Department personnel have violated San Francisco's  
2 Sanctuary Ordinance. This action seeks to make it the last.

3 5. Mr. Figueroa seeks an end to Defendants' unlawful actions, practices, and  
4 policies, recognition that he was the victim of an unlawful arrest and detention, money damages  
5 for the injuries and lost wages that he has suffered, and restitution for his property. The specific  
6 relief sought by Mr. Figueroa against each Defendant is alleged herein.

7 **II. JURISDICTION**

8 6. This Court has jurisdiction over the claims alleged in this Complaint pursuant to  
9 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1343 (civil rights), 28 U.S.C. § 2201  
10 (declaratory relief), 42 U.S.C. § 1983, and 28 U.S.C. § 1651. Supplemental jurisdiction over  
11 pendant state law claims is proper pursuant to 28 U.S.C. § 1367 because all of the claims arise  
12 from a common nucleus of operative facts that are so intertwined that they cannot be reasonably  
13 separated.

14 **III. VENUE AND INTRA-DISTRICT ASSIGNMENT**

15 7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant  
16 City and County of San Francisco resides in and can be found in this judicial district. This action  
17 arises in San Francisco County and assignment in either the Oakland Division or San Francisco  
18 division is appropriate pursuant to Civil Local Rule 3-2.

19 **IV. PARTIES**

20 8. Plaintiff Pedro Figueroa Zarceno is a 32-year old Salvadoran male who resides in  
21 the City and County of San Francisco, in the State of California. He resided in San Francisco  
22 during the events relevant to and described in this Complaint.

23 9. Defendant City and County of San Francisco ("the City" or "San Francisco") is a  
24 political subdivision of the State of California that can be sued in its own name. Upon  
25 information and belief, Defendant San Francisco includes, operates, governs, and is responsible  
26 for the San Francisco Police Department ("SFPD") and the San Francisco Sheriff's Department  
27 ("Sheriff's Department") pursuant to the laws of the State of California and San Francisco.

28 10. Defendant Acting Chief of Police Toney Chaplin is the current Acting Chief of

1 Police of the San Francisco Police Department and is responsible for the policies, practices, and  
2 customs of the San Francisco Police Department. Defendant Chaplin directs the hiring,  
3 screening, training, retention, supervision, discipline, counseling, and control of the officers  
4 under his supervision and command. At all relevant times, Defendant Chaplin was acting under  
5 color of law. He is sued in his official capacity.

6 11. Defendant Public Service Agent Nicole Chambers is an employee of the San  
7 Francisco Police Department. At all relevant times, Defendant Chambers was acting under color  
8 of law. She is sued in her individual and official capacities.

9 12. Defendant Officer Kevin C. Clifford is an officer with the San Francisco Police  
10 Department. At all relevant times, Defendant Clifford was acting under color of law. He is sued  
11 in his individual and official capacities.

12 13. Defendant Sergeant Eric S. Balmy is an officer with the San Francisco Police  
13 Department. At all relevant times, Defendant Balmy was acting under color of law. He is sued  
14 in his individual and official capacities.

15 14. Defendant Sergeant Trevor Kelly is an officer with the San Francisco Police  
16 Department. At all relevant times, Defendant Kelly was acting under color of law. He is sued in  
17 his individual and official capacities.

18 15. Defendant Sheriff Vicki Hennessey is the current Sheriff of the San Francisco  
19 Sheriff's Department. Defendant Hennessey is responsible for the policies, practices, and  
20 customs of the San Francisco Sheriff's Department. Defendant Hennessey also directs the  
21 hiring, screening, training, retention, supervision, discipline, counseling, and control of the  
22 deputy sheriffs under her supervision and command. At all relevant times, Defendant Hennessey  
23 was acting under color of law. She is sued in her official capacity.

24 16. Defendant Central Warrant Bureau Agent Dayna Thibeaux is an employee with  
25 the San Francisco Sheriff's Department. At all relevant times, Defendant Thibeaux was acting  
26 under color of law. She is sued in her individual and official capacities.

27 17. At all relevant times, Defendants DOES 1 through 50 (also "DOE defendants")  
28 were agents, employees, or otherwise representatives of the City. At all relevant times, DOES 1

1 through 50 were acting under color of law. Upon information and belief, Plaintiff alleges that  
2 many, if not all, of DOES 1 through 50 are residents of the Northern District of California. Upon  
3 information and belief, Plaintiff alleges that DOES 1 through 50, inclusive, are legally  
4 responsible for the wrongs committed against Plaintiff, as alleged herein. When Plaintiff  
5 becomes aware of the true identities of one or more DOE defendants, Plaintiff will amend this  
6 complaint to add or substitute them as named Defendants.

7 **V. SAN FRANCISCO IS A SANCTUARY CITY**

8 18. The City and County of San Francisco is a City and County of Refuge.

9 19. San Francisco declared itself a city of refuge on December 23, 1985 when the San  
10 Francisco Board of Supervisors passed San Francisco Resolution 1087-85, the City of Refuge  
11 Resolution, in response to the Salvadoran and Guatemalan refugee crises. The resolution  
12 provided, in part, that: “San Francisco finds that immigration and refugee policy is a matter of  
13 Federal jurisdiction; that federal employees not City employees, should be considered  
14 responsible for implementation of immigration and refugee policy.”

15 20. Under the City of Refuge Resolution, then-Mayor of San Francisco Dianne  
16 Feinstein was urged by the San Francisco Board of Supervisors to “affirm that City Departments  
17 shall not discriminate against Salvadoran [] refugees because of immigration status, and shall not  
18 jeopardize the safety and welfare of law-abiding refugees by acting in a way that may cause their  
19 deportation.”

20 21. Mayor Feinstein explained that the resolution “has one purpose and that is to  
21 emphasize that persons are not going to be discriminated against or hassled in San Francisco  
22 because of their immigration status as long as they are law-abiding.” She also explained that the  
23 resolution addressed the fear that refugees had of using basic public services that most people  
24 take for granted such as calling the police when there is trouble.

25 22. Four years later, in October of 1989, San Francisco Supervisor Jim Gonzales  
26 sponsored the City of Refuge Ordinance, also known as the “Sanctuary Ordinance,” to codify the  
27 policy in the 1985 City of Refuge Resolution.

28 23. The Sanctuary Ordinance was described by Supervisor Gonzales as, “in essence,”

1 a civil rights ordinance, and was unanimously approved by the San Francisco Board of  
2 Supervisors. The Sanctuary Ordinance was signed into law by then-Mayor Art Agnos on  
3 October 24, 1989. *See* San Francisco Admin. Code Chpt. 12H.

4 24. Among other provisions, the Sanctuary Ordinance created a blanket prohibition  
5 on the use of City funds or resources to assist in the enforcement of federal immigration law.

6 25. This includes a prohibition on San Francisco employees assisting or cooperating  
7 with any investigation, detention, or arrest conducted by the federal agency charged with  
8 enforcement of federal immigration law.

9 26. In 1992, the Sanctuary Ordinance was amended to create an exception allowing  
10 the use of City funds or resources to report an individual to federal immigration authorities if the  
11 person had been convicted of certain felonies. *See* San Francisco Admin. Code Chpt. 12H § 2-1.

12 27. For more than 20 years, San Francisco employees, including San Francisco Police  
13 Department officers and San Francisco Sheriff's Department deputies, have been prohibited from  
14 cooperating with and assisting federal immigration officials in regards to the vast majority of  
15 immigrants.

16 28. In March 2007, then-Mayor Gavin Newsom issued Executive Directive 07-01,  
17 instituting the Sanctuary City Initiative, which required all City Departments to ensure that  
18 departmental rules, regulations, and protocols adhere to the Sanctuary Ordinance. The Executive  
19 Directive emphasized that no department, agency, commission, officer, or employee of the City  
20 and County of San Francisco may assist federal immigration authorities unless required by law.

21 29. Executive Directive 07-01 also included an educational outreach campaign,  
22 entitled "Know Your Rights." The campaign aimed to ensure that immigrants were informed of  
23 their civil rights when reaching out and receiving vital services from City employees including  
24 those services provided by the SFPD, and covered the main provisions of the Sanctuary  
25 Ordinance.

26 30. There was also a media campaign consisting of print ads, newspaper ads, public  
27 transit ads, and television public service announcements aimed to ensure that residents of San  
28 Francisco, regardless of their immigration status, felt safe when reaching out and receiving vital

1 services provided by City employees.

2 31. Upon information and belief, the City also created brochures titled “San Francisco  
3 is a Sanctuary City,” which indicated that San Francisco employees would not report immigrants  
4 or their immigration status to federal immigration authorities and that immigrants could feel safe  
5 when contacting the police.

6 32. Mayor Gavin Newsom, on or about April 2, 2008, explained the purpose of the  
7 public awareness campaign regarding the Sanctuary Ordinance:

8 The City’s public awareness campaign is a reminder that City  
9 employees will not report individuals or their immigration status to  
10 federal immigration agents. San Francisco residents should feel  
11 safe when they . . . report a crime to the Police Department. . . .  
12 We’ve been very concerned that in the last year and a half at the  
13 renewed vigor of the federal government or ICE for immigration  
14 raids. . . . [T]o calm people’s fears, people’s instinct to go  
15 underground, to not come forth and report a crime because of that  
16 fear, . . . . We are standing up to say to all of our residents, ‘We  
17 don’t care what your status is in terms of its legal certification, we  
18 care that you, as a human being are a resident of our city. We want  
19 you to participate in the life of our city.’

20 33. At the time of Mr. Figueroa’s unlawful arrest and detention, section 2 of Chapter  
21 12H of the San Francisco Administrative Code provided:

22 No department, agency, commission, officer, or employee of the  
23 City and County of San Francisco shall use any City funds or  
24 resources to assist in the enforcement of federal immigration law  
25 or to gather or disseminate information regarding the immigration  
26 status of individuals in the City of and County of San Francisco  
27 unless such assistance is required by Federal or State statute,  
28 regulation or court decision.

29 34. In particular, section 2 prohibits City employees from “[a]ssisting or cooperating,  
30 in one’s official capacity, with any Immigration and Naturalization Service (INS) investigation,  
31 detention, or arrest procedures, public or clandestine relating to alleged violations of the civil  
32 provisions of the Federal immigration law.” San Francisco Admin. Code Chpt. 12H § 2(a).

33 35. Additionally, section 2 prohibits City employees from “[r]equesting information  
34 about, or disseminating information regarding, the immigration status of any individual, or  
35 conditioning the provision of services or benefits by the City and County of San Francisco upon

1 immigration status, except as required by federal or State statute or regulation, City and County  
2 public assistance criteria, or court decision.” San Francisco Admin. Code Chpt. 12H § 2(c).

3 **VI. SAN FRANCISCO LAW ENFORCEMENT PERSONNEL HAVE NO ROLE IN**  
4 **THE ENFORCEMENT OF IMMIGRATION LAW**

5 **A. Local Law Enforcement Agencies Lack the Independent Authority to**  
6 **Enforce Immigration Law**

7 36. Local law enforcement officers of a State or a State subdivision are not permitted  
8 unilaterally to enforce federal immigration laws. 8 U.S.C. § 1357(g)(10)(B) (2006).

9 37. The United States Attorney General may enter into a written agreement with a  
10 State or any of its subdivisions that, in essence, deputizes law enforcement officers to carry out  
11 immigration laws at the expense of the State or the appropriate subdivision. 8 U.S.C.  
12 § 1357(g)(1).

13 38. None of San Francisco, the Sherriff’s Department, nor the SFPD have entered into  
14 a written agreement with federal immigration authorities pursuant to 8 U.S.C. § 1357(g) to  
15 authorize City employees to enforce civil immigration law.

16 39. Mere unauthorized presence in the United States alone is not a criminal matter,  
17 and as such, does not give rise to an inference of criminal activity. *Arizona v. United States*, 132  
18 S. Ct. 2492, 2506 (2012). Thus, without an agreement with the United States Attorney General,  
19 local law enforcement officers cannot arrest or detain individuals based on mere unauthorized  
20 presence in the United States.

21 **B. San Francisco Police Department General Orders Prohibit the Enforcement**  
22 **of Immigration Laws**

23 40. The SFPD has explicitly acknowledged San Francisco’s status as a Sanctuary  
24 City. SFPD General Order (“DGO”) 5.15, governing the Enforcement of Immigration Laws, has  
25 been in effect since December 13, 1995. It provides, in pertinent part:

- 26 • “In accordance with the City of Refuge Ordinance . . . Members  
27 shall not stop, question, or detain any individual because of the  
28 individual’s national origin, foreign appearance, inability to speak  
English, or immigration status []. The mere presence of so-called  
‘illegal aliens’ is not a criminal offense.”



- 1 • “Members shall not enforce immigration laws or assist the INS in
- 2 the enforcement of immigration laws.”
- 3 • “Members shall not assist the INS in transporting persons
- 4 suspected solely of violating federal immigration laws.”

4 DGO 5.15, §§ I.B.1, B.2, B.3.d.

5 41. Upon information and belief, in a 2007 press release, the SFPD reaffirmed that:

6 By virtue of San Francisco Administrative Code Chapter 12H and  
7 Police DGOs, members of the SFPD are prohibited from  
8 contacting or stopping individuals solely because of their  
9 immigration or perceived immigration status. Members of the  
10 SFPD do not enforce immigration laws and do not assist any other  
11 agency in enforcing immigration laws. All persons, regardless of  
12 their immigration status, have a right to receive essential city  
13 services. Anyone who is the victim of a crime, or has information  
14 about a crime, or is in need of any other service provided by the  
15 SFPD, is encouraged to contact the SFPD.

12 42. While the SFPD and Immigration and Customs Enforcement (“ICE”) entered into  
13 a 2013 Memorandum of Understanding allowing the Secretary of Homeland Security to  
14 designate members of the SFPD as Custom Officers (the “2013 MOU”), this was done for the  
15 limited purpose of authorizing SFPD officers to assist in the enforcement of customs laws and  
16 does not grant SFPD officers the authority to enforce immigration laws. For the avoidance of  
17 any doubt, the 2013 MOU specifically states: “This agreement does not grant the designated  
18 Custom Officers the authority to enforce ‘immigration’ laws.”

19 43. The SFPD Implementing Instructions for the 2013 MOU (“Implementing  
20 Instructions”) underscore that the 2013 MOU does not grant SFPD members authority to enforce  
21 immigration laws: “SFPD members assigned . . . under the MOU shall not participate in any  
22 investigation of immigration status or violation of immigration laws, nor shall they participate in  
23 gathering or disseminating information regarding the immigration status of individuals within the  
24 City and County of San Francisco, unless required by state or federal law, regulation or court  
25 decision.”

26 44. The Implementing Instructions also provide that the 2013 MOU does not  
27 supersede the Sanctuary Ordinance or SFPD General Orders: “SFPD members assigned . . .  
28 under the [2013] MOU shall at all times . . . remain subject to all SFPD rules, policies and

1 procedures. In the event of a conflict between ICE and SFPD direction, rules, policies and  
2 procedures, SFPD members shall adhere to those of the SFPD.”

3 **C. The San Francisco Police Department Has Repeatedly Violated the**  
4 **Sanctuary Ordinance**

5 45. Unfortunately, Mr. Figueroa’s case was not the first time the SFPD violated the  
6 Sanctuary Ordinance and breached the trust of an immigrant who had come forward to report a  
7 crime and seek the SFPD’s protection. Despite San Francisco’s long-standing ordinance and  
8 DGO 5.15, the SFPD and its officers have a history of violating the Sanctuary Ordinance.

9 46. As reported, nearly 10 years ago, in the *San Francisco Bay Guardian* article,  
10 “Call the cops, get deported,” SFPD officers violated the Sanctuary Ordinance in 2006 when a  
11 stabbing victim contacted SFPD officers for help and instead they arrested her—the victim—  
12 based on her immigration status and turned her over to federal immigration authorities. *See*  
13 Philip Hwang, *Call the cops, get deported*, S.F. Bay Guardian, Feb. 6, 2006, at 7.

14 47. Upon information and belief, the San Francisco Office of Citizen Complaints  
15 (“OCC”) launched an investigation into the 2006 incident and concluded that SFPD officers had  
16 violated the Sanctuary Ordinance, and forwarded the case to the SFPD for discipline.

17 48. In 2010, SFPD officers again violated the Sanctuary Ordinance.

18 49. On or about June 2, 2010, SFPD officers performed a routine traffic stop during  
19 which a computer query had revealed a non-criminal civil immigration warrant for an individual.

20 50. While in immigration custody, the individual filed a complaint with the OCC. On  
21 or about May 12, 2011, the OCC sustained the complaint, OCC Case No. 0416-10, finding that  
22 the SFPD violated DGO 5.15 by affirmatively communicating with federal immigration  
23 authorities.

24 51. Then-Chief of the San Francisco Police Department Greg Suhr was informed  
25 specifically about this incident in a letter urging him to take “prompt steps to ensure SFPD  
26 officers are adequately trained so that violations of General Order 5.15 such as these never  
27 happen again.”

28 52. These incidents provided notice to all Defendants and City policymakers that, at

1 best, local law enforcement personnel did not have adequate training with respect to the legal  
2 significance of a civil immigration warrant, the database in which they are contained, and how  
3 such warrants should be handled in light of San Francisco’s Sanctuary Ordinance. At worst,  
4 these incidents constitute repeated, knowing, and deliberate violations of the Sanctuary  
5 Ordinance and DGO 5.15.

6 **VII. SAN FRANCISCO HAS REAFFIRMED ITS COMMITMENT TO BEING A**  
7 **SANCTUARY CITY**

8 53. San Francisco and its officials have reaffirmed the City’s commitment to the  
9 Sanctuary Ordinance and its underlying policy goals, both before and after the events described  
10 in this Complaint.

11 54. Addressing the importance of the Sanctuary Ordinance, on or about July 6, 2015,  
12 Mayor Ed Lee stated: “Our City’s policy helps immigrant and limited-English speaking  
13 communities where sometimes people fear and mistrust the criminal justice system. We want  
14 people to report crimes . . . I want others to know, San Francisco is a city where we protect the  
15 well-being and success of all families, regardless of immigration status.”

16 55. On or about November 15, 2016, the Board of Supervisors adopted San Francisco  
17 Resolution No. 484-16 providing that: “San Francisco will remain a Sanctuary City. We will not  
18 turn our back on the men and women from other countries who help make this city great, and  
19 who represent over one third of our population.”

20 56. The SFPD also provided a statement on or about November 2016 “reaffirming its  
21 commitment to fostering trust and cooperation with all people of our City.” The statement  
22 provided in part that: “We encourage everyone to communicate with San Francisco police  
23 officers without fear of inquiry regarding their immigration status.”

24 **VIII. DEFENDANTS’ UNLAWFUL AND WRONGFUL CONDUCT TOWARD**  
25 **MR. FIGUEROA**

26 **A. Mr. Figueroa’s Arrival in the United States**

27 57. Mr. Figueroa, originally from El Salvador, arrived in the United States in Eagle  
28 Pass, Texas on September 11, 2005, after fleeing his home country.

1           58.     Upon his arrival in Texas, Mr. Figueroa was detained by United States Customs  
2 and Border Protection officers, who issued Mr. Figueroa a Notice to Appear (“NTA”)—an ICE  
3 charging document, which initiates removal proceedings.

4           59.     The NTA did not include a removal hearing date or location, and although Mr.  
5 Figueroa provided an address in San Francisco, he never received notice of his removal hearing.

6           60.     On December 7, 2005, Mr. Figueroa was ordered removed *in absentia* by an  
7 immigration judge in San Antonio, Texas. Mr. Figueroa was not made aware that he was subject  
8 to a removal order until after he was detained by ICE, following his unlawful arrest by SFPD.

9           **B.     Mr. Figueroa Became the Victim of a Crime and Reported His Vehicle Stolen**  
10           **to the SFPD**

11           61.     On November 30, 2015, Mr. Figueroa discovered that his 1991 Acura Integra was  
12 missing from where he had last parked it. Mr. Figueroa spoke with his fiancée (now wife), Dora  
13 Alicia Cortes (“Mrs. Cortes”), about his missing car, and they decided to report it stolen.

14           62.     Mr. Figueroa believed he could approach the SFPD to report the theft without fear  
15 of reprisal or negative immigration consequences. Mrs. Cortes also was not fearful of reaching  
16 out to the SFPD for help, either for herself as a U.S. Citizen or for her fiancé as an immigrant.

17           63.     On November 30, 2015, Mr. Figueroa and Mrs. Cortes went to the Ingleside  
18 SFPD station located at 1 Sgt. John V. Young Ln., San Francisco, CA 94112 and reported the car  
19 theft.

20           64.     Mr. Figueroa, whose primary language is Spanish, speaks and understands very  
21 little English. Mrs. Cortes, despite her limited English proficiency, which is apparent by her  
22 vocabulary, accent, and sentence construction, spoke directly with the SFPD officer who made  
23 the report (“Report Officer”). As part of this process, Mr. Figueroa provided his Salvadoran  
24 identification to the Report Officer.

25           65.     The Report Officer did not provide, or offer to provide, a Spanish-speaking  
26 officer to facilitate communication between the parties, despite both Mr. Figueroa and Mrs.  
27 Cortes’ readily apparent English proficiency limitations.

28           66.     In order to facilitate the SFPD’s criminal investigation of the vehicle theft, Mr.

1 Figuroa and Mrs. Cortes cooperated with the SFPD. As best as they could through their limited  
2 English, they provided information about the vehicle and the circumstances leading up to its  
3 theft.

4 67. During this interaction, the Report Officer indicated to Mr. Figuroa and Mrs.  
5 Cortes that Mr. Figuroa needed to sign a consent form, allowing the SFPD to tow Mr.  
6 Figuroa's car. Even though neither of them fully understood what Mr. Figuroa was signing, in  
7 an effort to cooperate, Mr. Figuroa signed his name to the consent form. Without this consent  
8 form—which Mr. Figuroa did not fully understand—the SFPD would not have been authorized  
9 to tow Mr. Figuroa's car. Mr. Figuroa also would not have had to obtain a vehicle release  
10 form from SFPD to retrieve his car.

11 68. Prior to the theft, Mr. Figuroa's car was in good working condition and had a  
12 value of approximately \$2,100. Mr. Figuroa's vehicle also contained construction tools for his  
13 job worth approximately \$500.

14 **C. Trusting in the SFPD, Mr. Figuroa Attempted to Retrieve His Stolen**  
15 **Vehicle**

16 69. On the morning of December 2, 2015, an officer from the SFPD left Mr. Figuroa  
17 a voicemail. His niece listened to the voicemail. She informed him that it said his vehicle had  
18 been found and towed to an AutoReturn impound lot (located at 450 7th Street), and the SFPD  
19 officer instructed Mr. Figuroa to go there to retrieve it.

20 70. Following the SFPD officer's instructions, at or around 6:00 p.m. on December 2,  
21 2015, Mr. Figuroa and Mrs. Cortes travelled to the impound lot to retrieve Mr. Figuroa's  
22 vehicle.

23 71. When they arrived at the impound lot, the lot attendant explained to Mr. Figuroa  
24 and Mrs. Cortes that, before he could retrieve his vehicle, Mr. Figuroa needed a "vehicle release  
25 form" from the SFPD.

26 72. The lot attendant directed Mr. Figuroa to the SFPD's Southern Station located at  
27 1251 3rd Street ("Station" or "Southern Station") to procure the vehicle release form. Mr.  
28 Figuroa and Mrs. Cortes followed the attendant's directions and went to the Southern Station.

1           73.     Upon arriving at Southern Station, Mr. Figueroa and Mrs. Cortes entered through  
2 the front entrance on 3rd Street into a waiting room area. Mr. Figueroa, along with Mrs. Cortes,  
3 approached a female employee of the SFPD, in full uniform, stationed at the front desk behind a  
4 glass window. Upon information and belief, that employee was Public Service Agent Nicole  
5 Chambers. Mrs. Cortes explained, in obviously limited English, that Mr. Figueroa needed a  
6 vehicle release form to retrieve his car from the AutoReturn lot. Without summoning a Spanish-  
7 speaking officer, Defendant Chambers asked Mr. Figueroa in English for his driver’s license, and  
8 then told him and Mrs. Cortes to sit and wait. After Mrs. Cortes communicated to Mr. Figueroa  
9 in Spanish what Defendant Chambers wanted, Mr. Figueroa provided the officer with his  
10 Salvadoran identification card. Mr. Figueroa and Mrs. Cortes then sat down in the waiting area  
11 and waited for Defendant Chambers to return with the completed vehicle release form.

12           74.     Upon information and belief, from this initial interaction forward, Defendant  
13 Chambers, and in turn the SFPD, identified or should have identified Mr. Figueroa and Mrs.  
14 Cortes as “limited English proficient (“LEP”) persons.”

15           75.     DGO 5.20 requires that “[w]hen performing law enforcement functions, [SFPD]  
16 members shall provide free language assistance to LEP individuals whom they encounter . . . .”  
17 The procedures to accomplish this policy include identifying the “primary language” and then  
18 providing the LEP individual access to a “qualified bilingual member [of the SFPD]” competent  
19 in the LEP individual’s primary language.

20           76.     Upon information and belief, at least one qualified bilingual member of the SFPD  
21 competent in Spanish was present at Southern Station on December 2, 2015.

22           77.     Upon information and belief, at some time after Mr. Figueroa and Mrs. Cortes  
23 spoke with Defendant Chambers, Defendants Balmy and Chambers identified Mr. Figueroa “as a  
24 wanted suspect”—solely and wrongfully based on the suspicion that Mr. Figueroa was  
25 unlawfully present in the United States.

26           78.     Defendants Balmy and Chambers then informed Defendant Clifford that Mr.  
27 Figueroa was a “possible wanted suspect.” Upon information and belief, Defendants Chambers  
28 and Balmy did not provide Defendant Clifford with any reasonable or articulable facts to support

1 their accusation that Mr. Figueroa was a “possible wanted suspect.” Without any further  
2 investigation into the matter, nor the presence of exigent circumstances, Defendants Balmy and  
3 Clifford decided to unlawfully arrest and detain Mr. Figueroa.

4 **D. Defendants Balmy and Clifford Unlawfully Arrested Mr. Figueroa**

5 79. At one point, while waiting in the lobby of Southern Station, Mr. Figueroa walked  
6 out of Southern Station’s main entrance to look for a trash can and throw away some trash. As  
7 he did so, two SFPD officers followed him outside and proceeded to track him before he  
8 reentered Southern Station and sat back down.

9 80. Soon after Mr. Figueroa reentered Southern Station, Defendants Balmy and  
10 Clifford approached Mr. Figueroa where he sat. Without probable cause or a reasonable,  
11 articulable suspicion that Mr. Figueroa had engaged in, or was going to engage in any criminal  
12 activity, Defendant Clifford stood in front of Mr. Figueroa—who had his back against a wall—  
13 and demanded in English that he stand up because he was under arrest.

14 81. Mr. Figueroa quickly complied with Defendant Clifford’s instructions to stand up,  
15 but he did not fully comprehend what was going on because of his limited English proficiency.

16 82. Immediately after standing up, Defendant Clifford handcuffed Mr. Figueroa.  
17 Upon information and belief, Defendant Clifford then double-locked the handcuffs on Mr.  
18 Figueroa and checked them for tightness.

19 83. Then, along with Defendant Balmy, Defendant Clifford began to escort  
20 Mr. Figueroa out of the waiting area and into the Southern Station’s booking area.

21 84. Mrs. Cortes, in shock from the sudden arrest of her fiancé and the father of her  
22 child, but also knowing that Mr. Figueroa did not speak English, asked Defendants Balmy and  
23 Clifford, as best as she could in her limited English, why Mr. Figueroa was under arrest.

24 85. Upon information and belief, Defendant Clifford stated words to the effect that  
25 they needed to figure out if he (Mr. Figueroa) was who they were looking for.

26 86. Mr. Figueroa was never read any of his Miranda rights or advised of any right to  
27 counsel.  
28

1           87.     Upon information and belief, Defendants Balmy and Clifford, acting in their  
2 official capacities, made the decision to arrest Mr. Figueroa on the basis of his outstanding civil  
3 immigration warrant and/or his race and/or national origin.

4           88.     While being led to the booking area, Mr. Figueroa never communicated or  
5 attempted to communicate with Defendants Balmy and Clifford because Mr. Figueroa cannot  
6 speak or understand English. Nonetheless, it was apparent that Mr. Figueroa was of limited  
7 English proficiency, and no qualified Spanish-speaking officer was summoned to explain to Mr.  
8 Figueroa what was happening to him.

9           89.     Mr. Figueroa was led through closed doors into another area. Upon information  
10 and belief, this was Southern Station’s booking area, where there was a bench and two other  
11 doors. One door was marked “exit” and the other door was unmarked.

12           90.     Once they reached the booking area, Defendants Balmy and Clifford, without  
13 communicating their reason for doing so, conducted a pat-down search of Mr. Figueroa. All of  
14 Mr. Figueroa’s belongings were removed and passed through a small window to another SFPD  
15 officer.

16           91.     Without communicating their reason for doing so, Defendants Balmy and Clifford  
17 also fingerprinted Mr. Figueroa.

18           92.     Mr. Figueroa was then led to the bench. Defendants Balmy and Clifford then  
19 handcuffed Mr. Figueroa to the bench and left him there.

20           93.     At one point, another SFPD officer entered and asked Mr. Figueroa in English to  
21 sign some documents, which were also only in English. Now fearful of cooperating with the  
22 SFPD, Mr. Figueroa refused to sign because he did not understand what the documents said.  
23 The officer left and, within a few minutes, a Spanish-speaking SFPD officer arrived and  
24 explained to Mr. Figueroa that the documents were related to his personal property. Mr.  
25 Figueroa signed the documents, and the Spanish-speaking officer exited and never returned.

26           94.     Mr. Figueroa was never offered language assistance prior to this point. Nor was  
27 he subsequently offered language assistance, despite the obviousness of Mr. Figueroa’s limited  
28 English proficiency.



1 95. No SFPD officer provided any justification for Mr. Figueroa’s arrest that would  
2 support an inference of reasonable suspicion or probable cause that Mr. Figueroa had engaged in,  
3 was engaged in, or was about to engage in any criminal activity.

4 96. Further, during the entirety of Mr. Figueroa’s arrest or detention, no SFPD officer  
5 asked Mr. Figueroa any questions related to whether he was who they were looking for.

6 **E. With Mr. Figueroa in Custody, the SFPD Conducted a Warrant Check**  
7 **Against the NCIC Database and Discovered That Mr. Figueroa Had an**  
8 **Outstanding Civil Immigration Warrant**

9 97. After Mr. Figueroa was brought into the booking area, upon information and  
10 belief, Defendant Clifford conducted a warrant check on Mr. Figueroa.

11 98. Upon information and belief, one of the databases that the SFPD uses to conduct  
12 warrant checks is the National Crime Information Center (“NCIC”) database. NCIC is a  
13 nationwide clearinghouse of records operated by the Federal Bureau of Investigation. The NCIC  
14 provides direct online access to its computerized index of criminal and immigration-related  
15 information for local, state, and federal law enforcement officers, and others nationwide.

16 99. Upon information and belief, the NCIC database clearly identifies and  
17 distinguishes between civil and criminal warrants.

18 100. Civil immigration warrants are not authorized by a judge or based on a finding of  
19 probable cause. Rather, they are signed by immigration enforcement agents.

20 101. Upon information and belief, the SFPD and the Sheriff’s Department always rely  
21 on the NCIC database to run frequent warrant checks on individuals.

22 102. Upon information and belief, the SFPD and the Sheriff’s Department had  
23 regularly utilized the NCIC database for all of their warrant checks prior to December 2, 2015.

24 103. Upon information and belief, when the NCIC database was queried for  
25 Mr. Figueroa, the database revealed an outstanding, non-criminal, civil immigration warrant.

26 104. Upon information and belief, the warrant was clearly labeled as an  
27 “administrative warrant” and was clearly distinguishable from a “criminal warrant.”

28 105. Upon information and belief, the warrant check did not reveal any felony

1 convictions, or any other outstanding warrants of any kind, criminal or otherwise, with respect to  
2 Mr. Figueroa.

3 106. Upon information and belief, if any additional warrants for Mr. Figueroa had  
4 existed, the NCIC database would have reflected them as well.

5 **F. In Violation of the Sanctuary Ordinance, the SFPD Affirmatively**  
6 **Communicated with ICE Regarding Mr. Figueroa's Immigration Status**

7 107. While Mr. Figueroa sat handcuffed to the bench, the SFPD communicated with  
8 the Sheriff's Department and ICE regarding Mr. Figueroa's immigration status.

9 108. Defendant Kelly called to confirm the civil immigration warrant with Defendant  
10 Thibeaux of the Sheriff's Department's Central Warrant Bureau.

11 109. Upon information and belief, Defendant Thibeaux, as a member of the Central  
12 Warrant Bureau, understood that Mr. Figueroa's ICE warrant was a civil warrant, related to Mr.  
13 Figueroa's immigration status, and was not to be enforced.

14 110. Upon information and belief, using the information provided by Defendant Kelly,  
15 Defendant Thibeaux contacted ICE and disseminated information with regard to Mr. Figueroa's  
16 immigration status and other personal, identifying information, and provided the ICE agent with  
17 Defendant Kelly's contact information.

18 111. Defendant Kelly also was in contact with ICE. Defendant Kelly provided ICE  
19 with Mr. Figueroa's current location at Southern Station.

20 112. Upon information and belief, Defendants Thibeaux, Clifford, and Kelly are not  
21 trained or authorized to enforce civil immigration warrants. In fact, Defendants Thibeaux,  
22 Clifford, and Kelly are expressly prohibited under the Sanctuary Ordinance from enforcing  
23 immigration laws in this instance.

24 113. Upon information and belief, at some point after Mr. Figueroa was arrested by  
25 SFPD officers, ICE Agent Cepeda contacted Defendant Kelly and informed him that he would  
26 respond to Southern Station.

27 **G. The SFPD Coordinated with ICE to Transfer Mr. Figueroa Into ICE**  
28 **Custody**

1           114. At no time during this ordeal was Mr. Figueroa ever told that the SFPD had  
2 discovered an outstanding civil immigration warrant attached to his name, or that the SFPD had  
3 affirmatively communicated this to ICE.

4           115. Rather, upon information and belief, and unbeknownst to Mr. Figueroa, at some  
5 point before Mr. Figueroa's release, ICE Agent Cepeda and another ICE agent arrived at the  
6 Southern Station to take custody of Mr. Figueroa. Upon information and belief, Agent Cepeda  
7 informed SFPD of his presence at Southern Station, and both Defendants Clifford and Kelly  
8 were advised of Agent Cepeda's presence at Southern Station while Mr. Figueroa was still in  
9 SFPD custody.

10           116. Upon information and belief, the ICE agents were directed by SFPD officers to  
11 position themselves near a side exit door (the "Alley Exit") located in a small dead-end alley that  
12 is not readily accessible to the public.

13           117. Upon information and belief, the ICE agents' positioning at this side exit—and  
14 not the main and commonly used entrance—immediately before Mr. Figueroa was pushed  
15 through it, indicates that the transfer of custody was coordinated and in cooperation with the  
16 SFPD, and not a coincidental encounter.

17           118. Upon information and belief, after learning of Agent Cepeda's arrival, Defendant  
18 Kelly advised Defendant Clifford that the SFPD booked prisoners at the County Jail and  
19 instructed Defendant Clifford to "release" Mr. Figueroa per Section 849b of the Penal Code and  
20 to give him a Certificate of Release. This Certificate of Release was SFPD's attempt to  
21 retroactively downgrade Mr. Figueroa's arrest to a detention in its paperwork.

22           119. Shortly before Mr. Figueroa's so-called release, Defendant Clifford and another  
23 SFPD officer entered, un-handcuffed Mr. Figueroa from the bench, stood him up, and then re-  
24 handcuffed Mr. Figueroa's wrists behind his back.

25           120. Upon information and belief, the other SFPD officer also did not speak Spanish.

26           121. Defendant Clifford and the other SFPD officer, each standing behind one of Mr.  
27 Figueroa's shoulders, walked Mr. Figueroa down a dark corridor in the booking area towards the  
28 unmarked door. This was not the same door through which Mr. Figueroa had entered the

1 booking area.

2 122. A third SFPD officer then approached and in an aggressive and hostile manner  
3 stuffed a piece of paper into Mr. Figueroa's pants pocket.

4 123. When the two SFPD officers and Mr. Figueroa reached the unmarked door, one of  
5 the SFPD officers reached forward and around Mr. Figueroa's body and opened the door a few  
6 inches. With the door slightly ajar, the officers pushed Mr. Figueroa partially through the door  
7 and then quickly unlocked his handcuffs and handed him a bag that contained his previously  
8 seized property.

9 124. As soon as Mr. Figueroa stepped outside, two ICE agents, one standing in a  
10 position originally hidden by the opened door, confronted him.

11 125. Upon information and belief, one of the ICE agents was Agent Cepeda.

12 126. Upon information and belief, Defendant Clifford observed ICE agents take  
13 custody of Mr. Figueroa to ensure the transfer of custody from SFPD to ICE.

14 127. Upon information and belief, when an arrestee is released from custody in the  
15 booking area at Southern Station, the arrestee is normally led back to the main waiting area and  
16 out of the main entrance of the station.

17 128. Upon information and belief, the SFPD does not normally lead non-immigrant  
18 released detainees or arrestees to the Alley Exit.

19 129. The SFPD officers led Mr. Figueroa to the Alley Exit in this instance because the  
20 SFPD had coordinated with ICE to transfer Mr. Figueroa into ICE custody.

21 130. The SFPD officers intentionally forced Mr. Figueroa to the Alley Exit to transfer  
22 Mr. Figueroa from SFPD custody to ICE custody.

23 131. Upon information and belief, the SFPD also decided to lead Mr. Figueroa to the  
24 Alley Exit and not the main entrance to keep the transfer of Mr. Figueroa to ICE custody  
25 clandestine and out of the public eye. The Alley Exit was unlit and empty aside from the two  
26 ICE agents and their white van.

27 **H. Mr. Figueroa Was Transferred from SFPD Custody to ICE Custody**

28 132. As Mr. Figueroa stepped through the Alley Exit, both ICE agents positioned

1 themselves in front of him, with the parked van positioned behind them.

2 133. Neither of the ICE agents initially identified themselves to Mr. Figueroa, instead  
3 they first asked Mr. Figueroa in Spanish whether he was Pedro Figueroa.

4 134. The ICE agents told Mr. Figueroa in Spanish that he was under arrest. The ICE  
5 agents then shackled Mr. Figueroa's hands and feet, took possession of his bag of belongings,  
6 and escorted him to the back of their white van a few feet away.

7 135. Once inside the van, Mr. Figueroa asked one of the ICE agents if he could make a  
8 phone call. One of ICE agents reached into the bag holding Mr. Figueroa's possessions and  
9 handed him his own cell phone.

10 136. Mr. Figueroa called Mrs. Cortes, who answered right away. Mrs. Cortes told  
11 Mr. Figueroa that she was at Southern Station, along with their niece and their eight-year-old  
12 daughter L.C. Mrs. Cortes had just been told by Defendant Chambers, who was still in the  
13 waiting area of Southern Station and was not one of the officers who had "released" Mr.  
14 Figueroa, that ICE agents had already taken Mr. Figueroa.

15 137. Mr. Figueroa explained that he was in the back of a van still at Southern Station.

16 138. Together, Mrs. Cortes, their daughter, and their niece ran outside the station and  
17 found the van. Mr. Figueroa was able to hear from inside the van as his wife pled with the ICE  
18 agents not to take Mr. Figueroa away, and as L.C. yelled, "Papi, papi!" and banged on the van  
19 doors to try and see her father.

20 **I. Mrs. Cortes Desperately Attempted to Figure Out What Was Happening to**  
21 **Mr. Figueroa**

22 139. After Mr. Figueroa was arrested in the waiting area, Mrs. Cortes remained there,  
23 hoping that the incident would resolve itself. After approximately 20 minutes of waiting, Mrs.  
24 Cortes asked Defendant Chambers what was happening with Mr. Figueroa.

25 140. Defendant Chambers explained, in English, that an immigration judge had  
26 ordered Mr. Figueroa arrested.

27 141. Because of her limited English proficiency, Mrs. Cortes did not fully understand  
28 Defendant Chambers' explanation, and, again, at no point did any SFPD officer attempt to

1 provide her with language assistance to help her understand the situation.

2 142. In a panic, Mrs. Cortes left the station and drove home, hoping to find her niece,  
3 who is a native English speaker.

4 143. Once at home, Mrs. Cortes found her niece, who was babysitting L.C., and  
5 explained to them that Mr. Figueroa had been arrested. Then, they all quickly returned to  
6 Southern Station.

7 144. When they arrived at the Southern Station, they ran into the waiting area and  
8 asked Defendant Chambers about Mr. Figueroa's status and whereabouts.

9 145. Defendant Chambers told them that ICE had already taken Mr. Figueroa.

10 146. Shocked and terrified that their fiancé, father, and uncle, was gone, all three ran  
11 out of the station waiting area.

12 147. Simultaneously, Mrs. Cortes received a phone call from Mr. Figueroa as they  
13 exited the station. Mr. Figueroa told Mrs. Cortes that he was in a white van and still at the  
14 Southern Station.

15 148. Mrs. Cortes spotted the white van as it was about to leave.

16 149. Mrs. Cortes and L.C. ran to the van screaming for the ICE agent to stop. Mrs.  
17 Cortes asked the ICE agent why they were taking Mr. Figueroa away. He responded that it was  
18 because of an immigration warrant for his arrest.

19 150. Mrs. Cortes and L.C. cried and pleaded with the ICE agent. L.C. asked if she  
20 could say goodbye to her dad, but the ICE agent only allowed her to wave goodbye through the  
21 window.

22 151. Mrs. Cortes and L.C. were devastated as they watched, in disbelief, as ICE took  
23 Mr. Figueroa away.

24 **J. Mr. Figueroa Remained in ICE Custody for Two Months**

25 152. As a result of being transferred to ICE custody, Mr. Figueroa was forced to spend  
26 Christmas without his family and was separated from his wife and daughter for two months.

27 153. Upon being detained by ICE, Mr. Figueroa was transported from the Southern  
28 Station to the Martinez Detention Facility, where he was held until the following morning.

1 Mr. Figueroa was not given his own cell or a space to sleep during this time.

2 154. Mr. Figueroa was held in a cell with approximately 35 to 40 other individuals.  
3 Individuals were forced to lie on the floor due to the cramped conditions and there was no room  
4 to move. The cell only had two bathrooms.

5 155. On the morning of December 3, 2015, Mr. Figueroa was transported from  
6 Martinez to the ICE Field Office in San Francisco. Mr. Figueroa spent the entire day there until  
7 being transported back to the Martinez Detention Facility in the evening.

8 156. When Mr. Figueroa returned to Martinez, he was subjected to a search, and forced  
9 to remove his clothes—the same clothes he had been wearing for the past two days— in front of  
10 an officer. After being given a uniform to wear, Mr. Figueroa spent the night in Martinez, and  
11 then at approximately 4:30 a.m. on December 4, 2015, he was transported to the Contra Costa  
12 West County Detention Facility in Richmond.

13 157. Each time Mr. Figueroa was transported from one facility to another, he was  
14 shackled.

15 158. While in detention, Mr. Figueroa was afraid to request numerous basic necessities  
16 such as a uniform that actually fit him and additional blankets to stay warm.

17 159. While Mr. Figueroa was detained by ICE, his wife’s and daughter’s visits were  
18 severely limited—they were only permitted to see him for no more than 30 minutes each visit,  
19 and each time they were separated by a glass window.

20 160. These short, impersonal visits were emotionally distressing, especially because  
21 Mr. Figueroa was unable to regularly speak with his family over the phone. Mr. Figueroa was  
22 only able to call home during “break time.” Although “break time” happened approximately  
23 twice each day, Mr. Figueroa was not guaranteed to have access to a telephone and was often  
24 unable to call his family because the line to make phone calls was too long.

25 161. Mr. Figueroa’s daughter was also severely emotionally distressed by  
26 Mr. Figueroa’s detention. On numerous occasions, L.C. would burst into tears, crying  
27 uncontrollably out of fear that her father would be removed from the United States and had  
28 difficulties at school. Her teacher contacted Mrs. Cortes and suggested that Mrs. Cortes seek a

1 child therapist.

2 162. Mrs. Cortes was also severely emotionally distressed by Mr. Figueroa's detention.  
3 She suffered anxiety, worry, humiliation, shame, and fear due to Mr. Figueroa's detention and  
4 his possible removal from the United States.

5 163. On February 2, 2016, Mr. Figueroa's bond was set at \$2,500. The next day, his  
6 bond was paid, and he was released. Mr. Figueroa, who went to the police station on  
7 December 2, 2015 thinking he was simply going to obtain a form to recover his stolen car, was  
8 detained for two full months.

9 **K. Mr. Figueroa's Immigration Case Has Been Reopened**

10 164. Upon Mr. Figueroa's detention on December 2, 2015, ICE sought to effectuate his  
11 2005 removal order.

12 165. Following his arrest and detention, Mr. Figueroa retained an immigration lawyer  
13 who filed a motion to reopen Mr. Figueroa's removal proceedings on the grounds that there was  
14 deficient notice of his 2005 removal hearing, and that Mr. Figueroa was seeking asylum. An  
15 immigration judge in San Antonio, Texas, reopened Mr. Figueroa's case on January 13, 2016.

16 166. While Mr. Figueroa is no longer subject to a final order of removal, deportation  
17 remains a possibility at the conclusion of his immigration proceedings. Mr. Figueroa remains  
18 anxious and fearful of that possibility. If Mr. Figueroa is deported, he will be permanently  
19 separated from his wife and his daughter.

20 **L. Defendants Wrongfully Auctioned Off Mr. Figueroa's Vehicle**

21 167. A few weeks after Mr. Figueroa's unlawful arrest and detention by the SFPD,  
22 Mrs. Cortes received a phone call from an SFPD officer, who spoke to her in English, regarding  
23 Mr. Figueroa's vehicle. The SFPD officer inquired whether anyone was going to retrieve the  
24 vehicle. Mrs. Cortes informed the caller that Mr. Figueroa could not because he was in custody.

25 168. Mr. Figueroa, as the registered owner, was the only person authorized to retrieve  
26 the vehicle. However, he was unable to do so because the SFPD had transferred him to ICE  
27 custody, where he remained.

28 169. Within a few days of Mr. Figueroa's release from ICE custody, on or around



1 February 6, 2016, he and Mrs. Cortes went to check on his vehicle.

2 170. Mr. Figueroa was informed that his vehicle had been sold on or about December  
3 23, 2015. At no time prior to December 23, 2015, was Mr. Figueroa ever notified or informed  
4 that his vehicle would be sold. At no time prior to December 23, 2015, was Mrs. Cortes ever  
5 notified or informed that the vehicle would be sold. The residence where Mr. Figueroa and Mrs.  
6 Cortes resided was the address registered with the vehicle, yet no written notice was ever sent  
7 there either.

8 171. At no time did Mr. Figueroa ever provide the SFPD with consent to sell his  
9 vehicle.

10 172. Mr. Figueroa has never received any money or compensation from the City for  
11 the value of his vehicle or his tools that were in the vehicle. Upon information and belief, the  
12 City retained some or all of the proceeds from the sale of Mr. Figueroa's vehicle and the tools  
13 stored within.

14 **IX. THE CITY'S RESPONSE AND THE SFPD'S ATTEMPT TO COVER UP ITS**  
15 **COOPERATION WITH ICE**

16 **A. SFPD Officers and Sheriff's Department Officials Conspire to Mislead the**  
17 **Media and Public About Their Cooperation with ICE**

18 173. After learning of Mr. Figueroa's unlawful arrest and detention, Mr. Figueroa's  
19 immigration attorneys, and immigrant and civil rights organizations, including Asian Americans  
20 Advancing Justice - Asian Law Caucus ("ALC"), held a press conference outside of Southern  
21 Station, on January 20, 2016 to publicize Mr. Figueroa's unlawful treatment.

22 174. After the press conference concluded, an SFPD spokesperson asked members of  
23 the media to come inside Southern Station, promising that the SFPD would make a statement  
24 about its treatment of Mr. Figueroa. The spokesperson, however, refused to allow Mr.  
25 Figueroa's immigration counsel and immigrants' rights advocates, including ALC, into Southern  
26 Station to hear the statement.

27 175. As was reported by the media, Sergeant Michael Andraychak of the SFPD misled  
28 the media, claiming: "We do not cooperate on immigration matters."

176. SFPD Captain Jerry Difilippo also misled reporters on the same day stating that:

1 “We’re going to confirm a warrant and if it’s not confirmed we’ll release the individual, which is  
2 what we did in this case. I think it was out of the norm for an ICE agent to have showed up at  
3 the station. I don’t think anyone expected that to happen.”

4 177. Sheriff’s Department Chief of Staff Eileen Hurst also misled the media, falsely  
5 asserting that “[i]n this case, we are talking about a warrant signed by a judge for probable  
6 cause.”

7 178. These statements by SFPD Sergeant Andraychak, SFPD Captain Difilippo, and  
8 Sheriff’s Department Chief of Staff Hurst were false. SFPD cooperated with ICE, unlawfully  
9 arrested and detained Mr. Figueroa, provided Mr. Figueroa’s exact location at Southern Station  
10 to ICE, and the warrant was a non-criminal civil immigration warrant lacking the requisite  
11 probable cause. Not only did the SFPD expect ICE to show up at Southern Station, when SFPD  
12 officers “released” Mr. Figueroa, they transferred him directly into ICE’s custody at the Alley  
13 Exit of Southern Station.

14 179. These falsehoods were initially uncovered when Mr. Figueroa received ICE’s  
15 internal records. These records showed, among other things, that an SFPD officer had contacted  
16 ICE directly and informed ICE that Mr. Figueroa was being unlawfully detained at Southern  
17 Station.

18 **B. Defendants Acknowledged Their Wrongdoing**

19 180. On February 5, 2016, Mr. Figueroa’s immigration attorneys and immigrants’  
20 rights advocates, including ALC, held another press conference in City Hall, during which they  
21 released documents disclosing the false statements made by the SFPD. As discussed above, the  
22 documents evidenced the cooperation between the SFPD, the Sheriff’s Department, and ICE.

23 181. In response to the document release, former SFPD Chief of Police Greg Suhr  
24 acknowledged that Mr. Figueroa never should have ended up in the custody of federal  
25 immigration authorities.

26 **C. The Office Of Citizen Complaints Found that the SFPD Engaged in  
27 Wrongful Conduct**

28 182. On April 7, 2016, Mr. Figueroa filed a complaint with the Office of Citizen

1 Complaints (“OCC Complaint”). The OCC Complaint described in detail the events leading up  
2 to, during, and after SFPD’s unlawful arrest and detention of Mr. Figueroa and his subsequent  
3 arrest by ICE agents.

4 183. The Addendum to the OCC Complaint listed five claims: (1) the SFPD violated  
5 its own departmental policy against (a) detaining individuals based on their immigration status  
6 and (b) helping ICE enforce federal immigration laws; (2) the SFPD violated the City’s  
7 Sanctuary Ordinance for the same reasons; (3) the SFPD violated department policy in failing to  
8 contact a Deputy Chief before engaging in an investigation with the Sheriff’s Department; (4) the  
9 SFPD, in failing to provide an interpreter for Mr. Figueroa, violated its language access policy;  
10 and (5) the SFPD’s actions, which violated several of its own department policies, resulted in  
11 Mr. Figueroa’s unlawful detention and constructive transfer to ICE custody.

12 184. The OCC Complaint alleged that, as a result of his treatment by the SFPD,  
13 Mr. Figueroa suffered severe emotional distress in addition to the loss of his car, wages, and  
14 other money that he had to pay to his immigration attorneys.

15 185. On November 21, 2016, the OCC wrote to Mr. Figueroa regarding his OCC  
16 Complaint. The OCC sustained the majority of Mr. Figueroa’s allegations against the SFPD,  
17 including that he was detained without justification, handcuffed without cause, that the SFPD  
18 neglected its duty in aiding ICE to enforce immigration law, and that SFPD violated its language  
19 access policy.

20 **D. The SFPD Internal Investigation**

21 186. The SFPD also has commenced an internal investigation to determine if there was  
22 any wrongdoing with regard to Mr. Figueroa’s treatment.

23 **E. The City Denied Any Relief to Mr. Figueroa for Its Wrongful and Unlawful**  
24 **Conduct**

25 187. Four months after Mr. Figueroa’s release, on June 2, 2016, Mr. Figueroa filed a  
26 complaint with the City to challenge the unlawful treatment he endured at the hands of the SFPD  
27 and the Sheriff’s Department (“City Complaint”).

28 188. The City Complaint asserted claims against the SFPD and the Sheriff’s

1 Department for wrongful arrest, wrongful detention, false imprisonment, violation of Mr.  
2 Figueroa's right to be free from unlawful seizure under the Fourth Amendment, his rights under  
3 the California Constitution, and infliction of emotional distress.

4 189. In addition, the City Complaint alleged that the SFPD, in arresting and detaining  
5 Mr. Figueroa without probable cause: (1) violated the City's Sanctuary Ordinance by assisting in  
6 the enforcement of federal immigration law; (2) violated its own departmental policy against  
7 detaining individuals based on their immigration status and assisting ICE in enforcing  
8 immigration laws; (3) violated its own departmental policy requiring that an interpreter be  
9 provided to those with limited English language proficiency skills; and (4) illegally sold off Mr.  
10 Figueroa's car while he was in custody.

11 190. On July 18, 2016, the City denied Mr. Figueroa's City Complaint in its entirety.

12 **X. CLAIMS FOR RELIEF**

13 **FIRST CLAIM FOR RELIEF**

14 **Fourth Amendment (42 U.S.C. § 1983) – Unreasonable Search and Seizure**  
15 **(Against all Defendants)**

16 191. Mr. Figueroa incorporates by reference the allegations in the paragraphs above as  
17 though fully set forth here.

18 192. Federal law preempts state or local police from enforcing federal civil  
19 immigration laws and does not grant local law enforcement officials the authority to make civil  
20 immigration arrests beyond narrow circumstances not relevant to Mr. Figueroa's arrest.

21 193. There is no agreement under 8 U.S.C. § 1357(g)(1) in place in the City or County  
22 of San Francisco, and as such, Defendants, collectively, and each of them, did not have authority  
23 to enforce federal immigration law under 8 U.S.C. § 1357(g)(1).

24 194. At all times Defendants Balmy, Chambers, Clifford, Kelly, and DOES 1 through  
25 50 wore full uniforms and acted under the color of state law. At all times Defendant Thibeaux  
26 acted under the color of state law.

27 195. Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1 through 50  
28 had no reasonable, individualized, articulable suspicion that Mr. Figueroa was involved in any

1 unlawful activity.

2           196. When Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1  
3 through 50 ordered, authorized, or physically placed Mr. Figueroa in handcuffs to prevent him  
4 from leaving the premises of Southern Station, they “seized” him because no reasonable person,  
5 including Mr. Figueroa, would feel that he or she were free to leave after being handcuffed by  
6 two uniformed officers.

7           197. Mr. Figueroa was not charged or arrested for any violation of a criminal law.

8           198. Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1 through 50,  
9 collectively, and each of them, seized Mr. Figueroa without the legal authority to do so and in the  
10 absence of any exigent circumstances, probable cause, or reason to believe that he had or was  
11 engaged in criminal activity.

12           199. As a direct and proximate result of Defendants Balmy, Chambers, Clifford, Kelly,  
13 Thibeaux and DOES 1 through 50’s actions, as alleged above, Defendants, collectively, and each  
14 of them, deprived Mr. Figueroa of his constitutional rights under the Fourth Amendment.

15           200. Upon information and belief, Defendants Balmy, Chambers, Clifford, Kelly,  
16 Thibeaux and DOES 1 through 50 are vested by law—or by a “custom or usage” having the  
17 force of law—with “final policymaking authority” to effect arrests and/or ratify or sanction  
18 arrests made by other officers. Defendants Balmy, Kelly, Clifford, and DOES 1 through 50 were  
19 acting as municipal officials with “final policymaking authority” when they effected, ratified, or  
20 sanctioned Mr. Figueroa’s arrest.

21           201. Defendants’ training programs, monitoring, and supervision failed to actually  
22 train their officers and employees to handle the frequent, usual, and reoccurring situations where:  
23 (1) a NCIC database query reveals a civil immigration warrant; and (2) an individual is suspected  
24 of nothing more than a civil immigration violation.

25           202. Defendants in their official capacities were on actual notice of the City’s failure to  
26 train, monitor, and supervise SFPD officers and Sheriff’s Department personnel: (1) to properly  
27 read the NCIC database in order to correctly determine which warrants give officers and deputies  
28 the legal authority to detain or arrest an individual; and (2) that individuals may not be arrested

1 or detained based solely on a non-criminal, civil immigration warrant. As such, Defendants were  
2 aware that the City's failure to train, monitor, and supervise SFPD officers and Sheriff's  
3 Department personnel has caused, and is highly likely to cause, officers and deputies to detain or  
4 arrest individuals without, respectively, reasonable suspicion or probable cause, and in the  
5 absence of exigent circumstances, in violation of the Fourth Amendment of the United States  
6 Constitution.

7 203. Defendants, in their official capacities also knew such a failure to train adequately  
8 made it highly predictable that their officers and employees would engage in conduct that would  
9 deprive individuals, including Mr. Figueroa, of their Fourth Amendment rights under the United  
10 States Constitution.

11 204. Defendants' failure to train adequately is closely related to the deprivation of  
12 Mr. Figueroa's constitutional rights as to have caused the ultimate injury.

13 205. Mr. Figueroa seeks injunctive and declaratory relief against all Defendants in their  
14 official capacities, enjoining them from continuing to engage in the above-described policies,  
15 practices, and conduct violating Mr. Figueroa's right to be free from unreasonable searches and  
16 seizures under the Fourth Amendment of the United States Constitution including, but not  
17 limited to:

- 18 a. Detaining individuals without reasonable suspicion of criminal activity;
- 19 b. Arresting individuals without probable cause of criminal activity;
- 20 c. Detaining or arresting individuals on the basis of a civil immigration  
21 warrant without authority to arrest for civil immigration violations;
- 22 d. Failing to adequately train, monitor, or supervise the agents, employees, or  
23 representatives of the San Francisco Police Department and the San Francisco Sherriff's  
24 Department regarding authority to arrest and detain individuals based on a civil immigration  
25 warrant; and
- 26 e. Transferring individuals from SFPD custody to ICE custody, resulting in  
27 ICE detention.

28 206. Mr. Figueroa seeks compensatory damages against all Defendants in their official

1 capacities and compensatory and punitive damages against Defendants Balmy, Chambers,  
2 Clifford, Kelly, Thibeaux and DOES 1 through 50 in their individual capacities for violations of  
3 Mr. Figueroa’s right to be free from unreasonable searches and seizures under the Fourth  
4 Amendment of the United States Constitution according to proof, including but not limited to:

5 a. Detaining individuals without reasonable suspicion of criminal activity;  
6 b. Arresting individuals without probable cause of criminal activity;  
7 c. Detaining or arresting individuals on the basis of a civil immigration  
8 warrant without authority to arrest for civil immigration violations;

9 d. Failing to train, monitor, or supervise the agents, employees, or  
10 representatives of the San Francisco Police Department and the San Francisco Sherriff’s  
11 Department regarding authority to arrest and detain individuals based on a civil immigration  
12 warrant; and

13 e. Transferring individuals from SFPD custody to ICE custody, resulting in  
14 ICE detention.

15 207. As a direct and proximate result of Defendants’ conduct, collectively and  
16 individually, Mr. Figueroa has been damaged in an amount within the jurisdiction of this Court,  
17 according to proof. As a direct and proximate result of Defendants’ actions, collectively and  
18 individually, Mr. Figueroa suffered damages, including but not limited to violation of his  
19 constitutional rights, loss of liberty, monetary damages, emotional distress, and physical pain and  
20 suffering.

21 208. At all relevant times herein, the actions and omissions of Defendants, and each of  
22 them, as set forth above, occurred deliberately, intentionally, knowingly, maliciously, willfully,  
23 wantonly, and with conscious and reckless disregard for Mr. Figueroa’s rights, entitling  
24 Mr. Figueroa to an award of punitive damages.

25 **SECOND CLAIM FOR RELIEF**

26 **California Constitution, Art. I, § 13 – Unreasonable Search and Seizure**

27 **(Against all Defendants)**

28 209. Mr. Figueroa incorporates by reference the allegations in the paragraphs

1 above as though fully set forth here.

2 210. Federal law preempts state or local police from enforcing federal civil  
3 immigration laws and does not grant local law enforcement officials the authority to make civil  
4 immigration arrests beyond narrow circumstances not relevant to Mr. Figueroa’s arrest.

5 211. There is no agreement under 8 U.S.C. § 1357(g)(1) in place in the City or County  
6 of San Francisco, and as such, Defendants, collectively, and each of them, did not have authority  
7 to enforce federal immigration law under 8 U.S.C. § 1357(g)(1).

8 212. At all times Defendants Balmy, Chambers, Clifford, Kelly, and DOES 1 through  
9 50 wore full uniforms and acted under the color of state law. At all times Defendant Thibeaux  
10 acted under the color of state law.

11 213. Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1 through 50  
12 had no reasonable, individualized, articulable suspicion that Mr. Figueroa was involved in any  
13 unlawful activity.

14 214. When Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1  
15 through 50 ordered, authorized, or physically placed Mr. Figueroa in handcuffs to prevent him  
16 from leaving, they “seized” him because no reasonable person, including Mr. Figueroa, would  
17 feel that he or she were free to leave after being handcuffed by two uniformed officers.

18 215. Mr. Figueroa was not charged or arrested for any violation of a criminal law.

19 216. Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1 through 50,  
20 collectively, and each of them, seized Mr. Figueroa without the legal authority to do so and in the  
21 absence of any exigent circumstances, probable cause, or reason to believe that he had or was  
22 engaged in criminal activity.

23 217. As a direct and proximate result of Defendants Balmy, Chambers, Clifford, Kelly,  
24 Thibeaux and DOES 1 through 50 actions, as alleged above, Defendants, collectively, and each  
25 of them, deprived Mr. Figueroa of his constitutional rights under Article I, Section 13 of the  
26 California Constitution.

27 218. Upon information and belief, Defendants Balmy, Chambers, Clifford, Kelly,  
28 Thibeaux and DOES 1 through 50 are vested by law—or by a “custom or usage” having the



1 force of law—with “final policymaking authority” to effect arrests and/or ratify or sanction  
2 arrests made by other officers. Defendants Balmy, Kelly, Clifford, and DOES 1 through 50 were  
3 acting as municipal officials with “final policymaking authority” when they effected, ratified, or  
4 sanctioned Mr. Figueroa’s arrest.

5 219. Defendants’ training programs, monitoring, and supervision failed to train their  
6 officers and employees to handle the frequent, usual, and reoccurring situations where: (1) a  
7 NCIC database query reveals a civil immigration warrant; and (2) an individual is suspected of  
8 nothing more than a civil immigration violation.

9 220. Defendants in their official capacities were on actual notice of the City’s failure to  
10 train, monitor, and supervise SFPD officers and Sheriff’s Department personnel: (1) to properly  
11 read the NCIC database in order to correctly determine which warrants give officers and deputies  
12 the legal authority to detain or arrest an individual; and (2) that individuals may not be arrested  
13 or detained based solely on a non-criminal, civil immigration warrant. As such, Defendants were  
14 aware that the City’s failure to train, monitor, and supervise SFPD officers and Sheriff’s  
15 Department personnel has caused, and is highly likely to cause, officers and deputies to detain or  
16 arrest individuals without, respectively, reasonable suspicion or probable cause, and in the  
17 absence of exigent circumstances, in violation of Article I, Section 13 of the California  
18 Constitution.

19 221. Defendants, in their official capacities also knew such a failure to train adequately  
20 made it highly predictable that their officers and employees would engage in conduct that would  
21 deprive individuals, including Mr. Figueroa, of their Article I, Section 13 rights under the  
22 California Constitution.

23 222. Defendants’ failure to train adequately is closely related to the deprivation of  
24 Mr. Figueroa’s constitutional rights as to have caused the ultimate injury.

25 223. Mr. Figueroa seeks injunctive and declaratory relief against all Defendants in their  
26 official capacities, enjoining them from continuing to engage in the above-described policies,  
27 practices, and conduct violating Mr. Figueroa’s right to be free from unreasonable searches and  
28 seizures under Article I, Section 13 of the California Constitution including, but not limited to:

- 1 a. Detaining individuals without reasonable suspicion of criminal activity;  
2 b. Arresting individuals without probable cause of criminal activity;  
3 c. Detaining or arresting individuals on the basis of a civil immigration  
4 warrant without authority to arrest for civil immigration violations;  
5 d. Failing to adequately train, monitor, or supervise the agents, employees, or  
6 representatives of the San Francisco Police Department and the San Francisco Sherriff's  
7 Department regarding authority to arrest and detain individuals based on a civil immigration  
8 warrant; and  
9 e. Transferring individuals from SFPD custody to ICE custody, resulting in  
10 ICE detention.

11 224. Mr. Figueroa seeks compensatory damages against all Defendants in their official  
12 capacities and compensatory and punitive damages against Defendants Balmy, Chambers,  
13 Clifford, Kelly, Thibeaux and DOES 1 through 50 in their individual capacities for violations of  
14 Mr. Figueroa's right to be free from unreasonable searches and seizures under Article I, Section  
15 13 of the California Constitution according to proof, including but not limited to:

- 16 a. Detaining individuals without reasonable suspicion of criminal activity;  
17 b. Arresting individuals without probable cause of criminal activity;  
18 c. Detaining or arresting individuals on the basis of a civil immigration  
19 warrant without authority to arrest for civil immigration violations;  
20 d. Failing to train, monitor, or supervise the agents, employees, or  
21 representatives of the San Francisco Police Department and the San Francisco Sherriff's  
22 Department regarding authority to arrest and detain individuals based on a civil immigration  
23 warrant; and  
24 e. Transferring individuals from SFPD custody to ICE custody, resulting in  
25 ICE detention.

26 225. As a direct and proximate result of Defendants' conduct, collectively and  
27 individually, Mr. Figueroa has been damaged in an amount within the jurisdiction of this Court,  
28 according to proof. As a direct and proximate result of Defendants' actions, collectively and

1 individually, Mr. Figueroa suffered damages, including but not limited to violation of his  
2 constitutional rights, loss of liberty, monetary damages, emotional distress, and physical pain and  
3 suffering.

4 226. At all relevant times herein, the actions and omissions of Defendants, and each of  
5 them, as set forth above, occurred deliberately, intentionally, knowingly, maliciously, willfully,  
6 wantonly, and with conscious and reckless disregard for Mr. Figueroa's rights, entitling  
7 Mr. Figueroa to an award of punitive damages.

8 **THIRD CLAIM FOR RELIEF**

9 **Fourteenth Amendment (42 U.S.C. § 1983) – Due Process**

10 **(Against all Defendants)**

11 227. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
12 paragraphs as though fully set forth here.

13 228. The Fourteenth Amendment of the United States Constitution guarantees  
14 individuals due process of law when the state seeks to deprive that individual of his or her  
15 liberty. Due process protects individuals from the arbitrary exercise of power and forbids the  
16 infringement of certain fundamental liberty interests.

17 229. Defendants have an affirmative duty to comply with the Sanctuary Ordinance.

18 230. Defendants, acting under the color of law, failed to comply with the Sanctuary  
19 Ordinance and unlawfully transferred Mr. Figueroa to ICE custody in violation of Mr. Figueroa's  
20 due process rights, as guaranteed by the Fourteenth Amendment of the United States.

21 231. As a direct and proximate result of Defendants' conduct, collectively and  
22 individually, Mr. Figueroa was deprived of his liberty and property.

23 232. Mr. Figueroa seeks injunctive and declaratory relief against all Defendants in their  
24 official capacities, enjoining them from continuing to engage in the above-described policies,  
25 practices, and conduct violating Mr. Figueroa's rights to due process under the Fourteenth  
26 Amendment of the United States Constitution including, but not limited to:

27 a. Violating section 2 Chapter 12H of the San Francisco Administrative  
28 Code by arresting and detaining an individual, without any lawful authority for purposes of



1 fundamental liberty interests.

2 236. Defendants have an affirmative duty to comply with the Sanctuary Ordinance.

3 237. Defendants, acting under the color of law, failed to comply with the Sanctuary  
4 Ordinance and unlawfully transferred Mr. Figueroa to ICE custody in violation of Mr. Figueroa's  
5 due process rights, as guaranteed by the Fourteenth Amendment of the United States.

6 238. As a direct and proximate result of Defendants' conduct, collectively and  
7 individually, Mr. Figueroa was deprived of his liberty and property.

8 239. Mr. Figueroa seeks injunctive and declaratory relief against all Defendants in their  
9 official capacities, enjoining them from continuing to engage in the above-described policies,  
10 practices, and conduct violating Mr. Figueroa's rights to due process under Article I, § 7(a) of  
11 the California Constitution including, but not limited to:

12 a. Violating section 2 Chapter 12H of the San Francisco Administrative  
13 Code by arresting and detaining an individual, without any lawful authority for purposes of  
14 investigating a federal civil immigration warrant;

15 b. Violating section 2 Chapter 12H of the San Francisco Administrative  
16 Code by contacting, assisting, and cooperating with federal immigration authorities in relation to  
17 individuals who do not have a felony conviction;

18 c. Violating section 2 Chapter 12H of the San Francisco Administrative  
19 Code by detaining an individual for transfer to federal immigration custody; and

20 d. Transferring Mr. Figueroa to ICE custody.

21 240. Mr. Figueroa seeks compensatory damages against all Defendants in their official  
22 capacities and compensatory, incidental, and punitive damages against all Defendants named in  
23 their individual capacities, for violations of his rights to due process under Article I, § 7(a) of the  
24 California Constitution, but not limited to:

25 a. Violating section 2 Chapter 12H of the San Francisco Administrative  
26 Code by arresting and detaining an individual, without any lawful authority for purposes of  
27 investigating a federal civil immigration warrant;

28 b. Violating section 2 Chapter 12H of the San Francisco Administrative

1 Code by contacting, assisting, and cooperating with federal immigration authorities in relation to  
2 individuals who do not have a felony arrest or conviction;

3 c. Violating section 2 Chapter 12H of the San Francisco Administrative  
4 Code by detaining an individual for transfer to federal immigration custody; and

5 d. Transferring Mr. Figueroa to ICE custody.

6 **FIFTH CLAIM FOR RELIEF**

7 **California Civil Code § 52.1 – Violation of Bane Act**

8 **(Against all Defendants)**

9 241. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
10 paragraphs as though fully set forth here.

11 242. The Bane Act protects an individual’s federal and state constitutional, and  
12 statutory rights from being interfered with through threats, intimidation, or coercion.

13 243. At all relevant times, upon information and belief, Defendants, armed law  
14 enforcement officers, wore uniforms and commanded Mr. Figueroa to comply with their  
15 requests.

16 244. Mr. Figueroa believed that if he exercised his constitutional rights, the Defendants  
17 would commit violence against him.

18 245. Mr. Figueroa seeks injunctive and declaratory relief pursuant to California Civil  
19 Code § 52.1 against all Defendants enjoining them from continuing to engage in the above-  
20 described policies, practices, and conduct interfering with the exercise and enjoyment of Mr.  
21 Figueroa’s rights under the United States and California Constitutions, according to proof and  
22 including, but not limited to:

23 a. Depriving Mr. Figueroa of his federal and state constitutional rights by  
24 using their authority as law enforcement officers to subject him to an unreasonable search and  
25 seizure without probable cause to believe that Mr. Figueroa had committed or was committing a  
26 crime, and without reasonable suspicion of criminal activity or that he posed a threat to public  
27 safety;

28 b. Depriving Mr. Figueroa of his federal and state constitutional rights by

1 using their law enforcement authority to arrest and handcuff Mr. Figueroa without probable  
2 cause to believe that Mr. Figueroa had or was committing a crime;

3 c. Depriving Mr. Figueroa of his right to be free from false arrest by using  
4 their law enforcement authority to handcuff Mr. Figueroa and arrest and detain him without:  
5 (i) probable cause to believe that Mr. Figueroa had committed or was committing a crime;  
6 (ii) reasonable suspicion of criminal activity or that he posed a threat of safety; and  
7 (iii) reasonable cause to believe Mr. Figueroa’s arrest/detention was lawful;

8 d. Depriving Mr. Figueroa of his federal and state constitutional rights to due  
9 process by violating the Sanctuary Ordinance; and

10 e. Depriving Mr. Figueroa of his federal and state constitutional rights to due  
11 process by using their law enforcement authority to prolong his unlawful arrest and detention by  
12 preventing him from leaving the police station upon his “release” and instead transferring him to  
13 ICE custody.

14 246. Mr. Figueroa seeks an affirmative injunction requiring Defendant San Francisco  
15 (and SFPD) to provide, for purposes of a U-Visa petition, a law enforcement certification form,  
16 certifying that Mr. Figueroa was the victim of false imprisonment.

17 247. Mr. Figueroa seeks compensatory damages against Defendant San Francisco and  
18 compensatory, statutory, and treble damages against Defendants Balmy, Chambers, Clifford,  
19 Kelly, Thibeaux, and DOES 1 through 50 in their individual capacities for violations of the Bane  
20 Act, according to proof and including but not limited to:

21 a. Depriving Mr. Figueroa of his federal and state constitutional rights by  
22 using their authority as law enforcement officers to subject him to an unreasonable search and  
23 seizure without probable cause to believe that Mr. Figueroa had committed or was committing a  
24 crime, and without reasonable suspicion of criminal activity, or that he posed a threat to public  
25 safety;

26 b. Depriving Mr. Figueroa of his federal and state constitutional rights by  
27 using their law enforcement authority to arrest and handcuff Mr. Figueroa without probable  
28 cause to believe that Mr. Figueroa had committed or was committing a crime;

1 c. Depriving Mr. Figueroa of his right to be free from false arrest by using  
2 their law enforcement authority to handcuff Mr. Figueroa and arrest and detain him without:  
3 (i) probable cause to believe that Mr. Figueroa had committed or was committing a crime;  
4 (ii) reasonable suspicion of criminal activity or that he posed a threat to public safety; and  
5 (iii) reasonable cause to believe Mr. Figueroa's arrest and detention was lawful;

6 d. Depriving Mr. Figueroa of his federal and state constitutional rights to due  
7 process by violating the Sanctuary Ordinance; and

8 e. Depriving Mr. Figueroa of his federal and state constitutional rights to due  
9 process by using their law enforcement authority to prolong his unlawful arrest/detention by  
10 preventing him from leaving the police station upon his "release" and instead transferring him to  
11 ICE custody.

12 **SIXTH CLAIM FOR RELIEF**

13 **False Imprisonment**

14 **(Against Defendants San Francisco,**

15 **Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1-50)**

16 248. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
17 paragraphs as though fully set forth here.

18 249. Pursuant to California Government Code section 815.2, a public entity is liable  
19 for injury proximately caused by an act or omission of an employee of the public entity within  
20 the scope of his or her employment. All of Defendants' conduct alleged in this Complaint was  
21 undertaken in the course and scope of their employment.

22 250. Mr. Figueroa seeks compensatory and incidental damages against all Defendants  
23 acting in their official capacity, and compensatory and punitive damages against Defendants  
24 Balmy, Chambers, Clifford, Kelly, and Thibeaux and DOES 1 through 50 in their individual  
25 capacities, for inflicting personal injury on him by subjecting him to false arrest and  
26 imprisonment according to proof by acts including, but not limited to: (1) detaining him against  
27 his will, in the absence of exigent circumstances, without reasonable suspicion of criminal  
28 activity; (2) unreasonably arresting him against his will without probable cause of criminal



1 activity and without authority; (3) detaining him, handcuffed, at the police station; and (4)  
2 transferring custody of him to ICE, which continued to detain him for two months.

3 251. The wrongful acts of Defendants were done maliciously, oppressively,  
4 fraudulently, and in conscious disregard of the rights, safety, and health of Mr. Figueroa and  
5 others. Mr. Figueroa is entitled to punitive and exemplary damages in the amount to be  
6 ascertained according to proof, which is appropriate to punish or set an example of Defendants  
7 and deter such behavior by Defendants and others in the future.

8 252. Mr. Figueroa seeks an affirmative injunction requiring Defendant San Francisco  
9 (and SFPD) to provide, for purposes of a U-Visa petition, a law enforcement certification form,  
10 certifying that Mr. Figueroa was the victim of false imprisonment.

11 **SEVENTH CLAIM FOR RELIEF**

12 **Intentional Infliction of Emotional Distress**

13 **(Against Defendants San Francisco,**

14 **Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50)**

15 253. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
16 paragraphs as though fully set forth here.

17 254. Defendants engaged in outrageous conduct that goes beyond all possible bounds  
18 of decency and is intolerable in a civilized community, by and through conduct including, but  
19 not limited to:

20 a. Arresting and detaining Mr. Figueroa without reasonable suspicion or  
21 probable cause, which included patting him down, handcuffing him, and failing to provide an  
22 explanation to Mr. Figueroa;

23 b. Contacting ICE to inform ICE of Mr. Figueroa's whereabouts and  
24 facilitating the transfer of custody of Mr. Figueroa to ICE, which subsequently detained him for  
25 two months; and

26 c. Failing to provide Mr. Figueroa with an interpreter despite his apparent  
27 limited English proficiency.

28 255. As a result of the named Defendants' outrageous conduct, Mr. Figueroa has and

1 continues to suffer severe emotional distress, including, but not limited to, anxiety, worry,  
2 humiliation, shame, and fear. This includes, but is not limited to: (1) the fear of being removed  
3 to his home country; (2) humiliation for being arrested and detained in front of his wife, for  
4 being taken away by ICE in front of his daughter and wife, and for spending two months in an  
5 ICE detention facility; and (3) anxiety, shock, worry, and shame for being falsely arrested and  
6 detained, handcuffed, and patted down without probable cause or reasonable suspicion.

7       256. Upon information and belief, the named Defendants' conduct was intentional and  
8 malicious, and done to cause Mr. Figueroa emotional distress.

9       257. Alternatively, the named Defendants acted with reckless disregard to the high  
10 likelihood that Mr. Figueroa would suffer emotional distress. The named Defendants knew that  
11 emotional distress was the probable result of their conduct; or, Defendants gave little or no  
12 thought to the probable effects of their conduct.

13       258. Defendants' outrageous conduct was a substantial factor in causing  
14 Mr. Figueroa's severe emotional distress.

15       259. Mr. Figueroa seeks compensatory damages against Defendants San Francisco,  
16 Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50 in their official capacities  
17 for their extreme and outrageous conduct and compensatory and punitive damages against the  
18 Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50 in their  
19 individual capacities.

20       260. The wrongful acts of Defendants were done maliciously, oppressively,  
21 fraudulently, and in conscious disregard of the rights, safety, and health of Mr. Figueroa and  
22 others. Mr. Figueroa is entitled to punitive and exemplary damages in the amount to be  
23 ascertained according to proof, which is appropriate to punish or set an example of Defendants  
24 and deter such behavior by Defendants and others in the future.

25       261. Defendants, in the course of their outrageous conduct, were not exercising their  
26 legal rights or protecting their economic interests. Nor was their conduct consistent with  
27 community standards. Finally, Defendants did not have a good-faith belief that they had a legal  
28 right to engage in such outrageous conduct.



1 Ordinance, which is to protect immigrants and maintain relations with the large immigrant  
2 community in San Francisco, by creating a city of refuge.

3 269. Mr. Figueroa falls within the class of persons the Sanctuary Ordinance was  
4 designed to protect. Further, Mr. Figueroa suffered harm for reporting a crime, which is exactly  
5 the type of harm the Sanctuary Ordinance is designed to prevent.

6 270. The conduct of Defendants directly and proximately caused physical, economic,  
7 and emotional harm to Mr. Figueroa.

8 271. San Francisco Administrative Code Chapter 12H creates a mandatory duty on the  
9 part of the City and its officials protect immigrants such as Mr. Figueroa. Defendant San  
10 Francisco failed to follow its mandatory duty created by San Francisco Administrative Code  
11 Chapter 12H when it failed to properly implement and enforce the Sanctuary Ordinance.

12 272. Defendant City and County of San Francisco may be held vicariously liable for  
13 the conduct of Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50  
14 under California Government Code section 815.2(a).

15 273. The wrongful acts of Defendants were done maliciously, oppressively,  
16 fraudulently, and in conscious disregard of the rights, safety, and health of Mr. Figueroa and  
17 others. Mr. Figueroa is entitled to punitive and exemplary damages in the amount to be  
18 ascertained according to proof, which is appropriate to punish or set an example of Defendants  
19 and deter such behavior by Defendants and others in the future.

20 **NINTH CLAIM FOR RELIEF**

21 **Negligence**

22 **(Against Defendants San Francisco,**

23 **Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1-50)**

24 274. Mr. Figueroa incorporates by reference the allegations in the paragraphs above, as  
25 though fully set forth here.

26 275. Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50  
27 are liable for breaching the standard duty of care owed to Mr. Figueroa by: (1) arresting and  
28 detaining him without probable cause or reasonable suspicion, and without explanation, based on

1 a civil immigration warrant; (2) cooperating with and assisting ICE in enforcing federal  
2 immigration laws; (3) transferring Mr. Figueroa directly into ICE custody; and (4) failing to  
3 provide him access to a Spanish language interpreter, all in violation of the Sanctuary Ordinance  
4 and SFPD language access policies. In light of the Sanctuary Ordinance and SFPD language  
5 access policies, Defendants could have reasonably foreseen that their actions would result in  
6 harm to Mr. Figueroa.

7 276. As a direct and proximate result of Defendants' various negligent acts,  
8 Mr. Figueroa suffered injuries including physical and emotional harm and distress, as well as  
9 economic harm from the time he was detained by ICE. But for Defendants' conduct,  
10 Mr. Figueroa would not have been falsely arrested, handcuffed, searched, and then transferred to  
11 and detained by ICE for two months.

12 277. Mr. Figueroa seeks compensatory damages against San Francisco. Mr. Figueroa  
13 seeks compensatory and punitive damages against Defendants Balmy, Chambers, Clifford,  
14 Kelly, Thibeaux, and DOES 1 through 50 for their negligent conduct.

15 278. Defendant San Francisco may be held vicariously liable for the conduct of  
16 Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux, and Does 1 through 50 under  
17 California Government Code Section 815.2(a).

18 279. The wrongful acts of Defendants were done maliciously, oppressively,  
19 fraudulently, and in conscious disregard of the rights, safety, and health of Mr. Figueroa and  
20 others. Mr. Figueroa is entitled to punitive and exemplary damages in the amount to be  
21 ascertained according to proof, which is appropriate to punish or set an example of Defendants  
22 and deter such behavior by Defendants and others in the future.

23 **TENTH CLAIM FOR RELIEF**

24 **Negligent Infliction of Emotional Distress**

25 **(Against Defendants San Francisco,**

26 **Balmy, Chambers, Clifford, Kelly, Thibeaux and DOES 1-50)**

27 280. Mr. Figueroa incorporates by reference the allegations in the paragraphs above, as  
28 though fully set forth here.



1                   **42 U.S.C. § 1983; 42 U.S.C. § 1985(3) – Conspiracy to Interfere with Civil Rights**  
2                   **(Against Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux,**  
3                   **and DOES 1 through 50)**

4           288. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
5 paragraphs as though fully set forth here.

6           289. Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50  
7 conspired by entering into an agreement and mutual understanding, and committing overt acts in  
8 furtherance of that agreement, to violate Mr. Figueroa’s constitutional and statutory rights on the  
9 basis of his race and/or national origin, including his right to be free from unreasonable searches  
10 and seizures and to due process, in violation of 42 U.S.C. § 1985(3), according to proof,  
11 including but not limited to the following:

12                   a. Depriving Mr. Figueroa of his federal and state constitutional rights to be  
13 free from unreasonable searches and seizures by arresting and detaining him without reasonable  
14 suspicion or probable cause;

15                   b. Depriving Mr. Figueroa of his right to be free from false arrest by using  
16 their law enforcement authority to handcuff Mr. Figueroa and arrest and detain him without:  
17 (i) probable cause to believe that Mr. Figueroa had committed or was committing a crime; (ii)  
18 reasonable suspicion of criminal activity or that he posed a threat to public safety; and (iii)  
19 reasonable cause to believe Mr. Figueroa’s arrest and detention was lawful;

20                   c. Depriving Mr. Figueroa of his federal and state constitutional rights to due  
21 process by violating the Sanctuary Ordinance;

22                   d. Depriving Mr. Figueroa of his federal and state constitutional rights to due  
23 process by using their law enforcement authority to prolong his unlawful arrest and detention by  
24 preventing him from leaving the police station upon his “release” and instead transferring him to  
25 ICE custody;

26                   e. Misleading SFPD spokespersons, a Sheriff’s Department spokesperson,  
27 the media, and public as to whether the SFPD did cooperate with ICE regarding Mr. Figueroa’s  
28 immigration status and whereabouts; and

1 f. Depriving Mr. Figueroa of access to a Spanish language translator in  
2 violation of language access policies.

3 290. As a direct and proximate result of the aforementioned conspiracy, Mr. Figueroa  
4 was deprived of his right to be free from unreasonable searches and seizures, and to substantive  
5 and procedural due process, as secured by the Fourth and Fourteenth Amendments to the United  
6 States Constitution.

7 291. Mr. Figueroa seeks injunctive and declaratory relief against Defendants Balmy,  
8 Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50 in their official capacities,  
9 enjoining them from continuing to engage in the above-described conspiracy to violate the  
10 constitutional and statutory rights of Mr. Figueroa.

11 292. Mr. Figueroa seeks compensatory damages and punitive damages against  
12 Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1 through 50 for conspiring  
13 to violate his constitutional and statutory rights according to proof, including but not limited to:

14 a. Agreeing to and intentionally subjecting Mr. Figueroa to unreasonable  
15 searches and seizures;

16 b. Agreeing to and intentionally denying Mr. Figueroa substantive and  
17 procedural due process; and

18 c. Agreeing to and intentionally denying Mr. Figueroa access to a Spanish  
19 language translator.

20 **TWELFTH CLAIM FOR RELIEF**

21 **42 U.S.C. § 2000d *et. seq.* – Title VI**

22 **(Against Defendant San Francisco)**

23 293. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
24 paragraphs as though fully set forth here.

25 294. Upon information and belief, San Francisco and the SFPD receive financial  
26 assistance and funding from the United States Government.

27 295. As a recipient of federal assistance, the SFPD cannot exclude an individual from  
28 participation in, or the benefits of, any of its program or activities on the basis of that



1 individual’s national origin. Language-based discrimination is a proxy for national origin  
2 discrimination.

3 296. The SFPD must take reasonable steps to ensure meaningful access to its programs  
4 and activities by limited English proficiency (“LEP”) persons. Discriminatory application of a  
5 language access policy constitutes a denial of meaningful access to programs and activities.

6 297. By and through its agents, employees, and representatives—Defendants Balmy,  
7 Chambers, Clifford, Kelly, and DOES 1 through 50 acting in their official capacities—San  
8 Francisco intentionally refused to follow its own language access policy, failed to provide Mr.  
9 Figueroa with a qualified bilingual SFPD member despite numerous objective indications that  
10 Mr. Figueroa qualified as an LEP individual, and intentionally discriminated against  
11 Mr. Figueroa on account of his national origin by denying him participation in, and the benefits  
12 of, a federally-assisted program.

13 298. The intentional actions of Defendants Balmy, Chambers, Clifford, Kelly, and  
14 DOES 1 through 50, directly and proximately caused harm to Mr. Figueroa because those  
15 failures made it impossible for Mr. Figueroa to participate in or benefit from the SFPD’s  
16 programs and activities.

17 299. Mr. Figueroa is entitled to compensatory damages from San Francisco because of  
18 the unlawful conduct of Defendants Balmy, Chambers, Clifford, Kelly, and DOES 1 through 50,  
19 acting in their official capacities.

20 300. Mr. Figueroa is also entitled to injunctive and declaratory relief against San  
21 Francisco, enjoining it from continuing to engage in its discriminatory application of its language  
22 access policy on the basis of national origin including, but not limited to, denying the benefits of  
23 its language access policy based on an individual’s national origin.

24 **THIRTEENTH CLAIM FOR RELIEF**

25 **California Government Code § 11135 and Its Implementing Regulations**

26 **(Against Defendant San Francisco)**

27 301. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
28 paragraphs as though fully set forth here.

1           302. California Government Code section 11135 provides, in relevant part: “No person  
2 in the State of California shall, on the basis of race, national origin, ethnic group identification . .  
3 . . , be unlawfully denied full and equal access to the benefits of, and be unlawfully subjected to  
4 discrimination under, any program or activity that . . . receives any financial assistance from the  
5 state.”

6           303. California Code of Regulations section 98101(a) prohibits a recipient of state  
7 funding from denying “a person the opportunity to participate in, or benefit from an aid, benefit,  
8 or service” on the basis of “ethnic group identification,” and sections 98101(i)(1) and (2) prohibit  
9 a recipient of state funding from utilizing criteria or methods of administration which have the  
10 effect of discriminating against protected groups.

11           304. Upon information and belief, the SFPD receives financial assistance and funding  
12 from the State of California, thus subjecting it to the prohibitions of California Government Code  
13 Section 11135.

14           305. By and through its agents, employees, and representatives—Defendants Balmy,  
15 Chambers, Clifford, Kelly, and DOES 1 through 50 acting in their official capacities—San  
16 Francisco and the SFPD intentionally refused to administer its own language access policy and  
17 provide Mr. Figueroa with a qualified bilingual SFPD member despite numerous objective  
18 indications that Mr. Figueroa qualified as an LEP individual, thereby discriminating against Mr.  
19 Figueroa on account of his national original or ethnic group identification by denying him  
20 participation in, and the benefits of, a state funded program or activity.

21           306. Defendants Balmy, Chambers, Clifford, Kelly, and DOES 1 through 50  
22 repeatedly decided not to provide Mr. Figueroa with language assistance, thereby discriminating  
23 against Mr. Figueroa on account of his national origin or ethnic group identification.

24           307. Mr. Figueroa is entitled to compensatory damages against San Francisco and the  
25 SFPD because of the unlawful conduct of denying Mr. Figueroa a Spanish-speaking interpreter.

26           308. Mr. Figueroa is also entitled to injunctive and declaratory relief against San  
27 Francisco and the SFPD, enjoining it from continuing to engage in its discriminatory application  
28 of its language access policy on the basis of national origin or ethnic group identification

1 including, but not limited to, denying the benefits of its language access policy based on an  
2 individual's national origin.

3 **FOURTEENTH CLAIM FOR RELIEF**

4 **UNJUST ENRICHMENT/QUASI-CONTRACT**

5 **(Against Defendants San Francisco and DOES 1-50)**

6 309. Mr. Figueroa incorporates by reference each of the allegations in the preceding  
7 paragraphs as though fully set forth here.

8 310. By unlawfully detaining Mr. Figueroa and cooperating with federal immigration  
9 authorities, San Francisco wrongfully prevented Mr. Figueroa from reclaiming his vehicle and  
10 then received improper benefits that it otherwise would not have obtained including proceeds  
11 from the sale of Mr. Figueroa's vehicle.

12 311. Retention of the benefits would be unjust and inequitable because Defendants  
13 voluntarily accepted and retained the proceeds from the sale of Mr. Figueroa's vehicle, with full  
14 knowledge and awareness that the proceeds were only obtained as a result of its own  
15 wrongdoing.

16 312. In consequence of the acts set forth in this claim, Defendant San Francisco has  
17 been unjustly enriched at the expense of Mr. Figueroa. Mr. Figueroa is entitled to San  
18 Francisco's unjust enrichment and disgorgement of the proceeds as restitution.

19 **XI. PRAYER FOR RELIEF**

20 WHEREFORE, Mr. Figueroa prays that the Court:

- 21 1. Issue a permanent injunction against San Francisco prohibiting its officers, agents,  
22 successors, employees, representatives, and any and all persons acting in concert  
23 with San Francisco from:
  - 24 a. Detaining and arresting persons without reasonable suspicion of criminal  
25 activity or probable cause based solely on a civil immigration warrant;
  - 26 b. Denying language access services to individuals who are limited English  
27 proficient;
  - 28 c. Assisting or cooperating with federal immigration authorities unless

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- otherwise required by federal or state law; and
- d. Any practices that facilitate the above conduct.
- 2. Issue a permanent injunction against Defendants Balmy, Chambers, Clifford, Kelly, Thibeaux, and DOES 1-50 prohibiting them from:
  - a. Detaining and arresting persons without reasonable suspicion of criminal activity or probable cause based solely on a civil immigration warrant;
  - b. Denying language access services to individuals who are limited English proficient;
  - c. Assisting or cooperating with federal immigration authorities unless otherwise required by federal or state law; and
  - d. Any practices that facilitate the above conduct.
- 3. Issue an injunction against San Francisco and the SFPD requiring them to provide a U-Visa I-918 Supp B certification that Mr. Figueroa was the victim of false imprisonment.
- 4. Issue declaratory relief finding that Defendants' actions as alleged in this Complaint violate the Fourth and Fourteenth Amendments of the United States Constitution, 42 U.S.C. § 1983, 42 U.S.C. § 2000d, 42 U.S.C. § 1985(3), Article I, Sections 7 and 13 of the California Constitution, California Civil Code § 52.1, and California Government Code § 11135 and its implementing regulations.
- 5. Award Mr. Figueroa nominal, compensatory, incidental, special, statutory, and punitive damages.
- 6. Award Mr. Figueroa restitution.
- 7. Award pre-judgment and post-judgment interest to the extent permitted by law.
- 8. Award Mr. Figueroa his costs and expenses, including reasonable attorneys' fees under 42 U.S.C. § 1988 and the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412.
- 9. Award such other and further relief as the Court may deem just and proper.

1 **XII. DEMAND FOR JURY TRIAL**

2 In accordance with Federal Rule of Civil Procedure 38(b), and Northern District Local  
3 Rule 3-6(a), Plaintiff hereby demands a jury trial on all issues triable by a jury.

4 Dated: January 17, 2017

Respectfully submitted,

5  
6 By 

7 Belinda S Lee  
8 Nicholas Y. Lin  
9 Diana A. Aguilar (Bar No. 304427)  
10 Diana.Aguilar@lw.com  
11 Mona M. Williams (Bar No. 304540)  
12 Mona.Williams@lw.com  
13 Jennifer J. Matystik (Bar No. 293306)  
14 Jennifer.Matystik@lw.com  
15 Max G. Mazzelli (Bar No. 301415)  
16 Max.Mazzelli@lw.com  
17 Alexandra B. Plutshack (Bar No. 313690)  
18 Alexandra.Plutshack@lw.com

LATHAM & WATKINS LLP  
505 Montgomery Street, Suite 2000  
San Francisco, California 94111-6538  
Telephone: +1.415.391.0600  
Facsimile: +1.415.395.8095

16 Angela F. Chan  
17 Saira A. Hussain  
18 Winifred V. Kao  
19 ADVANCING JUSTICE – ASIAN LAW  
20 CAUCUS  
21 55 Columbus Ave  
22 San Francisco, California 94111-6538  
23 Telephone: +1.415.848.7707  
24 Facsimile: +1.415.896.1702

25 *Attorneys for Plaintiff Pedro Figueroa Zarceno*