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16 **Pro hac vice applications forthcoming*

17 IN THE UNITED STATES DISTRICT COURT
 18 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

19 E.P.E., on her own behalf and on
 20 behalf of her minor child, E.E.B.P.,
 21 E.C.M.U., on her own behalf and on
 22 behalf of her minor child, E.M.M.,
 23 H.S.C.G., on her own behalf and on
 24 behalf of her minor child, B.Y.C.G.,
 25 S.S.F., on her own behalf and on
 26 behalf of her minor child, A.L.T.J.P.,

27 Plaintiffs,

28 v.

United States of America,

Defendant.

No. '24CV0312 AGS VET

COMPLAINT

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INTRODUCTION

1. This case concerns the tortious treatment and expulsions of four noncitizen mothers, Plaintiffs E.P.E., E.C.M.U., H.S.C.G., and S.S.F. (collectively Plaintiff Mothers) with their one- and two-day-old U.S. citizen babies, Plaintiffs E.E.B.P., E.M.M., B.Y.C.G., and A.L.T.J.P. (collectively Infant Plaintiffs), to extremely dangerous and unhealthy conditions in Tijuana, Mexico, by agents of the U.S. Border Patrol. In each case, Border Patrol agents knew or should have known that the timing, manner, and fact of their expulsions placed Plaintiffs in grave danger. Moreover, Border Patrol agents expelled the four infants without regard to their U.S. citizenship and three of the Plaintiff Mothers without regard to their fear of persecution or torture in Mexico.

2. Plaintiff Mothers—all of whom were still recovering from delivering the Infant Plaintiffs one or two days earlier—were expelled with little but the clothes on their backs and their babies in their arms. None of them had money or food, and three did not have a cell phone. None were from Tijuana, and thus they had no home to go to. All were in pain and had been prescribed medication by doctors at the San Diego hospitals where Infant Plaintiffs were born, but U.S. Border Patrol agents did not permit them to fill their prescriptions prior to their expulsions.

1 3. Infant Plaintiffs are all U.S. citizens. Border Patrol agents knew
2 three of the Plaintiff Mothers had family members in the United States—
3 including U.S. citizens—willing to care for Infant Plaintiffs and with whom
4 Plaintiff Mothers wished the infants to stay. As a direct consequence of their
5 expulsions, Plaintiff Mothers had difficulty providing basic necessities for their
6 children, as well as for themselves, during the 375, 106, 256, and 220 days,
7 respectively, that they struggled to survive in Mexico.
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10 4. U.S. Border Patrol agents carried out each expulsion under the
11 purported authority of an interim final rule issued by the Centers for Disease
12 Control and Prevention (CDC) under 42 U.S.C. § 265. However, the expulsions
13 of Plaintiffs directly violated the rule and implementing guidance, which
14 prohibited its application to U.S. citizens like Infant Plaintiffs, and to
15 noncitizens who fear persecution or torture in the country of expulsion like
16 Plaintiff Mothers. In addition, the stated justification for the expulsion
17 authority—prevention of the introduction of COVID-19 into the United
18 States—was not at issue, as Plaintiffs E.C.M.U., H.S.C.G., and S.S.F. had tested
19 negative for COVID-19 while in the hospital, and Plaintiff E.P.E. had, at
20 minimum, been thoroughly evaluated by hospital medical staff and discharged
21 without mention of COVID-19 concerns.
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24 5. Plaintiffs bring this suit under the Federal Tort Claims Act (FTCA)
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1 to seek compensation for the harm and losses they suffered as the result of the
2 tortious conduct committed by U.S Border Patrol agents.

4 JURISDICTION AND VENUE

5 6. This Court has jurisdiction over the subject matter of this
6 Complaint under 28 U.S.C. § 1346(b).

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8 7. All Plaintiffs submitted timely administrative claims under the
9 FTCA to the U.S. Department of Homeland Security (DHS) and its component
10 agency U.S. Customs and Border Protection (CBP), of which U.S. Border
11 Patrol is a sub-component agency. CBP denied the administrative claims of all
12 Plaintiffs on August 22, 2023. Plaintiffs are timely filing this Complaint in
13 accord with the FTCA. 28 U.S.C. §§ 2675(a), 2401(b).

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16 8. Venue is proper in this District under 28 U.S.C. § 1402(b) as the
17 acts and omissions detailed in this Complaint occurred in this District.

18 PARTIES

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20 9. Plaintiff E.P.E.,¹ a Mexican national, is currently 49 years old and
21 was 45 years old at the time that U.S. Border Patrol agents expelled her to
22 Mexico. She is the mother of Plaintiff E.E.B.P. She resides in Modesto,
23 California.

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27 ¹ A motion to proceed under pseudonym accompanies the docketing of this
28 Complaint.

1 10. Plaintiff E.E.B.P., a U.S. citizen, is currently three years old and
2 was a two-day-old newborn at the time that U.S. Border Patrol agents expelled
3 her to Mexico. She is the daughter of Plaintiff E.P.E. She resides with her
4 mother in Modesto, California.
5

6 11. Plaintiff E.C.M.U., a Honduran national, is currently 32 years old
7 and was 28 years old at the time that U.S. Border Patrol agents expelled her to
8 Mexico. She is the mother of Plaintiff E.M.M. She resides in Bronx, New York.
9

10 12. Plaintiff E.M.M., a U.S. citizen, is currently three years old and
11 was a one-day-old newborn at the time that U.S. Border Patrol agents expelled
12 her to Mexico. She is the daughter of Plaintiff E.C.M.U. She resides with her
13 mother in Bronx, New York.
14

15 13. Plaintiff H.S.C.G., a Honduran national, is currently 31 years old
16 and was 27 years old at the time that U.S. Border Patrol agents expelled her to
17 Mexico. She is the mother of Plaintiff B.Y.C.G. She resides in Goodview,
18 Minnesota.
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20 14. Plaintiff B.Y.C.G., a U.S. citizen, is currently three years old and
21 was a two-day-old newborn at the time U.S. Border Patrol agents expelled him
22 to Mexico. He is the son of Plaintiff H.S.C.G. He resides with his mother in
23 Goodview, Minnesota.
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25 15. Plaintiff S.S.F., a Haitian national, is currently 26 years old and
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1 was 23 years old at the time that U.S. Border Patrol agents expelled her to
2 Mexico. She is the mother of A.L.T.J.P. She resides in Boston, Massachusetts.
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4 16. Plaintiff A.L.T.J.P., a U.S. citizen, is currently three years old and
5 was a two-day-old newborn at the time U.S. Border Patrol agents expelled her
6 to Mexico. She is the daughter of Plaintiff S.S.F. She resides with her mother in
7 Boston, Massachusetts.
8

9 17. Defendant United States of America is the appropriate defendant
10 under the FTCA. 28 U.S.C. §§ 1346(b), 2671 *et seq.*
11

12 18. All federal officers referenced in this Complaint were acting within
13 the scope and course of their employment and were acting as investigative or
14 law enforcement officers. 28 U.S.C. § 2680(h).
15

16 **LEGAL BACKGROUND**

17 ***The Title 42 Expulsion Process***

18 19. In a public health emergency, Congress authorized the Executive
19 Branch to “prohibit, in whole or in part, the introduction of persons and
20 property” from countries which it designates. 42 U.S.C. § 265.
21

22 *The 2020 Title 42 Regulations and Expulsion Orders*

23 20. On March 24, 2020, in response to the pandemic caused by
24 coronavirus disease 2019 (COVID-19), the U.S. Department of Health and
25 Human Services (HHS) issued an interim final rule under 42 U.S.C. § 265
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1 permitting the CDC to suspend the introduction of persons into the United
2 States who may “present a risk of transmission of a communicable disease.”²
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4 21. Pursuant to the rule, the CDC issued the first of several orders
5 providing the DHS with the authority to “suspend the introduction” of
6 noncitizens seeking to enter the United States at and between land ports of
7 entry.³ The Title 42 Order, effective March 20, 2020, applied to noncitizens
8 without proper travel documents, those whose entry is otherwise contrary to
9 law, and those who are apprehended near the border seeking to unlawfully enter
10 the United States.⁴ With certain exemptions, it permitted DHS officers to return
11 such individuals to, inter alia, their countries of origin or the countries from
12 which they entered the United States.⁵
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16 22. Critically, the Title 42 Order did not apply to U.S. citizens, lawful
17 permanent residents, members of the armed forces, spouses and children of all
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21 ² CDC and HHS, Control of Communicable Diseases; Foreign Quarantine:
22 Suspension of Introduction of Persons into United States from Designated
23 Foreign Countries or Places for Public Health Purposes, 85 Fed. Reg. 16,559,
24 16,566, 2020 WL 1330968 (Mar. 24, 2020) (to be codified at 42 C.F.R.
§ 71.40).

25 ³ CDC and HHS, Notice of Order Under Sections 362 and 365 of the
26 Public Health Service Act Suspending Introduction of Certain Persons from
27 Countries Where a Communicable Disease Exists, 85 Fed. Reg. 17,060, 17,061,
28 2020 WL 1445906 (Mar. 26, 2020) [hereinafter Title 42 Order].

⁴ *Id.*

⁵ *Id.* at 17,067.

1 three of those groups, or noncitizens with valid travel documents.⁶ Additionally,
2 it exempted “persons whom customs officers of DHS determine, with approval
3 from a supervisor, should be excepted based on the totality of the
4 circumstances, including consideration of significant law enforcement, officer
5 and public safety, humanitarian, and public health interests.”⁷
6
7

8 23. CDC extended and amended the Title 42 Order in April and May,
9 2020.⁸ It subsequently published a Final Rule on September 11, 2020,⁹ and,
10 with amendments not relevant here, again extended the Title 42 Order on
11 October 16, 2020.¹⁰ All extensions of the Title 42 Order contained the same
12 exemptions.
13

14 24. The primary stated rationales for the Title 42 Order and
15 subsequent extensions were that the individuals subject to them generally were
16 held for extended periods in CBP facilities while being processed, that these
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20 ⁶ *Id.* at 17,061.

21 ⁷ *Id.*

22 ⁸ *See* CDC and HHS, Extension of Order Under Sections 362 and 365 of
23 the Public Health Service Act, 85 Fed. Reg. 22,424, 2020 WL 1923282 (Apr.
24 22, 2020); CDC and HHS, Amendment and Extension of Order Under Sections
25 362 and 365 of the Public Health Service Act, 85 Fed. Reg. 31,503, 2020 WL
26 2619696 (May 26, 2020).

27 ⁹ 42 C.F.R. § 71.40 (2020).

28 ¹⁰ *See* CDC and HHS, Order Suspending the Right to Introduce Certain
Persons from Countries Where a Quarantinable Communicable Disease Exists,
85 Fed. Reg. 65,806, 2020 WL 6081986 (Oct. 16, 2020). Amendments after
2020 are not relevant to this claim.

1 facilities could not accommodate recommended social distancing, and that CBP
2 was not equipped to handle COVID-19 testing of all detained individuals or
3 segregation of those suspected of having the virus.¹¹

4
5 25. A federal court subsequently ruled that the Title 42 Order was
6 arbitrary and capricious under the Administrative Procedure Act for, inter alia,
7 failing to sufficiently consider that noncitizens may face persecution or torture
8 in the country of expulsion. *Huisha-Huisha v. Mayorkas*, 642 F. Supp. 3d 1
9 (D.D.C. 2022), *cert. and stay granted sub nom. Arizona v. Mayorkas*, 143 S. Ct.
10 478 (2022), *and vacated as moot*, No. 22-5325, 2023 WL 5921335 (D.C. Cir.
11 Sept. 7, 2023); *see also Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 731-32
12 (D.C. Cir. 2022) (holding that plaintiffs were likely to succeed on claim that
13 government could not expel noncitizens under Title 42 to a country in which
14 they would be persecuted or tortured).

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19 *CBP's Implementation of the Title 42 Order*

20 26. In March 2020, CBP implemented the Title 42 Order, and U.S.
21 Border Patrol issued guidance to the field instructing its agents to apply the
22 Title 42 Order to noncitizens seeking to enter the United States from Mexico or
23 Canada at or between ports of entry who are without proper travel authorization
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28 ¹¹ *See, e.g.*, Title 42 Order, *supra* n.3, 85 Fed Reg. at 17,066.

1 or subject to travel restrictions.¹² The guidance further instructed that injured
2 noncitizens could not be expelled under Title 42 but instead were to be
3 processed in accord with existing immigration laws under Title 8 of the United
4 States Code.¹³ Additionally, the guidance instructs that, where a noncitizen is
5 subject to expulsion, the agent is *not* to take the person's property.¹⁴
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8 27. Further, the guidance instructed that, where a noncitizen states a
9 reasonably believable claim of torture in the country to which they are being
10 expelled, the agent cannot expel without first referring them to an asylum
11 officer with U.S. Citizenship and Immigration Services (USCIS) for screening
12 of their fear claim.¹⁵ Subsequently, following decisions in the *Huisha-Huisha v.*
13 *Mayorkas* litigation, CBP guidance instructed agents that noncitizens who
14 manifest a fear of return to the country to which they are being expelled under
15 Title 42 must either be exempted from Title 42 and placed in removal
16 proceedings under 8 U.S.C. § 1229a or referred to an asylum officer within
17 USCIS.¹⁶ The guidance further provided examples of manifestations of fear,
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22 ¹² U.S. Customs & Border Prot., *COVID-19 CAPIO* at 1, <https://www.cbp.gov/sites/default/files/assets/documents/2021-Nov/COVID%2019%20Capio.pdf> (last visited Feb. 11, 2024).

23 ¹³ *Id.* at 3.

24 ¹⁴ *Id.* at 2.

25 ¹⁵ *Id.* at 4.

26 ¹⁶ U.S. Customs & Border Prot., *Processing of Noncitizens Manifesting*
27 *Fear of Expulsion Under Title 42* at 2 (May 21, 2022), <https://www.aila.org/library/cbp-issues-guidance-on-processing-of-noncitizens>.
28

1 including an individual’s statement that they are afraid of being sent to the
2 country to which they are being expelled or a statement that they were
3 previously or would be harmed in that country.¹⁷
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5 28. CBP has a longstanding policy of ensuring that pregnant women
6 and family units are treated as “at-risk” populations of special concern due to
7 their particular vulnerability.¹⁸ In 2021 and 2022, CBP issued several
8 memoranda memorializing the duty of care owed to these populations under
9 this longstanding policy, including with respect to implementation of the Title
10 42 Order.
11

12 29. For example, CBP instructed agents that “the treatment of women
13 who give birth in CBP custody raises significant humanitarian and public health
14 interests,” which require an agent’s “serious consideration” of whether an
15 exception to the Title 42 Order is warranted, and further explained that:
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19 Women who have given birth in CBP custody may require
20 additional medical care such that expulsion of the mother may lead
21 to negative health outcomes for the mother and/or her newborn
22 child. Additionally, these women could be expelled at locations or
23 into conditions that make it difficult to safely care for the newborn
24 child and recover from the delivery.¹⁹

25 ¹⁷ *Id.* at 1-2.

26 ¹⁸ U.S. Customs & Border Prot., *National Standards on Transport, Escort, Detention, and Search* § 5.1 (Oct. 2015) [hereinafter *TEDS Standards*],
27 <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/cbp-teds-policy-october2015.pdf>.

28 ¹⁹ Acting Comm’r Troy A. Miller, U.S. Customs & Border Prot.,

1 ***CBP Policies Regarding Pregnant and Postpartum Mothers and Babies***

2 30. CBP guidance instructs agents that, following the hospital
3 discharge of a noncitizen in CBP custody, Border Patrol agents must follow all
4 immediate discharge instructions while the person remains in custody.²⁰ Border
5 Patrol agents are required to follow all hospital discharge instructions while the
6 person remains in their custody,²¹ which would include obtaining prescription
7 medicine. Moreover, Border Patrol agents are required to ensure that a
8 postpartum mother receives all hospital discharge papers in CBP's possession
9 upon release from custody.²²

13 31. On information and belief, U.S. Border Patrol has a long-standing
14 policy requiring its agents to provide information to noncitizen parents of U.S.
15 citizen newborns about how to obtain U.S. birth certificates for their child. The
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19 *Pregnancy and Childbirth Guidance* 1 (Aug. 18, 2021),
20 [https://cbpabusestest2.files.wordpress.com/2021/08/2021-08-18-dhs-cbp-](https://cbpabusestest2.files.wordpress.com/2021/08/2021-08-18-dhs-cbp-pregnancy-childbirth-guidance.pdf)
21 [pregnancy-childbirth-guidance.pdf](https://cbpabusestest2.files.wordpress.com/2021/08/2021-08-18-dhs-cbp-pregnancy-childbirth-guidance.pdf).

22 ²⁰ U.S. Customs & Border Prot., *Children Born in the United States in CBP*
23 *Custody or at a CBP Facility* § 6.1.7.4 (May 24, 2022) [hereinafter *Children*
24 *Born in CBP Custody*], [https://www.cbp.gov/sites/default/files/assets/](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022_0524_children-born-in-cbp-custody-or-cbp-facilities-directive.pdf)
25 [documents/2022-Jul/2022_0524_](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022_0524_children-born-in-cbp-custody-or-cbp-facilities-directive.pdf)
26 [children-born-in-cbp-custody-or-cbp-](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022_0524_children-born-in-cbp-custody-or-cbp-facilities-directive.pdf)
27 [facilities-directive.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022_0524_children-born-in-cbp-custody-or-cbp-facilities-directive.pdf); *see also* U.S. Customs & Border Prot., *Policy Statement*
28 *and Required Actions Regarding Pregnant, Postpartum, Nursing Individuals,*
and Infants in Custody 3 (Nov. 23, 2021), [https://www.cbp.gov/sites/default/](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022-Policy%20Statement-%20and-Required-Action-Pregnant-Postpartum-Nursing-Individuals-and-Infants-%20%28signed%29_0.pdf)
[files/assets/documents/2022-Jul/2022-Policy%20Statement-%20and-Required-](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022-Policy%20Statement-%20and-Required-Action-Pregnant-Postpartum-Nursing-Individuals-and-Infants-%20%28signed%29_0.pdf)
[Action-Pregnant-Postpartum-Nursing-Individuals-and-Infants-](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022-Policy%20Statement-%20and-Required-Action-Pregnant-Postpartum-Nursing-Individuals-and-Infants-%20%28signed%29_0.pdf)
[%20%28signed%29_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2022-Jul/2022-Policy%20Statement-%20and-Required-Action-Pregnant-Postpartum-Nursing-Individuals-and-Infants-%20%28signed%29_0.pdf).

²¹ *Children Born in CBP Custody*, *supra* n.20, § 6.1.7.4.

²² *Id.*

1 policy was memorialized in a memo instructing Border Patrol agents to provide
2 each parent of a U.S. citizen newborn leaving its custody with a “Vital Records
3 Information Tear Sheet” containing the hospital name and contact information
4 for the appropriate state vital records department to help the parent obtain a
5 birth certificate for the child. The Vital Records Information Tear Sheet must be
6 provided in the noncitizen’s primary language or must be read to the individual
7 in her primary language by CBP personnel or a contract interpreter.²³
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10 **STATEMENT OF FACTS**

11 *E.P.E. and Infant E.E.B.P.’s Expulsion and Consequent Suffering in Mexico* 12 *for 375 Days*

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14 32. On March 25, 2020, Ms. E.P.E., a then-45-year-old Mexican
15 national who was approximately 37 weeks pregnant, entered the United States
16 from Tijuana, Mexico, with her two five-year-old twin sons, who are both U.S.
17 citizens. The family was fleeing persecution and threats in Mexico, and she
18 intended to seek asylum in the United States.
19

20
21 33. Approximately one week earlier, on or about March 18, 2020, Ms.
22 E.P.E. fled her home state of Michoacán, Mexico, to Tijuana, Mexico, after her
23 former partner—the father of her twin sons—was murdered. The drug cartel
24 members who had been persecuting him had also tortured her and continued to
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28 ²³ *Id.* § 6.3.2.

1 stalk and threaten her and her twins.

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3 34. Upon arriving in Tijuana, Mexico, Ms. E.P.E. and her sons
4 immediately went to the U.S. port of entry at San Ysidro, San Diego,
5 California. There, she informed the CBP agents that her sons were U.S. citizens
6 and that she was afraid to remain in Mexico due to threats against her and the
7 children. The agents informed her that she could not enter the United States due
8 to the COVID-19 pandemic and forced her to return to Mexico. Mexican
9 authorities encountering people turned back from the port of entry then gave her
10 a number, placing her on a waiting list of other asylum seekers, and told her that
11 the wait would be between one and three years.
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15 35. About a week later, on or about March 25, 2020, Ms. E.P.E. went
16 to a hospital in Tijuana with severe abdominal pains. She was bleeding and
17 could no longer feel her unborn baby move; because she had suffered prior
18 miscarriages, she feared that she was miscarrying again. Hospital personnel
19 failed to admit her, citing limitations on admissions due to COVID-19. They
20 also advised her that she would need a repeat cesarian section to deliver her
21 baby.
22
23

24 36. Ms. E.P.E. was panicked and in great pain. Later that day,
25 believing she had no other options, Ms. E.P.E, with her two sons, entered the
26 United States, in or near San Diego, California. By then she was very ill, in
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1 pain, had blurred vision, and was experiencing momentary black-outs. Her
2 mother had died in childbirth when she was young, and, fearing the same for
3 herself, she was desperate to get medical assistance. With the help of her young
4 sons, she walked until they encountered U.S. Border Patrol agents.
5

6 37. The Border Patrol agents initially tried to send her back to Mexico,
7 telling her that she should go to a hospital there. After she told them she had
8 been turned away from a hospital in Mexico and continued pleading for help,
9 they eventually called an ambulance.
10

11 38. The ambulance transported Ms. E.P.E. and her sons to Scripps
12 Mercy Hospital Chula Vista in Chula Vista, California. At the hospital, Border
13 Patrol agents took her sons away but did not tell Ms. E.P.E. where they were
14 being taken.
15

16 39. Ms. E.P.E. was admitted to the hospital at 12:39 p.m. on March 25,
17 2020. She was diagnosed with preeclampsia with severe features, severe range
18 blood pressure, and symptomatic headache, blurry vision, and epigastric pain.
19 She was exhibiting pressured speech, appeared anxious, and was in emotional
20 distress. She was thoroughly evaluated by hospital medical staff, who never
21 expressed any indication in the medical records or to E.P.E. that she was or
22 even could be positive for COVID-19.
23

24 40. Plaintiff E.E.B.P. was delivered by cesarean section on March 26,
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1 2020 at 9:28 a.m.

2 41. Ms. E.P.E. remained in CBP custody throughout her entire hospital
3 stay, with uniformed agents, who on information and belief were armed,
4 standing guard at the door to her hospital room at all times.
5

6 42. Soon after her surgery and while still recovering from anesthesia, a
7 female Border Patrol agent came into Ms. E.P.E.'s room to take her fingerprints
8 and have her sign documents. The agent, who spoke Spanish, did not explain
9 what the documents were, but she told Ms. E.P.E. that she had to leave the
10 country. The agent told Ms. E.P.E. that the president did not want "illegals" in
11 the United States. When Ms. E.P.E. did not immediately sign the documents,
12 the agent took her hand and forced her to sign them. Ms. E.P.E. was never
13 given a copy of the documents that she was forced to sign and does not know
14 what they were.
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19 43. Ms. E.P.E. showed one or more Border Patrol agents her sons'
20 U.S. passports. She was extremely worried about them and asked the female
21 agent—whose first name she believes was Evelyn—where they were. The agent
22 refused to answer. Border Patrol agents never gave Ms. E.P.E. any information
23 about where the boys were, who was taking care of them, how they were doing,
24 or if she would be reunited with them. Only later did a hospital worker tell her
25 that the boys were being taken care of by a family, but the worker was unable to
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1 give further details.

2
3 44. Ms. E.P.E. asked one of the agents if she could be released so that
4 she and her children could go and stay with her sister, a United States citizen, in
5 Oxnard, California. The agent did not respond to this question.

6
7 45. On two or more occasions, Ms. E.P.E. told one or more Border
8 Patrol agents about her fear of being returned to Mexico and about how she had
9 been kidnapped and tortured there. On one such occasion, she even showed one
10 or more agents the scar on her abdomen that she had received when drug cartel
11 members kidnapped and assaulted her. Ms. E.P.E. did not receive a fear
12 screening by USCIS prior to being expelled from the United States.

13
14 46. Ms. E.P.E. was discharged from the hospital on March 28, 2020.
15
16 Hospital records indicate the doctor prescribed Motrin 600 milligrams every six
17 hours as needed for pain, as well as postnatal vitamins and Ferrous Sulfate, 325
18 milligrams twice a day, as an iron supplement.

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20 47. On the day of her discharge, the Border Patrol agents rushed Ms.
21 E.P.E. and E.E.B.P. out of the hospital. It did not appear that hospital staff was
22 given any warning she would be moved so suddenly. A hospital worker quickly
23 gathered some baby items for her to take, including formula, diapers, a few
24 baby clothes, and a blanket, and also gave Ms. E.P.E. maternity sanitary pads as
25 she was bleeding heavily. The worker also returned her backpack to her and
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1 gave her some paperwork.

2 48. The female Border Patrol agent then made her walk out of her
3 hospital room while carrying newborn E.E.B.P., the baby items, and her
4 backpack. Seeing that Ms. E.P.E. was in intense pain and having difficulty
5 walking and carrying everything, a nurse intervened, informing the agents in
6 what appeared to be a heated discussion that Ms. E.P.E. should not be walking.
7 A hospital worker then got her a wheelchair.

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10 49. Ms. E.P.E.'s twin sons were waiting for her with a Border Patrol
11 agent outside the hospital. She was immensely relieved to see them. The agents
12 ordered the family to get into a Border Patrol vehicle. Ms. E.P.E. told the agents
13 that she was dizzy, in pain, and bleeding, and again asked if she and the
14 children could stay with her sister in Oxnard, California, at least until she
15 recovered. The agent told her no, saying that she was a danger to the
16 community due to the ongoing COVID-19 pandemic.

17
18
19 50. The Border Patrol agents did not take steps to fill Ms. E.P.E.'s
20 prescription for pain medication prior to expelling her.

21
22 51. A Border Patrol agent then drove the family to the San Ysidro port
23 of entry on the border with Mexico and dropped them at the pedestrian
24 crossing. Ms. E.P.E. was panicked and distraught, and again begged the agent
25 to let her and the children go to her sister in Oxnard, California. The agent told
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27
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1 her that there would be someone on the Mexican side of the border to assist her,
2 but there was no one there to help once they crossed.
3

4 52. Border Patrol agents expelled Ms. E.P.E., E.E.B.P. and the twins to
5 Mexico on March 28, 2020. The expulsion of two-day-old E.E.B.P. to Mexico
6 was carried out against the will of her mother, Plaintiff E.P.E., who wanted her
7 sister to be given temporary custody of E.E.B.P. and her sons—all three of
8 whom were U.S. citizens. The Border Patrol agents never provided this option
9 to Ms. E.P.E.
10
11

12 53. At the time of her expulsion, the Border Patrol agents knew or
13 should have known the significant health and safety risks facing Ms. E.P.E. and
14 baby E.E.B.P. in Mexico.
15

16 54. The Border Patrol agents expelled Ms. E.P.E. and her children with
17 only the clothes they wore, the baby items and paperwork from the hospital, and
18 the cell phone and identification documents Ms. E.P.E. had brought with her
19 from Mexico. Ms. E.P.E. had neither money nor a birth certificate for E.E.B.P.
20

21 55. The agents who expelled Ms. E.P.E., E.E.B.P., and the older
22 children did not provide a reason for doing so or any documentary evidence of
23 the expulsion. They also did not provide Ms. E.P.E. with any information about
24 how she could obtain a birth certificate for E.E.B.P. Further, she was expelled
25 to Mexico despite her claim of fear and past torture there and without being
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1 given an opportunity to pursue a fear-based claim.

2 56. The Border Patrol agents expelled Ms. E.P.E. and E.E.B.P.
3
4 notwithstanding that E.E.B.P. was a U.S. citizen and that she could have lived
5 in safety with her U.S. citizen aunt, as her mother wished.

6 57. At the time of her expulsion, Ms. E.P.E. was in severe pain from
7
8 her recent major surgery, felt dizzy, and was experiencing vaginal bleeding.

9 58. In Tijuana, Ms. E.P.E. began walking, carrying E.E.B.P. and the
10
11 baby items, and with her sons following. Blood ran down her leg. She became
12 very dizzy and lightheaded and fell to the ground, hitting her head and dropping
13 E.E.B.P., who also hit her head. The baby's eyes rolled back and Ms. E.P.E.
14 was frantic, worried that E.E.B.P. was severely injured. Ms. E.P.E. lightly
15 tapped E.E.B.P. on the cheek, which revived the baby.

16 59. The twins were terrified by their mother's fall and were screaming
17
18 and crying. One of them was so scared that he soiled himself. Ms. E.P.E. sat for
19 a few minutes to regain her strength and calm down. Then she cleaned her son
20 up as best she could and picked up the baby and her belongings. A mini-bus
21 driver generously gave her a free ride to the shelter where she previously had
22 stayed and a sandwich, which she gave to her sons.

23 60. Ms. E.P.E. and E.E.B.P. were expelled from the United States for
24
25 375 days. While in Mexico, Ms. E.P.E. struggled to provide for E.E.B.P., the
26
27

1 older children, and herself. Because she was so anxious, upset, and afraid, Ms.
2 E.P.E. was not able to produce enough milk to feed E.E.B.P. for some time in
3 Mexico. She also did not always have money to buy formula. As a result,
4 E.E.B.P. was often hungry. On one occasion, upon hearing the baby's cries, a
5 neighbor purchased milk for her.
6
7

8 61. Ms. E.P.E. depended on charities for food and shelter for
9 approximately a month to six weeks. At that point, the hotel where she and
10 other migrants were staying made everyone leave. Because she had nowhere
11 else to go, Ms. E.P.E. returned to Michoacán with her children. There she went
12 into hiding, depending on a friend for financial help and running up a large debt
13 on an old credit card. She lived in constant fear that her persecutors would find
14 her if she ventured out in public.
15
16

17 62. In or about March 2021, an attorney with the nonprofit Al Otro
18 Lado (AOL) submitted a parole request for Ms. E.P.E. and her two older
19 children pursuant to a process created in connection with the litigation in
20 *Huisha-Huisha v. Mayorkas*, No. 21-100 (EGS) (D.D.C. filed Jan. 12, 2021).
21 On or about April 7, 2021, Ms. E.P.E. was paroled into the United States, and
22 the two older children and E.E.B.P. entered with her. Ms. E.P.E. and E.E.B.P.
23 spent 375 days in Mexico as a result of the U.S. Border Patrol's unlawful
24 expulsion.
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1 63. On July 1, 2022, an immigration judge granted Ms. E.P.E. asylum.
2
3 Ms. E.P.E. continues to fear that public disclosure of her identity would allow
4 her persecutors to locate her in the United States.

5 ***E.C.M.U. and Infant E.M.M.’s Expulsion and Consequent Suffering in***
6 ***Mexico for 106 Days***

7 64. On the evening of December 8, 2020, Ms. E.C.M.U., a then-28-
8
9 year-old Honduran national who was approximately 38 weeks pregnant, entered
10 the United States from Tijuana, Mexico, with her two children, a nine-year-old
11 son and a six-year-old daughter. The family was fleeing persecution and death
12 threats in Honduras from members of two rival gangs. She intended to seek
13 asylum in the United States.
14

15 65. Ms. E.C.M.U.’s husband and the father of her children is a
16
17 naturalized U.S. citizen who was living in the Bronx, New York. Prior to her
18 fleeing Honduras, she and her husband had begun the process for her and the
19 two children to immigrate to the United States.
20

21 66. Upon fleeing from Honduras, Ms. E.C.M.U. and her two children
22 arrived in Tijuana on or about September 8, 2020. In October 2020, Ms.
23 E.C.M.U. visited the Comisión Mexicana de Ayuda a Refugiados (Mexican
24 Commission for Refugee Assistance, COMAR) in Tijuana and asked to apply
25 for asylum. Although Tijuana was very dangerous and she feared for the safety
26 of her children while living there, she nevertheless hoped to gain legal status in
27
28

1 Mexico while she waited for her visa to the United States. Someone at COMAR
2 told her that they would be in touch with her; however, no one ever contacted
3 her.
4

5 67. Her children were having health problems and because they were
6 without legal status in Mexico, Ms. E.C.M.U. was unable to get adequate
7 medical assistance for them. On December 8, 2020, after not hearing back from
8 COMAR and increasingly concerned about the health and safety of her two
9 children, Ms. E.C.M.U. and her children entered the United States in or near
10 San Diego, California. Shortly after her entry, Ms. E.C.M.U. began to
11 experience labor pains and her membranes ruptured (commonly referred to as
12 her “water breaking”). Her children sought assistance from a U.S. Border Patrol
13 agent who, in turn, called other Border Patrol agents. The latter agents arrived
14 shortly thereafter at approximately 7:30 p.m.
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19 68. Upon encountering Ms. E.C.M.U., who was in clear distress from
20 labor pains, a Border Patrol agent called an ambulance. Despite her obvious
21 pain, one of the agents accused her, in Spanish, of breaking a bag of water on
22 herself to feign that her water had broken and that she was going into labor. Ms.
23 E.C.M.U.’s children were upset and pleaded with the agent to stop yelling at
24 their mom.
25

26 69. While waiting for the ambulance, the agents began processing
27
28

1 paperwork on Ms. E.C.M.U., asking for her name, the names of her children,
2 and their relationship. She told them that her husband was a U.S. citizen living
3 in New York, gave them his phone number, and asked that they contact him.
4 She also attempted to tell them about her fear of return to Honduras and to
5 Mexico, but the agents ordered her to answer only the questions asked.
6
7

8 70. When the ambulance arrived, a Border Patrol agent ordered the
9 paramedics to make sure that Ms. E.C.M.U. had not faked her water breaking
10 before taking her to the hospital. Because of this, once she was on the gurney,
11 the paramedics undressed her from the waist down to examine her—all in front
12 of the male Border Patrol agents. The paramedics then covered her with a
13 blanket and placed her in the ambulance. The Border Patrol agents placed her
14 children in another vehicle, telling her only that they were taking the children to
15 a facility for children. She told the agents that the children had their father's
16 phone number and pleaded that the agents call him. One or more Border Patrol
17 agents then followed the ambulance in another vehicle to the hospital.
18
19
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21 71. The ambulance took Ms. E.C.M.U. to Sharp Chula Vista Medical
22 Center in Chula Vista, California, where she was admitted at 10:30 p.m. on
23 December 8, 2020. Within the first few minutes after her admission, medical
24 personnel administered a Covid-19 Molecular (Nucleic Acid Amplification) test
25 on her, which was negative.
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1 72. After Ms. E.C.M.U. endured more than nine hours of labor,
2
3 Plaintiff E.M.M. was born at 4:38 a.m. on December 9, 2020. Throughout the
4 birth, two male Border Patrol agents, who were in uniform and, on information
5 and belief, armed, were present in the delivery room. Having the agents in the
6 room while she was giving birth was one of the most degrading and humiliating
7 experiences of Ms. E.C.M.U.'s life.

9 73. During the delivery, hospital staff gave Ms. E.C.M.U. oxytocin to
10 improve contractions, and an epidural and fentanyl for pain. She suffered a
11 second-degree perineal laceration, which required sutures. After delivery and
12 throughout the remainder of her hospital stay, she was given ibuprofen 600
13 milligram (mg) tablets and two acetaminophen 650 mg tablets for pain on a
14 regular basis. She also was provided topical treatments for perineal discomfort.

17 74. Ms. E.C.M.U. remained in CBP custody throughout her entire
18 hospital stay. Two male, uniformed Border Patrol agents were always present in
19 Ms. E.C.M.U.'s hospital room, working on rotating shifts. None of them wore
20 face masks. One or more agents made disparaging remarks to her in Spanish,
21 including telling her that Honduran women were all trash, that all Hondurans
22 came to the United States to steal, and that the agents' taxes were paying for her
23 and others who were in the country illegally. When she responded that her
24 husband paid taxes, one agent, a native Spanish speaker, said that her husband
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1 was probably an illegal immigrant. The agent also said that “*mi papá*” (my
2 daddy) then-President Trump would “do as he wanted” with “you illegal
3 immigrants.”
4

5 75. One of the agents lied to her, saying that her older children were on
6 a flight to their father and that she would never see them again. The agent also
7 told her that she and E.M.M. would be deported to Mexico and that she would
8 not get any papers showing the baby’s birth in the United States. Ms. E.C.M.U.
9 was so upset by the thought of never seeing her older children again that she
10 began shaking and crying uncontrollably. In a threatening manner, the agent
11 told her not to say anything to anyone else about what he had said. When a
12 nurse entered the room and saw how upset Ms. E.C.M.U. was, she asked both
13 the agents who were in the room to step outside the door. They refused to do
14 this. Ms. E.C.M.U. was afraid to tell the nurse why she was so upset with the
15 agents always in the room.
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20 76. A doctor also noticed Ms. E.C.M.U. crying and asked if it was due
21 to the pain. Ms. E.C.M.U. told her no and that she was crying because she was
22 distraught over the separation from her children. The doctor advised Ms.
23 E.C.M.U. that when she got to New York City, she should see a postpartum
24 psychologist.
25
26

27 77. The Border Patrol agents similarly refused to step outside the room
28

1 when asked to do so by a social worker and refused to let a doctor pull the
2 curtain around Ms. E.C.M.U.'s bed for privacy while the doctor examined her.

3
4 78. Ms. E.C.M.U. had her phone with her in the hospital. She secretly
5 texted her husband on the few occasions when she could do so without the
6 agents noticing, letting him know where she was and asking if the children had
7 been in touch. When he said he had heard nothing about the children, she again
8 became frantic with worry about their wellbeing.

9
10 79. Subsequently, Ms. E.C.M.U., in desperation, asked a hospital
11 social worker to find out where her older children were; she also tried telling
12 the social worker about her fear of returning to either Mexico or Honduras. One
13 of the Border Patrol agents interrupted this conversation, stood over her bed in a
14 threatening manner, and demanded to know what she was telling the social
15 worker. Ms. E.C.M.U. was so frightened and intimidated by the agent's
16 demeanor that she stopped talking to the social worker. She never learned of the
17 whereabouts or safety of her older children while she was in the hospital, and,
18 during this entire time, remained extremely afraid that she would not see them
19 again, as the agent had threatened.

20
21 80. A doctor or medical professional, who had witnessed the Border
22 Patrol agents' behavior, privately gave her the hospital record of E.M.M.'s
23 birth. Afraid that the agents would take this from her based on their threats that

1 they would never let her have papers proving E.M.M.'s birth, Ms. E.C.M.U. hid
2 it under her hospital gown, and later in her clothes.

3
4 81. The hospital discharged Ms. E.C.M.U. and one-day-old E.M.M. to
5 U.S. Border Patrol custody mid-afternoon on December 10, 2020. Hospital staff
6 instructed Ms. E.C.M.U. to refrain from heavy lifting and to schedule a follow-
7
8 up appointment in 1 to 2 weeks. She was given a prescription for Motrin for
9 pain, Ferrous Sulfate for anemia, and Colace, a stool softener.

10
11 82. Upon her discharge, a different Border Patrol agent put Ms.
12 E.C.M.U. and E.M.M. in a secure vehicle. He stopped at a pharmacy to try to
13 fill her prescriptions, but the pharmacy did not have the medications. The agent
14 did not go to another pharmacy and did not return the prescriptions to Ms.
15
16 E.C.M.U., and thus she was never able to fill them.

17
18 83. The agent next took her to a facility where her older children were
19 held. When the older children entered the secure vehicle, Ms. E.C.M.U. was
20 relieved to see them. The agent had lied, saying that he was taking them to meet
21 her husband, and for a moment, they all were hopeful their nightmare might be
22 ending. Instead, however, he drove the family to the El Chaparral port of entry,
23
24 the southbound portion of the San Ysidro port of entry, between San Diego,
25 California and Tijuana, Mexico.

26
27 84. When they arrived at the port of entry, the agents instructed Ms.
28

1 E.C.M.U. to take the children through the pedestrian entry to Mexico. She was
2 shocked and extremely upset when she realized that the agents were forcing her
3 and her children to enter Mexico. She was panicked at the thought of being in
4 Mexico without support, money, or food, with a newborn infant—for whom she
5 did not have a birth certificate—and two young children. By this time, it was
6 early evening and dark outside. She knew that Tijuana was dangerous at night.
7 Moreover, all she and her children had were the clothes that they were wearing
8 and a few baby items that the hospital had given Ms. E.C.M.U. It was chilly
9 outside and the clothes the children had been given upon their release were not
10 sufficient to keep them warm. Ms. E.C.M.U. began crying and begging the
11 agents not to send them to Mexico.
12

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16 85. Border Patrol agents expelled the family to Mexico on December
17 10, 2020. The expulsion of E.M.M. to Mexico was carried out against the will
18 of her mother, Plaintiff E.C.M.U. Ms. E.C.M.U. wanted E.M.M. to stay with
19 her U.S. citizen husband, E.M.M.'s father, even if the agents expelled her to
20 Mexico. However, the agents never gave her this option and, in fact, never
21 contacted her husband despite her numerous requests.
22

23
24 86. At the time of her expulsion, the Border Patrol agents knew or
25 should have known the significant health and safety risks facing Ms. E.C.M.U.
26 and baby E.M.M. in Mexico.
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1 87. The agents who expelled Ms. E.C.M.U., E.M.M., and the older
2 children did not provide her with a reason for doing so or any documentary
3 evidence of the expulsion. They also did not provide her with any information
4 about how she could obtain a birth certificate for E.M.M. Further, she was
5 expelled without being given any opportunity to pursue a fear-based claim
6 regarding a return to either Mexico or Honduras. Finally, the agents who
7 expelled her did not provide the hospital paperwork and prescriptions to her.

8
9
10 88. The Border Patrol agents expelled Ms. E.C.M.U. and E.M.M.
11 notwithstanding that E.M.M. was a U.S. citizen and that Ms. E.C.M.U. had
12 tested negative for COVID-19. Moreover, the expulsion of infant E.M.M.
13 occurred even though she could have lived with her father, a U.S. citizen living
14 in New York.

15
16
17 89. At the time of her expulsion, Ms. E.C.M.U. was in severe pain
18 from her recent delivery, her head ached, and she felt feverish.

19
20 90. In Tijuana, carrying E.M.M. and with her other children in tow,
21 Ms. E.C.M.U. begged for bus fare from strangers so that she could get to the
22 home of a Honduran family she knew. She collected enough money for a bus to
23 central Tijuana. There she had to beg for more money to get another bus. By the
24 time the family arrived at the Honduran family's house, it was about 10:00 p.m.
25 E.M.M. was extremely hungry by then, as Ms. E.C.M.U. had been unable to
26
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1 produce enough milk to feed the baby. Ms. E.C.M.U. was finally able to feed
2 her a small amount at about 11 p.m. that night.

3
4 91. Ms. E.C.M.U. and E.M.M. were expelled from the United States
5 for 106 days. While in Mexico, Ms. E.C.M.U. struggled to provide for E.M.M.,
6 the older children, and herself. Her husband sent money to help with rent and
7 clothes for the children. However, it was not enough to also cover food,
8 medicine, diapers, and the family's other basic needs. Ms. E.C.M.U. depended
9 on charities for help with food and diapers.
10

11
12 92. Ms. E.C.M.U. was in pain following E.M.M.'s birth but did not
13 have the prescription from Sharp Chula Vista Medical Center for pain
14 medication. During her time in Mexico, she also was so severely depressed by
15 her circumstances that she stopped showering, ate very little, and cried
16 regularly. However, she was unable to pay for medical or psychological help
17 and could not otherwise get such services because she did not have a Mexican
18 identity document.
19

20
21 93. While in Mexico, E.M.M. developed an ear infection. Ms.
22 E.C.M.U. tried twice to go to a clinic for care for E.M.M. but was turned away
23 both times because she had neither a U.S. birth certificate nor a Mexican
24 identity document for the baby.
25

26
27 94. On March 25, 2021, an attorney with the nonprofit AOL submitted
28

1 a parole request for Ms. E.C.M.U. and her two older children pursuant to a
2 process created in connection with the litigation in *Huisha-Huisha v. Mayorkas*,
3 No. 21-100 (EGS) (D.D.C. filed Jan. 12, 2021). On March 26, 2021, Ms.
4 E.C.M.U. and the two older children were paroled into the United States, and
5 E.M.M. entered with them, where they joined Ms. E.C.M.U.'s husband. In total,
6 Ms. E.C.M.U. and E.M.M. spent 106 days in Mexico as a result of the U.S.
7 Border Patrol's unlawful expulsion.

8
9
10 95. Ms. E.C.M.U. continues to pursue legal permanent residency in the
11 United States through her husband. She remains fearful that public disclosure of
12 her identity would allow her persecutors to locate her in the United States.

13
14 ***H.S.C.G. and Infant B.Y.C.G.'s Expulsion and Consequent Suffering in***
15 ***Mexico for 256 Days***

16
17 96. On July 10, 2020, Ms. H.S.C.G., a then-27-year-old Honduran
18 national who was approximately 9 months pregnant, entered the United States
19 from Tijuana, Mexico, with her 9-year-old son.

20
21 97. Approximately a year and a half earlier, Ms. H.S.C.G., her partner,
22 now husband, and her son fled persecution and death threats in Honduras to
23 Mexico, where they believed that they would be safe. They applied for and
24 were granted permission to remain in Mexico. Subsequently, they were warned
25 by a family member in Honduras that they were not safe as their persecutors
26 knew their location and were continuing to threaten them. Fearful of remaining
27
28

1 in Mexico, Ms. H.S.C.G. and her son fled to the United States, intending to seek
2 asylum.

3
4 98. After entering the United States on July 10, 2020, Ms. H.S.C.G.
5 began to experience contractions and severe pain. She located uniformed and
6 armed Border Patrol agents who were carrying what looked like batons and
7 wore face masks. She told them she was in great pain and needed medical
8 attention, but they did not seem to care. Instead, they began questioning her and
9 took her fingerprints and photograph. Approximately a half hour after Ms.
10 H.S.C.G. first encountered the agents, they ordered her and her son into a
11 vehicle. By this time Ms. H.S.C.G. was in too much pain to climb into it. Only
12 after seeing that she could not climb into the vehicle did the agents call an
13 ambulance. An agent then gave the backpack she was carrying with a few
14 clothes to her son and took him away in the Border Patrol vehicle. The agents
15 did not tell Ms. H.S.C.G. where they were taking him, which caused H.S.C.G.
16 great emotional and mental distress in addition to the physical pain she was
17 experiencing.
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23 99. The ambulance took Ms. H.S.C.G. to Scripps Mercy Hospital
24 Chula Vista in Chula Vista, California, where she was admitted at 11:38 p.m.
25 on July 10, 2020. A Border Patrol agent rode in the ambulance with her.

26
27 100. Upon her arrival at the hospital, the staff administered a rapid
28

1 COVID-19 (Nucleic Acid Amplification) test to Ms. H.S.C.G. at 11:51 p.m.,
2 which was negative. At the time of her admission, Ms. H.S.C.G. reported
3 having increasingly painful, regular contractions since the morning of July 10, a
4 moderately stable headache, and right upper quadrant pain. At that point she
5 was having contractions every 2 to 4 minutes and was found to have mild lower
6 extremity edema. She was admitted for labor management.
7

9 101. After at least 20 hours of labor, Plaintiff B.Y.C.G. was born at 6:56
10 a.m. on July 11, 2020. During the delivery, Ms. H.S.C.G. was given fentanyl
11 intravenously for pain. She suffered a first-degree perineal laceration, which
12 was repaired.
13

14 102. Two male Border Patrol agents, in uniforms and armed, stood
15 guard outside of Ms. H.S.C.G.'s room throughout the entire time that she was in
16 the hospital.
17

18 103. Ms. H.S.C.G. was extremely worried about the safety and
19 wellbeing of her 9-year-old son. She repeatedly asked the agents about him, but
20 they would say only that he was fine and refused to give her any more
21 information. Eventually, the agents simply ignored her questions. This did not
22 alleviate Ms. H.S.C.G.'s concern for her son's wellbeing and safety.
23

24 104. On July 11, 2020, her first full day in the hospital, Ms. H.S.C.G.
25 spoke with a hospital social worker about her fear of being deported to either
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27
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1 Honduras or Mexico. On information and belief, the social worker relayed this
2 fear to one or more Border Patrol agents. The next day, July 12, the hospital
3 social worker advised Ms. H.S.C.G. that she had spoken by phone with
4 someone in charge at Border Patrol who informed the social worker that, upon
5 Ms. H.S.C.G.'s discharge from the hospital, agents would not deport her
6 because she had tested negative for COVID-19. The social worker also told her
7 that the Border Patrol agent had said that the agents would take Ms. H.S.C.G.
8 and her children to a shelter. Ms. H.S.C.G. was extremely relieved to hear this.

9
10
11
12 105. On the third day of Ms. H.S.C.G.'s hospitalization, July 13, 2020,
13 a hospital worker handed her an envelope. She saw that at the same time, the
14 worker handed another envelope to the Border Patrol agents guarding her
15 hospital room. Ms. H.S.C.G.'s envelope contained the negative result of her
16 COVID-19 test as well as some other papers related to her hospitalization. Ms.
17 H.S.C.G. did not know what was in the envelope handed to the agents but
18 reasonably assumed that it had all the same papers as her envelope, including a
19 copy of her negative COVID-19 test.
20
21

22
23 106. The hospital discharged Ms. H.S.C.G. and B.Y.C.G. to the custody
24 of Border Patrol agents on the afternoon of July 13, 2020. A hospital worker
25 gave her a few items for baby B.Y.C.G. prior to her discharge. The hospital
26 physician prescribed Motrin 600 milligrams to be taken for pain as needed,
27
28

1 Colace for constipation, and postnatal vitamins, as well as instructions to follow
2 up in four to six weeks for post-partum care. On information and belief, this
3 prescription, which was in Ms. H.S.C.G.'s envelope, also was in the envelope
4 handed to the Border Patrol agents. However, the agents did not provide Ms.
5 H.S.C.G. with an opportunity to fill the prescription prior to expelling her to
6 Mexico.
7

8
9 107. Ms. H.S.C.G.'s 9-year-old son was waiting for her with Border
10 Patrol agents outside of the hospital. She was both relieved and overjoyed to see
11 him. She later learned from him that he had been held in a jail-like setting,
12 which saddened her.
13

14 108. The agents ordered her to get into a Border Patrol vehicle with
15 baby B.Y.C.G. and her other son. A hospital worker had told her to make sure
16 that B.Y.C.G. was secured in a baby carrier when traveling in a vehicle. There
17 was a baby carrier in the vehicle, and she started to secure B.Y.C.G. into it. A
18 Border Patrol agent stopped her from doing so, however, yelling an order that
19 she had to just hold B.Y.C.G. in her arms so that they could get going.
20
21

22 109. The Border Patrol agents did not tell her where they were taking
23 the family. Based on what the social worker had told her, Ms. H.S.C.G.
24 believed that the agents were taking them to a shelter in the United States.
25
26 Consequently, she did not ask the agents where they were going.
27
28

1 110. Rather than a shelter, the Border Patrol agents took the family to a
2 port of entry on the United States-Mexico border between San Diego and
3 Tijuana—on information and belief, the San Ysidro port of entry—and ordered
4 them to go through the pedestrian entry to Mexico. The agents told Ms.
5 H.S.C.G. that there was someone waiting for them on the other side of the gate.
6 She did not realize that this was a border crossing and, still thinking that she
7 was going to a shelter, assumed that the person waiting for her would be from
8 the shelter.
9

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11
12 111. Ms. H.S.C.G. was extremely weak, tired, and in terrible pain at this
13 point. However, she walked towards the gate carrying B.Y.C.G. and the items
14 given her by the hospital, with her other son walking with her, carrying the
15 backpack they had when they entered the United States. While walking to the
16 gate, she saw that an agent was filming them on his cell phone.
17

18
19 112. After she passed through the gate, she saw the badges on the
20 Mexican officials standing there. Only then did she realize that she, B.Y.C.G.
21 and her other son were being expelled to Mexico. She was extremely distressed
22 when she realized this. She had no money, no phone, and only the few baby
23 items and paperwork given to her by the hospital and the backpack with a few
24 clothes.
25

26
27 113. The expulsion of baby B.Y.C.G. was carried out against the will
28

1 of his mother, Plaintiff H.S.C.G.

2 114. At the time of her expulsion, the Border Patrol agents knew or
3 should have known the significant health and safety risks facing Ms. H.S.C.G.
4 and infant B.Y.C.G. in Mexico.
5

6 115. The agents who expelled Ms. H.S.C.G., B.Y.C.G., and her 9-year-
7 old son did not provide her with a reason for doing so or any documentary
8 evidence of the expulsion. They also did not provide her with any information
9 about how she could obtain a birth certificate for B.Y.C.G. Consequently, the
10 only proof of his birth that she had was a paper from the hospital.
11
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13 116. The Border Patrol agents knew or should have known that Ms.
14 H.S.C.G. was afraid of being returned to Mexico yet they expelled her without
15 giving her any opportunity to make a fear-based claim regarding return to
16 Mexico. Further, by informing the social worker that Ms. H.S.C.G. would not
17 be deported but instead sent to a shelter, and by never telling Ms. H.S.C.G. that
18 they were expelling her, they misled her into thinking that it was not necessary
19 to make a fear-based claim at that time.
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22 117. The Border Patrol agents expelled Ms. H.S.C.G. and B.Y.C.G.
23 notwithstanding that B.Y.C.G. was a U.S. citizen and that Ms. H.S.C.G. had
24 tested negative for COVID-19.
25

26 118. During her expulsion, Ms. H.S.C.G. was questioned by Mexican
27
28

1 authorities who threatened to deport her and the children to Honduras. Only
2 after she explained that her partner—B.Y.C.G.’s father—was in Tijuana did the
3 Mexican authorities give her permission to remain in Mexico.
4

5 119. Because she had no phone and no money, she had to borrow a
6 cell phone from a stranger. With it, she was able to call her partner, who picked
7 up her and her children. They spent the first few nights at the home of an
8 acquaintance of her partner; however, they had little to eat and were extremely
9 hungry.
10

11 120. Ms. H.S.C.G. and B.Y.C.G. were expelled to Mexico for 256 days.
12 Throughout this time, Ms. H.S.C.G. was often unable to provide even basic
13 necessities for B.Y.C.G. and her 9-year-old son. She was forced to rely on
14 charity for help with rent and utilities and often did not have money for food,
15 including milk, bread, or other necessities.
16

17 121. B.Y.C.G. was sick numerous times in Mexico. Ms. H.S.C.G. was
18 unable to get him vaccinated in Mexico on the recommended vaccination
19 schedule for infants because she did not have a birth certificate for him, and no
20 medical clinic would provide the vaccinations without it. While in Mexico, he
21 suffered from the flu, fevers, and a lung infection. Ms. H.S.C.G. was dependent
22 on a nonprofit, Al Otro Lado, to take him to the hospital for check-ups on his
23 lungs every two weeks.
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1 122. Ms. H.S.C.G. was in pain following B.Y.C.G.’s birth but did not
2 realize the hospital had prescribed pain medication.

3
4 123. On or about March 25, 2021, advocates submitted a parole
5 request for Ms. H.S.C.G., her partner and her children pursuant to a process
6 created in connection with the litigation in *Huisha-Huisha v. Mayorkas*, No. 21-
7 100 (EGS), (D.D.C. filed Jan. 12, 2021). On March 26, 2021, Ms. H.S.C.G., her
8 partner, and her 9-year-old son were paroled into the United States, and
9 B.Y.C.G. entered with them. In total, H.S.C.G. and B.Y.C.G. spent 256 days in
10 Mexico as a result of the U.S. Border Patrol’s unlawful expulsion.

11
12
13 124. Ms. H.S.C.G. is pursuing humanitarian relief from removal in the
14 United States. She remains fearful that public disclosure of her identity would
15 allow her persecutors to locate her in the United States.

16
17 ***S.S.F. and Infant A.L.T.J.P.’s Expulsion and Consequent Suffering in***
18 ***Mexico for 220 Days***

19 125. On or about July 14, 2020, Ms. S.S.F., a then 23-year-old Haitian
20 national who was close to nine months pregnant with her first child, entered the
21 United States from Tijuana, Mexico. She was fleeing persecution and threats in
22 Haiti and intended to seek asylum in the United States.

23
24 126. Ms. S.S.F. first arrived in Mexico in mid-to-late 2019 and was
25 detained by Mexican authorities. While in detention, Mexican officials assisted
26 her with applying for immigration status, which was granted on January 20,
27

1 2020. On information and belief, Mexico had no diplomatic relations with Haiti
2 at that time and classified detained Haitians, including Ms. S.S.F., as
3 “stateless.” It granted Ms. S.S.F. immigration status based upon this erroneous
4 stateless designation.
5

6 127. In July 2022, Ms. S.S.F., who was living in Tijuana, was in the late
7 stages of pregnancy. On or about July 14, 2022, she began to experience
8 abdominal pain and became concerned about her pregnancy. She went to a
9 medical clinic for assistance, but clinic staff told her that they could not assist
10 with pregnancy-related problems and referred her to a hospital. Ms. S.S.F. then
11 went to the hospital but was turned away without assistance because she did not
12 have insurance.
13
14

15 128. With no experience of childbirth and no family in Tijuana, Ms.
16 S.S.F. was extremely worried about giving birth without medical assistance.
17 Believing she had no other option for obtaining medical assistance, Ms. S.S.F.
18 entered the United States in or near San Diego, California in the early evening
19 on July 14, 2020. She entered with a woman she did not know. Ms. S.S.F. and
20 the woman soon located Border Patrol agents, who took the two women to a
21 Border Patrol facility.
22
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25 129. At the facility, Border Patrol agents confiscated Ms. S.S.F.’s
26 belongings—which included the phone number of her brother in Boston and
27
28

1 clothes for herself and the baby. The Border Patrol agents asked for Ms.
2 S.S.F.'s identification and took her photograph and fingerprints. They then
3
4 detained her in a cell. During the time she was detained, all she was given to eat
5 and drink were cookies and juice.

6 130. Throughout this time, Ms. S.S.F. was experiencing intermittent
7
8 pain. A woman working at Border Patrol facility appeared to Ms. S.S.F. to be a
9
10 medical worker. This woman told the agents that they needed to take Ms. S.S.F.
11
12 and another woman to the hospital. Consequently, sometime in the early
13
14 morning hours of July 15, agents transported Ms. S.S.F. and the other woman to
15
16 Scripps Mercy Hospital Chula Vista in Chula Vista, California in a Border
17
18 Patrol vehicle.

19 131. The hospital admitted Ms. S.S.F. with a diagnosis of high-risk
20
21 pregnancy, with a prolonged spontaneous rupture of the membranes and active
22
23 labor. Soon after her admission, at 4:39 a.m., and again several hours later, at
24
25 8:58 a.m., the hospital tested Ms. S.S.F. for COVID-19; both tests were
26
27 negative. Ms. S.S.F. informed a nurse that she wanted to join her brother in
28
29 Boston after her baby was born. A social worker who checked on Ms. S.S.F.
30
31 reported that she appeared nervous.

32 132. One or more uniformed Border Patrol agents, who on information
33
34 and belief were armed, stood guard at the door to Ms. S.S.F.'s hospital room
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1 throughout her stay. On July 15, 2020, these agents informed a hospital social
2 worker that they expected to take Ms. S.S.F. back to the Border Patrol facility
3 for further processing after she was discharged. They also informed the social
4 worker that Ms. S.S.F. had asked to use a phone to let her relatives know that
5 she and the baby were fine, but that they prohibited her use of the phone. They
6 did not allow the social worker to use a phone for purposes of engaging a
7 Haitian Creole interpreter so that the social worker could speak with Ms. S.S.F.

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10 133. The following day, July 16, at 8:35 a.m., Ms. S.S.F. delivered baby
11 A.L.T.J.P., more than 29 hours after her membranes first ruptured, and at least
12 that long since her labor first began. The doctors performed an episiotomy on
13 Ms. S.S.F. during the delivery and subsequently stitched up the incision.

14
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16 134. Later that day, the social worker met in person with Ms. S.S.F. and
17 was able to arrange to have a Haitian Creole interpreter on the phone. Ms.
18 S.S.F. was emotional and tearful at several points during the interview. Ms.
19 S.S.F. informed the social worker that she had a brother in Boston with whom
20 she and A.L.T.J.P. could stay. She did not remember his phone number but told
21 the social worker it was written on a piece of paper with her belongings at the
22 Border Patrol facility.

23
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25 135. On July 16, 2020, the social worker also spoke by phone with a
26 Border Patrol agent named Mills, who she described as a medical supervisor.

1 Agent Mills asked for confirmation of Ms. S.S.F.'s COVID-19 test results,
2 which the social worker provided. On July 17, 2020, the social worker again
3 spoke with Agent Mills, providing him with Ms. S.S.F.'s brother's name, telling
4 him that that the brother was in Boston and mistakenly indicating that the
5 brother's phone number was on Ms. S.S.F.'s cell phone at the facility. In fact,
6 Ms. S.S.F. did not have a cell phone but instead had her brother's number
7 written on a piece of paper with her other belongings at the Border Patrol
8 facility. Agent Mills indicated that he would try to locate the phone referenced
9 by the social worker. He also indicated that he did not know whether Ms. S.S.F.
10 would be permitted to remain in the United States.
11
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14 136. On July 18, 2020, Ms. S.S.F. and baby A.L.T.J.P. were discharged
15 from the hospital into the custody of the U.S. Border Patrol. Ms. S.S.F.'s
16 discharge diagnosis was acute on chronic anemia. She was prescribed the iron
17 medication ferrous sulfate, 325 milligrams, three times per day. The hospital
18 gave her a few bottles of milk and a few items of clothing for the baby. Ms.
19 S.S.F. also was given a hospital document verifying A.L.T.J.P.'s birth in the
20 hospital.
21
22
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24 137. Upon her discharge, Border Patrol agents took Ms. S.S.F. and
25 A.L.T.J.P. to the Border Patrol facility where Ms. S.S.F. had been prior to her
26 hospitalization. They ordered her to wait with the baby in the vehicle while one
27
28

1 of them went inside. She asked in Spanish to go inside to use the bathroom, but
2 the agents refused to allow this, telling her that they would be at their
3 destination very shortly. They did not tell her where they were taking her.
4

5 138. When the agent returned to the vehicle, he had Ms. S.S.F.'s bag
6 that she had brought with her into the United States. He placed it in the vehicle
7 and the agents then drove Ms. S.S.F. and A.L.T.J.P. to the U.S.-Mexico border.
8 The agents did not provide Ms. S.S.F. with an opportunity to fill her
9 prescription prior to taking her to the border.
10
11

12 139. When Ms. S.S.F. saw the sign for Mexico, she realized where the
13 agents were taking her. She became extremely distraught, crying and begging
14 them in Spanish not to send her to Mexico. She told them that she had a brother
15 in the United States. She also told them that she had no family in Mexico and
16 nowhere for her and two-day-old A.L.T.J.P. to live. She was so distraught that
17 she told them she would rather die than be sent to Mexico.
18
19

20 140. When Ms. S.S.F. continued pleading, an agent forcefully took
21 A.L.T.J.P. from her arms, threatening to take the baby from her if she did not
22 cooperate. Two agents then forcefully grabbed Ms. S.S.F. and dragged her to
23 the gate, first by holding her by her arms and then by holding her legs. As a
24 result of the agents dragging, Ms. S.S.F.'s scraped her legs on the ground
25 causing marks. Once at the gate, the agent holding A.L.T.J.P. returned the baby
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1 to her mother and then the agents ordered Ms. S.S.F. to leave the United States.
2 She had no money, no phone, and only the belongings she had entered the
3 United States with, and the few baby items and paperwork given to her by the
4 hospital.
5

6 141. The expulsion of baby A.L.T.J.P. was carried out against the will
7 of her mother, Plaintiff S.S.F.
8

9 142. At the time of her expulsion, the Border Patrol agents knew or
10 should have known the significant health and safety risks facing Ms. S.S.F. and
11 infant A.L.T.J.P. in Mexico.
12

13 143. The agents who expelled Ms. S.S.F. and A.L.T.J.P. did not provide
14 her with a reason for doing so or any documentary evidence of the expulsion.
15 They also did not provide her with any information about how she could obtain
16 a birth certificate for A.L.T.J.P. Consequently, the only proof of A.L.T.J.P.'s
17 birth that she had was a paper from the hospital.
18

19 144. The Border Patrol agents expelled Ms. S.S.F. and A.L.T.J.P.
20 notwithstanding that A.L.T.J.P. was a U.S. citizen and that Ms. S.S.F. twice
21 tested negative for COVID-19.
22

23 145. Ms. S.S.F. was panicked about how she would cope in Mexico
24 with a newborn infant. Because this was her first child, she had no experience
25 with taking care of a newborn. She was at a loss as to what to do or where to go.
26
27
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1 She was very afraid for her own and A.L.T.J.P.’s safety. She was still in pain
2 from the recent childbirth and so anxious that she felt as if she could not breathe
3 and that her head was exploding.
4

5 146. Upon her expulsion to Mexico on the afternoon of July 18, 2020,
6 all Ms. S.S.F. could manage was to sit by the side of a road, sobbing
7 uncontrollably. Eventually, she was able to feed A.L.T.J.P. some of the milk
8 provided by the hospital. Ms. S.S.F. was exhausted and finally dozed off by
9 the side of the road with A.L.T.J.P. in her arms.
10
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12 147. Ms. S.S.F. and A.L.T.J.P. spent the next three days living and
13 sleeping on the streets of Tijuana, as they had nowhere else to go. Ms. S.S.F.
14 used the remaining milk from the hospital to feed A.L.T.J.P. She also begged
15 for money from strangers for food for herself and milk for A.L.T.J.P. While
16 homeless on the streets, two men threatened Ms. S.S.F. and robbed her of the
17 only belongings that she had—the few items of extra clothing for herself and
18 A.L.T.J.P.
19
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21 148. On or about the third day following their expulsion, someone
22 allowed her to use their phone and Ms. S.S.F. was able to get in touch with her
23 brother. Her brother sent a friend in Tijuana to pick up Ms. S.F.F. and
24 A.L.T.J.P. They were able to stay with her brother’s friend for about a month.
25
26

27 149. Someone then told Ms. S.S.F. about the non-governmental
28

1 organization AOL. Staff or volunteers at AOL found her a place to stay and
2 paid her rent. With this help, she was able to remain at this location until she
3 was paroled into the United States on February 23, 2021. AOL also assisted her
4 by providing diapers, milk, and other necessities for A.L.T.J.P.
5

6 150. Ms. S.S.F. was never able to obtain the iron pills prescribed by the
7 hospital. The clinic in Mexico where she went was not able to give her these
8 pills. Throughout her time in Mexico, she was tired and sometimes dizzy.
9

10 151. In February 2021, advocates submitted a parole request for Ms.
11 S.S.F. pursuant to the process created in connection with the litigation in
12 *Huisha-Huisha v. Mayorkas*, No. 21-100 (EGS), (D.D.C. filed Jan. 12, 2021).
13 On February 23, 2021, Ms. S.S.F. was paroled into the United States and
14 A.L.T.J.P. entered with her. In total, Ms. S.S.F. and A.L.T.J.P. spent 220 days
15 in Mexico as the result of the U.S. Border Patrol's unlawful expulsion.
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18 152. Ms. S.S.F. was granted Temporary Protected Status in the United
19 States. She also is pursuing an asylum claim. She remains fearful that public
20 disclosure of her identity would allow her persecutors to locate her in the
21 United States.
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25 **COUNT I**
26 **FALSE IMPRISONMENT**
27 **(Infant Plaintiffs E.E.B.P., E.M.M., B.Y.C.G., A.L.T.J.P.)**

28 153. Plaintiffs repeat and reallege all the foregoing allegations as

1 though fully set forth herein.

2 154. Infant Plaintiffs E.E.B.P., E.M.M., B.Y.C.G., and A.L.T.J.P. are
3 U.S. citizens by birth in the United States.
4

5 155. The Border Patrol agents referenced above unlawfully and
6 intentionally confined Plaintiffs E.E.B.P, E.M.M., B.Y.C.G., and A.L.T.J.P.
7 following their respective births and/or discharges from the hospital and
8 continuing through their physical expulsion from the United States to Mexico
9 and their extended periods of expulsion in Mexico.
10

11 156. The unlawful and intentional confinement and physical expulsion
12 from the United States of Plaintiffs E.E.B.P., E.M.M., B.Y.C.G., and A.L.T.J.P.
13 was carried out against the will of their mothers, Plaintiffs E.P.E., E.C.M.U.,
14 H.S.C.G., and S.S.F., respectively.
15

16 157. As U.S. citizens, Border Patrol agents lacked lawful authority to
17 physically expel E.E.B.P., E.M.M., B.Y.C.G., and A.L.T.J.P. from the United
18 States without their mothers' consent.
19

20 158. During the time E.E.B.P., E.M.M., B.Y.C.G., and A.L.T.J.P. spent
21 in Mexico after their expulsions, they were confined to Mexico.
22

23 159. Under the Federal Tort Claims Act, the United States is liable to
24 Plaintiffs E.E.B.P., E.M.M., B.Y.C.G., and A.L.T.J.P. for false imprisonment.
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COUNT II
FALSE IMPRISONMENT
(Plaintiff Mothers E.P.E., E.C.M.U., H.S.C.G., S.S.F.)

160. Plaintiffs repeat and reallege all the foregoing allegations as though fully set forth herein.

161. The Border Patrol agents referenced above unlawfully and without their consent deprived Plaintiffs E.P.E., E.C.M.U., H.S.C.G., and S.S.F. of their liberty by physically expelling them from the United States to Mexico given that all were medically compromised at the time, all had a fear of physical injury, torture, or death if expelled to Mexico, and all tested negative for COVID-19 and/or did not have COVID-19.

162. The deprivation of Plaintiffs E.P.E.'s, E.C.M.U.'s, H.S.C.G.'s, and S.S.F.'s liberty lasted 375, 106, 256, and 220 days, respectively.

163. During the time Plaintiffs E.P.E., E.C.M.U., H.S.C.G., and S.S.F. spent in Mexico after their expulsion, they were confined to Mexico.

164. Under the Federal Tort Claims Act, the United States is liable to Plaintiffs E.P.E., E.C.M.U., H.S.C.G., and S.S.F. for false imprisonment.

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COUNT III
NEGLIGENCE
Expulsion Without First Seeking USCIS'
Review of Fear Claims
(Plaintiff Mothers E.P.E, E.C.M.U., and H.S.C.G.)

165. Plaintiffs repeat and reallege all the foregoing allegations as

1 though fully set forth herein.

2 166. Border Patrol agents were prohibited from expelling to Mexico
3 under Title 42 any noncitizen who expressed a fear of persecution or torture in
4 Mexico without first referring the noncitizen to USCIS for a fear screening.
5 Thus, Border Patrol agents had a duty to make a referral to USCIS when a
6 noncitizen raised a fear claim.
7

8 167. Plaintiffs E.P.E., E.C.M.U., and H.S.C.G. each had a fear of
9 persecution or torture if expelled to Mexico. The Border Patrol agents
10 referenced above knew or should have known that Plaintiffs E.P.E., E.C.M.U.,
11 and H.S.C.G. each had a fear of persecution or torture in Mexico.
12

13 168. Border Patrol agents expelled Plaintiffs E.P.E., E.C.M.U., and
14 H.S.C.G. to Mexico without first referring any of them to USCIS for a fear
15 screening.
16

17 169. Border Patrol agents breached their duty to Plaintiffs E.P.E.,
18 E.C.M.U., and H.S.C.G. by failing to ensure that USCIS carried out a fear
19 screening prior to expelling them to Mexico.
20

21 170. As a direct and proximate result of the above conduct, Plaintiffs
22 E.P.E., E.C.M.U., and H.S.C.G. suffered substantial damages.
23

24 171. Under the Federal Tort Claims Act, the United States is liable to
25 Plaintiffs E.P.E., E.C.M.U., and H.S.C.G. for negligence. imprisonment.
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**COUNT IV
NEGLIGENCE
Expulsion to Locations or Into Conditions
Which Placed Plaintiffs' Health and Safety at Risk
(All Plaintiffs)**

172. Plaintiffs repeat and reallege all the foregoing allegations as though fully set forth herein.

173. The Border Patrol agents referenced above had a duty of care to Plaintiffs, including but not limited to, acting with reasonable and ordinary care, so as not to cause harm or injury to the Plaintiffs.

174. By engaging in the acts alleged herein, the Border Patrol agents referenced above failed to act with ordinary care and breached their duty of care owed to Plaintiffs.

175. The Border Patrol agents were aware that Plaintiffs were particularly vulnerable given their at-risk status. The Border Patrol agents knew or should have known the grave health and safety danger facing Plaintiffs as postpartum mothers and newborn U.S. citizen infants upon expulsion to Mexico only days after delivery, without basic necessities, and without any support. In expelling Plaintiffs to Mexico in these circumstances, the Border Patrol agents breached their duty of care.

176. As a direct and proximate result of the referenced conduct, Plaintiffs suffered damages.

1 H.S.C.G., and S.S.F. in the United States and instead expelled them to Mexico
2 without medication.

3
4 190. As a direct and proximate result of the referenced conduct,
5 Plaintiffs E.P.E., E.C.M.U., H.S.C.G., and S.S.F. suffered substantial damages.

6
7 191. Under the Federal Tort Claims Act, the United States is liable to
8 Plaintiffs E.P.E., E.C.M.U., H.S.C.G., and S.S.F. for negligence.

9
10 **COUNT VII**
11 **NEGLIGENCE:**
12 **Failure to Provide Plaintiffs with Information**
13 **About Obtaining a U.S. Birth Certificate**
14 **(All Plaintiffs)**

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16 192. Plaintiffs repeat and reallege all the foregoing allegations as
17 though fully set forth herein.

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19 193. The Border Patrol agents referenced above had a duty to Plaintiffs
20 to act with ordinary care and prudence so as not to cause harm or injury to the
21 Plaintiffs.

22
23 194. Border Patrol agents had a duty to provide Plaintiff Mothers, on
24 their own behalf and on behalf of Plaintiff Infants, with information regarding
25 how they could obtain a U.S. birth certificate for their newborn children.

26
27 195. The Border Patrol agents referenced above breached this duty
28 when they failed to provide Plaintiff Mothers with any information about how
they could obtain U.S. birth certificates for their newborn children.

