

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MOISES JAVIER AGUILAR PERALTA, et
al.,

Plaintiffs,

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

No.: 2:26-cv-337

District Judge Sarah D. Morrison
Magistrate Judge Chelsey M. Vascura

**PLAINTIFFS' MOTION FOR
PROVISIONAL CLASS
CERTIFICATION AND
APPOINTMENT OF CLASS COUNSEL**

Pursuant to Fed. R. Civ. P. 23(b)(2), Plaintiffs Moises Javier Aguilar Peralta, F.M., S.T., and Jose Armando de Leon Zapata, move the Court for provisional class certification and appointment of class counsel for the purpose of entering a preliminary injunction. Plaintiffs seek the provisional certification of the following class:

Warrantless Arrests Class: All persons who, since April 22, 2025, have been, or will be, arrested in this State for alleged immigration violations without a warrant and without a pre-arrest, individualized assessment of probable cause that the person is likely to escape before a warrant can be obtained.

Plaintiffs also seek the appointment of the undersigned as Class Counsel.

This motion is made pursuant to Fed. R. Civ. P. 23, and based upon the memorandum of law and any further evidence and argument to be presented at or before the hearing, and all of the files, records, and proceedings herein.

Dated: April 15, 2026

Respectfully submitted,

/s/ Kathleen Kersh

Kathleen Kersh (0091198)
Maria Otero (0093841)
Gwen Short (0102151)
Rebecca Bundy (0101572)
ADVOCATES FOR BASIC LEGAL EQUALITY,
INC.
525 Jefferson Avenue, Suite 300
Toledo, OH 43604
Phone: (937) 535-4408
kkersh@ablelaw.org
moter@ablelaw.org
gshort@ablelaw.org
rbundy@ablelaw.org

Freda J. Levenson (0045916)
Amy Gilbert (0100887)
ACLU OF OHIO FOUNDATION, INC.
4506 Chester Avenue
Cleveland, Ohio 44103
(216) 541-1376 (Levenson)
(216) 770-6704 (Gilbert)
flevenson@acluohio.org
agilbert@acluohio.org

David J. Carey (0088787)
ACLU OF OHIO FOUNDATION, INC.
1108 City Park Avenue, Suite 203
Columbus, Ohio 43206
(380) 215-1972
dcarey@acluohio.org

Vincent W. Wells (0101765)
Jesse H. Vogel (0102292)
COMMUNITY REFUGEE & IMMIGRATION
SERVICES
4645 Executive Drive
Columbus, Ohio 43220
Phone: 614-955-9505
vwells@cris-ohio.org
jvogel@cris-ohio.org

/s/ John S. Marshall

John S. Marshall (0015160)
Trial Attorney for Plaintiffs
Helen M. Robinson (0097070)
Edward R. Forman (0076651)
Samuel M. Schlein (0092194)
Madeline J. Rettig (0098816)
MARSHALL, FORMAN AND SCHLEIN, LLC
250 Civic Center Drive, Suite 480
Columbus, Ohio 43215-5296
Phone: (614) 463-9790
Fax (614) 463-9780
jmarshall@marshallforman.com
hrobinson@marshallforman.com
eforman@marshallforman.com
sschlein@marshallforman.com
mrettig@marshallforman.com

OF COUNSEL
Louis A. Jacobs (002101)
MARSHALL, FORMAN AND SCHLEIN, LLC
177 19th Street, Apt. 9C
Oakland, CA 94612
Phone: (614) 203-1255
Fax (510) 250-9007
LAJOhio@aol.com

Frederick M. Gittes (0031444)
Jeffrey P. Vardaro (0081819)
THE GITTES LAW GROUP
723 Oak Street
Columbus, Ohio 43205
Phone: (614) 222-4735
Fax: (614) 221-9655
fgittes@gitteslaw.com
jvardaro@gitteslaw.com

Counsel for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MOISES JAVIER AGUILAR PERALTA, et
al.,

Plaintiffs,

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

No.: 2:26-cv-337

District Judge Sarah D. Morrison
Magistrate Judge Chelsey M. Vascura

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL CLASS
CERTIFICATION AND
APPOINTMENT OF CLASS COUNSEL**

INTRODUCTION

Plaintiffs bring this lawsuit as a putative class action to challenge Defendants' policy and practice of making warrantless immigration arrests without a pre-arrest determination of probable cause in Ohio. The Immigration and Nationality Act ("INA") requires that immigration officials making an arrest without a warrant first have probable cause, meaning determinations that the person in question 1) is present in the United States in violation of immigration laws and 2) is likely to flee before a warrant can be obtained. 8 U.S.C. § 1357 (a)(2). The implementing regulations provide that a "warrant of arrest **shall be obtained**" unless the immigration official has reason to believe the person poses a risk of escape. 8 CFR § 287.8 (c)(2)(ii) (emphasis added).

Defendants made warrantless arrests against Plaintiffs without pre-arrest individualized assessments of probable cause that they posed a risk of escape. Such failure constitutes a violation of the law, and Plaintiffs have suffered because of Defendants' illegal conduct. Many others besides the named Plaintiffs have suffered from Defendants' unlawful conduct in various regions of Ohio.

Plaintiffs seek a declaration that Defendants' policy and practice of conducting warrantless arrests without probable cause is unlawful, injunctive relief to prohibit further violations of Plaintiffs' and putative class members' rights, to require Defendants to expunge records and information relating to or deriving from their unlawful arrests, and vacatur of the unlawful policy. Without this Court's intervention, Defendants will continue carrying out unlawful warrantless arrests, and those similarly situated to Plaintiffs will suffer. Plaintiffs therefore seek to certify the following proposed class:

Warrantless Arrests Class: All persons who, since April 22, 2025, have been or will be arrested by Defendants in Ohio for alleged immigration violations without a warrant and without a pre-arrest, individualized assessment of probable cause that the person is likely to escape before a warrant can be issued.

Class certification is appropriate in this case under Federal Rule of Civil Procedure 23(a). First, the proposed class is so numerous that joinder is impractical. There are hundreds of class members and many who may become class members.¹² In February 2026, alone, there were 670 immigration detainees in Ohio. Second, all putative class members have or will have suffered the same injury: warrantless arrest in violation of 8 U.S.C. § 1357(a)(2). The proposed class also raises common questions of law and fact that will generate common answers, including but not limited to whether Defendants' policy and practice of warrantless arrests without an individualized determination of risk of escape violates 8 U.S.C. § 1357(a)(2). Third, the Plaintiffs' claims are

¹ U.S. Immigr. And Customs Enf't, *FY26 Detention Statistics, Facilities FY26* (Feb. 12, 2026), https://www.ice.gov/doclib/detention/FY26_detentionStats_02122026.xlsx.

² Moreover, immigration detention facilities throughout the country hold Ohioans who, when and if released from detention, would become class members. Their position would then be the same as the class representatives in this case, who themselves had been in detention until immigration judges determined they posed no risk of escape, and released them on bond.

typical of the class as a whole because each Plaintiff was arrested without a warrant and without the required assessment of risk of escape before a warrant could be obtained. Fourth, representative parties fairly and adequately protect the interests of the entire class. Lastly, proposed class representatives are represented by qualified counsel pursuant to Rule 23(g).

For these reasons, to facilitate class-wide relief on the motion for preliminary injunction, Plaintiffs respectfully request this Court grant this class certification under Rule 23(b)(2), appoint Plaintiffs as Class Representatives as set forth below, and appoint the undersigned as Class Counsel.

BACKGROUND

Defendants have operated in Ohio previously, but their enforcement tactics have varied over the years. In 2025, Defendants drastically increased enforcement efforts at the behest of the new presidential administration.³ Increased enforcement under this administration consists of drastic increases in the required numbers of immigration arrests, without regard to the legality of those arrests. In January 2025, the administration set an arrest quota of 75 arrest per day for each U.S. Immigration and Customs Enforcement (“ICE”) Field Office.⁴ In May 2025, the arrest quota increased to 3,000 daily arrests nationwide.⁵ In December 2025, Defendants carried out what they

³ Department of Homeland Security, *Under President Trump ICE Arrests Have Increased by 627%* (Feb. 2025), <https://archive.ph/X8zpf>.

⁴ Nick Miroff & Maria Sacchetti, *Trump Officials Issue Quotas to ICE Officers to Ramp Up Arrests*, WASH. POST (Jan 26. 2025), <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota>.

⁵ ICE holds 25 field offices throughout the country, which averages 107 daily arrests at each field office to maintain the 3,000 national daily arrest quota. Cameron Arcand, *Trump administration sets new goal of 3,000 illegal immigrant arrests daily*, FOX NEWS (May 29, 2025), <https://www.foxnews.com/politics/trump-administration-aims-3000-arrests-illegal-immigrants-each-day>.

coined as “Operation Buckeye” arresting more than 280 individuals in Ohio.⁶ But this case is not about Operation Buckeye alone: Plaintiffs and declarants were arrested before, during, and after this operation. All were arrested without a warrant and without a probable cause determination regarding their risk of escape as required by 8 U.S.C. § 1357(a)(2).

The proposed class representatives’ experiences exemplify Defendants’ policy and practice of making arrests without the required individualized risk of escape assessment:

F.M.

One April morning in a Walmart parking lot, F.M. was approached by four plain-clothed Border Patrol agents. An agent asked F.M. whether he was F. (first name) and F.M. confirmed. Agents then told F.M. he was being arrested and was placed in handcuffs. F.M. did not resist arrest, he followed all orders, he calmly communicated that he has followed immigration laws, an agent examined his valid driver license and valid work permit. When agents drove F.M. to the border patrol station, F.M. asked for documentation as to why he was being arrested, none was given to him. Later, at the border patrol station F.M. heard one agent ask another “Why are we arresting this guy? It seems like he did things right.” F.M Decl. ¶¶ 12-17, 21, 27, Dkt. No. 12-1.

Agents did not make an individualized assessment regarding risk of escape and did not provide a warrant for F.M.’s arrest. Their mind was already made up that F.M. would be arrested when they initially approached him.

Jose Armando de Leon Zapata

While using a ride-share service to get to work, Jose’s car was pulled over by Toledo Police officers in October. Officers asked Jose for an ID but he did not have one with him. They then took

⁶ Department of Homeland Security, *DHS Touts Success of Operation Buckeye in Arresting More than 280* (Jan. 2026), <https://archive.ph/WtwNS>.

him out of the car, searched him, took his phone and wallet, and placed him in handcuffs. The Lyft driver drove away. Jose had no means of escape. The police officers never asked Jose his name. When Jose asked why he was being arrested, he received no answer. Then an ICE agent arrived and said that because Jose did not have an ID, Border Patrol would be called. Decl. de Leon Zapata ¶¶ 15-16, Dkt. No. 12-2. Border Patrol agents arrived and did not ask Jose any questions: they did not ask for his name, about his employment, his ties to the community, or any family ties. No officer – from any of the three agencies – provided Jose with a warrant for his arrest. *Id.* ¶¶ 19-21.

Officers did not make an individualized assessment regarding risk of escape and did not provide a warrant for Jose’s arrest. Their mind was already made up that Jose would be arrested when they initially approached him.

Moises Javier Aquilar Peralta

When exiting a Home Depot after purchasing materials for work one December morning, a black SUV drove up to Moises and his coworker and stopped. Two officers exited the car and approached Moises and his coworker. Meanwhile, a white truck with two other officers arrived from the other direction, surrounding Moises and the coworker. All of these officers were in civilian clothing and had their faces covered. The officers only asked Moises and his coworker whether they had residency or citizenship. Moises did not answer the question of whether he had residency or citizenship, but explained that he has a status that allows him to remain in the United States and showed them his valid driver’s license. That did not matter to the officers. Aguilar Peralta Decl. ¶¶ 32-38, Dkt. No. 12-3. The end of their inquiry was whether he had residency or citizenship. Officers did not ask Moises how long he had been in the United States, about his work or family. Moises did not resist arrest. Later, in a holding cell, Moises learned that another person detained with him was arrested at the same location. That individual informed him that he was

with the ICE officers when Moises entered Home Depot and heard the officers say “there’s another two going in the store, let’s wait and catch them when they come out.” *Id.* ¶ 77. In fact, all eight individuals in that holding cell were arrested in the Home Depot parking lot and all were Latino. *Id.* ¶ 79.

Officers did not make an individualized assessment regarding risk of escape and did not provide a warrant for Moises’s arrest. They had already decided that Moises would be arrested when they only asked about his immigration status and no other factors.

S.T.

While finding a parking spot at the mall, S.T. was blocked by unmarked trucks and could no longer proceed. She parked her car and locked her doors. This December morning, one of the officers decided to record S.T. using his own phone. ICE officers then started pounding on her door and barking orders at her in English and Spanish. Terrified, S.T. found her phone and identifying documents to show the officers and then opened her door. The officers instantly grabbed her, took her phone, and put her in handcuffs. Again, officers started speaking to her simultaneously in two languages, asking for her ID and accusing her of being “illegal.” S.T. froze. Officers looked through S.T.’s phone case and found her bank cards with her name and then stopped asking questions. S.T. did not try to run away or resist any of this. S.T. was not asked about her family, job, ties to the community, or length of time in the United States. Officers never told S.T. why she was being arrested and they also never provided a warrant to her. S.T. Decl. ¶¶ 17-36, Dkt. No. 12-4.

Officers did not make an individualized assessment regarding risk of escape and did not provide a warrant for S.T.’s arrest. They had already decided that S.T. would be arrested before she opened her door.

Each of the proposed class representatives' arrests required an individualized assessment of risk of escape under the law, but it is clear that ICE and Border Patrol made no such assessment. If a full assessment were made, officers may have learned, among other facts, that: S.T. has been here since 2014 and has a U.S. Citizen child, F.M. pays taxes and has a pending asylum case, Jose Armando de Leon Zapata was on his way to work and is married to a U.S. Citizen to whom he provides emotional and financial support, Moises Javier Aguilar Peralta also has a pending asylum case, lives with his sister and nephews, helps his sister with rent, and assists with childcare. S.T. Decl. ¶¶ 7, 10; F.M Decl. ¶¶ 8-10; de Leon Zapata Decl. ¶¶ 9-10, 15; Aguilar Peralta Decl. ¶¶ 7-13. These are not the "worst of the worst." A class action is necessary to remedy these harms, the proposed class is appropriate under FRCP 23, and this Court should grant this Motion for Class Certification.

LEGAL STANDARD

Federal Rule of Civil Procedure 23 authorizes federal courts to determine, "[a]t an early practicable time after a person sues" as a class representative, "whether to certify the action as a class action." Fed. R. Civ. P. 23(c)(1)(A). To obtain class certification, plaintiffs must first satisfy the four Rule 23(a) requirements: numerosity, commonality, typicality, and adequacy. Fed. R. Civ. P. 23(a)(1)–(4); *see Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349 (2011). Plaintiffs must then show that the case meets the requirements of one of Rule 23(b)'s subsections. Upon consideration of the Rule 23(a) prerequisites, the court must conduct "a structured two-step approach to assess commonality and predominance," which involves considering whether plaintiffs have identified a "common question of law or fact" and whether common questions "predominate over any questions affecting only individual members." *Speerly v. General Motors, LLC*, 143 F.4th 306, 316-17 (6th Cir. 2025).

Rule 23 provides three categories of certification under section (b). Class certification pursuant to Rule 23(b)(1) is appropriate where prosecuting separate actions would create a risk of “inconsistent or varying adjudications...that would establish incompatible standards of conduct” for the opposing party or adjudications that would dispose of interests of other members not parties to the individual adjudications or impair or impede their ability to protect their interests.” Fed. R. Civ. P. 23(b)(1), Class certification pursuant to Rule 23(b)(2) is proper if “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2); see *Wal-Mart*, 564 U.S. at 360. Finally, class certification pursuant to Rule 23(b)(3) is proper where the “questions of law or fact common to class members predominate over any questions affecting only individual members” and “a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3).

Upon suit from a class representative, the court must determine “[a]t an early practicable time” whether to issue an order certifying the action as a class action. Fed. R. Civ. P. 23(c)(1)(A). The order must “define the class and the class claims, issues, or defenses, and must appoint class counsel under Rule 23(g). Fed. R. Civ. P. 23(c)(1)(B). In appointing counsel, the Court must consider: “(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A)(i)–(iv). The Court “may consider any other matter pertinent to counsel’s ability to fairly and adequately represent the interests of the class” and may make further orders, including toward fees and requests for information, in connection with the appointment.” Fed. R. Civ. P. 23(g)(1)(B)-(E).

In conducting the action, the Court maintains a range of authority to issue orders toward the course of proceedings, notice requirements, conditions on representative parties or intervenors, and other procedural matters. Fed. R. Civ. P. 23(d).

ARGUMENT

I. The Proposed Class Satisfies the Requirements of Rule 23(a).

A. The Proposed Class Members Are So Numerous that Joinder Is Impracticable

The proposed class satisfies Rule 23's requirement that it be "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). To satisfy numerosity, "impracticability of joinder must be positively shown, and cannot be speculative." *Golden v. City of Columbus*, 404 F.3d 950, 966 (6th Cir. 2005). "Plaintiffs need not demonstrate that it would be impossible to join all the putative class members; rather, they need simply show that joinder would be difficult or inconvenient." *Swigart v. Fifth Third Bank*, 288 F.R.D. 177, 183 (S.D. Ohio 2012).

"There is no strict numerical test for determining impracticability of joinder," rather numerosity requires "examination of the specific facts of each case and imposes no absolute limitations." *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1079 (6th Cir. 1996) (citations omitted). The Sixth Circuit has found classes of 35 to be sufficient to meet the numerosity requirement. *See Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 542 (6th Cir. 2012) (citing *In re Am. Med. Sys., Inc.*, 75 F.3d at 1076); *see also Castillo v. Morales, Inc.*, 302 F.R.D. 480, 487 (S.D. Ohio 2014) (finding a class of forty or more is "[o]ften ... sufficient to meet the numerosity requirement").

"The facts of the case guide a court's determination that the class is sufficiently large to make joinder impractical," *Bacon v. Honda of Am. Mfg., Inc.*, 370 F.3d 565, 570 (6th Cir. 2004) (citing *Gen. Tel. Co. v. EEOC*, 446 U.S. 318, 330 (1980)). In determining numerosity, "a judge may consider reasonable inferences drawn from facts before him at that stage of the proceedings."

Senter v. Gen. Motors Corp., 532 F.2d 511, 523 (6th Cir. 1976); *see also In re Am. Med. Sys., Inc.*, 75 F.3d at 1079.

This Court found that a class member’s potential fear of retaliation is an important fact to consider in deciding whether joinder is impracticable and thus whether numerosity is satisfied. *Castillo v. Morales, Inc.*, 302 F.R.D. at 487 (citing *Swigart*, 288 F.R.D. at 183) (finding that numerosity was satisfied in an employment class action where joinder was impracticable “due to both the size of the potential class, and the non-trivial fear of reprisal and posture of economic dependency that would likely repress the willingness of the class members to bring suit individually”).

Class certification is appropriate because Plaintiffs cannot ascertain the precise number of Proposed Class members. The Proposed Class definition includes future claimants, and facts pertaining to the number of putative class members are within the sole control of Defendants at this stage of proceedings.

Furthermore, the people identified in the Proposed Class are so numerous that joinder of all members is impracticable. While precise ICE and U.S. Customer and Border Patrol (“CBP”) arrest statistics in Ohio since the start of the Class Period are unavailable, certain data shows between 3,641 and 4,700 civil immigration arrests were made in Ohio throughout 2025, and 942 individuals were arrested in the first two months of 2026, up from 880 in 2024, before the quota.⁷

⁷ Danae King, *‘Wrong place, wrong time?’ Over 500 Ohio ICE arrests were ‘collateral’*, COLUMBUS DISPATCH (Apr. 10, 2026), <https://www.dispatch.com/story/news/politics/2026/04/10/ice-arrests-skyrocket-including-those-detained-as-collateral/89523780007/>; Lynn Tramonte, *Hearing on Federal Civil Immigration Enforcement Proposed Code Changes*, Testimony before Columbus Cty. Council R. & P. Comm., at p.2, (Feb. 17, 2026), https://static1.squarespace.com/static/68460a37f903140728c2ab29/t/699706e54923ab32bb4497c8/1771505381430/Final+Hearing+Document_LAT+Version.docx.pdf.

In light of Defendants' own memorandum which "unequivocally authorizes" immigration officers to conduct warrantless arrests in expanded circumstances, greater numbers are foreseeable.⁸ Brian Hoffman, the Executive Director of the Ohio Center for Strategic Immigration Litigation and Outreach ("OCSILiO"), has weekly conversations with prospective clients who have been detained by ICE or Border Patrol, most of whom were not arrested pursuant to a warrant and none of whom were asked anything about their community ties or other questions to assess their likelihood of escape before being arrested. Hoffman Decl. ¶ 4, Dkt. No. 12-13. Defendants' pattern and practice of warrantless arrests without individualized determinations of escape risk, undoubtedly in order to meet the federal government's 3,000 daily arrest quota, supports numerosity in the hundreds for the proposed class, and the number is expected to grow.

Class certification is further supported because the proposed class includes unnamed future claimants due to Defendants' continuing policy and practice, and there is an "impracticability of counting such class members, much less joining them."⁹ Many class members are or will be detained and face warrantless arrests prior to detention or following release. *See J.A.V. v. Trump*, 349 F.R.D. 152, 159 (S.D. Tex. 2025) ("Joinder of numerous individuals, detained in multiple detention facilities...would be impracticable"); *G.H. v. Tamayo*, 339 F.R.D. 584, 588 (N.D. Fl. 2021) (Joinder impracticable where the class is fluid, detention population "constantly in flux").

In an action such as this one, a class member's potential fear of retaliation is an important consideration in deciding whether joinder is impracticable and thus whether the numerosity

⁸ Memorandum from Todd Lyons, Senior Off. Performing Duties of the Dir. to All ICE Personnel (Jan. 28, 2026) (available at <https://immpolicytracking.org/policies/ice-issues-guidance-on-arrest-warrants-and-warrantless-arrests/#/tab-policy-documents>).

⁹ William B. Rubenstein, *Newberg and Rubenstein on Class Actions* § 3:15 (6th ed., 2025); *accord A.B. v. Haw. State Dep't of Educ.*, 30 F.4th 828, 838 (9th Cir. 2022) (when a "class's membership changes continually over time, that factor weighs in favor of concluding that joinder of all members is impracticable" and that the class is sufficiently numerous).

requirement is satisfied. Putative class members fear joining or individually prosecuting a lawsuit against the federal government because the imbalance of power between parties means that to join as a named plaintiff or individually sue is to risk future retaliation. The Court should consider this fear of retaliation and fear of joinder as a factor in support of numerosity in this case because it makes joinder difficult and dangerous for putative class members.

Finally, the number adversely affected by Defendants' unlawful policy, pattern, or practice is much greater than those who have been arrested without a warrant or a probable cause determination that they were an escape risk. ICE's pattern of making these unlawful arrests throughout the state and the country has chilled exercise of the most basic freedom of going about daily activities without fear of an arrest that flouts legal safeguards. Immigration attorney Emily Brown notes her clients have quit their jobs, stopped driving, and no longer answer the door at their homes for fear of unlawful, warrantless immigration arrests by Defendants. Brown Decl. ¶ 9, Dkt. No. 12-12. Central Ohio Workers Center (COWC) Director of Programs Claudia Cortez states that members now avoid essential activities like sending children to school, seeking medical care, and attending religious services for fear of unlawful, warrantless immigration arrests by Defendants. Claudia Cortez Decl. ¶ 16. COWC reports members are even afraid to call 911 in emergencies or seek help from authorities for workplace violations such as wage theft or unsafe working conditions. *Id.* ¶ 18. Putative class members are too afraid to go about daily activities or even seek emergency help, much less join a lawsuit against the very actors they fear. Such an impact attests to the unlikelihood of joinder by these members and the size of the proposed class.

Joinder of all members is impracticable due to the size of the potential class and inclusion of future claimants, the non-trivial fear of reprisal or adverse impact that would repress the

willingness of the putative class members to bring suit individually, and the lack of financial resources of claimants to individually prosecute a lawsuit in federal court against federal agencies.

The proposed class therefore meets the numerosity requirement of Rule 23(a).

B. The Proposed Class Presents Common Questions of Law and Fact

The proposed class satisfies the commonality requirement, because it presents “questions of law or fact common to the class” which predominate over any questions affecting individual members. Fed. R. Civ. P. 23(a)(2).

A common question is one “of such a nature that it is capable of classwide resolution— which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Wal-Mart*, 564 U.S. at 350. “To be common, a question must (1) yield a common answer with common evidence and (2) meaningfully progress the lawsuit.” *Speerly v. General Motors, LLC*, 143 F.4th at 316. A class has not shown it is common if a reasonable decisionmaker left with the evidence may answer “‘yes’ to a question for some class members and ‘no’ for others.” *Id.* at 317. The common questions must then “predominate over any questions affecting only individual members,” and thus “the substance or quantity of evidence offered and the cost of doing so” must not substantially change with the adding or subtracting of plaintiffs. *Id.* “[F]or purposes of Rule 23(a)(2) even a single common question will do,” *Wal-Mart*, 564 U.S. at 359.

The commonality “requirement is met where the questions linking the class members are substantially related to the resolution of the litigation even though the individuals are not identically situated.” *Swigart*, 288 F.R.D. at 183 (citing *DeBoer v. Mellon Mortgage Co.*, 64 F.3d 1171, 1174 (8th Cir. 1995)). The common question need only be substantially related to the resolution of litigation and commonality is not required on every question raised in a class action.

Id. To determine centrality of a common question, the Court “must examine each cause of action, identify the relevant elements, and evaluate how the common answer at hand helps to resolve at least one of them.” *In re Nissan N. Am., Inc. Litig.*, 122 F.4th 239, 248 (6th Cir. 2024).

Commonality is satisfied here because “the members of the class have allegedly been affected by a general policy of the defendant, and the general policy is the focus of the litigation.” *Graham v. Chumleys of Columbus, LLC*, No. 2:15-CV-136, 2016 WL 11787458, at *3 (S.D. Ohio Mar. 23, 2016) (quoting *Sweet v. Gen. Tire & Rubber Co.*, 74 F.R.D. 333, 335 (N.D. Ohio 1976)). Defendants have a policy and practice of conducting warrantless arrests without the requisite probable cause of a likelihood of escape finding under 8 U.S.C. § 1357(a)(2). Each putative class member has been or will be subject to the same policy and practice of unlawful warrantless arrests in Ohio by Defendants and each putative class member bears the impact of this Court’s decision toward Defendants’ policy and practice. It is not “merely that they have all suffered a violation of the same provision of law,” but also that putative class members’ claims “depend upon a common contention” that Defendants are executing a specific unlawful policy and practice. *Wal-Mart*, 564 U.S. at 350; see also *Sweet v. Gen. Tire & Rubber Co.*, 74 F.R.D. at 335.

The common question of law and fact includes, but is not limited to: whether Defendants’ policy and practice of conducting warrantless arrests without making an individualized determination of probable cause that an individual is in the United States unlawfully *and* is likely to escape before a warrant can be obtained for the arrests violates the INA, specifically 8 U.S.C. § 1357(a)(2).

The central issue common across proposed class members is Defendants’ failure to make individualized assessments of probable cause prior to executing a warrantless arrest. The facts that vary among putative class members—such as immigration status or specific circumstances of

arrest—are immaterial to the claims at issue because the warrantless arrests are unlawful due to a common, prosecutable feature: lack of an individualized determination of probable cause as to flight risk. *See Swigart*, 288 F.R.D. at 183 (citation omitted). Whether or not Defendants may carry out their policy and practice of unlawful warrantless arrests imposes the same type of risk for all members. From the fear of unlawful warrantless arrests to the unlawful warrantless arrests themselves, all class members respond the same to this Court’s adjudication, even as details vary.

Plaintiffs' claims are common of the Class who have all been or will be subjected to warrantless arrest in Ohio, and a class action is superior to other available methods of fair and efficient adjudication of the common claims – particularly where individual plaintiffs fear retaliation and lack the financial resources to vigorously prosecute a lawsuit in federal court against federal agencies individually.

Accordingly, the proposed class satisfies the commonality requirement of Rule 23(a).

C. The Proposed Class Representatives’ Claims are Typical of the Claims of the Members of the Proposed Class

Plaintiffs’ claims are “typical of the claims... of the class.” Red. R. Civ. P. 23(a)(3). Typicality and commonality overlap because, “[b]oth serve as guideposts for determining whether under the particular circumstances maintenance of a class action is economical.” *Gen. Tol. Co of Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982). To that end, the two inquiries “tend to merge.” *Id.*; *see Young*, 693 F.3d at 542 (noting the two requirements overlap and merge). In this case, the named Plaintiffs’ claims are typical of those of the class because there is a “sufficient relationship . . . between the injury to the named Plaintiffs and the conduct affecting the class, so that the court may properly attribute a collective nature to the challenged conduct.” *In re Am. Med. Sys. Inc.*, 75 F.3d at 1082 (*quoting Newberg on Class Actions* at 3-76). Like the commonality requirement, the underlying facts need not be exactly the same for typicality; “provided there is a common element

of fact or law.” *Beattie v. CenturyTel, Inc.*, 511 F.3d 554, 561 (6th Cir. 2007) (quoting *Senter*, 532 F.2d at 525 n.31).

Here, the claims of the individual plaintiffs are typical of those of the members of the proposed class. Each plaintiff was arrested without a warrant and without *both* of the required probable cause findings. *See* Aguilar Peralta Decl. ¶¶ 24-42 (ICE arrest outside Home Depot; no warrant or officer questions about community/family ties or other escape risk factors); F.M. Decl. ¶¶ 13-18, 21-22, 28 (Border Patrol arrest outside Walmart; no warrant or agent questions indicating an escape risk assessment); S.T. Decl. ¶¶ 17-29, 31, 36 (ICE arrest outside Easton Town Center; no questioning about community/family ties, or other escape risk factors); De Leon Zapata Decl. ¶¶ 15-24 (Border Patrol arrest after referral initiated by Lyft driver; no warrant shown; agents did not ask any questions indicating an escape risk assessment). Each Plaintiff’s claims arises from Defendants’ policy and practice of unlawful warrantless arrests. And, it is “[t]he overarching” policy and practice that “is the linchpin of [the] plaintiffs” complaint. *In re Lorazepam & Clorazepate*, 202 F.R.D. at 28 (internal quotations and citation omitted); *see also Bovee v. Coopes & Lybrand*, 216 F.R.D. 596, 608 (S.D. Ohio 2003) (citing *Putnam v. Davies*, 169 F.R.D. 89, 93 (S.D. Ohio 1996)).

Accordingly, Plaintiffs’ claims satisfy the typicality requirement of Rule 23(a)(3).

D. The Proposed Class Representatives Will Adequately Protect the Interests of the Proposed Class and Counsel are Qualified to Litigate this Action

Finally, Plaintiffs will “fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). To demonstrate the adequacy of representation, Plaintiffs must show that: (1) the class representative has common interests with the unnamed members of the class; and (2) the representative will vigorously prosecute the interests of the class through qualified counsel. *Young*, 693 F.3d at 543; *Senter*, 532 F.2d at 522. The relationship between the named plaintiffs and

members of the putative class must not be antagonistic. *Smith v. Babcock*, 19 F.3d 257, 265 n.13 (6th Cir. 1994). All these elements are met here.

1. Proposed Class Representatives Share Common Interests with Unnamed Class Members

First, Plaintiffs do not have antagonistic or conflicting interests with the unnamed members of the class. As discussed above, Plaintiffs and putative class members are all subject to Defendants' unlawful policy and practice of making warrantless arrests without individualized determinations of probable cause, and are suffering the same injuries, including detention and separation from their families, as a result of being unlawfully arrested under Defendants' policy and practice. Accordingly, Plaintiffs and putative class members share a common interest in ensuring the protection of their rights. Plaintiffs are motivated to pursue this action on behalf of themselves and others who have been or will be subject to the same unlawful policy and practice. *See* Aguilar Peralta Decl. ¶¶ 140-142; F.M. Decl. ¶¶ 44-45; S.T. Decl. ¶¶ 106-109; de Leon Zapata Decl. ¶¶ 41-43. Therefore, there is no current or potential conflict of interest between Plaintiffs and putative class members, who seek the same declaratory and injunctive relief for the same unlawful policy and practice.

Here, Plaintiffs understand the responsibility of being a class representative and are willing to protect the class's interests. *See* Aguilar Peralta Decl. ¶¶ 143-148; F.M. Decl. ¶¶ 46-51; S.T. Decl. ¶¶ 110-115; de Leon Zapata Decl. ¶¶ 44-49. Accordingly, Plaintiffs will fairly and adequately protect the interests of the class under Rule 23(a)(4).

2. Proposed Class Counsel is Qualified to Vigorously Prosecute the Interests of the Class

Upon certifying a class, the Court must also appoint class counsel. Fed. R. Civ. P. 23(g)(1). To do so, the Court must consider: "(i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex

litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A). The court “may [also] consider any other matter pertinent to counsel’s ability to fairly and adequately represent the interest of the class.” Fed. R. Civ. P. 23(g)(1)(B).

Counsel for the named Plaintiffs and the proposed class has sufficient experience and expertise to ably represent the proposed class, with combined extensive experience in complex immigration cases, constitutional litigation, and class action litigation. *See* Gittes Decl. (The Gittes Law Group), Kersh Decl. (Advocates for Basic Legal Equality, Inc.), Levinson Decl. (ACLU of Ohio Foundation), Marshall Decl. (Marshall, Forman, and Schlein, LLC), Walton Decl. (Walton and Brown, LLP), and Wells Decl. (Community Refugee and Immigration Services).

II. Class Certification Under Rule 23(b)(2) is Appropriate

Certification of Plaintiffs’ proposed class is appropriate under Rule 23(b)(2). Through their policy and practice, Defendants have “acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2).

“The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.” *Wal-Mart*, 564 U.S. at 360 (internal citation omitted). It is “intended to reach situations where a party has taken action or refused to take action with respect to a class, and final relief of an injunctive nature or of a corresponding declaratory nature, settling the legality of the behavior with respect to the class as a whole, is appropriate.” While not limited to civil rights, this includes “actions in the civil-rights field where a party is charged with discriminating unlawfully against a class, usually one whose members are incapable

of specific enumeration.” It does not extend “where appropriate final relief relates exclusively or predominantly to money damages.” Fed. R. Civ. P. 23.

The proposed class is centered around an action by Defendants that is “generally applicable to the class,” *Steele*, 159 F. Supp. 3d at 81 (internal quotations and citations omitted); specifically, the policy and practice of effectuating a warrantless arrest without a pre-arrest, individualized assessment of probable cause that the person both (1) is in the United States unlawfully *and* (2) is likely to escape before a warrant can be obtained.

As for the injunctive or declaratory relief relevant to the class, the relief Plaintiffs seek centers on declaratory and injunctive relief that would benefit all members of the proposed class, including an injunction prohibiting Defendants from conducting warrantless arrests without individualized determinations of probable cause that the person is in the United States unlawfully *and* is an escape risk, and declaratory relief deeming it unlawful. This is the type of relief Rule 23(b)(2) is designed to address, and it fits well within its intent and parameters.

CONCLUSION

For the foregoing reasons, the Court should grant the motion for class certification, appoint Plaintiffs Moises Javier Aguilar Peralta, F.M., S.T., and Jose Armando de Leon Zapata as class representatives for the Warrantless Arrests Class, and appoint the undersigned as class counsel.

Dated: April 15, 2026

Respectfully submitted,

/s/ Kathleen Kersh

Kathleen Kersh (0091198)

Maria Otero (0093841)

Gwen Short (0102151)

Rebecca Bundy (0101572)

ADVOCATES FOR BASIC LEGAL EQUALITY,
INC.

525 Jefferson Avenue, Suite 300

/s/ John S. Marshall

John S. Marshall (0015160)

Trial Attorney for Plaintiffs

Helen M. Robinson (0097070)

Edward R. Forman (0076651)

Samuel M. Schlein (0092194)

Madeline J. Rettig (0098816)

MARSHALL, FORMAN AND SCHLEIN, LLC

Toledo, OH 43604
Phone: (937) 535-4408
kkersh@ablelaw.org
motero@ablelaw.org
gshort@ablelaw.org
rbundy@ablelaw.org

Freda J. Levenson (0045916)
Amy Gilbert (0100887)
ACLU OF OHIO FOUNDATION, INC.
4506 Chester Avenue
Cleveland, Ohio 44103
(216) 541-1376 (Levenson)
(216) 770-6704 (Gilbert)
flevenson@acluohio.org
agilbert@acluohio.org

David J. Carey (0088787)
ACLU OF OHIO FOUNDATION, INC.
1108 City Park Avenue, Suite 203
Columbus, Ohio 43206
(380) 215-1972
dcarey@acluohio.org

Vincent W. Wells (0101765)
Jesse H. Vogel (0102292)
COMMUNITY REFUGEE & IMMIGRATION
SERVICES
4645 Executive Drive
Columbus, Ohio 43220
Phone: 614-955-9505
vwells@cris-ohio.org
jvogel@cris-ohio.org

250 Civic Center Drive, Suite 480
Columbus, Ohio 43215-5296
Phone: (614) 463-9790
Fax (614) 463-9780
jmarshall@marshallforman.com
hrobinson@marshallforman.com
eforman@marshallforman.com
sschlein@marshallforman.com
mrettig@marshallforman.com

OF COUNSEL
Louis A. Jacobs (002101)
MARSHALL, FORMAN AND SCHLEIN, LLC
177 19th Street, Apt. 9C
Oakland, CA 94612
Phone: (614) 203-1255
Fax (510) 250-9007
LAJOhio@aol.com

Frederick M. Gittes (0031444)
Jeffrey P. Vardaro (0081819)
THE GITTES LAW GROUP
723 Oak Street
Columbus, Ohio 43205
Phone: (614) 222-4735
Fax: (614) 221-9655
fgittes@gitteslaw.com
jvardaro@gitteslaw.com

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on April 15, 2026, a copy of the foregoing Plaintiffs' Motion for a Provisional Class Certification and Appointment of Class Counsel, Memorandum in Support, and attached declarations were filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. In addition, the foregoing will be sent to counsel for Defendants via email at Christopher.Yates@usdoj.gov. All previous filings in this action have also been served upon Defendants by certified mail, email, or by the function of this Court's CM/ECF system.

/s/ Kathleen Kersh
Kathleen Kersh (0091198)

/s/ John S. Marshall
Trial Attorney for Plaintiffs
John S. Marshall (0015160)

**DECLARATION OF CLAUDIA CORTEZ
ON BEHALF OF THE CENTRAL OHIO WORKER CENTER**

I, Claudia Cortez, declare under penalty of perjury under the laws of the United States that the following is true and correct to the best of my knowledge:

1. My name is Claudia Cortez. I am the Director of Programs at the Central Ohio Worker Center ("COWC"), a nonprofit organization based in Columbus, Ohio.
2. I have personal knowledge of the matters stated in this Declaration based on my role as Director of Programs and my direct work with the communities COWC serves.
3. COWC's mission is to educate, empower, and advocate for low-wage and immigrant workers in Columbus, Ohio. We provide direct support, connections to community resources, and community education, including "Know Your Rights" workshops regarding workplace rights.
4. COWC primarily serves Hispanic and Latino immigrant workers and their families in the Columbus, Ohio area. We assist approximately 30 individuals per month through case management, connections to resources, and community education programming.
5. While we do not require community members to disclose their immigration status, many individuals we serve have voluntarily shared that they are undocumented, DACA recipients, or hold other immigration statuses. Regardless of status, we educate all community members about their workplace rights.
6. Over the past 12 months, our organization has observed significant changes in community engagement and service utilization that we attribute to fear of immigration enforcement.
7. COWC has become directly aware of immigration enforcement activity affecting members of the community we serve. Our community is predominantly immigrant, and we have received firsthand reports from community members about enforcement activity occurring in Columbus.
8. Community members have reported being detained by ICE and other federal immigration authorities in public spaces, including after dropping children off at school and while parking near their workplaces. These are not secondhand accounts — they have been relayed to COWC staff directly by the individuals affected or by their family members.
9. COWC is aware of at least two cases in which workers with documentation were arrested without a judicial warrant — including incidents that occurred after parents left their children at school and while workers were parking to go to work.
10. While our organization's primary focus is not immigration enforcement monitoring, a number of community reports suggest that enforcement activity has occurred in proximity to school areas. No single clear geographic pattern has been identified, which itself contributes to a pervasive and generalized fear among the people we serve.

CC

11. COWC has observed a measurable decline in community members' willingness to access services due to fear of immigration enforcement. This trend has been noticeable for over a year and has required our organization to fundamentally alter how we operate and deliver services.
12. Specifically, COWC has moved programs online, changed the physical locations of certain programs, reduced in-person events, and modified outreach methods to protect the safety of community members. We have also limited promotion of events to trusted networks rather than public social media channels, out of concern that publicizing events could expose attendees to risk.
13. Community members have directly told COWC staff that they are hesitant or unwilling to attend resource fairs, workplace rights seminars, and other programming because of fear of immigration enforcement. Workers who have experienced wage theft or unsafe working conditions have expressed reluctance to pursue those claims — even when they are owed significant sums — due to fear of what might happen if they draw attention to themselves.
14. Community members have also become harder to contact generally. People have become more reluctant to share personal information, less willing to participate in programs, and less willing to accept referrals to attorneys or other resources that could help them pursue valid legal claims.
15. The overall level of fear among the Hispanic and Latino immigrant community members COWC serves is significantly higher today than in prior years. Fear has intensified from a background concern into a pervasive daily anxiety that shapes routine decisions.
16. Community members are limiting or avoiding everyday activities because of fear of enforcement, including driving to work, sending children to school, seeking medical care, purchasing groceries, and attending religious services.
17. Families are disrupting children's daily routines, including keeping children home from school, out of fear that a parent or family member could be detained during the school drop-off or pick-up.
18. Fear of exposure to immigration enforcement is preventing some community members from calling 911 or seeking help from authorities — even when they are owed thousands of dollars in wages, when workplace conditions are unhealthy or unsafe, or when they have been injured on the job and need medical attention.
19. COWC staff and volunteers regularly observe physical and psychological symptoms of stress and trauma among those we serve. These include anxiety, depression, difficulty sleeping, and withdrawal from community life. Our weekly staff meetings frequently include reports of community members expressing fear, crying, and feelings of hopelessness. These are not isolated incidents — they reflect a sustained pattern of distress across the community.

CC

20. Although COWC does not have direct observational data on mixed-status families, we are aware through reports from other community advocates that U.S. citizen children and other family members experience significant emotional, economic, and educational harm when an immigrant family member is detained or deported. The ripple effects of enforcement extend far beyond the individual who is detained.
21. Compared to prior periods, the current immigration enforcement climate has a substantially greater impact on the Hispanic and Latino immigrant community in Columbus. Fear has grown from a general concern into a daily anxiety that causes community members to isolate themselves, avoid public services, and decline to pursue legitimate workplace rights claims.
22. In my professional judgment, based on years of working with immigrant communities in Columbus, the fear that COWC witnesses among community members is a reasonable and proportionate response to the enforcement activity currently occurring in our city. Visible enforcement operations in public spaces — including near schools and workplaces — create significant anxiety that discourages community members from seeking employment, reporting workplace violations, accessing essential services, and moving freely within their own neighborhoods. This fear directly and materially impacts daily life and the overall well-being of our community.
23. The chilling effect on workers' rights is particularly significant and worth emphasizing. Immigrant workers who are victims of wage theft, employment discrimination, or other workplace violations are routinely declining to file administrative complaints with relevant government agencies, to accept attorney referrals, or to pursue small claims court actions to recover lost wages — all because of fear of immigration enforcement. This means that unscrupulous employers are able to exploit vulnerable workers with effective impunity, knowing that the current enforcement climate will prevent workers from coming forward.
24. COWC stands ready to support any legal or administrative process aimed at protecting the rights and safety of immigrant workers and their families in the Columbus community.

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

Executed on February 25, 2026.



Claudia Cortez

Director of Programs

Central Ohio Worker Center

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PLAINTIFFS MOISES JAVIER AGUILAR
PERALTA, F.M., S.T., AND JOSE
ARMANDO DE LEON ZAPATA, on behalf
of themselves and all others similarly
situated,

Plaintiffs,

v.

DEPARTMENT OF HOMELAND
SECURITY,
KRISTI NOEM, in her official capacity,
IMMIGRATION AND CUSTOMS
ENFORCEMENT,
TODD M. LYONS, in his official
capacity, ROBERT LYNCH, in his official
capacity, CUSTOMS AND BORDER
PROTECTION,
RODNEY S. SCOTT, in his official
capacity,
BORDER PATROL,
MICHAEL W. BANKS, in his official
capacity,

Defendants.

No.: 2:26-cv-00337

District Judge Sarah D. Morrison
Magistrate Judge Chelsey M. Vascura

**DECLARATION OF FREDERICK M. GITTES IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION**

I, FREDERICK M. GITTES, declare as follows based upon my personal knowledge:

1. I am the principal in the Gittes Law Group and co-counsel for the Plaintiffs in this action.

I submit this declaration in support of the Plaintiffs' motion for class certification in the above-captioned case.

2. Previously, I was a partner in the law firm of Gittes & Schulte; Spater, Gittes, Schulte & Kolman; and their predecessor firms beginning in 1975. I graduated from the Ohio State

University College of Law *cum laude* in June 1975 and have been licensed to practice law in Ohio since November 1975. I am a member in good standing of the bars of the Ohio Supreme Court, the U.S. District Courts for the Southern and Northern Districts of Ohio, the Sixth Circuit Court of Appeals, and the U.S. Supreme Court.

3. I am a member of the Ohio State Bar Association, the Columbus Bar Association, the National Employment Lawyers Association, the American Association for Justice and the Ohio Association for Justice. I served as President of the National Employment Lawyers Association for three years. I also served as Chair of its Ohio chapter for ten years. I served as chairperson of the Civil Rights Committee of the Ohio State Bar Association for five years (1995 - 2000) and I was elected chair of its Labor and Employment Law Section for the period 2000-2002. I served as the president of the Ohio Academy of Trial Lawyers (now the Ohio Association for Justice) in 2004-2005. I was elected a Fellow of the College of Labor and Employment Lawyers in 1998. I have also served on the Ohio State Bar Association's Labor and Employment Specialization Board since its inception until 2017. As a member of the Board, I helped develop, administer, and judge the qualifications of applicants for the labor and employment law specialization exam.
4. Since my admission to the practice of law, I have maintained an active trial practice, which has included litigation involving civil rights, defamation, professional negligence, wrongful death, police misconduct, public records, discrimination, employment and other areas of law. I have successfully litigated or assisted in litigating a number of class action cases, including *Police Officers for Equal Rights v. City of Columbus* (S.D. Ohio), *McCartney v. Camcar, Inc.* (Franklin County C.P.), and *Payne v. Weirton Steel Corp.*, (N.D.W.V.). I have been lead counsel in approximately 300 hundred civil rights and

employment cases involving claims filed in Federal and State courts in Florida, California, and throughout Ohio. I have also defended and tried both misdemeanor and serious felony cases. I have also represented employers in a few cases.

5. I have been asked to lecture on civil rights law, attorneys' fees, and trial practice at CLE programs throughout my career. I have also served as a faculty member and demonstrator in programs teaching trial advocacy to lawyers. And I have prepared and submitted attorneys' fees requests in a variety of cases, including public records, employment, and civil rights cases.
6. I have provided expert affidavits and testimony in federal court at the request of other attorneys concerning their fee applications, *see, e.g., McConaha v. City of Reynoldsburg*, 2008 WL 2697310, *3 (S.D. Ohio) (recognizing qualification to testify as to Plaintiff's counsel's hourly rate); *Gunasekera v. Irwin*, 774 F.Supp.2d 882, 890 (S.D. Ohio) (accepting affidavit as reasonable and adequate support for attorneys' hourly rates). I have testified as an expert witness concerning both the reasonableness of other attorneys' hourly rates, the reasonableness of the amount of time expended during cases, the adequacy of time records related to fee records in fee shifting cases and whether particular legal claims prosecuted but lost in litigation were compensable. *Fair Housing Advocates Assoc, Inc. vs. Terrance Plaza Apts*, 2:03-CV-0563 (S.D. Ohio 2006); *Szeinbach vs. The Ohio State University*, 2:08-CV-822(S.D. Ohio 2017). I have also served as an expert witness in a legal negligence case related to the adequacy of an employment attorney's conduct of litigation, legal advice and settlement recommendations. *Seoane-Vazquez vs. Rosenberg*, 15-CV-8107 (Franklin County Common Pleas 2018).

7. I am the author, contributor, or advisor for a number of publications relating to civil rights and employment law. I published a newsletter about civil rights and employment law for the Ohio Employment Lawyers Association. As Chair of the Ohio Academy of Trial Lawyers' employment law section, I authored quarterly reports for OHIO TRIAL concerning recent developments in employment and civil rights law. I was a contributing editor for Employment Litigation Model Jury Instructions, published by the American Bar Association. I also wrote an article for the inaugural edition of the Employee Rights Quarterly entitled Taxing Our Civil Rights. I was on the Advisory Board for Age Discrimination and Litigation published by James Publishing. I am also the author of "Paper Promises: Race and Ohio Law After 1860", History of Ohio Law (Ohio University Press: 2004).
8. My work in the area of civil rights law has been recognized in a number of ways, including inclusion in Best Lawyers in America and Super Lawyers for over 15 years. I have, at various times, been recognized as among the top 100 lawyers in Ohio by Super Lawyers and the top 50 lawyers in Central Ohio by Best Lawyers. In 2013 and 2014 I was listed as Central Ohio's Lawyer of the Year in two different legal fields. My Martindale Hubbell rating is AV Preeminent.
9. My firm and I have also been recognized with awards for our advocacy and litigation, including: the ACLU of Ohio's Award for Contributions to Civil Rights and Civil Liberties, the Columbus Urban League award of Excellence, the NAACP of Columbus President's Award, Ohio-NOW Education & Legal Fund Hammer of Justice Award, the Ohio Academy of Trial Lawyers (now the Ohio Association of Justice) first-ever Courage award for public interest litigation, a lifetime Environmental Achievement Award from

the Ohio Environmental Council, an award for my environmental legal work from the Buckeye Forest Association, the First Amendment Award from the Central Ohio Society of Professional Journalists for free speech and public access work, and the David D. White Award from Capital University and the African American Alumni Association 2018 for significant contributions to the African American community.

10. My colleague, Jeffrey P. Vardaro, has worked at my firm since the spring of 2007, at which time the firm was known as Gittes & Schulte. I am familiar with his work and qualifications, which I am summarizing here for efficiency. Mr. Vardaro graduated *summa cum laude* in 2002 from Dartmouth College, and *magna cum laude* in 2005 from the Harvard Law School, where he was submissions editor for the Civil Rights-Civil Liberties Law Review. In 2005 and 2006, he clerked for Justice Denise R. Johnson of the Vermont Supreme Court.
11. Mr. Vardaro was admitted to practice law in 2006, in the state of New York and the commonwealth of Massachusetts, and he has been licensed and actively practiced law in Ohio since May 2007. He is a member in good standing of the bars of the Ohio Supreme Court, the U.S. District Courts for the Southern and Northern Districts of Ohio, the Sixth Circuit Court of Appeals, as well as the state of New York (Third Judicial Department) and the commonwealth of Massachusetts (inactive status).
12. Since his admission to the practice of law, Mr. Vardaro has been engaged in active trial practice, which has included litigation involving civil rights, defamation, police misconduct, public records, discrimination, employment, breach of contract, and other areas of law. He has served as counsel in a number of large-scale cases, including the class action *McCartney v. Camcar, Inc.* (Franklin County C.P.), and major federal civil

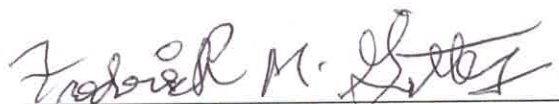
rights actions in *Alsaada v. City of Columbus* (S.D. Ohio), where he played an active and essential role on a team of lawyers from multiple firms representing a large group of plaintiffs who were injured in the George Floyd protests, leading to a permanent injunction; *Cort v. Thorp* (S.D. Ohio); *Kessler v. Ohio State Univ.* (S.D. Ohio); *Demers v. Ohio Civil Rights Commission*; *Taaffe v. Drake* (S.D. Ohio); *Abdi v. Karnes* (S.D. Ohio); and *Case v. Jones-Kelley* (S.D. Ohio and 6th Circuit).

13. Much of Mr. Vardaro's trial work has been in concert with mine, but he has also served as sole trial counsel in *Lill v. Ohio State Univ.*, where he secured a plaintiff's verdict in the Court of Claims in an employment-based breach of contract action and prevailed on appeal on the issue of damages before the 10th District Court of Appeals. Mr. Vardaro has also argued appeals before the Ohio Supreme Court, the 10th District Court of Appeals, and the federal Sixth Circuit Court of Appeals.
14. Although nearly all of Mr. Vardaro's work on both plaintiff and defense cases is on behalf of individual employees, groups of employees, or injured plaintiffs in civil rights cases, he has also represented nonprofit employers, including the Legal Aid Society of Columbus and the National Association for the Advancement of Colored People, in both state and federal court.
15. Mr. Vardaro has served as a lecturer for the Ohio State Bar Association on subjects related to employment contracts and statutory construction. The OSBA has also regularly relied on him to author educational materials for the public on various issues related to employment law and employment contracts. He has also lectured on the subject of civil rights and police misconduct at a continuing legal education program organized for the Columbus Community Festival.

16. Mr. Vardaro is a member of the National Employment Lawyers Association and the Ohio Employment Lawyers Association, for which he has served with me as a member of the Amicus Committee and has drafted dozens of *amicus curiae* briefs in the Ohio Supreme Court, the lower appellate courts of Ohio, and the Sixth Circuit Court of Appeals, on behalf of OELA as well as common-interest employment advocacy groups, including the Fraternal Order of Police of Ohio and Ohio NOW Education and Legal Fund.
17. Mr. Vardaro's work in the area of civil rights law has been recognized repeatedly by Ohio Super Lawyers, which has named him as both a "Rising Star" and as a "Super Lawyer" in that area. Mr. Vardaro has also advocated locally for civil rights and police reform, and served in an advisory role on local issues related to civil rights in his area.
18. Together and individually, Mr. Vardaro and I have distinctive knowledge and specialized skill in the area of federal civil rights litigation, multiple-plaintiff actions, and class actions, and will adequately and fairly represent the interests of the proposed class.
19. I am aware of no conflicts between me or any employee of my firm and any members of the proposed class.
20. Neither my firm nor I, nor my co-counsel are receiving reimbursement from any individual plaintiff or a class member in this case. My co-counsel and I will fairly and adequately protect the interests of the individual plaintiffs and the proposed class, and possess the commitment and resources to prosecute the case as a class action.

Pursuant to 28 U.S.C. § 1746, I affirm under penalty of perjury that the above statements are true and correct.

March 26, 2026.


Frederick M. Gittes

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PERALTA, et al.,

Plaintiffs,

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

No.: 2:26-cv-00337

District Judge Sarah D. Morrison
Magistrate Judge Chelsey M. Vascura

**DECLARATION OF KATHLEEN KERSH IN SUPPORT OF PLAINTIFFS' MOTION
FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL**

I, Kathleen Kersh, declare as follows:

1. I am the Managing Attorney of the Agricultural Worker and Immigrant Rights practice group at Advocates for Basic Legal Equality, Inc. ("ABLE"). I am co-counsel for plaintiffs in the above-captioned lawsuit. I submit this declaration in support of Plaintiffs' Motion for Class Certification in the above-captioned case.
2. I am admitted to practice law in Ohio. I am also admitted to practice law in the United States Supreme Court, the United States Courts of Appeals for Sixth Circuit, the United States District Court for the Southern District of Ohio, and the United States District Court for the Northern District of Ohio. I have litigated immigration-related cases before the United States District Court for the Northern and Southern Districts of Ohio, the United States Courts of Appeals for the Second and Sixth Circuits, and recently filed an amicus brief in an immigration case before the United States Supreme Court.
3. I have served as co-counsel in the following immigration class action cases:
Intercommunity Just. & Peace Ctr. V. Norman, 402 F. Supp. 3d 405 (S.D. Ohio 2019);

Cnty. Refugee & Immigr. Servs. V. Petit, 393 F.Supp.3d 728 (S.D. Ohio 2019). I have lead or co-counseled eleven different immigration-related cases in U.S. District Courts in Ohio in my career.

4. I graduated with a *Juris Doctor* from the University of Michigan Law School in 2013. I subsequently worked at ABLE from 2013 to present, first as an Equal Justice Works Fellow, then as a Staff Attorney, a Senior Attorney, and currently in my position as a Managing Attorney for the Agricultural Worker and Immigrant Rights practice group.
5. I have co-authored several practice advisories on immigration law for the American Immigration Lawyers Association (AILA) and served as faculty on the AILA Federal District Court Litigation Online Course. I regularly present on immigration litigation in federal court at local and national Continuing Legal Education sessions. I regularly provide legal trainings on immigration law and federal litigation skills and have served on a variety of panels on these topics.
6. My colleague Maria Otero is a Supervising Attorney of ABLE's Agricultural Worker and Immigrant Rights practice group. She is barred in the State of Ohio and the State of Florida, and she is admitted in the United States District Courts for the Northern and Southern Districts of Ohio and the Sixth Circuit Court of Appeals. In addition to serving as lead and co-counsel on numerous habeas petitions, Ms. Otero is lead counsel in *Bangura v. USCIS et al.*, No. 2:26-cv-00364 (S.D. Ohio Mar. 25, 2026). She graduated from the University of Toledo School of Law in 2015. Prior to her current role, Ms. Otero was an interim managing attorney, senior attorney, staff attorney, and legal fellow with ABLE. Ms. Otero previously led ABLE's detention project where she represented

numerous detained immigrants in immigration and federal court. Ms. Otero has conducted numerous trainings on immigration law.

7. My colleague Gwen Short is a Staff Attorney with ABLE's Agricultural Worker and Immigrant Rights practice group. Ms. Short is licensed to practice law in the State of Ohio. Ms. Short graduated from the Ohio State University in 2022. She is admitted to the United States District Courts for the Northern and Southern Districts of Ohio and the Eastern District of Michigan.
8. My colleague Rebecca Bundy is a Supervising Attorney with ABLE's Agricultural Worker and Immigrant Rights practice group. Ms. Bundy is licensed to practice law in the State of Ohio and Michigan. Ms. Bundy graduated from Wayne State University in 2021. She is admitted to the United States District Courts for the Northern and Southern Districts of Ohio.
9. ABLE is a nonprofit law firm headquartered in Toledo, Ohio. ABLE provides legal assistance to low-income individuals in its service area. The Agricultural Worker and Immigrant Rights practice group serves low-income immigrants throughout the state of Ohio in direct representation of individuals in immigration court and federal court, and on behalf of groups and classes in impact litigation in federal court. We also conduct significant outreach throughout the state of Ohio, conduct pro se workshops, legal clinics, know-your-rights presentations, and other legal education sessions.
10. Neither ABLE, my co-counsel, or I have received or are receiving reimbursement from any individual plaintiff or class member in this case. My co-counsel and I will fairly and adequately protect the interests of the individual plaintiffs and the proposed class and possess the commitment and resources to prosecute the case as a class action.

Pursuant to 28 U.S.C. § 1746, I affirm under penalty of perjury that the above statements are true and correct to the best of my knowledge.

Executed in Dayton, Ohio on April 7, 2026.

/s/ Kathleen Kersh

Kathleen Kersh

Advocates for Basic Legal Equality, Inc.

130 W. 2nd Street, Suite 700 East

Dayton, OH 45402

(937) 535-4408

Kkersh@ablelaw.org

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PERALTA, et al.,

Plaintiffs,

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

No.: 2:26-cv-337

District Judge Morrison
Magistrate Judge Vascura

**DECLARATION OF FREDA LEVENSON
IN SUPPORT OF PETITIONERS' MOTION FOR CLASS CERTIFICATION**

I, Freda Levenson, declare as follows:

1. I am an attorney licensed to practice in the state of Ohio, and admitted, relevantly, to practice before the United States District Court for the Southern District of Ohio, the United States Court of Appeals for the Sixth Circuit, and the Supreme Court of the United States. I am the Chief Legal Officer and Legal Director at the American Civil Liberties Union of Ohio Foundation ("ACLU of Ohio"). I make this Declaration based on my personal knowledge, based on a review of the records maintained by my office and the office of my co-counsel in the ordinary course of business, and based on the representations of my co-counsel on which I reasonably rely.

2. As Legal Director of the ACLU of Ohio for over ten years, I litigate extensively in a wide range of constitutional and other civil matters. I have served as the trial attorney in a class action before the U.S. District Court for the Southern District of Ohio that resulted in a \$5 million recovery across thousands of class members.¹ I served as class counsel before the U.S.

¹ *Rotondo v. JPMorgan Chase*, 2:19-cv-2328, 2019 WL 6167086 (S.D. Ohio 2019).

District Court for the Northern District of Ohio in litigation seeking decarceration of vulnerable prisoners during the COVID pandemic.² I have also served as lead counsel in landmark challenges to partisan gerrymandering in Ohio.³

3. Prior to my work at the ACLU of Ohio, I was a partner at a large commercial law firm in Chicago, where I practiced in complex commercial litigation. I litigated in the areas of employment discrimination, complex contract disputes, labor disputes, antitrust cases, and other areas. I received my undergraduate degree from Wellesley College in 1973, and my law degree from the University of Michigan School of Law in 1976.

4. In my position at the ACLU of Ohio, I have litigated multiple cases to uphold the rights of immigrants in federal courts in Ohio. I litigate regularly in a range of areas of constitutional and civil rights including voting rights, reproductive rights, equal protection, sex discrimination, disability rights, and free expression.

5. The ACLU of Ohio is an affiliate of the national ACLU.

6. ACLU counsel on this case also include Amy Gilbert and David Carey, both of whom have considerable experience with constitutional and other civil litigation. Ms. Gilbert is a Senior Staff Attorney with the ACLU of Ohio, where she has practiced for approximately five years, prior to which she was a Staff Attorney at the ACLU of Northern California for two years, and prior to that worked in complex civil litigation for approximately four years. Ms. Gilbert works on a wide range of civil matters, including those pertaining to immigrant rights,

² *Wilson v. Williams*, 455 F. Supp. 3d 467 (N.D. Ohio 2020).

³ *APRI v. Householder*, 373 F. Supp. 3d 978 (S.D. Ohio 2019); *League of Women Voters v. Ohio Redistricting Commission*, 2022-Ohio-65; *League of Women Voters v. Ohio Redistricting Commission* 2022-Ohio-342; *League of Women Voters v. Ohio Redistricting Commission* 2022-Ohio-789; *League of Women Voters v. Ohio Redistricting Commission* 2022-Ohio 1235; *League of Women Voters v. Ohio Redistricting Commission* 2022-Ohio-1727; *Adams v. DeWine*, 2022-Ohio-89; *Neiman v. LaRose*, 2022-Ohio-2471.

reproductive rights, the First Amendment, and criminal justice procedures, and served as counsel in *Criswell v. Boudreaux*, No. 1:20-cv-010408, 2020 WL 5235675 (E.D. Cal. Sep. 2, 2020), a class action litigating jail conditions during the COVID-19 pandemic. Mr. Carey is the Managing Legal Director for the ACLU of Ohio, where he has practiced for approximately eight years, prior to which he practiced in the commercial litigation departments of multiple large law firms for approximately eight years. Mr. Carey serves as lead and co-counsel on a wide range of civil matters, including matters pertaining to the First Amendment, voting rights, prison conditions, and criminal justice procedures. He served as lead class counsel in *Wilson v. Williams*, 455 F. Supp. 3d 467 (N.D. Ohio 2020), in which provisional class certification was granted.

7. I am fully familiar with the facts and circumstances surrounding this action. I make this declaration in support of Plaintiffs' Motion for Class Certification.

8. Class counsel have sufficient financial and human resources to litigate this matter.

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

Executed on March 28, 2026, in Cleveland, OH.

/s/ Freda Levenson
Freda J. Levenson (0045916)
ACLU OF OHIO FOUNDATION, INC.
4506 Chester Avenue
Cleveland, Ohio 44103
(216) 541-1376
flevenson@acluohio.org

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PERALTA, *et al.*,

Plaintiffs,

No.: 2:26-cv-337

v.

District Judge Morrison

Magistrate Judge Vascura

Department of Homeland Security, *et al.*,

Defendants.

**DECLARATION OF JOHN S. MARSHALL
IN SUPPORT OF PETITIONERS' MOTION FOR CLASS CERTIFICATION**

I, John S. Marshall, being first duly cautioned and sworn, hereby deposes and states, as follows:

1. I am John S. Marshall, an attorney licensed to practice law in the State of Ohio since November 1983, and I am a Partner / Owner of the law firm of Marshall, Forman, and Schlein, LLC.

2. Since beginning law practice in 1983, my practice has been largely devoted to civil rights and employment litigation. Since 1992, my practice has been almost exclusively devoted to employment and civil rights litigation.

3. Over the past 40 years, I have been lead counsel in hundreds of civil rights and employment cases filed in the federal and state courts.

4. For almost 30 years, from 1996 to the present, I have been named by my peers to be included in the publication *Best Lawyers in America* (Woodward White Publishing). My peers have rated me AV Preeminent, the highest rating from Martindale-Hubbell, for many years, and as one of the *Top 100 Lawyers in Ohio* for the past 16 years (2009-2025); and *Top 50 Lawyers in Columbus* (2010-2025). For 2011-2012, I was also named one of the *Top Ten Lawyers in Ohio* and was named to the *Top 5 Columbus Area Super Lawyers* in 2012, 2013, 2015, 2016 (Ohio SuperLawyers.com). I was also named *Best Lawyers, Lawyer of the Year* in Employment Law – Individuals (2012, 2014, 2018) and *Best Lawyers, Lawyer of the Year* in Litigation – Labor & Employment (2010, 2013). On March 1, 2013, I was appointed to a four-year term on the Ohio State Bar Association Labor and Employment Law Specialty Board. I served for two years (2021 and 2022) as Section Chair of the Ohio State Bar Association’s 1,500 member Labor and Employment Law Section.

5. I am a frequent presenter and teacher at seminars and programs on employment and civil rights law. In the past 10 years, I have organized and/or presented at least 20 seminars on the general topics of employment and civil rights law.

6. I have substantial experience litigating class action cases. Here is a list of most of the class action cases in which I have served as either lead or associate counsel in the last two decades of my law practice. (I also list a major case that was filed in 1999—a race discrimination class action that was litigated for several years thereafter). (Before the year 2000, I also worked on several class action cases, but I have not maintained a complete or partial list of those cases).

Bacon, et al. v. Honda of America Mfg., Inc.
United States District Court, Southern District of Ohio, Eastern Division
Case Number C2-99-803
Filed- 8/19/1999

Murray v. Ohio Casualty Corp, et al.

United States District Court, Southern District of Ohio, Eastern Division
Case Number 2:04-CV-539

Filed- 6/22/2004

Davies, et al. v. Maxim Healthcare Services, Inc.

United States District Court, Southern District of Ohio, Eastern Division Case Number
2:04-CV-1204,

Filed- 12/17/2004

Landsberg, et al. v. Acton Enterprises, Inc.

United States District Court, Southern District of Ohio, Eastern Division
Case Number C2-05-500,

Filed- 5/18/2005

Mitchell, et al. v. MG Industries, Inc., et al.

United States District Court for the Eastern District of Pennsylvania
Case Number 05-CV-4073

Filed- 7/29/2005

In Re FedEx Ground Package System, Inc., Employment Practices Litigation

United States District Court, Northern District of Indiana, South Bend Division
Case Number 3:05-MD-527-RM

Filed- 8/26/2005

Musarra, et al. v. Digital Dish, Inc.

United States District Court, Southern District of Ohio, Eastern Division
Case Number C2-05-545

Filed- 9/28/2006

Fowler, et al. v. Family Dollar Stores of Ohio, Inc., et al.

United States District Court, Southern District of Ohio, Western Division
Case Number 1:07-CV-00250

Filed- 3/28/2007

Blake v. Family Dollar Stores, Inc., et al.

United States District Court, Western District of North Carolina/Charlotte
Case Number 3:07-CV-00244,

Filed- 6/22/2007

Lee, et al. v. City of Columbus, et al.

United States District Court, Southern District of Ohio, Eastern Division
Case Number 2:07-CV-1230

Filed- 12/4/2007

Yanni, et al. v. Red Brick Mortgage

United States District Court, Southern District of Ohio, Eastern Division
Case Number 2:07-CV-1260

Filed- 12/13/2007

Kelly, et al. v. FedEx Ground Package System, Inc.

United States District Court, Northern District of Indiana, South Bend Division
Case Number 3:08-CV-00336

Filed- 7/23/2008

Shaw, et al. v. AEON Group, LLC

United States District Court, Southern District of Ohio, Eastern Division
Case Number 2:08-CV-1162

Filed- 12/9/2008

Clements-Jeffrey, et al. v. City of Springfield, et al.

United States District Court, Southern District of Ohio, Western Division
Case Number 3:09-CV-84

Filed- 3/2/2009

Headley, et al. v. Source Broadband Services, LLC, et al.

United States District Court, Southern District of Ohio, Western Division
Case Number 1:09-Cv-00639

Filed- 9/1/2009

Keeton, et al. v. Time Warner, Cable, Inc., et al.

United States District Court, Southern District of Ohio, Eastern Division
Case Number 2:09-CV-1085

Filed- 11/27/2009

Swanigan, et al. v. Advanced Cable Technologies, Inc.

United States District Court, Southern District of Ohio
Case Number 3:10-cv-273

Filed- 7/9/2010

Eisel, et al. v. Fortney Companies, Inc., et al.

United States District Court, Southern District of Ohio, Eastern Division
Case Number 2:11-CV-298

Filed- 4/7/2011

Heaps, et al. v. Sa/elite Solutions, LLC, et al.

United States District Court, Southern District of Ohio, Eastern Division
Case Number 2:10-CV-729

Filed- 12/22/2011

Braun v. Coulter Ventures, LLC, dba Rogue Fitness
United States District Court, Southern District of Ohio
Case Number 2:2019cv05050
Filed- 11/18/2019

7. Louis A. Jacobs is Of Counsel to my firm. Mr. Jacobs is a professor emeritus at The Ohio State University Moritz College of Law, where he taught employment law, constitutional law, and civil rights law from 1978 through 2003. Upon his retirement from teaching, Mr. Jacobs became of counsel to Marshall Forman & Schlein LLC, where he litigates employment, civil rights, and Constitutional cases.

8. Mr. Jacobs also spent two years as an Assistant Attorney General for the State of Ohio, serving as Senior Trial Attorney in the Civil Rights Section. He received his B.A. from Syracuse University, his J.D. from the Washington College of Law at The American University, and his LLM from New York University. Before becoming Of Counsel to my firm, Mr. Jacobs represented a class action certified in *Planned Parenthood Affiliates of Ohio v. Rhodes*, 477 F. Supp. 529 (S.D. Ohio 1979), and was co-trial attorney in the certified class action that culminated with *Rhodes v. Chapman*, 452 U.S. 337 (1981).

9. Mr. Jacobs has been elected by his peers to be included in Best Lawyers in America in the field of employment law (1989-2017) and was the recipient of the Legal Education Award from the Ohio State Bar Association in 2002. He has written or co-authored numerous books on evidence, civil rights litigation, age discrimination, and equal employment opportunity law, including the Ohio Rules of Evidence Trial Book (1999) and the Employment Practices Manual (West 1995-2017).

10. Edward R. Forman, Samuel M. Schlein, Helen M. Robinson, and Madeline J. Rettig are experienced attorneys at my firm.

11. Since 2003, when he began his practice at my firm, Ed Forman has dedicated his career to representing individuals in employment and civil rights litigation. His practice areas include constitutional rights, discrimination, retaliation, wrongful discharge, sexual harassment, police misconduct, First Amendment issues, criminal law, and employment contracts. Mr. Forman is licensed to practice in the U.S. Northern and Southern District Courts for Ohio, as well as the Sixth Circuit Court of Appeals, and has represented individuals in well over 100 employment and civil rights matters, including collective, multi-party, and class actions.

12. Mr. Forman received his B.S., *magna cum laude*, from The Ohio State University and his J.D. with honors from The Ohio State University Moritz College of Law. He has been elected by his peers to be included in Best Lawyers in America in the field of Civil Rights Law (2010–2023). In 2022, he was named by Best Lawyers as the Civil Rights Lawyer of the Year for Columbus, Ohio. Mr. Forman has also been selected as one of the Top 2 Civil Rights Attorneys in Columbus, Ohio by Columbus Business First Magazine, and has been named to the Super Lawyers list (2016–2026) in the field of Employment Law.

13. Sam Schlein has been licensed to practice in Ohio since November 2014. Mr. Schlein is also admitted to practice in the U.S. Sixth Circuit Court of Appeals and the U.S. District Courts for the Southern and Northern Districts of Ohio. He has practiced at my firm since 2014.

14. Throughout his career, Mr. Schlein has been lead counsel on dozens of cases filed in both federal and state courts, representing individuals in employment matters, including Title VII, FMLA, FLSA, and the Ohio Laws Against Discrimination. He has defended individual clients in non-compete and trade secret matters. Mr. Schlein served as second chair in two federal jury trials, two multi-day arbitrations, and as lead counsel in a state court trial. He has also argued appeals in state and federal appellate courts.

15. Mr. Schlein has presented at various CLE events, including the OSBA Midwest Labor and Employment Law Seminar and the Ohio Employment Lawyer's Association Seminar (for both OSBA and OELA Seminars, Mr. Schlein serves on the planning committees for each respective event), and the OSBA Advanced Employment Law Seminar. Mr. Schlein has been named to the Super Lawyers Rising Stars list in Employment Law (2022-2026).

16. Helen Robinson has worked at my firm since graduating from law school in 2016. She received her B.A. *cum laude* from Ohio University, and her J.D., *magna cum laude*, with a concentration in Employment and Labor Law, from Capital University Law School. Ms. Robinson is licensed to practice in Ohio and the U.S. District Courts for the Southern and Northern Districts of Ohio and has been practicing employment and civil rights law since 2017 (approximately 8.5 years), serving as lead counsel on dozens of cases.

17. Prior to law school, Ms. Robinson worked at a major insurance company for over 20 years, where she held positions in Human Resources and multiple executive positions with P & L accountability.

18. Ms. Robinson has presented at various CLE events, including the OSBA Midwest Labor and Employment Law Seminar (Ms. Robinson serves on the planning committee for this annual CLE), the Ohio Employment Lawyer's Association Seminar, the OSBA Advanced Employment Law Seminar, and several events through the National Business Institute.

19. Maddie Rettig has been with my firm since 2018. Her practice areas include police misconduct, First Amendment, malicious prosecutions, discrimination, retaliation, sexual harassment, FLSA collective actions, as well as other civil rights and employment issues. Ms. Rettig is licensed to practice in Ohio (since 2019) and in the U.S. Sixth Circuit Court of Appeals and the U.S. District Courts for the Southern and Northern Districts of Ohio. She has been lead

counsel in dozens of civil rights and employment cases, serving as second chair in a multi-day arbitration; arguing before the Tenth District of Ohio Court of Appeals; and acting as co-counsel in a nine-day preliminary injunction hearing in a federal civil rights case where my firm and several other firms represented over 25 individuals (notably, myself, Mr. Jacobs, Mr. Forman, and Ms. Rettig all had active, substantial roles in the case).

20. Ms. Rettig received her J.D., *cum laude*, from The Ohio State University Moritz College of Law, where she earned the Labor and Employment Academic Achievement Award and designation as a Public Service Fellow (for 100+ hours of pro bono work). In law school, Ms. Rettig received CALI Excellence Awards in the Civil Law Clinic and Employee Benefits; was the Chief Articles Editor for the Ohio State Law Journal; served as a judicial extern for the Sixth Circuit Court of Appeals; and worked as a law clerk in the public sector in defense of individuals in the criminal justice system. Ms. Rettig received her B.A. from Ohio University in Anthropology and Political Science (Pre-Law), *magna cum laude*, and a Certificate in Law, Justice & Culture.

21. Ms. Rettig has been named to the Super Lawyers Rising Stars list every year since 2021 (including 2026) in Civil Rights and awarded the 2023 Rising Litigator Award by the Ohio State Bar Association. She has also published two articles (ADA; First Amendment) and has been asked to present at the 2026 OSBA Advanced Employment Law Seminar.

22. The lawyers in my firm have worked directly on class and collective actions that the firm has litigated.

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

Date

John S. Marshall

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PERALTA, et al.,
Plaintiffs,

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,
Defendants.

No.: 2:26-cv-00337

District Judge Sarah D. Morrison

Magistrate Judge Chelsey M. Vascura

**DECLARATION OF SEAN WALTON IN SUPPORT OF PLAINTIFFS'
MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL**

I, Sean Walton, declare as follows:

1. I am a founding partner of Walton + Brown, LLP, located in Columbus, Ohio. I am co-counsel for Plaintiffs in the above-captioned matter. I submit this declaration in support of Plaintiffs' Motion for Class Certification and Appointment of Class Counsel in the above-captioned case.

2. I am admitted to practice law in the State of Ohio and before the United States District Courts for the Southern and Northern Districts of Ohio, and the United States Court of Appeals for the Sixth Circuit. I have extensive experience litigating in federal court all the way through trial.

3. I graduated from Capital University Law School in 2011, where I was a Presidential Merit Scholar. I received my undergraduate degree from the University of Cincinnati in 2007. I was named Capital University's 2020 Graduate of the Last Decade.

4. Walton + Brown, LLP is a civil rights litigation firm founded in 2015 and based in Columbus, Ohio. Our practice areas include civil rights and police misconduct litigation, employment discrimination, personal injury, and wrongful death. Since its founding, the firm has filed over 500 lawsuits and obtained more than \$42 million in settlements and verdicts on behalf

of its clients. A substantial portion of our practice involves representing individuals and classes of individuals whose constitutional rights have been violated by government actors.

5. I have extensive experience litigating civil rights cases involving Fourth and Fifth Amendment violations, excessive force, unlawful search and seizure, and race-based discrimination by law enforcement. I have successfully represented plaintiffs in numerous federal civil rights actions under 42 U.S.C. § 1983 and *Bivens*, including cases involving injunctive and class-wide relief. In *Alsaada v. City of Columbus*, No. 2:20-cv-03431 (S.D. Ohio), I served as counsel in a joined-plaintiff Section 1983 police excessive force and Monell action challenging the Columbus Division of Police's use of excessive force against protesters during the 2020 demonstrations. That case resulted in a \$5.75 million settlement and a permanent injunction governing the Department's use-of-force policies. Through these cases and others, I have accumulated distinctive knowledge and specialized skill in the areas of civil rights, constitutional law, and complex federal litigation.

6. I serve as an adjunct professor at Capital University Law School, where I teach civil rights law. I have also spoken on civil rights and police accountability topics at numerous conferences, panels, and trainings.

7. I have been recognized as a Rising Star by Super Lawyers consecutively from 2018 through 2026. I serve on the Board of Trustees of the Ohio Association for Justice, where I founded its Civil Rights Section, and on the Board of Trustees of the American Association for Justice. I am a recipient of the 2023 Poindexter Award from Columbus City Council.

8. I currently serve as President-Elect of the NAACP Columbus branch, where I work on issues of racial justice, civil liberties, and community advocacy. I also serve on the Ethics and Equity Advisory Council for Axon Enterprise, Inc., where I advise on civil liberties implications of law enforcement technology and policy. These roles have given me particular insight into the communities most directly affected by the enforcement practices at issue in this litigation and into the intersection of policing, civil rights, and immigrant communities in Central Ohio.

9. My partner, Chanda Brown, is a founding partner of Walton + Brown, LLP. Ms. Brown is an Ohio State Bar Association Board Certified Specialist in Labor and Employment Law, a distinction held by fewer than two percent of Ohio attorneys. She is admitted to practice in the State of Ohio and before the United States District Courts for the Southern and Northern Districts of Ohio, and the United States Court of Appeals for the Sixth Circuit. Prior to co-founding Walton + Brown, Ms. Brown served as an attorney with the United States Department of Labor and as a law clerk to a federal judge. Ms. Brown was co-counsel in *Alsaada v. City of Columbus*, No. 2:20-cv-03431 (S.D. Ohio), and brings extensive experience in employment discrimination, civil rights litigation, and complex federal cases. Ms. Brown has been recognized as a Rising Star by Super Lawyers, is a member of the Million Dollar Advocates Forum, and has been named a Top 100 Trial Lawyer by the National Trial Lawyers.

10. Walton + Brown, LLP has the resources, staffing, and commitment necessary to prosecute this class action through trial and any subsequent appeals. We are prepared to devote the time and resources required to represent the class vigorously and effectively.

11. I have been actively involved in this litigation since its inception, including participating in case strategy, reviewing the complaint and supporting declarations, identifying and reviewing relevant legal authorities, and preparing for the motion for preliminary injunction.

12. Neither Walton + Brown, LLP, nor I, nor my co-counsel are receiving reimbursement from any individual plaintiff or class member in this case. My co-counsel and I will fairly and adequately protect the interests of the individual plaintiffs and the proposed class and possess the commitment and resources to prosecute the case as a class action.

Pursuant to 28 U.S.C. § 1746, I affirm under penalty of perjury that the above statements are true and correct.

Executed in Columbus, Ohio on April 15, 2026.

Respectfully Submitted,

/s/ Sean L. Walton

Sean L. Walton (#0088401)

Walton + Brown, LLP

395 E. Broad Street, Suite 200

Columbus, Ohio 43215

(614) 636-3476

swalton@waltonbrownlaw.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

PERALTA, et al.,

Plaintiffs,

v.

DEPARTMENT OF HOMELAND
SECURITY, et al.,

Defendants.

No.: 2:26-cv-337

District Judge Morrison
Magistrate Judge Vascura

**DECLARATION OF VINCENT W. WELLS IN SUPPORT OF PLAINTIFFS’
MOTION FOR CLASS CERTIFICATION AND APPOINTMENT OF CLASS COUNSEL**

I, Vincent W. Wells, declare as follows:

1. I am an Immigration Attorney at Community Refugee and Immigration Services (CRIS), in Columbus, Ohio. I am counsel for Petitioners in the above-captioned matter. I submit this declaration in support of Plaintiffs’ Motion for Class Certification.

2. I am admitted to practice law in the State of Ohio. I am also admitted to practice before the United States District Court for the Southern District of Ohio and the United States Court of Appeals for the Sixth Circuit. In the past twelve months I have successfully litigated immigration-related cases before the United States District Court for the Southern District of Ohio (*Azalyar v. Raycraft*, No. 1:25-cv-916) and the United States District Court of Vermont (*Ansari v. Hyde*, No. 2:25-CV-578). Through these cases and others, I have accumulated

distinctive knowledge and specialized skill in the areas of immigrant rights and civil rights litigation in federal courts.

3. I graduated with a Juris Doctor, *Magna Cum Laude*, from Capital University Law School in 2021. I subsequently began working as an Immigration Attorney at CRIS. In that role, I have represented thousands of low-income individuals in Central Ohio with immigration legal needs. In 2024, I was honored with The Ohio State University Moritz College of Law Public Service Excellence Award for providing exceptional legal services, dedication, and collegiality in furtherance of justice and the public interest.

4. My colleague Jesse Vogel is an Immigration Attorney at CRIS. His work focuses on representing immigrants with their immigration legal needs. He is barred in the State of Ohio and also admitted to practice before the United States District Court of the Southern District of Ohio. He has served as co-counsel on the following immigration-related cases: *Azalyar v. Raycraft*, No. 1:25-cv-916 (S.D. Ohio); *Ansari v. Hyde*, No. 2:25-CV-578 (D. Vt.). In addition to representing individuals on affirmative applications with U.S. Citizenship and Immigration Services (USCIS), he represents individuals in Immigration Court, and regularly presents on immigrant rights to a diverse array of community groups in Central Ohio. Mr. Vogel graduated *cum laude* from The Ohio State University Moritz College of Law in 2022, where he received the highly selective Moritz Merit Scholarship. Prior to his current role, he was an Equal Justice Works Fellow at Legal Aid of Southeast and Central Ohio, where he focused on working with immigrant groups on mass action cases to improve housing conditions, including in project-based federally-subsidized housing.

5. CRIS is a non-profit organization based in Columbus, Ohio that has provided

comprehensive legal services and resettlement support to refugees and immigrants throughout Central Ohio for thirty years. CRIS has deep, established relationships within the immigrant communities in Central Ohio. CRIS staff provide direct legal representation, legal presentations, and individualized legal consultations to immigrants in Central Ohio. CRIS's sustained, on-the-ground presence in this community means that class members know, trust, and have worked directly with our organization.

6. Neither CRIS, I, nor my co-counsel are receiving reimbursement from any individual plaintiff or class member in this case. My co-counsel and I will fairly and adequately protect the interests of the individual plaintiffs and the proposed class. We possess the commitment, community relationships, and resources necessary to represent the individual plaintiffs and the proposed class. Our pre-existing trust with class members positions us uniquely to communicate with the class, identify class members' needs, and ensure that their interests are vigorously represented throughout this litigation.

Pursuant to 28 U.S.C. § 1746, I affirm under penalty of perjury that the above statements are true and correct.

Executed in Columbus, Ohio on April 1st, 2026

/s/ Vincent W. Wells

Vincent W. Wells

Community Refugee & Immigration Services

4645 Executive Drive

Columbus, Ohio 43220

P: 614-955-9505

E: vwells@cris-ohio.org