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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Ilsa Saravia, as next friend for A.H., a
minor, and on behalf of herself individually
and others similarly situated,

Plaintiff,

v.

Merrick Garland, Attorney General, *et al.*,

Defendants.

Case No. 3:17-cv-03615-VC

Honorable Vince Chhabria

**DECLARATION OF HOLLY S. COOPER IN
SUPPORT OF PLAINTIFFS' MOTION FOR
ATTORNEY'S FEES**

I, HOLLY S. COOPER, declare:

1. I am an attorney, clinical professor, and Co-Director of the UC Davis School of Law's Immigration Law Clinic. My business address is: One Shields Ave. TB-30, Davis, CA 95616. I am licensed to practice law before the courts of the State of California, the United States District Courts for the Northern, Central, Southern and Eastern Districts of California, the United States Courts of Appeals for the Ninth Circuit and the Supreme Court of the United States. My California State Bar number is 197626.

2. I received my Juris Doctorate from U.C. Davis School of Law in May of 1998.

3. I make this declaration in support of Plaintiffs' Motion for Attorney Fees under the Equal Access to Justice Act in *Saravia v. Garland*, Docket Number: 3:17-cv-03615. I am co-counsel in the case representing Petitioner-Plaintiffs.

4. Before coming to U.C. Davis School of Law, I worked at Reed Smith LLP (formerly Crosby, Heafey, Roach & May LLP), Fellom & Solorio, and the Florence Immigrant & Refugee Rights Project in Florence, Arizona. At the Florence Project I initiated the first friend of the court program for detained immigrant children in collaboration with the Executive Office for Immigration Review. These experiences helped me develop an expertise in litigating the rights of immigrants, especially the rights of detained immigrant children.

5. I began teaching at UC Davis School of Law in March 2006 as the Associate Director of the Immigration Law Clinic. I became the Co-Director of the Clinic around 2016. The focus of my practice at the Clinic is training students in complex federal immigration litigation. The Clinic represents immigrants in detention in federal court actions, including writs of habeas corpus, petitions for review, petitions at the Supreme Court, and class action litigations in pursuit of more procedural fairness and to obtain better conditions in immigration detention centers.

6. Since 1998, my practice has been almost exclusively in the area of immigration law. I specialize in the intersection of immigrants' rights, civil rights, the immigration consequences of criminal convictions, and prisoners' rights. In the Immigration Law Clinic, I focus on creating a pedagogical program to educate law students on the civil rights of immigrant prisoners and detainees and how to effectively advocate on their behalf.

7. Since 1998, I estimate that I have represented hundreds of individuals in individual proceedings before the United States Citizenship and Immigration Services, the former Immigration and Naturalization Service, the Department of Homeland Security, the Executive Office for Immigration Review, the Board of Immigration Appeals, the United States District Courts, the United States Circuit Courts of Appeals for the Ninth Circuit, and the Supreme Court of the United States. I have also represented the interests of thousands of class members in class action litigations or enforcement of consent decrees.

8. I have been a member of the American Immigration Lawyers Association (“AILA”) since 1999. I was appointed for two years to the AILA Liaison Committee to the Office of the Chief Immigration Judge and Board of Immigration Appeals. I also served for a full five-year tenure on the ABA’s Immigration Commission, and currently serve on the Immigration Committee under the Criminal Justice Section of the ABA.

9. I have also received the following awards for my advocacy:

- The Al Otro Lado Honey Badger Award For Tenacious Advocacy 2020
- UC Davis Distinguished Public Service Award 2019
- Woman of the Year 2018 for District 04 (selected by Assemblymember Aguiar-Curry)
- Woman of the Year 2018 Congressman Garamendi
- Mexican American Concilio Community Award (2017)
- Legal Services for Children’s Community Partner Award (2017)
- Yolo County District Attorney’s Multi-Cultural Community Council Award (2017)
- UC Davis Immigration Law Clinic Recognition State Senate (2017)
- UC Davis Immigration Law Clinic Recognition State Assembly (2016)
- National Lawyers Guild – Carol Weiss King Award (2011)
- King Hall Legal Foundation – Outstanding Alumni Award (2011)
- UC Davis Immigration Clinic Alumni Council – Public Interest Award (2007)

10. I have successfully litigated, as the attorney of record and as amicus counsel, several cases published as precedent by the federal courts and the California Supreme Court, and many more that were not designated as precedent. I have directly represented clients or provided amicus briefing in multiple favorable published decisions, including but not limited to: *Flores v. Rosen*, 984 F.3d 720 (9th Cir. 2020)(holding that portions of the federal regulations were in breach of the Flores Settlement Agreement); *Flores v. Sessions*, 862 F. 3d. 863 (9th Cir. 2017)(holding detained children have a continued right to a bond hearing under the Flores Settlement Agreement); *Saravia v. Sessions*, 280 F. Supp. 3d 1168 (N.D. Cal. 2017) *aff'd* by *Saravia v. Sessions*, 905 F.3d 1137 (9th Cir. 2018)(finding immigrant children who were rearrested on purported gang allegations had right to a bond hearing); *Rodriguez, et al. v. Robbins*, 804 F.3d 1060 (9th Cir. 2015)(finding immigrants have a right to an individualized bond hearing)¹; *People v. Patterson*, 2 Cal. 5th 885 (2017)(holding criminal defenders have a duty to provide specific advice as to the immigration consequences of a plea); *Flores-Torres v. Mukasey*, 548 F.3d 708 (9th Cir. 2008)(finding federal court could exercise habeas jurisdiction over person in immigration custody with colorable claim to US citizenship), and *Flores-Torres v. Holder*, 680 F. Supp. 2d 1099 (N.D. Cal. 2010) (declaring petitioner was a US citizen), *Robles-Urrea v. Holder*, 678 F.3d 702 (9th Cir. 2012)(holding misprision of a felony was not a crime involving moral turpitude); *Flores-Lopez v. Holder*, 685 F.3d 857(9th Cir. 2012)(finding resisting arrest was not an aggravated felony); *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)(holding government bore the burden of proof by clear and convincing evidence in administrative bond hearings where immigrant in prolonged detention). The cases have changed the legal landscape of immigration detention, federal court habeas jurisdiction, and criminal deportability.

11. I have lectured and provided numerous trainings throughout the United States on litigating immigration detention issues at continuing legal education seminars and at the national conferences hosted by the U.S. Court of Appeals for the Ninth Circuit. The American Immigration Lawyers Association (“AILA”), the National Immigration Project of the National Lawyers’ Guild,

¹ This case was overruled in part by the Supreme Court of the United States in *Jennings v. Rodriguez*, but remand on the constitutional issue is pending. 138 S. Ct. 830 (2018).

and the American Bar Association.

12. I have published various articles on detention litigation strategies for AILA including: *Getting Out: Strategies for Challenging Unlawful Detention in Federal Court* (2006) and *Freedom from ICE Custody: A Desert Illusion or A Litigation Possibility?* (2009). I also authored the detention chapter in the Immigrant Legal Resource Center's book entitled Defending Immigrants in the Ninth Circuit (ILRC 2008).

13. I have testified as an expert witness on immigration law. I have served as an expert consultant to Amnesty International and Human Rights Watch for their reports on immigration detention conditions and the rights of immigrant detainees, and provide expert immigration consultations to Santa Barbara County Public Defenders Office. Moreover, I provided expert declarations in support of Defendants in *USA v. California*, Case No. 2:18-cv-00490-JAM-KJN (lawsuit filed by Trump administration against California, in part, regarding the legality of California's sanctuary laws) and *Padilla v. ICE*, Case No. 2:18-cv-00928-MJP (class action litigation surrounding the legality of detention for arriving asylum seekers). My declarations were cited by the courts in their favorable orders.

14. I believe that my particular expertise and knowledge were required for successful resolution of this case. This was a complex case that raised complex issues of immigration detention jurisprudence as it pertains to immigrant children, federal litigation, child welfare laws, consent decrees, and constitutional standards. This was not a standard immigration case, such as a straightforward petition for review involving the application of settled law routinely applied. The very fact that the case was a federal class action that involved the intersection of the rights of unaccompanied minors, gang allegations, constitutional law, interpretations of the TVPRA, substantive rights under the Flores Settlement Agreement and rights to immigration benefits particular to children, this case unique and more complex than the ordinary case. Highly contested issues of the interpretation of the TVPRA, bond proceedings, standards of proof for benefits and custody proceedings, and the rights under the FSA raised complex issues requiring substantive knowledge of Constitutional and immigration principles beyond the scope of that required for most immigration practice. Conversely, although many federal litigators are familiar with adult bond

processes, few have the requisite knowledge of complex immigration laws pertaining to children in immigration custody, including the governing settlement agreements and statutory schemes specific to unaccompanied minors. Accordingly, this case required counsel with expertise covering the Immigration and Nationality Act along with specialized knowledge of constitutional rights, settlement agreements, and statutory schemes pertaining to unaccompanied children.

15. My experience successfully litigating *Flores v. Sessions*, 862 F. 3d. 863 (9th Cir. 2017) gave me the critical litigation experience to understand legal standards governing consent decrees, and their intersectionality with the instant case. I also litigated *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011) where I successfully challenged the legal standards applied to immigrants in prolonged detention. Moreover, I gained expertise in federal court jurisdiction through my litigation of *Flores-Torres v. Mukasey*, 548 F.3d 708 (9th Cir. 2008) and *Flores-Torres v. Holder*, 680 F. Supp. 2d 1099 (N.D. Cal. 2010) –where critical aspects of the cases was federal court jurisdiction and the constitutionality and legality of the detention. I also assisted on the amici brief in *Casas-Castrillon v. Dept. of Homeland Sec.*, 535 F.3d 942 (9th Cir. 2008) and *Rodriguez v. Robbins*, 804 F.3d 1060, where the critical issues were determining the substantive and procedural due process rights of immigrants who are detained for prolonged periods of time. I also successfully filed a petition for writ of habeas corpus *Ramirez v. Burwell*, Case No. 2:16-cv-1511-TLN-EFB, a case involving the legality of the detention of an unaccompanied minor in the custody of the Office of Refugee Resettlement (“ORR”). It was one of the first habeas petitions filed against ORR for a child in prolonged detention. Moreover, most of my published legal articles have dealt with substantive and procedural due process rights of detained immigrants.

16. I believe that my expertise in these fields of law was necessary for successful resolution of this case because of the important but complicated statutory construction issues, analysis of the Flores Settlement Agreement, and unique issues that apply to the release and custody of unaccompanied minors.

17. Very few immigration attorneys in the country engage in federal court litigation on behalf of detained immigrant children—in fact *Ramirez v. Burwell* was one of the few habeas petitions in the entire nation that had been filed on behalf of a detained child in the custody of the

Office of Refugee Resettlement. Of those attorneys, very few would have taken on a case of this complexity. I do not believe that there are any qualified attorneys that would be willing to engage in this complex litigation at the EAJA statutory rate. My experience with and expertise in immigration-related cases justifies an enhanced hourly rate under the EAJA consistent with the private San Francisco market where this case was litigated.

18. I am proficient in Spanish. The majority of class members in the litigation are monolingual Spanish-speakers. In my opinion, the ability to communicate with these class members in their native language is essential to afford them a fair chance of prevailing and understanding their rights.

19. I have personally reviewed the records and I am now seeking attorneys' fees for only 268.30 hours I spent on this litigation, which under enhanced rate calculations amounts to \$178,220.00. This is a conservative number and is nowhere close to the amount of time I have expended on this litigation reviewing drafts, participating in extensive settlement negotiations, conducting legal research, and speaking to class members and their counsel. Moreover, for purposes of negotiation, and consistent with the rest of the litigation team on behalf of Plaintiff, this number does not include any work I conducted after March 30, 2020, even though I expended significant efforts to finalize the Class Settlement and negotiate the Attorneys' Fees and Costs Settlement Agreement.

20. I billed 52.2 hours from June 13, 2017 through November 21, 2017. That period included, *inter alia*, drafting the Amended Complaint and First Amended Petition for Writ of Habeas Corpus and Class Action Complaint for Injunctive and Declaratory Relief (ECF No. 31), the ensuing discovery related to the Complaint and preliminary injunction proceedings, as well as the hearing for same.

21. The Court granted Plaintiff's requested Preliminary Injunction and provisionally certified the class on November 20, 2017. (ECF No. 100). From November 22, 2017 through July 13, 2018, I billed 63.9 hours. That period included, *inter alia*, the government's appeal to the Ninth Circuit, the attendant briefing and oral argument, and numerous *Saravia* hearings. (ECF No. 124-1, Chart re: *Saravia* Hearings.)

22. I billed 49 hours from July 14, 2018 through January 28, 2019. That period included, *inter alia*, extensive written discovery, drafting of a Second Amended Complaint (ECF No. 164), briefing in opposition to Defendants' Motion to Dismiss (ECF No. 172), and preparation of a Motion to Clarify the Definition of the Class (ECF No. 159, 160).

23. I billed 103.2 hours from January 29, 2019 through March 30, 2020. That period marked the beginning of the Parties' settlement negotiations, substantial settlement-related discovery efforts, mediation before Magistrate Judge Laurel Beeler, and the protracted drafting of the Final Class Settlement Agreement.

I declare under penalty of perjury that the foregoing is true and correct.

Executed June 1, 2021 in Woodland, California.

/s/ Holly S. Cooper

Holly S. Cooper
Declarant