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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN FRANCISCO DIVISION**

12 MILTON MENDEZ; GUILLERMO
13 MEDINA REYES; CRUZ LEANDRO
14 MARTINEZ LEIVA; R.H.M.; E.O.A.R.;
15 PEDRO FIGUEROA-PADILLA; JOSE
16 RUBEN HERNANDEZ GOMEZ;
17 RAYMUNDO NOE DOMINGUEZ VIDAL;
18 ROBERTO CARLOS FRANCO
19 GUARDADO; and all those similarly
20 situated,

21 Plaintiffs,

22 v.

23 U.S. IMMIGRATION AND CUSTOMS
24 ENFORCEMENT; TAE JOHNSON, Acting
25 Director of U.S. Immigration and Customs
26 Enforcement; MOISES BECERRA, Director of
27 the San Francisco Field Office of U.S.
28 Immigration and Customs Enforcement; THE
GEO GROUP, INC.; NORBAL VAZQUEZ,
Facility Administrator of Mesa Verde ICE
Processing Center; MINGA WOFFORD,
Facility Administrator of Golden State Annex,

Defendants.

Case No. 3:23-cv-00829-TLT

**FIRST AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

CLASS ACTION

Judge Trina L. Thompson

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INTRODUCTION

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2 1. This action concerns the fundamental and constitutionally-protected rights of people to
3 peaceably speak out against mistreatment by the government and to petition the government for redress of
4 their grievances. Plaintiffs Milton Mendez, Guillermo Medina Reyes, Cruz Leandro Martinez Leiva, R.H.M.,
5 E.O.A.R. (“Representative Plaintiffs”), and the class they seek to represent (collectively, “Plaintiffs”), have
6 exercised their First Amendment rights through a peaceful hunger strike while civilly detained by U.S.
7 Immigration and Customs Enforcement (“ICE”) and the GEO Group, Inc. (“GEO”), a private, for-profit
8 prison company (collectively, “Defendants”). Plaintiffs Pedro Figueroa-Padilla, Jose Ruben Hernandez
9 Gomez, Raymundo Noe Dominguez Vidal, and Roberto Carlos Franco Guardado (“Individual Plaintiffs”) are
10 four members of the putative class who, on March 7, 2023, were transferred to an out-of-state facility in
11 retaliation for their participation in the peaceful hunger strike.

12 2. In response to the collective hunger strike, Defendants have retaliated against Plaintiffs,
13 including by employing physical violence and excessive force against them; suddenly transferring four
14 Plaintiffs without prior notice to their attorneys and against their will to an out-of-state ICE detention facility
15 and threatening them with forced feeding; and cutting off Plaintiffs’ access to attorney-client communication
16 channels for hours at a time. Defendants have also retaliated, and continue to retaliate, against Plaintiffs by
17 threatening, intimidating, and taunting them; restricting law library access, visitation, church, and yard time;
18 denying access to essential hygiene products and other non-food commissary items; and deliberately altering
19 the physical conditions of confinement to increase Plaintiffs’ discomfort. Defendants have engaged in this
20 retaliation with the purpose of chilling Plaintiffs’ peaceful, First-Amendment-protected protest. Although
21 Defendants ultimately execute their escalating retaliation on the ground at Mesa Verde and Golden State, the
22 planning, development, coordination, and approval for Defendants’ conduct occurs at the ICE Field Office
23 located in San Francisco, California, where Defendant San Francisco ICE Field Officer Director Moses
24 Becerra and his colleagues conduct detention operations in Mesa Verde and Golden State.

25 3. Plaintiffs are approximately 82 persons detained in ICE custody at Mesa Verde ICE
26 Processing Center (“Mesa Verde”) and Golden State Annex (“Golden State”) who began their hunger strike
27 on February 17, 2023. GEO owns and operates both Mesa Verde and Golden State pursuant to a contract
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1 with ICE. The expressed purpose of the hunger strike and associated expressive activity, including speech
2 and filing grievances, is to demand release from immigration custody and, if release is denied, to demand
3 improved conditions and treatment from ICE and GEO.

4 4. The collective hunger strike follows years of peaceful advocacy by individuals detained at
5 Mesa Verde and Golden State to demand better treatment. That peaceful advocacy has included previous
6 hunger strikes, the filing of grievances, the filing of administrative complaints with Department of Homeland
7 Security oversight bodies, and contributions to a report concerning sub-standard food at these facilities. That
8 peaceful advocacy also includes a ten-month-long, ongoing refusal by some detained individuals at Mesa
9 Verde and Golden State to participate in Defendants’ supposedly “voluntary” work program, under which
10 ICE and GEO rely on detained individuals to provide cleaning and sanitation services to maintain detention
11 facilities, for only USD \$1.00 per day. They have filed a lawsuit alleging that these working conditions
12 violate California law. Through this advocacy, detained individuals have demanded improved labor and
13 detention conditions, including, among other things, payment in accordance with California’s minimum
14 wage laws, working conditions that are safe and healthy, and to be treated by Defendants with respect and
15 dignity.

16 5. Defendants have refused to address any of these demands. Instead, Defendants have engaged
17 in a pattern or practice of retaliating against the Plaintiffs when they peacefully express their request for
18 improved conditions and treatment.

19 6. Since the hunger strike began, Defendants have vociferously expressed their opposition to
20 Plaintiffs’ expressive activity and denied or restricted Plaintiffs’ access to the law library, family visitation,
21 church, yard time, and recreational activities. Defendants have also engaged in a pattern of harassment
22 against Plaintiffs by threatening to place them in solitary confinement, taunting them, pressuring them to
23 abandon their strike, making the temperature of the dorms uncomfortably cold, and depriving Plaintiffs of
24 essential non-food commissary items (such as hygiene products).

25 7. Defendants’ conduct in reaction to the hunger strike is consistent with their pattern or practice
26 of retaliating against individuals detained at Mesa Verde and Golden State when those individuals voice
27 concerns and file complaints or grievances. Throughout at least the last three years, Defendants have
28

1 repeatedly engaged in similar retaliation in response to peaceful First-Amendment-protected expression by
2 detained individuals in these facilities. For example, Defendants have placed such individuals in solitary
3 confinement for pretextual reasons, subjected them to pretextual and sexually abusive pat-downs, ordered
4 them to stop filing grievances, confiscated hygiene supplies and medically necessary items, withheld access
5 to commissary, filed false write-ups, and attempted to transfer at least one person to an out-of-state facility.

6 8. Defendants’ past and ongoing retaliatory actions against Plaintiffs place pressure on Plaintiffs
7 to terminate their peaceful and expressive hunger strike. Plaintiffs have been terrorized by Defendants’
8 actions and fear that Defendants will continue to unlawfully retaliate against them unless they succumb to
9 Defendants’ pressure to end the hunger strike.

10 9. Defendants’ retaliatory actions go far beyond the measures that would be necessary to
11 accomplish legitimate institutional goals. Instead, Defendants’ actions are intended to punish individuals for
12 their peaceful protest and chill First Amendment-protected expression.

13 **JURISDICTION AND VENUE**

14 10. This Court has subject matter jurisdiction over this matter under 28 U.S.C. § 1331 (federal
15 question), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201–02 (declaratory relief).

16 11. Venue is proper as to ICE and its officers under 28 U.S.C. § 1391(e)(1) because ICE is an
17 agency of the United States and ICE officers are sued in their official capacity; and (1) at least one Defendant
18 resides in this district; (2) at least one Plaintiff resides in this district; and/or (3) a substantial part of the
19 events or omissions giving rise to the claims occurred in this district. In particular, the San Francisco ICE
20 Field Office, located at 630 Sansome Street, Room 590, San Francisco, CA 94111, is responsible for carrying
21 out ICE’s immigration detention operations at Mesa Verde and Golden State, both of which are located
22 within what ICE describes as its “San Francisco Area of Responsibility.”

23 12. Venue is proper as to GEO and its employees under 28 U.S.C. § 1391(b) because a substantial
24 part of the events or omissions giving rise to the claims occurred in this district. In particular, GEO must seek
25 approval for relevant conduct from the San Francisco ICE Field Office. Venue is also proper because GEO
26 resides in this district for venue purposes: it has had sufficient contacts in the Northern District of
27 California such that it would be subject to personal jurisdiction in this district if it were a separate state.

DIVISIONAL ASSIGNMENT

13. Pursuant to Civil L. R. 3-2(c), this case is properly assigned to the San Francisco Division of this Court because a substantial part of the events or omissions giving rise to the claims occurred in the City and County of San Francisco.

PARTIES

A. Representative Plaintiffs

14. **Milton Mendez** is 35 years old. Until his release on bond on March 7, 2023, Mr. Mendez was detained by ICE and GEO at Mesa Verde for over 10 months, most recently in Dorm C of the facility. Mr. Mendez has lived in the United States since 1999, previously held Temporary Protected Status, and lived in Sonoma County, California for 10 years prior to being detained. Mr. Mendez began a hunger strike on February 17, 2023 in protest against Defendants' mistreatment and the conditions of confinement at Golden State and Mesa Verde. He has experienced retaliation by ICE and GEO since declaring his participation in the hunger strike.

15. **Guillermo Medina Reyes** is 28 years old. He has been detained by ICE and GEO at Golden State for 26 months, and is currently housed in Dorm A4 of the facility. Mr. Medina Reyes has lived in the United States for over 20 years and lived in Santa Clara County, California for over 9 years prior to being detained. He intends to return to and reside in Santa Clara County when he is released from ICE custody. Mr. Medina Reyes began a hunger strike on February 17, 2023 in protest against Defendants' mistreatment and the conditions of confinement at Golden State and Mesa Verde. He has experienced retaliation by ICE and GEO since declaring his participation in the hunger strike.

16. **Cruz Leandro Martinez Leiva** is 22 years old. Mr. Martinez Leiva has been detained by ICE and GEO at Golden State for over 17 months, and is currently housed in Dorm A1 of the facility. Mr. Martinez Leiva has lived in the United States since 2015. He began a hunger strike on February 17, 2023 in protest against Defendants' mistreatment and the conditions of confinement at Golden State and Mesa Verde. He has experienced retaliation by ICE and GEO since declaring his participation in the hunger strike.

17. **R.H.M.** is a 25-year-old resident of Monterey County, California. R.H.M. has been detained by ICE and GEO at Mesa Verde for over 15 months and is currently housed in Dorm C of the facility.

1 R.H.M. has lived in the United States since 2006 and lived in Monterey County, California for 12 years prior
2 to being detained. He intends to return to and reside in Monterey County when he is released from ICE
3 custody. R.H.M. began a hunger strike on February 17, 2023 in protest against Defendants' mistreatment and
4 the conditions of confinement at Golden State and Mesa Verde. He has experienced retaliation by ICE and
5 GEO since declaring his participation in the hunger strike.

6 18. **E.O.A.R.** is a 35-year-old resident of Sonoma County, California. E.O.A.R. has been detained
7 by ICE and GEO at Golden State for over 17 months, and is currently housed in Dorm A4 of the facility.
8 E.O.A.R. has lived in the United States for over 20 years, obtained lawful permanent resident status in 2016,
9 and was granted protection from removal under the Convention Against Torture by an immigration judge on
10 February 9, 2023. Prior to being detained, E.O.A.R. lived in Sonoma County, California for over 10 years.
11 He intends to return to and reside in Sonoma County when he is released from ICE custody. E.O.A.R. began
12 a hunger strike on February 17, 2023 in protest against Defendants' mistreatment and the conditions of
13 confinement at Golden State and Mesa Verde. He has experienced retaliation by ICE and GEO since
14 declaring his participation in the hunger strike.

15 **B. Individual Plaintiffs**

16 19. **Pedro Figueroa-Padilla** is a 34-year-old resident of California. Until March 7, 2023, Mr.
17 Figueroa-Padilla had been detained by ICE and GEO at Mesa Verde for over 15 months, most recently in
18 Dorm C. Mr. Figueroa-Padilla has lived in the United States for over 33 years, is the father of four U.S.
19 citizen children, and served as an inmate firefighter for two fire seasons prior to his detention by ICE. Mr.
20 Figueroa-Padilla began a hunger strike on February 17, 2023 in protest against Defendants' mistreatment and
21 the conditions of confinement at Golden State and Mesa Verde. He has experienced retaliation by ICE and
22 GEO since declaring his participation in the hunger strike, including a retaliatory transfer from Mesa Verde
23 to an ICE detention facility in El Paso, Texas, on March 7, 2023.

24 20. **Jose Ruben Hernandez Gomez** is a 33-year-old resident of California. Until March 7, 2023,
25 Mr. Hernandez Gomez had been detained by ICE and GEO for over 15 months, most recently at Mesa Verde
26 in Dorm C. Mr. Hernandez Gomez has been a permanent resident of the United States for nearly 25 years
27 and his entire family lives in the United States. Mr. Hernandez Gomez began a hunger strike on February 17,
28

1 2023 in protest against Defendants’ mistreatment and the conditions of confinement at Golden State and
2 Mesa Verde. He has experienced retaliation by ICE and GEO since declaring his participation in the hunger
3 strike, including a retaliatory transfer from Mesa Verde to an ICE detention facility in El Paso, Texas, on
4 March 7, 2023.

5 21. **Raymundo Noe Dominguez Vidal** is 62 years old. Until March 7, 2023, he had been
6 detained by ICE and GEO at Mesa Verde for over 9 months, most recently in Dorm C. Mr. Dominguez Vidal
7 has lived in the United States for over 25 years. Mr. Dominguez Vidal began a hunger strike on February 17,
8 2023 in protest against Defendants’ mistreatment and the conditions of confinement at Golden State and
9 Mesa Verde. He has experienced retaliation by ICE and GEO since declaring his participation in the hunger
10 strike, including a retaliatory transfer from Mesa Verde to an ICE detention facility in El Paso, Texas, on
11 March 7, 2023.

12 22. **Roberto Carlos Franco Guardado** is a 41-year-old resident of San Mateo County,
13 California. Until March 7, 2023, Mr. Franco Guardado had been detained by ICE and GEO at Golden State
14 and Mesa Verde for over 27 months, most recently at Mesa Verde in Dorm C. Mr. Franco Guardado has
15 lived in the United States for over 15 years and is a father to three U.S. citizen children. Prior to being
16 detained, Mr. Franco Guardado lived in San Mateo County for several years. He intends to return to and
17 reside in San Mateo County when he is released from ICE custody. Mr. Franco Guardado began a hunger
18 strike on February 17, 2023 in protest against Defendants’ mistreatment and the conditions of confinement at
19 Golden State and Mesa Verde since. He has experienced retaliation by ICE and GEO since declaring his
20 participation in the hunger strike, including a retaliatory transfer from Mesa Verde to an ICE detention
21 facility in El Paso, Texas, on March 7, 2023.

22 **C. Defendants**

23 23. Defendant Immigration and Customs Enforcement is a federal law enforcement agency within
24 the Department of Homeland Security (“DHS”). ICE is responsible for the criminal and civil enforcement of
25 immigration laws, including the detention and removal of immigrants. Enforcement and Removal
26 Operations, a division of ICE, manages and oversees the immigration detention system.

1 24. Defendant Tae Johnson is the Acting Director of ICE. Defendant Johnson is responsible for
 2 ICE’s policies, practices, and procedures, including those relating to the treatment of detained immigrants
 3 and their conditions of confinement. He is sued in his official capacity.

4 25. Defendant Moises Becerra is the Field Office Director of the San Francisco ICE Field Office.
 5 He maintains his office in San Francisco, California, within this judicial district. The San Francisco ICE
 6 Field Office is directly responsible for carrying out ICE’s immigration detention operations at Mesa Verde
 7 and Golden State. He is sued in his official capacity.

8 26. Defendant the GEO Group, Inc. is a private company that contracts with government entities
 9 to provide incarceration and detention facilities, corrections officers, and other detention-related services. Its
 10 headquarters are in Boca Raton, Florida. GEO owns and operates Mesa Verde and Golden State, and has a
 11 contract with ICE to detain immigrants at both facilities.

12 27. Defendant Norbal Vazquez is a GEO employee and the Facility Administrator of Mesa Verde.
 13 He is sued in his official capacity.

14 28. Defendant Minga Wofford is a GEO employee and the Facility Administrator of Golden
 15 State. She is sued in her official capacity.

16 **FACTUAL ALLEGATIONS**

17 **A. Plaintiffs Have Declared A Peaceful Hunger Strike To Demand Release from Custody or**
 18 **Improved Treatment And Conditions**

19 29. On February 17, 2023, approximately 82 persons detained in ICE custody in Mesa Verde and
 20 Golden State, including Representative Plaintiffs, declared they were beginning a collective hunger strike as
 21 a form of peaceful protest against their prolonged detention, abhorrent conditions of confinement, and poor
 22 treatment. Examples of such conditions include being served expired food at mealtime, inadequate medical
 23 care, moldy showers, lack of access to hygienic clothes and footwear, a pattern of retaliation, and other
 24 conditions causing or exacerbating illnesses and injuries.

25 30. Throughout February 16 and 17, Plaintiffs conveyed their message of protest by filing
 26 grievances to Defendants announcing their collective hunger strike and the purposes of their strike. They
 27 continue to convey their message of protest through their participation in the ongoing hunger strike, public
 28 statements, and grievances.

1 31. The message and demands of the hunger strike have been publicly conveyed through media
 2 and reporting.¹ The hunger strikers have also asked outside organizations and individuals to amplify their
 3 message on social media and through a press conference. Those organizations and individuals have done so,
 4 including: by convening a press conference in front of the San Francisco ICE Field Office on February 22; a
 5 March 1 advocacy letter addressed to ICE Enforcement and Removal Operations leadership—including
 6 Defendant San Francisco ICE Field Office Director Becerra and San Francisco ICE Deputy Field Office
 7 Director Richard Chang—and signed by 111 legal service providers and immigrants’ rights organizations;
 8 and a rally to support the hunger strikers in front of Golden State Annex on March 5.

9 32. The ongoing hunger strike is preceded by a ten-month-long and ongoing refusal by detained
 10 individuals at Mesa Verde and Golden State to participate in ICE’s supposedly “voluntary” work program,
 11 under which detained individuals provide janitorial and sanitation services to maintain the facilities where
 12 they are detained for the wage of USD \$1.00 per day. Detained individuals chose to stop participating in the
 13 work program unless ICE and GEO agreed to provide them payment in accordance with California’s
 14 minimum wage laws, proper cleaning supplies and safety equipment, prompt medical attention, fresh and
 15 healthy food, and adequate clothing and footwear.

16 33. However, for the last ten months, Defendants have refused to engage with the detained
 17 individuals’ demands for improved conditions and treatment. Defendants have instead engaged in a pattern
 18 or practice of repeatedly retaliating against detained individuals who file grievances regarding their treatment
 19 or request improved conditions, including by placing them in solitary confinement for pretextual reasons and
 20 consistently subjecting them to sexually abusive pat-downs.

21 34. These sexually abusive pat-downs involve unnecessary rubbing, pinching, lingering touch,
 22 fondling of genitalia, and unwanted commentary by GEO officers toward detained individuals. For many
 23

24 ¹ See, e.g., Yesenia Amaro, *Hunger strike at 2 Central Valley CA immigration facilities*, Fresno Bee (Feb. 17,
 25 2023), available at <https://www.fresnobee.com/news/local/article272532678.html>; Ishani Desai, *Nearly 100*
 26 *Mesa Verde, Golden State Annex detainees launch hunger strike*, Bakersfield Californian (Feb. 17, 2023),
 27 available at [https://www.bakersfield.com/news/nearly-100-mesa-verde-golden-state-annex-detainees-launch-](https://www.bakersfield.com/news/nearly-100-mesa-verde-golden-state-annex-detainees-launch-hunger-strike/article_03ae529a-af3b-11ed-a4cb-f3a341464227.html)
 28 *hunger-strike/article_03ae529a-af3b-11ed-a4cb-f3a341464227.html; *Migrantes detenidos en California*
realizan huelga de hambre por malos tratos en los centros de reclusion, Latin US (Feb. 18, 2023), available
 at [https://latinus.us/2023/02/18/migrantes-detenidos-california-realizan-huelga-hambre-malos-tratos-centros-](https://latinus.us/2023/02/18/migrantes-detenidos-california-realizan-huelga-hambre-malos-tratos-centros-reclusion/)
reclusion/.*

1 detained individuals who are survivors of childhood sexual abuse, these pat-downs cause them to experience
 2 flashbacks and symptoms of post-traumatic stress. Even those who did not experience childhood sexual
 3 abuse experienced panic attacks and intrusive thoughts as they lined up for unavoidable pat-downs, and
 4 reported skipping meals and recreation to avoid being subjected to pat-downs or being in the vicinity of
 5 certain officers more likely to touch them inappropriately. These sexually abusive pat-downs are targeted at
 6 detained individuals who have refused to continue participating in ICE and GEO’s “voluntary” work
 7 program, and have been accompanied by statements from GEO employees that the complainants are
 8 “troublemakers” whose grievances would henceforth be marked as “unfounded”—a threat that GEO has
 9 carried out. The San Francisco ICE Field Office has refused to address these abusive pat-downs despite its
 10 immediate responsibility to address allegations of sexual abuse by its contractors.²

11 35. The hunger strike is further preceded by at least three years of an unlawful pattern or practice
 12 of ICE and GEO’s retaliation against detained individuals in their care who participate in First-Amendment-
 13 protected activity, including hunger strikes. These experiences are well documented in three complaints filed
 14 with DHS’s Office for Civil Rights and Civil Liberties (“OCRCL”),³ demand letters addressed to ICE
 15 officials at the San Francisco ICE Field Office, and numerous grievances filed at Mesa Verde and Golden
 16 State.

17 36. Together, the complaints, letters, and grievances describe how, when confronted by peaceful
 18 First-Amendment-protected protest by individuals detained in immigration detention facilities including
 19 Mesa Verde and Golden State, ICE and GEO have repeatedly retaliated against such detained individuals in
 20 various ways, including: placing them in solitary confinement or administrative segregation for days or
 21 weeks,⁴ subjecting them to sexually abusive pat-downs, threatening them with physical harm, ordering them

22 _____
 23 ² PBNDS §§ 2.11(V)(K)(2), p. 128 (upon allegation of abuse by facility employee, facility administrator
 24 must “promptly” report to Field Office Director, along with local law enforcement); 2.11(V)(M)(3), p. 140
 (facility must notify Field Office Director of results of investigation into abuse allegation).

25 ³ See Complaint to DHS OCRCL regarding First Amendment Retaliation (Aug. 26, 2021), *available at*
 26 <https://perma.cc/3M56-YA3Q>; Complaint to DHS OCRCL regarding retaliation at Mesa Verde and Golden
 27 State (Sept. 12, 2022), *available at* <https://perma.cc/EKE2-X9TA>; Complaint to DHS OCRCL regarding
 28 retaliatory and sexually abusive pat-downs at Mesa Verde (Jan. 17, 2023), *available at*
<https://perma.cc/ZPE5-UDMJ>.

⁴ ICE policy requires that facility staff communicate with the ICE Field Office Director when subjecting
 someone in ICE custody to segregation. See PBNDS §§ 2.12(V)(A)(2)(f), p. 176; 2.12(V)(C)(1), p. 178.

1 to stop filing grievances, summarily denying legitimate grievances, filing false disciplinary write-ups, issuing
2 mass disciplinary write-ups, deliberately depriving their dorms of medical rounds during which detained
3 individuals report urgent medical needs and ask medical-related questions, refusing to provide sanitation
4 services to their dorms, cutting phone and tablet access necessary to contact attorneys and loved ones,
5 withholding access to commissary (including to hygiene products), confiscating hygiene supplies and
6 medically necessary items (including prescription medication and walking canes), and revoking yard time.

7 37. In August 2022, ICE attempted to transfer at least one individual from Mesa Verde to an out-
8 of-state facility on the sole basis that he had placed a grievance in the grievance box. After the ACLU
9 Foundation of Northern California and the ACLU Foundation of Southern California sent the San Francisco
10 ICE Field Office a demand letter expressing concerns that such a transfer would be clearly retaliatory in
11 violation of the individual's First Amendment rights, ICE promptly returned the individual—who had
12 already departed Mesa Verde for an impending transfer—back to the facility.

13 38. In November 2022, GEO placed the same individual into disciplinary segregation for
14 pretextual reasons. Advocates sent another letter to ICE's San Francisco Field Office and GEO expressing
15 concerns that the individual's ongoing solitary confinement was yet another violation of his First
16 Amendment rights. Neither ICE's San Francisco Field Office nor GEO responded to the letter, but they
17 released the individual from segregation the following day.

18 39. In sum, for at least the last three years, Defendants have perpetuated a pattern of retaliatory
19 conduct that would chill a person of ordinary firmness from continuing to engage in activities protected
20 under the First Amendment, including placing individuals in solitary confinement, subjecting them to
21 sexually abusive pat-downs, summarily denying legitimate grievances, and using disciplinary processes in a
22 pretextual manner.

23 40. On February 17, 2023, Plaintiffs commenced a collective, peaceful hunger strike to bring ICE
24 and GEO's attention to their demands and to highlight the urgency of their plight.

25 **B. Defendants Are Engaging In Unconstitutional Retaliation Against Plaintiffs' Peaceful**
26 **Expressive Activity**

27 41. In response to Plaintiffs' peaceful hunger strike to protest the conditions of their confinement
28 and mistreatment, Defendants have engaged in unconstitutional retaliation, which has escalated over time.

1 ***Defendants Have Engaged In Systematic Retaliation Against Plaintiffs Since The Start Of***
2 ***Peaceful Protest At Mesa Verde And Golden State***

3 42. Before violently escalating their retaliation on March 7, Defendants engaged in a coordinated
4 campaign of retaliation against Plaintiffs in reaction to their peaceful, expressive hunger strike.

5 43. At Golden State, since the hunger strike began, Defendants have laughed at and mocked
6 Plaintiffs, threatened to put those engaged in the hunger strike in solitary confinement; verbally harassed,
7 taunted and threatened hunger strikers; and have attempted to manipulate hunger strikers into ending their
8 strike. Defendants have also taken actions to make the living conditions for hunger strikers unbearable. On or
9 about February 18, Defendants turned up the air conditioning to make the dorms housing hunger strikers
10 uncomfortably cold. Then, on or about February 20, Defendants began ignoring essential maintenance
11 requests from dorms housing Plaintiffs, leaving malfunctioning toilets and showers unfixed.

12 44. Defendants have also interfered with Plaintiffs' ability to pursue their claims in immigration
13 court. After Plaintiffs in Golden State declared their hunger strike, the law librarian, an employee of GEO,
14 began showing up noticeably late to dorms housing hunger strikers, shortening the amount of time that
15 individuals in those dorms are provided to conduct legal research for their immigration cases. On the
16 morning of February 23, a GEO employee announced to at least one dorm that no hunger strikers would
17 receive any hygiene items from commissary.

18 45. Over time, Defendants escalated their campaign of retaliation against Plaintiffs in Golden
19 State. As the hunger strike entered its second week, Defendants canceled virtual attorney visits for Plaintiffs
20 with no explanation, canceled or delayed yard time for Plaintiffs, and canceled family visits scheduled for
21 Plaintiffs—while allowing visits or programs to continue unchanged for detained individuals who are not
22 hunger striking.⁵

23 46. Defendants have knowingly neglected the acute medical needs of at least one Plaintiff in
24 Golden State. Around 2:30 a.m. on February 27, 2023, a Plaintiff in Golden State was severely shaking and
25 very cold. Representative Plaintiff Leiva observed his distress and asked the medical staff to take the ill
26 Plaintiff to see a doctor. Mr. Leiva requested that the ill individual be brought a wheelchair and taken to see a

27 ⁵ At both Golden State and Mesa Verde, staff schedule recreation and other programming on a dorm-by-
28 dorm basis. The cancellations described herein include visits cancelled with individuals who reside in this
 district.

1 doctor. Defendants refused both requests. Instead, Defendants removed the ill Plaintiff from the dorm and
2 placed him in a very cold waiting cell. After several hours without being able to see a doctor, the ill Plaintiff
3 asked to be taken to the hospital. Defendants refused. The ill Plaintiff then asked to be taken back to the
4 dorm because he was so cold. A GEO officer told him that he would be called when a doctor arrived at
5 6 a.m. No one came to pick up the ill Plaintiff until about 2 p.m. During the eight hours he waited to meet a
6 doctor, the ill Plaintiff was shaking in his bed, saying he was freezing cold.

7 47. At Mesa Verde, Defendants have subjected Plaintiffs to continuous retaliation since the
8 hunger strike began on February 17. Shortly after Plaintiffs in Mesa Verde informed Defendants they were
9 commencing a hunger strike, GEO employee Lieutenant Morua announced to the hunger strikers—all of
10 whom are housed in Dorm C—that their dorm was now “a big RHU,” or Restricted Housing Unit, and that
11 everyone in the dorm would have their privileges suspended as if they were in RHU. Starting on or about
12 February 18, Defendants suspended previously-available family visitation and revoked regularly-scheduled
13 yard time for Dorm C. Yard time, typically four hours per day, is the only time detained individuals at Mesa
14 Verde have access to sunlight and fresh air. However, family visitation and yard time continued according to
15 their regular schedules in other dorms. Defendants also canceled regularly-scheduled programs including
16 church, movie night, and arts-and-crafts for Dorm C, while leaving such programs intact for other dorms.
17 Starting on or about February 22, Defendants began denying Plaintiffs access to commissary, including
18 essential hygiene items such as toothpaste, soap, and shampoo.

19 48. Defendants have also denied Plaintiffs in Mesa Verde access to the law library, on which
20 many of them rely to adequately defend themselves in immigration court. Defendants have engaged in
21 harassment against hunger strikers, including turning up the air conditioning to make it uncomfortably cold;
22 denying access to the barbershop; attempting to manipulate hunger strikers to end their strike or give up their
23 medical rights; restricting their access to tablets Plaintiffs rely on to make medical requests and communicate
24 with loved ones; and making mocking and harassing comments.

25 49. Defendants have escalated their use of sexually abusive pat-downs against Plaintiffs in Mesa
26 Verde. Since the strike began, Defendants’ use of pat-downs has increased in frequency and intensity. For
27 example, it was previously the case that pat-downs were not necessarily required for Plaintiffs to be escorted
28

1 from one secure area to another secure area of Mesa Verde. But since the hunger strike began, Plaintiffs have
 2 reported that pat-downs are mandatory to leave the dorm to go anywhere, including to participate in their
 3 own legal proceedings. For example, Defendants refused to permit Representative Plaintiff R.H.M. to meet
 4 with his counsel or attend a court hearing unless he subjected himself to sexually abusive pat-downs.

5 50. On March 1, after this action was filed, Plaintiffs in Mesa Verde were informed through the
 6 tablet grievance system that as of that day, previously suspended privileges—including yard, access to the
 7 law library, recreation, movie nights, barbershop, and family visitation—would be restored to them.
 8 However, Defendants appear to have reneged on at least some of those representations. For example, on
 9 March 3, individuals in Mesa Verde Dorm C—even those no longer participating in the hunger strike—were
 10 told they would not be permitted to participate in an upcoming “pizza night” at the facility. Moreover, as of
 11 March 6, Plaintiffs’ family visits had not been restored, though they continue for other individuals detained
 12 at Mesa Verde.⁶ As of March 9, Plaintiffs in Dorm C continued to be denied access to commissary food
 13 items and drinks, even after pausing their hunger strike.

14 ***Violent Escalation On March 7, 2023: ICE Officers Forcibly Transfer Four Plaintiffs Out Of***
 15 ***Mesa Verde And Threaten Further Retaliatory Transfers***

16 51. On March 7, ICE and GEO engaged in a planned, coordinated use of violence, excessive
 17 force, and terror against Plaintiffs in Mesa Verde Dorm C, where all the hunger strikers in Mesa Verde are
 18 detained. Ultimately, Defendants forcibly removed the four Individual Plaintiffs from the dorm and
 19 transferred them against their will and without prior notice to their attorneys in California to a detention
 20 center in El Paso, Texas. Defendants’ actions left the remaining Plaintiffs in Dorm C in a state of shock, fear,
 21 and intimidation. Upon information and belief, the San Francisco ICE Field Office—in collaboration with
 22 GEO staff based in Mesa Verde—planned, coordinated, and approved its raid on Mesa Verde from its
 23 headquarters in San Francisco, where it oversees all detention operations at Mesa Verde and Golden State.

24 52. Around 6:00 a.m. on March 7, 2023, multiple GEO officers entered Mesa Verde Dorm C
 25 wearing helmets and hard protective gear. They carried batons and pepper spray and obscured their faces.
 26 The officers cut off phone access in Dorm C, including for attorney calls; turned off all but two tablets; and

27 _____
 28 ⁶ On information and belief, no family member of a hunger striker has attempted to schedule a visit since
 March 6.

1 forcibly removed Individual Plaintiff Raymundo Noe Dominguez Vidal from the dorm. Despite their pleas,
2 the armed officers refused to allow any of the Plaintiffs to call their attorneys or speak to ICE leadership. Mr.
3 Dominguez Vidal later reported that after he was taken away, he started to feel dizzy and collapsed. When he
4 couldn't get up in response to officers' orders, an ICE officer and GEO Officer Morales forcefully dragged
5 him and eventually kicked him in the back several times—so hard that he continues to experience pain—in
6 the presence of San Francisco ICE Assistant Field Office Director Manuel Starr.

7 53. About two hours after Individual Plaintiff Dominguez Vidal was forcibly removed, more
8 officers entered Mesa Verde Dorm C, wearing military-style clothing and gear, and also armed with batons
9 and pepper spray. San Francisco ICE Assistant Field Office Director Manuel Starr accompanied them. The
10 group included ICE officers, wearing badges stating “ICE” and “San Francisco Special Force Response
11 Team,” as well as more GEO officers in protective gear. They yelled at everyone to get on the floor and used
12 bodily force to throw multiple Individual Plaintiffs to the ground and against a wall. The armed officers
13 approached Individual Plaintiffs Roberto Carlos Franco Guardado, Jose Ruben Hernandez Gomez, and Pedro
14 Figueroa-Padilla, grabbed them, forcefully handcuffed them, and removed them from the dorm. Multiple
15 Plaintiffs witnessed Mr. Figueroa-Padilla crying out in pain and exclaiming that he was not resisting arrest as
16 GEO officers swarmed him, piled on top of his body, and eventually handcuffed him. Multiple Plaintiffs
17 further witnessed ICE officers throwing Mr. Hernandez Gomez on the ground, face down, and twisting his
18 arms.

19 54. When other Plaintiffs tried to use the unmonitored dormitory telephones used for legal calls to
20 alert their attorneys to ICE and GEO's conduct, they realized that ICE and GEO had shut off their telephone
21 access. Plaintiffs found two monitored tablets that were still working and contacted their counsel and
22 families in alarm. Representative Plaintiff Milton Mendez managed to communicate with his fiancée, who
23 passed word to his attorney. Mr. Mendez's attorney resides in this district. ICE and GEO re-connected
24 telephone access within Dorm C around 11:00 a.m., well after the Individual Plaintiffs had been forcibly
25 removed—and only after Plaintiffs' counsel emailed Defendants' counsel demanding an explanation.

26 55. In the hours that followed, Defendants provided Plaintiffs no information about their actions.
27 When Representative Plaintiff R.H.M. asked Defendant Norbal Vazquez whether Defendants were retaliating
28

1 against Plaintiffs because of their participation in the hunger strike, Defendant Vazquez smirked at him.
2 Later that evening, GEO officers threatened Plaintiffs remaining in Dorm C that if they did not break their
3 hunger strike, they would be forcibly transferred out of state and force-fed. ICE Officer Mo told R.H.M. that
4 he should tell his attorneys to “drop the lawsuit” if Plaintiffs wanted to see any changes to their treatment.

5 56. In response to these threats and shows of intimidation, the Plaintiffs in Mesa Verde Dorm C
6 felt punished, terrorized, and afraid. Plaintiffs agreed to eat their meals that evening out of fear that if they
7 did not, the events of that morning would repeat themselves the next day.

8 57. ICE, under the ongoing supervision of the San Francisco Field Office, kept Individual
9 Plaintiffs Guardado, Hernandez Gomez, Dominguez Vidal, and Figueroa-Padilla incommunicado for about
10 24 hours after forcibly removing them from Dorm C. For hours, their attorneys did not know where they
11 were. It was not until about 1:00 p.m. that Individual Plaintiffs’ attorneys, including three attorneys who
12 reside in this district, received identical emails from ICE informing them that their clients were being
13 transferred to an ICE detention facility in El Paso, Texas.

14 58. Individual Plaintiffs were forced into a van, while ICE officials and GEO officers applauded.
15 ICE officers, led by San Francisco ICE Assistant Field Office Director Starr, accompanied Individual
16 Plaintiffs on a long van ride that was at turns humiliating, uncomfortable, and physically painful for
17 Individual Plaintiffs. For example, the ICE officers used the air conditioning and heating systems to make the
18 temperature inside the van alternately very cold and very hot, and made demeaning and frightening
19 comments to the Individual Plaintiffs. Individual Plaintiffs did not know where they were being taken. Until
20 they arrived at an airport, Individual Plaintiff Figueroa-Padilla believed they were being taken to the hospital.
21 They were subjected to sexually abusive pat-downs, including invasive touching of their genitals. Upon
22 arriving at the airport, Individual Plaintiff Hernandez Gomez spoke to San Francisco ICE Assistant Field
23 Office Director Starr and told him what ICE was doing was “not right.” San Francisco ICE Assistant Field
24 Office Director Starr responded, “This is coming from higher up, I’m just following orders.”

25 59. Individual Plaintiffs endured a physically taxing flight to El Paso, where they landed in the
26 evening, nearly 12 hours after their ordeal began. They were transported in vans operated by ICE which were
27 driven so recklessly that Individual Plaintiffs hit their heads on the ceiling of the vehicle while en route to the
28

1 detention facility. They have been, and continue to be, detained at El Paso Service Processing Center, an ICE
2 detention facility.

3 60. The same day they arrived, medical staff at the El Paso facility told Individual Plaintiffs that
4 they would be returned to Mesa Verde if they ate three meals in a row, but threatened them with solitary
5 confinement and forced feeding if they did not eat. Individual Plaintiffs have agreed to pause their hunger
6 strikes in hopes they will be returned to Mesa Verde. During their medical examination in El Paso, Individual
7 Plaintiffs did not receive any medical care beyond what they had been provided in California. Individual
8 Plaintiffs report that conditions in El Paso Service Processing Center are filthy, stressful, and uncomfortable.
9 They have compared their experience to “torture.”

10 61. The El Paso medical staff’s March 7 threats of forced feeding contradict representations from
11 counsel for ICE to Plaintiffs’ counsel on March 8 stating, “At this time ICE is not seeking a court order or
12 orders that would allow force feeding any of the four individuals transferred to El Paso yesterday.”

13 62. Individual Plaintiffs do not believe their transfer was medically necessary. None of them had
14 recently requested medical care or had consented to receive any medical procedures. Individual Plaintiff
15 Guardado, for instance, had been drinking electrolytes and Ensure and taking vitamins at Mesa Verde to
16 sustain his health during the hunger strike. None of the Individual Plaintiffs experienced acute medical
17 needs—except as a result of their violent, painful, and stressful transfer process. But when, during the
18 transfer, Individual Plaintiffs requested treatment for pain or nausea, ICE ignored them. When one Individual
19 Plaintiff lost consciousness during the transfer, ICE ignored him for about five minutes and then medically
20 “cleared” him without providing medical care or treatment.

21 63. At least two Individual Plaintiffs have upcoming immigration court hearings in California,
22 where their immigration counsels reside. Their transfers to Texas hamper their ability to communicate with
23 their counsel to prepare for their immigration proceedings and may prejudice their claims for immigration
24 relief. The sudden out-of-state transfers make it far more difficult for their immigration attorneys to be
25 physically present at future merits hearings and to visit their clients in person to prepare sensitive aspects of
26 testimony. Further, the transfers to Texas make it extremely difficult for witnesses and family members in
27 California supporting the Individual Plaintiffs to appear or be present in court.

28

1 ***Defendants Continue To Threaten And Intimidate Plaintiffs To Attempt To Persuade Them To***
2 ***End Their Hunger Strike***

3 64. On the evening of March 7, following Individual Plaintiffs' forcible transfer from Mesa
4 Verde, ICE Officer Mo told Plaintiffs in Mesa Verde Dorm C that the Individual Plaintiffs had been
5 transferred and would be force-fed, and that remaining Plaintiffs in Dorm C could be transferred and force-
6 fed, as well. Plaintiffs who heard these statements felt shocked and intimidated.

7 65. On the evening of March 9, a doctor at Golden State visited hunger strikers and stated that if
8 they continued their hunger strike beyond the next day, they would be transferred to an unspecified detention
9 facility "elsewhere." The doctor confirmed that if they maintained their hunger strike, they would be
10 transferred regardless of whether Plaintiffs displayed any medical distress.

11 66. Defendants' retaliatory actions and statements would chill a person of ordinary firmness from
12 continuing to engage in the protected activity of hunger striking. The timing of Defendants' actions, their
13 stated opposition to and taunting statements about the hunger strike, and other evidence of Defendants'
14 retaliatory motive establishes that they have taken these actions in direct reaction to the strike and are
15 motivated by the desire to chill First Amendment-protected activity.

16 ***i. The Timing of Defendants' Actions Suggests their Motive to Retaliate Against***
17 ***Plaintiffs' Expressive Conduct***

18 67. First, Defendants' retaliatory actions began almost immediately after Plaintiffs declared they
19 were going on a hunger strike to protest the conditions of their confinement and mistreatment.

20 68. At Golden State, Defendants have been retaliating against Plaintiffs since the hunger strike
21 began. Since the strike was declared, Defendants began attempting to verbally dissuade Plaintiffs from
22 participating in the hunger strike, alternately cajoling and threatening them. On or about February 17, GEO
23 staff threatened to place hunger strikers detained in Dorm A1 into the Special Management Unit's isolation
24 cells so that they could "do [their] hunger strike there." Plaintiffs have reported being afraid to go to the
25 medical unit for care because they fear they will be forcibly transferred to the SMU. GEO staff also began
26 restricting the time that individuals in dorms housing hunger strikers are permitted to use tablets in their
27 dorms, from all day to just four hours per day. Detained individuals rely on tablets to request medical
28 attention and prescription medication, make commissary purchases, and have video calls with family. About
one day after the hunger strike began, Defendants began making the dorms housing hunger strikers

1 uncomfortably cold. About two days after the hunger strike began, Defendants began ignoring maintenance
2 requests from dorms housing hunger strikers, leaving toilets and showers unrepaired. Currently, the showers
3 in at least two dorms housing hunger strikers are freezing cold, which Defendants have made no attempts to
4 fix despite numerous requests. Further, the law librarian began shortening the amount of time that individuals
5 in those dorms are allowed to conduct legal research for their immigration cases.

6 69. Plaintiffs in Golden State have filed grievances with GEO and ICE regarding some of the
7 conditions described above. Upon information and belief, Defendants have failed to meaningfully respond to
8 any of them.

9 70. Likewise, at Mesa Verde, Defendants have been retaliating against Plaintiffs since their
10 hunger strike began. One day after the strike commenced, facility staff informed hunger strikers in Dorm C
11 that the facility was canceling the dorm's weekly movie night, which otherwise took place every Friday or
12 Saturday. Similarly, on or about February 18, Defendants indefinitely suspended access to church, the law
13 library, the barbershop, and arts-and-crafts programming for Dorm C. Some of these programs have been
14 restored since about March 1. Defendants also indefinitely suspended visitation with family and loved ones
15 for everyone in Dorm C. As of March 6, those visits have not been restored. These activities and
16 programming remain available to people housed in other dorms at Mesa Verde.

17 71. Plaintiffs in Mesa Verde have filed grievances with GEO and ICE regarding the retaliatory
18 conditions described above. Defendants have "rejected" or failed to meaningfully respond to virtually every
19 grievance filed by Plaintiffs since the hunger strike has begun.

20 72. Defendants' retaliatory actions serve no legitimate purpose, nor have Defendants articulated to
21 Plaintiffs any purported justification for the adverse actions they have taken against the hunger strikers. Instead,
22 Defendants' actions are intended to punish Plaintiffs for their participation in a protected activity.

23 ***ii. Defendants Have Repeatedly Stated Their Opposition To Plaintiffs' Expressive***
24 ***Actions***

25 73. Both GEO and ICE employees have expressed opposition to Plaintiffs' participation in the
26 hunger strike and threatened or implied negative consequences if they continued their participation.

27 74. On February 16, the evening before the hunger strike began, some Plaintiffs informed GEO
28 staff at Mesa Verde of their intention to begin a hunger strike shortly. GEO staff threatened to send the "first

1 person” who declared a hunger strike to the RHU, a form of solitary confinement.

2 75. Also on February 16, several hunger strikers detained at Golden State showed a GEO
3 employee a grievance they were filing and declared they would be starting a hunger strike. The GEO
4 employee became upset and threatened to put them in the “hole” (solitary confinement) and take away
5 commissary if they went on hunger strike. On February 17, the first day of the hunger strike, an ICE
6 employee told Representative Plaintiffs Guillermo Medina Reyes and E.O.A.R., as well as other Plaintiffs at
7 Golden State, “You and your attorneys should do what you gotta do to get your money, but don’t get
8 burned,” suggesting that detained individuals would ultimately pay a price for engaging in the hunger strike.
9 The same ICE officer told Mr. Medina Reyes and E.O.A.R., “[The strike] is not going to go anywhere.
10 You’re wasting your time.”

11 76. GEO employees at Mesa Verde and Golden State have laughed at Plaintiffs, attempted to
12 intimidate them into ending their strike, and taunted them with food, making comments like, “Doesn’t that
13 look good?” as they placed trays of food on the hunger strikers’ beds. On or about February 18, GEO
14 employee Sazu mocked members of the proposed class in Golden State by walking into the dorm and asking,
15 “Has anyone gone home yet?”, insinuating that the hunger strikers ought to give up. On or about February
16 19, GEO employee Anasola remarked to a group of hunger strikers in Golden State that they needed the
17 strike because they needed to lose weight. On February 20, Representative Plaintiff E.O.A.R. heard a GEO
18 employee at Golden State make fun of the hunger strikers’ efforts by referencing a prior hunger strike at the
19 facility which had lasted for three days and claiming they, too, would “fail,” because “you guys don’t even
20 know how to do a hunger strike right.” On or about February 21, E.O.A.R. heard a different GEO employee
21 express disgust at the hunger strikers, saying, “You guys should have thought about this before coming here
22 illegally.”

23 77. On or about February 21, ICE officers visited several dorms at Golden State housing members
24 of the proposed class. They announced that they would search their dorms for any hidden food and return the
25 following week to conduct another search.

26 78. Also on or about February 21, Defendant San Francisco ICE Field Office Director Moises
27 Becerra, who is based in San Francisco, California, traveled to visit members of the proposed class detained
28

1 at Golden State. Defendant San Francisco ICE Field Office Director Becerra asked Plaintiffs why they were
2 engaging in a hunger strike. Plaintiffs explained that through the hunger strike, they were expressing their
3 desire for a fair opportunity to be individually considered for release from custody, as opposed to receiving
4 automatic or blanket denials. Defendant Becerra responded that ICE has no control over releases, “so to be
5 honest you guys are wasting your time.” Defendant Becerra told Plaintiffs that if they wanted release they
6 would have to talk to their attorneys and “get them to do their job.” Plaintiffs felt that Defendant Becerra’s
7 words signaled his frustration with the hunger strike and were an explicit attempt to convince them to end the
8 strike.

9 79. Defendants have further expressed their opposition to Plaintiffs’ peaceful protest by
10 threatening and applying negative consequences. For example, until recently, Defendants indefinitely denied
11 access to all commissary items to individuals housed in Mesa Verde Dorm C, including essential non-food
12 items such as soap, shampoo, toothpaste, floss, mouthwash, and batteries—restoring limited access to
13 commissary only after this action was filed. Before that limited access was restored, facility staff told
14 Plaintiffs in Dorm C that, on or around March 1, Facility Administrator Vazquez had issued an order that
15 they were indefinitely forbidden from ordering anything from commissary, including essential hygiene
16 products. Further, various GEO employees explicitly told Plaintiffs in Dorm C that ICE had ordered them to
17 suspend yard, recreational opportunities, and visitation for their dorm because of their participation in the
18 hunger strike.

19 80. On or about February 24, two ICE officers based in San Francisco—San Francisco ICE
20 Deputy Field Office Director Richard Chang and Officer Rodriguez—traveled to Mesa Verde and verbally
21 urged Plaintiffs to cease their hunger strike.

22 81. Also on or about February 24, Defendant Becerra, traveled from his base in San Francisco to
23 Golden State Annex, also to verbally urge Plaintiffs to cease their hunger strike.

24 82. On or about March 3, GEO officers told Plaintiffs in Mesa Verde that the restrictions they
25 were experiencing—on information and belief including visitation, law library, commissary, and recreation
26 and programming—would “end” if Plaintiffs ended their strike.

1 83. On March 7—the evening after the ICE-led raid resulting in the transfer of Individual
2 Plaintiffs from Mesa Verde—ICE Officer Mo told Plaintiffs, including Representative Plaintiff R.H.M., that
3 if they “drop[ped] the lawsuit,” then ICE and the Plaintiffs could “work something out.” ICE Officer Mo
4 further told Plaintiffs that if they did not begin eating, they would be forcibly transferred and force fed. These
5 threats created feelings of fear, intimidation, and defeat in the hunger strikers’ minds.

6 84. On March 8 and 9, ICE Officer Brinker, based in the San Francisco ICE Field Office, traveled
7 to Golden State and attempted to persuade Plaintiffs to end their hunger strike.

8 85. ICE and GEO’s express and repeated opposition to Plaintiffs’ participation in protected
9 activity, and threats of punishment if they persist, is consistent with Defendants’ past practice of engaging in
10 retaliatory discipline against detained individuals for acting collectively, standing up for their rights, using
11 the grievance procedures available to them, and filing litigation to contest unlawful labor conditions at Mesa
12 Verde and Golden State. *See supra* ¶¶ 32–39.

13 ***iii. There Is Ample Other Evidence Of Defendants’ Retaliatory Motive***

14 86. Defendants have engaged in conduct to manipulate and intimidate the hunger strikers to
15 influence or limit their participation in the hunger strike protest.

16 87. Soon after Plaintiffs declared the beginning of the hunger strike, nurses at Mesa Verde,
17 including Nurse Ford, entered Dorm C and asked hunger strikers to sign a document written in English and
18 authorizing the facility to administer involuntary medical treatment, without explaining to hunger strikers
19 what was contained in the document. Several Plaintiffs in Dorm C do not understand written English. One
20 hunger striker, who lacks the ability to read or write in any language, signed the document without
21 understanding its contents because Nurse Ford presented him the document and instructed him to sign it.
22 When Representative Plaintiffs Milton Mendez and R.H.M. became aware of the contents of the document,
23 they began to review it with other Plaintiffs to help them make an informed choice about whether to sign it.
24 When GEO employees saw Mr. Mendez and R.H.M. were reviewing the document with other hunger
25 strikers, they threatened to conduct a full search of the dorm to confiscate any copies of the document that
26 remained. GEO employees claimed that only people who had signed the document were entitled to look at it.

1 88. From about February 16 to about March 1, medical staff at Mesa Verde refused to provide
2 medical treatment to the proposed class or check their vital signs—despite being required by ICE policy to
3 do so—unless the hunger strikers agreed to leave Dorm C and go to a separate medical unit or the RHU.
4 Plaintiffs expressed fear that if they left Dorm C, Defendants would forcibly place them in solitary
5 confinement. Although Plaintiffs expressly consented to waive their privacy rights and repeatedly requested
6 that medical staff check their vital signs inside the dorm—something Defendants at Mesa Verde have done
7 during previous times of emergency, including the beginning of the COVID-19 pandemic—Defendants
8 instead conditioned Plaintiffs’ access to medical care on their agreement to leave Dorm C. If a Plaintiff did
9 not agree to leave Dorm C for this purpose, they were marked as “refusing” medical attention. It was not
10 until about March 1, a week after this lawsuit was filed, that medical staff began allowing Plaintiffs to
11 receive medical care inside the dorm.

12 89. The experience of one putative class member illustrates the validity of Plaintiffs’ fear about
13 leaving Dorm C. On February 22, a hunger striker at Mesa Verde who was previously diagnosed with
14 diabetes requested that medical staff check his vital signs. He also requested that the medical staff provide
15 him with Ensure, a high-protein drink, to help sustain his health during the hunger strike. The medical staff
16 stated they would only agree if he left Dorm C and went to the main medical office. When the proposed class
17 member did so, GEO staff told him that if he wanted Ensure, they would take him to medical isolation, and
18 attempted to place handcuffs on his wrists. The proposed class member was forced to lie down on the floor to
19 avoid being placed into medical isolation. After about twenty minutes, he was finally returned to Dorm C
20 without receiving Ensure.

21 90. As the hunger strike continued, GEO staff began selectively targeting Plaintiffs with threats of
22 discipline and displayed increasing contempt for them. For example, on February 22, at Golden State, GEO
23 employee Sazu threatened to “write up” Representative Plaintiff Cruz Martinez Leiva for an unspecified
24 violation after Mr. Martinez Leiva asked another proposed class member to press on his back where he was
25 experiencing a muscle spasm. Mr. Martinez Leiva had never previously been disciplined for such innocuous
26 conduct. Also on February 22, at Mesa Verde, Facility Administrator Vazquez gave a speech to Dorm C in
27 which he repeatedly told the proposed class members that they were “prisoners” and “property of ICE.” As
28

1 Facility Administrator Vazquez spoke these words, Chief of Security Shawn Beeman, who was also present,
2 laughed.

3 91. Additionally, GEO staff have also attempted to deny at least one hunger striking Plaintiff
4 access to his attorney. A full week in advance, the attorney—whose office is based in this district—made a
5 request to visit her client in person at Mesa Verde. GEO staff ignored the request. When she inquired, GEO
6 staff claimed that ICE needed to approve the request. When the attorney followed up with ICE, they told her
7 in writing, “ICE does not approve the attorney visits.” When the attorney confronted GEO staff about this,
8 they changed their explanation, stating, “It has to be sent up to our corporate officer for review and
9 approval.” They approved her visit only a few hours in advance, and allowed her only 1 hour instead of her
10 requested 2 hours. When she arrived, she found no other legal rooms were in use to justify the limitation.

11 **C. ICE Leadership Based In San Francisco, California Have Worked In Concert With GEO**
12 **Employees To Retaliate Against Hunger Strikers In Mesa Verde and Golden State**

13 92. Defendants have been acting in concert to mount the campaign of retaliation described above
14 against Plaintiffs. ICE defendants based in the San Francisco ICE Field Office have engaged in
15 unconstitutional retaliation in coordination with, and with the cooperation and assistance of, GEO defendants
16 in the facilities. ICE defendants based in the San Francisco ICE Field Office are aware of, and acquiesce in,
17 GEO defendants’ retaliatory actions against Plaintiffs. Further, the San Francisco ICE Field Office has
18 exclusive authority over (1) transfers to and from Mesa Verde and Golden State, (2) the decision to seek
19 forced feeding for people in custody at Mesa Verde and Golden State and, (3) the process of seeking a court
20 order to permit forced feeding.

21 93. ICE policy requires that the Field Office Director—in the case of Mesa Verde and Golden
22 State, the San Francisco ICE Field Office Director—be notified “immediately” when anyone in ICE custody
23 is on a hunger strike,⁷ and that contractors like GEO maintain a detailed record of all interactions with the
24 person on strike and all communications regarding the strike between GEO and ICE Field Office personnel.⁸
25 In combination with the sustained retaliation that Plaintiffs have experienced from GEO employees since the
26 hunger strike began, these policies make clear that ongoing retaliation at Mesa Verde and Golden State must

27 ⁷ ICE 2011 Performance Based National Detention Standards (“PBNDS”) § 4.2(II)(2), p. 255.

28 ⁸ *Id.* at § 4.2(II)(8), p. 255.

1 be taking place with the San Francisco ICE Field Office’s knowledge and approval.

2 94. Moreover, in just the last three weeks, ICE officials based in San Francisco have traveled to
3 Mesa Verde and Golden State at least five times with the explicit purpose of attempting to discourage
4 Plaintiffs from continuing their peaceful, expressive hunger strike. *See supra* ¶¶ 77, 78, 80, 81, 84.

5 95. Further, since armed ICE officers with “San Francisco Special Force Response Team” badges
6 forcibly transferred Individual Plaintiffs on March 7, ICE and GEO officers have made remarks to Plaintiffs
7 indicating that ICE leadership in San Francisco planned, coordinated, and ordered the retaliation Mesa Verde
8 and Golden State. For example, San Francisco ICE Assistant Field Office Director Manuel Starr told
9 Individual Plaintiff Hernandez Gomez, “This is coming from higher up, I’m just following orders.” In
10 response to a Plaintiff who stated his opinion that GEO’s retaliatory tactics were undertaken with “the
11 support of ICE,” GEO Lieutenant Harrison responded, “I agree.”

12 96. ICE’s San Francisco Field Office has exclusive responsibility for determining where
13 individuals within the San Francisco Area of Responsibility—encompassing Mesa Verde and Golden State,
14 among other facilities—are detained, and is responsible for approving any transfers to other facilities.
15 Specifically, “[d]ecisions to transfer detainees are made by the Field Office Director”—here, San Francisco
16 ICE Field Office Director Becerra—“or his/her designee.”⁹ The San Francisco ICE Field Office Director also
17 has exclusive responsibility to initiate the process of requesting forced feeding of people on hunger strike in
18 custody at Mesa Verde and Golden State, which various officials have already threatened.¹⁰

19 97. ICE’s San Francisco Field Office is directly responsible for Defendants’ pattern of deploying
20 disciplinary processes in retaliation for First Amendment-protected activity. According to ICE policy, the
21 San Francisco ICE Field Office Director was required to review all of the disciplinary actions described
22 above.¹¹ Moreover, ICE policy expressly calls for disciplinary action against detained individuals for
23

24 ⁹ *Id.* at §§ 7.4(II)(1), p. 457; 7.4(V)(A)(1), p. 458; *see also* ICE Transfers Policy No. 11022.1 (Jan. 4, 2012),
25 *available at* <https://www.ice.gov/doclib/detention-reform/pdf/hd-detainee-transfers.pdf> (noting that transfers
26 where a person has immediate family in the Area of Responsibility (“AOR”), an attorney of record within the
27 AOR, pending or ongoing removal proceedings in the AOR, or has been granted bond or has a scheduled
28 bond hearing, “will not [be] transfer[red]” without “approv[al] at the Assistant Field Office Director level or
higher,” and only if a Field Office Director “or his or her designee” deems such a transfer “necessary.”

¹⁰ PBNDS § 4.2(V)(E)(1)(a)–(b), p. 256.

¹¹ *Id.* § 3.1(V)(A)(5), p. 216.

1 “[e]ngaging in or inciting a group demonstration,” without regard to whether the activity is protected by the
 2 First Amendment (the “Group Demonstration Policy”).¹² In July 2022, two Plaintiffs were found to have
 3 violated the Group Demonstration Policy for exercising First Amendment-protected rights, including using
 4 the facility’s grievance process to complain of mistreatment. Both were punished with solitary confinement
 5 in the RHU.

6 CLASS ALLEGATIONS

7 98. Representative Plaintiffs seek to represent a class under Federal Rule of Civil Procedure
 8 23(b)(2) consisting of: All individuals detained by ICE at the Mesa Verde and Golden State Annex facilities
 9 who have declared, or will declare, that they are on hunger strike.

10 99. The proposed class satisfies Rule 23(a)(1) because it so numerous that joinder of all members
 11 is impracticable. Approximately 82 individuals have participated or are currently participating in the hunger
 12 strike at Mesa Verde and Golden State and thus fall within the class definition. More individuals may join the
 13 hunger strike and will therefore fall within the class.

14 100. Joinder is also impracticable because proposed class members are detained and many are
 15 indigent, lack counsel, and/or have limited English proficiency, making it exceedingly difficult for them to
 16 bring individual litigation against Defendants.

17 101. The proposed class satisfies Fed. R. Civ. P. 23(a)(2) because there are questions of law or fact
 18 common to the class, the answers to which will drive the resolution of the litigation. These questions include
 19 which legal standard applies to First Amendment retaliation claims brought by individuals detained in civil
 20 immigration custody, and whether Defendants have a pattern, practice, and/or policy of retaliating against
 21 individuals at Mesa Verde and Golden State who are peaceably exercising their First Amendment rights.

22 102. The proposed class satisfies Fed. R. Civ. P. 23(a)(3) because the claims of the proposed class
 23 representatives are typical of the claims of the class. Each proposed class representative, like the rest of the
 24 class, is subject to Defendants’ pattern, practice, and policy of retaliating against hunger strikers peaceably
 25 exercising their First Amendment rights. Each seeks similar relief as the rest of the class.

26 103. The proposed class satisfies Fed. R. Civ. P. 23(a)(4) because the proposed class
 27

28 ¹² *Id.* § 3.1 Appendix 3.1.A, p. 225

1 representatives have committed to fairly and adequately protecting the interests of the class, and are aware of
2 no conflicts that would preclude fair and adequate representation.

3 104. In addition, proposed class counsel are highly qualified to serve as class counsel and
4 collectively have extensive experience litigating class actions, immigration detention cases, and First
5 Amendment issues.

6 105. Finally, the proposed class satisfies Fed. R. Civ. P. 23(b)(2). Defendants have acted on
7 grounds generally applicable to the class by carrying out a pattern, practice, and policy of retaliating against
8 individuals in their custody who participate in peaceful collective action, including the current hunger strike.
9 This pattern, practice, and policy is reflected in ICE’s Group Demonstration Policy, which purports to
10 authorize disciplinary action for participating in peaceful collective action, and in Defendants’ lengthy
11 history of retaliating and condoning retaliation in response to peaceful collective action. Injunctive and
12 declaratory relief is appropriate on a class-wide basis.

13 **DECLARATORY AND INJUNCTIVE RELIEF ALLEGATIONS**

14 106. A justiciable controversy exists between Plaintiffs and Defendants.

15 107. Plaintiffs will suffer irreparable injury if Defendants continue to retaliate against them in
16 violation of the First Amendment.

17 108. Plaintiffs have no adequate remedy at law.

18 **CLAIM FOR RELIEF**

19 **First Amendment Of The United States Constitution—Unlawful Retaliation**

20 109. The foregoing allegations are realleged and incorporated herein.

21 110. The First Amendment to the U.S. Constitution protects “the freedom of speech . . . and to
22 petition the Government for a redress of grievances.” U.S. Const. amend. I. This constitutional protection
23 applies to individuals in civil immigration detention.

24 111. Defendants’ actions of retaliation against Plaintiffs for their peaceful expression and protest—
25 including threatening, intimidating, and taunting Plaintiffs; engaging in a coordinated campaign to
26 discourage Plaintiffs from continuing their peaceful, expressive hunger strike; and, on March 7, violently
27 transferring Individual Plaintiffs—violate Plaintiffs’ rights under the First Amendment.

PRAYER FOR RELIEF

1
2 **WHEREFORE**, the Plaintiffs respectfully ask this Court to take jurisdiction over this actual
3 controversy and grant the following relief:

- 4 1. Certify the class described above, *supra* ¶ 98;
- 5 2. Declare that the actions and practices of Defendants as described above constitute violations
6 of the First Amendment to the U.S. Constitution;
- 7 3. Enjoin Defendants U.S. Immigration and Customs Enforcement, Tae Johnson, and Moises
8 Becerra, the GEO Group, Inc., Norbal Vazquez, Minga Wofford, and their officers,
9 employees, agents, and any persons acting in concert with them, from:
 - 10 a. Transferring or threatening to transfer or authorizing or directing the transfer of
11 Plaintiffs to different detention facilities in retaliation for their participation in the
12 hunger strike;
 - 13 b. Continuing to detain Individual Plaintiffs Pedro Figueroa-Padilla, Jose Ruben
14 Hernandez, Raymundo Noe Dominguez Vidal, and Roberto Carlos Franco Guardado
15 in a facility other than the Mesa Verde ICE Processing Center, where their transfer out
16 of the Mesa Verde ICE Processing Center was effectuated in retaliation for their
17 participation in the hunger strike;
 - 18 c. Force-feeding or attempting to force-feed Plaintiffs without at least 24 hours' notice to
19 Plaintiffs' counsel and to this Court; and
 - 20 d. Otherwise engaging in or authorizing any further retaliation for Plaintiffs' exercise of
21 protected First Amendment activity through their hunger strike;
- 22 4. Enjoin all Defendants and their officers, employees, agents, and any persons acting in concert
23 with them, from:
 - 24 a. Using violence, excessive physical force, or sexually-abusive pat downs against
25 Plaintiffs;
 - 26 b. Denying Plaintiffs access to their attorneys; and
 - 27 c. Otherwise engaging in any further retaliation for Plaintiffs' exercise of protected First
28 Amendment activity through their hunger strike;

- 1 5. Award Plaintiffs reasonable attorneys’ fees, costs, and other disbursements in this action
2 permitted under the Equal Access to Justice Act, *as amended*, 5 U.S.C. § 504 and 28 U.S.C.
3 § 2412, and on any other basis justified under law; and
4 6. Grant all other relief that this Court deems just and proper.

5
6
7 Dated: March 10, 2023

Respectfully submitted,

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA

/s/ Michelle (Minju) Y. Cho

Michelle (Minju) Y. Cho

Attorneys for Plaintiffs