

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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BING GUAN, GO NAKAMURA, MARK ABRAMSON,  
KITRA CAHANA, ARIANA DREHSLER,

Plaintiffs,

v.

ALEJANDRO MAYORKAS, Secretary of the U.S. Department  
of Homeland Security, in his official capacity; TROY MILLER,  
Senior Official Performing the Duties of the Commissioner of  
the U.S. Customs and Border Protection, in his official capacity;  
TAE JOHNSON, Acting Director of the U.S. Immigration and  
Customs Enforcement, in his official capacity,

Defendants.

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**ANSWER**

Defendants<sup>1</sup> ALEJANDRO MAYORKAS, Secretary of the U.S. Department of Homeland Security, in his official capacity; TROY MILLER, Senior Official Performing the Duties of the Commissioner of the U.S. Customs and Border Protection, in his official capacity; and TAE JOHNSON, Acting Director of the U.S. Immigration and Customs Enforcement, in his official capacity, by and through their attorney, Mark J. Lesko, Acting United States Attorney, Eastern District of New York, David A. Cooper and Ekta R. Dharia, Assistant United States Attorneys, of counsel, answer the correspondingly numbered paragraphs of the Complaint, upon information and belief, as follows:

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), Alejandro Mayorkas, Troy Miller, and Tae Johnson have been substituted for Chad Wolf, Mark Morgan, and Matthew Albence, respectively, as Defendants in this action.

## PRELIMINARY STATEMENT<sup>2</sup>

1. The allegations contained in paragraph 1 constitute Plaintiffs' characterization of their lawsuit to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny. Defendants further aver that Plaintiffs are not entitled to any relief from Defendants.

2. The allegations in paragraph 2 constitute Plaintiffs' characterization of their lawsuit and legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, except to admit that Plaintiffs are U.S. citizens who have traveled outside the United States, and that between November 2018 and January 2019, each Plaintiff traveled to Mexico, traveled to the United States through a port of entry, and was referred to secondary inspection and questioning.

3. Defendants deny the allegations set forth in paragraph 3, except to admit that between December 2018 and January 2019, Plaintiffs were referred to secondary inspection and questioning, and were questioned about their occupation. Defendants aver that, pursuant to the U.S. Customs and Border Protection's ("CBP") border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

4. The allegations in paragraph 4 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth

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<sup>2</sup> Defendants' Answer includes the same headings contained in the Complaint for ease of reference. Defendants believe that no response is required to such headings. To the extent a response is required and those headings could be construed to contain factual allegations, Defendants deny those allegations.

in this paragraph.

5. The allegations in paragraph 5 constitute Plaintiffs' characterization of their action and legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

6. The allegations in paragraph 6 constitute Plaintiffs' characterization of their action and legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

7. The allegations in paragraph 7 constitute Plaintiffs' characterization of their action and legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

8. The allegations in paragraph 8 constitute Plaintiffs' characterization of their action and legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

#### **JURISDICTION AND VENUE**

9. The allegations in paragraph 9 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

10. The allegations in paragraph 10 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

11. The allegations in paragraph 11 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations regarding Plaintiffs' residence, except to admit that Plaintiffs purport to bring this action against

Defendants in their official capacities.

## **PARTIES**

### ***Plaintiffs***

12. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 12, except to admit that Plaintiff Bing Guan is a U.S. citizen.

13. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 13, except to admit that Plaintiff Go Nakamura is a U.S. citizen.

14. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 14, except to admit that Plaintiff Mark Abramson is a U.S. citizen.

15. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 15, except to admit that Plaintiff Kitra Cahana is a U.S. citizen.

16. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 16, except to admit that Plaintiff Ariana Drehsler is a U.S. citizen.

### ***Defendants***

17. Defendants deny the allegations set forth in paragraph, except to admit that Plaintiffs purport to bring this action against Defendants in their official capacities. Defendants aver that Alejandro Mayorkas is the Secretary of the U.S. Department of Homeland Security (“DHS”), Troy Miller is the Senior Official Performing the Duties of the Commissioner of the CBP, and Tae Johnson is the Acting Director of the U.S. Immigration and Customs Enforcement

(“ICE”), and that they have been substituted in for Chad Wolf, Mark Morgan, and Matthew Albence, respectively, in this action pursuant to Federal Rule of Civil Procedure 25(d).

18. Defendants deny the allegations set forth in paragraph 18. Defendants aver that Alejandro Mayorkas is the Secretary of DHS, and is substituted for Chad Wolf in this action pursuant to Federal Rule of Civil Procedure 25(d).

19. Defendants deny the allegations set forth in paragraph 19. Defendants aver that Troy Miller is the Senior Official Performing the Duties of the Commissioner of CBP, and is substituted for Mark Morgan in this action pursuant to Federal Rule of Civil Procedure 25(d).

20. Defendants deny the allegations set forth in paragraph 20. Defendants aver that Tae Johnson is the Acting Director of ICE, and is substituted for Matthew Albence in this action pursuant to Federal Rule of Civil Procedure 25(d).

## **FACTUAL BACKGROUND**

### **I. Central American Caravans Attract Widespread Public Interest**

21. Paragraph 21 does not contain a simple, concise, and direct allegation to which a response is required. To the extent that a response is required, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

22. Defendants admit the allegations set forth in paragraph 22.

23. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 23, except to admit that Defendants are aware that in 2018, a caravan of people embarked from Central America and traveled and traveled toward the U.S.-Mexico border.

24. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 24.

25. Defendants deny knowledge or information sufficient to form a belief as to the truth

of the allegations set forth in paragraph 25, except to admit that Defendants are aware that in 2018, a caravan of people embarked from Central America and traveled toward the U.S.-Mexico border.

26. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 26.

## **II. Intelligence Gathering Related to Plaintiffs and Others Covering the October 2018 Caravan and Conditions at the U.S.-Mexico Border**

27. The allegations contained in paragraph 27 purport to describe the referenced articles. Defendants aver that the referenced articles speak for themselves as to their contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced articles for a complete and accurate statement of their contents.

28. The allegations contained in paragraph 28 purport to describe the referenced article and e-mail. Defendants aver that the referenced article and e-mail speak for themselves as to their contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced article and e-mail for a complete and accurate statement of their contents.

29. The allegations contained in paragraph 29 purport to describe the referenced article. Defendants aver that the referenced article speaks for itself as to its contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced

article for a complete and accurate statement of its contents.

30. The allegations contained in paragraph 30 purport to describe the referenced article. Defendants aver that the referenced article speaks for itself as to its contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced article for a complete and accurate statement of its contents.

31. The allegations contained in paragraph 31 purport to describe the referenced article. Defendants aver that the referenced article speaks for itself as to its contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, except to admit that “ILU” refers to the “International Liaison Unit,” and that “OASISS” refers to “Operation Against Smugglers Initiative on Safety and Security.” Defendants respectfully refer the Court to the referenced article for a complete and accurate statement of its contents.

32. The allegations contained in paragraph 32 purport to describe the referenced article. Defendants aver that the referenced article speaks for itself as to its contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced article for a complete and accurate statement of its contents.

33. The allegations and photographs contained in paragraph 33 purport to describe the referenced article. Defendants aver that the referenced article speaks for itself as to its contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be

deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced article for a complete and accurate statement of its contents.

34. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 34. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, except admit that Plaintiffs' names appear underneath the photographs contained in paragraph 33. Defendants respectfully refer the Court to the referenced article for a complete and accurate statement of its contents.

35. The allegations and photographs contained in paragraph 35 purport to describe the referenced article. Defendants aver that the referenced article speaks for itself as to its contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced article for a complete and accurate statement of its contents.

36. The allegations and photographs contained in paragraph 36 purport to describe the referenced articles. Defendants aver that the referenced articles speak for themselves as to their contents, and therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced articles for a complete and accurate statement of their contents.

37. The allegations contained in paragraph 37 purport to describe the referenced articles. Defendants aver that the referenced articles speak for themselves as to their contents, and



therefore no response to this paragraph is necessary. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph, and respectfully refer the Court to the referenced articles for a complete and accurate statement of their contents.

38. Defendants deny the allegations contained in paragraph 38, except to admit that between December 2018 and January 2019, Plaintiffs were selected for secondary inspection and questioning by CBP officers.

**III. Border Officers Detained and Questioned Each Plaintiff at a Port of Entry about their Journalism Work and Activities, Including Coverage of Border Conditions**

***Bing Guan***

39. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 39.

40. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 40, except to admit that on December 29, 2018, CBP officers questioned Plaintiff Bing Guan about his occupation and activities. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

41. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 41.

42. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 42.

43. Defendants deny knowledge or information sufficient to form a belief as to the truth

of the allegations set forth in paragraph 43.

44. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 44, except to admit that on December 29, 2018, Plaintiffs Bing Guan and Go Nakamura arrived by vehicle at the San Ysidro Port of Entry and underwent inspections conducted by CBP officers.

45. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 45.

46. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 46. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

47. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 47. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

48. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 48. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their

international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

49. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 49. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

50. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 50. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

51. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 51.

52. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 52, except to admit that Plaintiff Bing Guan was released

from secondary inspection and allowed into the United States.

53. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 53.

54. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 54.

55. The allegations in paragraph 55 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

56. Defendants deny the allegations set forth in paragraph 56, except to admit that Defendants retain information about the responses Plaintiff Bing Guan provided to CBP officers regarding his occupation and activities, including records or notes describing the contents of Plaintiff Bing Guan's responses.

57. Defendants deny the allegations set forth in paragraph 57, except to admit that Defendants retain information about the fact that Plaintiff Bing Guan was questioned about his occupation and activities.

58. Defendants deny the allegations set forth in paragraph 58, except to admit that Defendants retain information about the fact that Plaintiff Bing Guan was referred to secondary inspection for questioning.

59. The allegations in paragraph 59 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

60. Defendants deny knowledge or information sufficient to form a belief as to the truth

of the allegations set forth in paragraph 60.

61. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 61.

***Go Nakamura***

62. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 62.

63. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 63, except to admit that on December 29, 2018, CBP officers questioned Plaintiff Go Nakamura about his occupation and activities. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

64. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 64.

65. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 65.

66. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 66.

67. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 67, except to admit that on December 29, 2018, Plaintiffs Bing Guan and Go Nakamura arrived by vehicle at the San Ysidro Port of Entry and underwent inspections conducted by CBP officers.

68. Defendants deny knowledge or information sufficient to form a belief as to the truth

of the allegations set forth in paragraph 68.

69. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 69.

70. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 70. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

71. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 71. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

72. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 72, except to admit that on December 29, 2018, CBP officers showed photographs of individuals to Plaintiff Go Nakamura.

73. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 73, except to admit that on December 29, 2018, Plaintiff

Go Nakamura showed a CBP officer some of his photographs and scrolled through some photographs on his public Instagram page.

74. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 74, except to admit that Plaintiff Go Nakamura was released from secondary inspection and allowed into the United States.

75. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 75.

76. Deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 76.

77. The allegations in paragraph 77 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

78. Defendants deny the allegations set forth in paragraph 78, except to admit that Defendants retain information about the responses Plaintiff Go Nakamura provided to CBP officers regarding his occupation and activities.

79. Defendants deny the allegations set forth in paragraph 79, except to admit that Defendants retain information about the fact that Plaintiff Go Nakamura was questioned about his occupation and activities.

80. Defendants deny the allegations set forth in paragraph 80, except to admit that Defendants retain information about the fact that Plaintiff Go Nakamura was referred to secondary inspection for questioning.

81. The allegations in paragraph 81 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants

deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 81.

82. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 82.

83. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 83.

***Mark Abramson***

84. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 84.

85. Defendants deny the allegations set forth in paragraph 85. Defendants aver that on January 5, 2019 CBP officers questioned Plaintiff Mark Abramson about his occupation and activities on one occasion. Defendants further aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

86. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 86.

87. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 87.

88. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 88.

89. Defendants deny the allegations set forth in paragraph 89, except to admit that on January 5, 2019, at approximately 2:00 a.m., Plaintiff Mark Abramson presented himself at the San Ysidro Port of Entry to enter the United States, that a CBP officer scanned Plaintiff Mark



Abramson's passport, and that Plaintiff Mark Abramson was referred to secondary inspection

90. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 90.

91. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 91.

92. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 92.

93. Defendants deny the allegations set forth in paragraph 93, except to admit that CBP officers questioned Plaintiff Mark Abramson about his occupation, and Plaintiff Mark Abramson informed the CBP officers that he was a freelance photographer covering the migrant caravan for *The New York Times*. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

94. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 94.

95. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 95, except to admit that Plaintiff Mark Abramson was released from secondary inspection and allowed into the United States.

96. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 96.

97. The allegations in paragraph 97 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

98. Defendants deny the allegations set forth in paragraph 98, except to admit that Defendants retain information about information about the responses Plaintiff Mark Abramson provided to CBP officers regarding his occupation and activities.

99. Defendants deny the allegations set forth in paragraph 99, except to admit that Defendants retain information about the fact that Plaintiff Mark Abramson was questioned about his occupation and activities

100. Defendants deny the allegations set forth in paragraph 100, except to admit that Defendants retain information about the fact that Plaintiff Mark Abramson was referred to secondary inspection and questioning.

101. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 101.

102. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 102.

103. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 103.

***Kitra Cahana***

104. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 104.

105. Defendants deny the allegations set forth in paragraph 105, except to admit that on two occasions in January 2019, CBP officers questioned Plaintiff Kitra Cahana about her occupation. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

106. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 106.

107. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 107.

108. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 108.

109. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 109, except to admit that on January 17, 2019, Plaintiff Kitra Cahana was inspected at the CBP preclearance facility in Montreal, Canada, and was referred to secondary inspection.

110. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 110, except to admit that on January 17, 2019, a CBP officer referred Plaintiff Kitra Cahana to secondary inspection. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

111. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 111. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

112. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 112, except to admit that Plaintiff Kitra Cahana was

released from secondary inspection and allowed into the United States.

113. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 113.

114. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 114.

115. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 115.

116. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 116.

117. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 117.

118. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 118, except to admit that on January 18, 2019, Plaintiff Kitra Cahana was referred to secondary inspection upon arriving at the Detroit airport.

119. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 119. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

120. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 120, except to admit that Plaintiff Kitra Cahana was

released from secondary inspection and allowed into the United States.

121. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 121.

122. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 122.

123. The allegations in paragraph 123 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

124. Defendants deny the allegations set forth in paragraph 124, except to admit that Defendants retain information about the fact that Plaintiff Kitra Cahana was questioned about her occupation and activities.

125. Defendants deny the allegations set forth in paragraph 125, except to admit that Defendants retain information about the fact that Plaintiff Kitra Cahana was questioned about her occupation and activities.

126. Defendants deny the allegations set forth in paragraph 126, except to admit that Defendants retain information about the fact that Plaintiff Kitra Cahana was referred to secondary inspection and questioning on two occasions.

127. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 127.

128. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 128.

*Ariana Drehsler*

129. Defendants deny knowledge or information sufficient to form a belief as to the truth

of the allegations set forth in paragraph 129.

130. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 130, except to admit that on three occasions from December 2018 to January 2019, CBP officers questioned Plaintiff Ariana Drehsler about her occupation and activities. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad.

131. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 131.

132. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 132.

133. Defendants deny the allegations set forth in paragraph 133, except to admit that on or around December 30, 2018 at approximately 12:15 a.m., Plaintiff Ariana Drehsler presented herself at the San Ysidro Port of Entry to enter the United States, and that Plaintiff Ariana Drehsler was referred to secondary inspection.

134. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 134.

135. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 135.

136. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 136. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of

their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

137. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 137. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

138. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 138.

139. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 139, except to admit that Plaintiff Ariana Drehsler was released from secondary inspection and allowed into the United States.

140. Defendants deny the allegations set forth in paragraph 140, except to admit that on or around January 2, 2019 at approximately 11:00 p.m., Plaintiff Ariana Drehsler presented herself at the San Ysidro Port of Entry to enter the United States, that a CBP officer scanned Plaintiff Ariana Drehsler's passport, and that Plaintiff Ariana Drehsler was referred to secondary inspection

141. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 141.

142. Defendants deny knowledge or information sufficient to form a belief as to the truth

of the allegations set forth in paragraph 142.

143. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 143. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

144. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 144.

145. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 145, except to admit that Plaintiff Ariana Drehsler was released from secondary inspection and allowed into the United States.

146. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 146, except to admit that on January 4, 2019, at approximately 9:00 pm., Plaintiff Ariana Drehsler presented herself at the San Ysidro Port of Entry to enter the United States from Mexico, and was referred to secondary inspection.

147. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 147.

148. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 148. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of



their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

149. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 149. Defendants aver that, pursuant to CBP's border search authority, CBP officers routinely question travelers regarding a variety of information, including but not limited to their admissibility, their contact information, the purpose and intent of their international travel, their occupation, and the identity of all persons and places visited abroad. Defendants further aver that CBP officers may also question travelers regarding a potential violation of a law DHS enforces or administers, or regarding a threat to border security, national security, officer safety, or public safety.

150. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 150, except to admit that Plaintiff Ariana Drehsler was released from secondary inspection and allowed into the United States.

151. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 151.

152. The allegations in paragraph 152 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in this paragraph.

153. Defendants deny the allegations set forth in paragraph 153, except to admit that Defendants retain information about the responses Plaintiff Ariana Drehsler provided to CBP officers regarding her occupation and activities.

154. Defendants deny the allegations set forth in paragraph 154, except to admit that Defendants retain information about the fact that Plaintiff Ariana Dreshlser was questioned about her occupation and activities.

155. Defendants deny the allegations set forth in paragraph 155, except to admit that Defendants retain information about the fact that Plaintiff Ariana Drehsler was referred to secondary inspection and questioning on three occasions.

156. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 156.

157. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 157.

**CLAIM**  
**Violation of the First Amendment**  
**(Freedom of Speech, Freedom of the Press, Freedom of Association)**  
**(by all Plaintiffs against all Defendants)**

158. Defendants incorporate by reference their responses to the paragraphs 1-157 as if fully set herein.

159. The allegations in paragraph 159 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

160. The allegations in paragraph 160 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

161. The allegations in paragraph 161 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

162. The allegations in paragraph 162 constitute legal conclusions to which no response is required. To the extent this paragraph may be deemed to contain factual allegations, Defendants deny.

#### **PRAYER FOR RELIEF**

The final paragraph after the heading “Prayer for Relief,” including the subsections A through G, constitute Plaintiffs’ prayer for relief to which no response is required. To the extent that this paragraph, and its subsections, may be deemed to contain factual allegations, Defendants deny.

All allegations not specifically admitted or denied in the foregoing numbered responses are hereby denied.

#### **FIRST DEFENSE**

The Complaint should be dismissed to the extent any Plaintiff fails to state a claim upon which relief can be granted against Defendants.

#### **SECOND DEFENSE**

The Court lacks subject-matter jurisdiction over the Complaint.

#### **THIRD DEFENSE**

The Complaint should be dismissed because Plaintiffs lack standing to seek the relief requested.

#### **FOURTH DEFENSE**

Plaintiffs are not entitled to attorneys’ fees, costs, or disbursements under the Equal Access to Justice Act, 28 U.S.C. § 2412.

#### **FIFTH DEFENSE**

The officers acted lawfully, reasonably, and with due care and diligence at all relevant times.

