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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 OAKLAND DIVISION

11 NATIONAL BAIL FUND NETWORK, et al.,) Case No. 4:22-cv-07772-KAW

12 Plaintiffs,)

13 v.)

14 U.S. IMMIGRATION AND CUSTOMS)
ENFORCEMENT, and U.S. DEPARTMENT)
15 OF HOMELAND SECURITY,)

16 Defendants.)

**DEFENDANTS' ANSWER AND AFFIRMATIVE
DEFENSES TO PLAINTIFFS' COMPLAINT
FOR INJUNCTIVE AND DECLARATORY
RELIEF**

17 Defendants U.S. Immigration and Customs Enforcement ("ICE"), and U.S. Department of
18 Homeland Security ("DHS") (collectively, "Defendants") hereby respond to the Complaint for
19 Injunctive and Declaratory Relief ("Complaint") filed by Plaintiffs National Bail Fund Network, et al.,
20 ("Plaintiffs") on December 8, 2022 (ECF No. 1), as follows:

21 1. Paragraph 1 consists of Plaintiffs' characterization of this action, to which no response is
22 required. To the extent a response is required, Defendants deny the allegations.

23 2. As to the first sentence in Paragraph 2, Defendants admit that ICE is a component of
24 DHS charged, in part, with enforcing United States immigration law, and denies the remaining
25 allegations. The remaining allegations in Paragraph 2 consist of Plaintiffs' characterization of
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1 themselves, and the work that they do, to which no response is required. To the extent a response is
2 required, Defendants lack knowledge or information sufficient to form a belief about the allegations.

3 3. Paragraph 3 consists of Plaintiffs' legal conclusions, to which no response is required. To
4 the extent a response is required, Defendants deny the allegations.

5 4. Paragraph 4 consists of Plaintiffs' request for relief, to which no response is required. To
6 the extent a response is required, Defendants deny the allegations and deny that Plaintiffs are entitled to
7 any relief.

8 **JURISDICTION AND VENUE**¹

9 5. Paragraph 5 consists of Plaintiffs' conclusions of law regarding jurisdiction, to which no
10 response is required. To the extent a response is required, Defendants admit only that this Court has
11 jurisdiction subject to the limitations of the Freedom of Information Act, 5 U.S.C. § 552, *et seq.*
12 ("FOIA").

13 6. Paragraph 6 consists of Plaintiffs' conclusions of law regarding venue, to which no
14 response is required. To the extent a response is required, Defendants admit that venue is proper in this
15 judicial district.

16 **PARTIES**

17 7. Defendants lack knowledge or information sufficient to form a belief about the
18 allegations in Paragraph 7.

19 8. Defendants lack knowledge or information sufficient to form a belief about the
20 allegations in Paragraph 8.

21 9. Defendants lack knowledge or information sufficient to form a belief about the
22 allegations in Paragraph 9.

23 10. Defendants lack knowledge or information sufficient to form a belief about the
24 allegations in Paragraph 10.

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27 ¹ Defendants have included the headings listed in the Complaint to assist in reading the pleadings
and do not admit the accuracy of those headings.

1 11. Defendants lack knowledge or information sufficient to form a belief about the
2 allegations in Paragraph 11.

3 12. Defendants admit the allegations in Paragraph 12.

4 13. Defendants admit the allegations in Paragraph 13.

5 14. Paragraph 14 consists of Plaintiffs' legal conclusions, to which no response is required.
6 To the extent a response is required, ICE is evaluating whether records in ICE's possession are
7 responsive to Plaintiffs' FOIA request, and whether such records, if they exist, are subject to any
8 exemptions or requirements under FOIA, and thus ICE denies the allegations on that basis. Because
9 Plaintiffs directed their FOIA request solely to ICE, DHS Headquarters did not receive and had no role
10 in processing the request, except to the extent that ICE is a component of DHS, in accordance with
11 agency regulations. As such, DHS lacks knowledge or information sufficient to form a belief about the
12 allegations in Paragraph 14.

13 **BACKGROUND**

14 **Legal Framework**

15 15. Paragraph 15 consists of Plaintiffs' legal conclusions and characterizations of and
16 quotations from certain statutory language and a judicial decision, to which no response is required. To
17 the extent a response is required, Defendants respectfully refer the Court to the cited authorities for a full
18 and accurate statement of their contents and deny any allegations inconsistent therewith.

19 16. Paragraph 16 consists of Plaintiffs' legal conclusions and characterizations of and
20 quotations from certain statutory language and a judicial decision, to which no response is required. To
21 the extent a response is required, Defendants respectfully refer the Court to the cited authorities for a full
22 and accurate statement of their contents and deny any allegations inconsistent therewith.

23 **ICE Bond Policies and Procedures**

24 17. Paragraph 17 consists of Plaintiffs' legal conclusions and characterization of a statute, to
25 which no response is required. To the extent a response is required, Defendants respectfully refer the
26 Court to the cited authority for a full and accurate statement of its contents and deny any allegations
27 inconsistent therewith.

1 18. Paragraph 18 consists of Plaintiffs' legal conclusions and characterizations of certain
2 regulations, to which no response is required. To the extent a response is required, Defendants
3 respectfully refer the Court to the cited authorities for a full and accurate statement of their contents and
4 deny any allegations inconsistent therewith.

5 19. Paragraph 19 consists of Plaintiffs' legal conclusions and characterization of certain
6 regulations and agency forms, to which no response is required. To the extent a response is required,
7 Defendants respectfully refer the Court to the cited authorities for a full and accurate statement of their
8 contents and deny any allegations inconsistent therewith.

9 20. The first sentence in Paragraph 20 consists of Plaintiffs' legal conclusions, to which no
10 response is required. To the extent a response is required, Defendants admit having written policies,
11 interpretations, and instructions regarding bond processes. As to the second sentence of Paragraph 20,
12 Defendants admit that the Code of Federal Regulations contains information about immigration bonds
13 and deny the remaining allegations. As to the third sentence in Paragraph 20, Defendants admit that ICE
14 has posted bond-related regulations, instructions, and forms on its website and deny the remaining
15 allegations. As to the fourth sentence of Paragraph 20, Defendants admit that ICE has posted
16 information, instructions, and a link to ICE's bond acceptance facilities on the webpages for ICE
17 detention and processing centers and deny the remaining allegations. Defendants admit the allegation in
18 the fifth sentence of Paragraph 20. The allegations in the sixth sentence of Paragraph 20 consist of
19 Plaintiffs' and/or the public's alleged understanding of whether a document is "controlling policy,"
20 which is not material to the resolution of the claims at issue in this FOIA action, to which no response is
21 required. To the extent a response is required, Defendants lack knowledge or information sufficient to
22 form a belief about the allegations in the sixth sentence of Paragraph 20.

23 21. As to the first sentence of Paragraph 21, Defendants admit that ICE has issued an ERO
24 Bond Management Handbook ("Handbook") and respectfully refer the Court to the complete Handbook
25 for a full and accurate statement of its contents and deny any allegations inconsistent therewith. As to
26 the second sentence of Paragraph 21, Defendants admit that as of the filing of the Complaint, ICE had
27 not posted the Handbook to the ICE FOIA Library found at www.ice.gov/foia/library, but aver that

1 subsequent to the filing of the Complaint, ICE posted the Handbook to the ICE FOIA Library.
2 Defendants further admit that the Handbook has been previously requested through the FOIA and
3 released to at least one FOIA requester, and deny the remaining allegations.²

4 22. Defendants lack knowledge or information sufficient to form a belief about the
5 allegations regarding Plaintiffs' information and belief. The remaining allegations in Paragraph 22
6 consist of Plaintiffs' legal conclusions, to which no response is required. To the extent a response is
7 required, ICE is evaluating whether records in ICE's possession are responsive to Plaintiffs' FOIA
8 request, and whether such records, if they exist, are subject to any exemptions or requirements under
9 FOIA, and thus Defendants deny the allegations on that basis.

10 23. Paragraph 23 consists of Plaintiffs' characterizations of their own experiences, which are
11 not material to the resolution of the claims at issue, to which no response is required. To the extent a
12 response is required, Defendants lack knowledge or information sufficient to form a belief about the
13 allegations.

14 24. The first sentence of Paragraph 24 consists of Plaintiffs' characterizations of their
15 experience in the bond process, which are not material to the resolution of the claims at issue in this
16 FOIA action, to which no response is required. To the extent a response is required, Defendants lack
17 knowledge or information sufficient to form a belief about the allegations in the first sentence of
18 Paragraph 24. As to the second sentence of Paragraph 24, Defendants lack knowledge or information
19 sufficient to form a belief about the allegations regarding Plaintiffs' information and belief. As to the
20 remaining allegations in the second and third sentences of Paragraph 24, ICE is evaluating whether
21 records in ICE's possession are responsive to Plaintiffs' FOIA request, and whether such records, if they
22 exist, are subject to any exemptions or requirements under FOIA, and thus Defendants deny the
23 allegations on that basis.

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27 ² Defendants lack knowledge or information sufficient to form a belief about the allegations in
the footnote set forth at the end of Paragraph 21.

1 25. The first sentence of Paragraph 25 consists of Plaintiffs' characterizations of their
2 experience in the bond process, which are not material to the resolution of the claims at issue in this
3 FOIA action, to which no response is required. To the extent a response is required, Defendants lack
4 knowledge or information sufficient to form a belief about the allegations in the first sentence of
5 Paragraph 25. As to the remaining allegations in Paragraph 25, ICE is evaluating whether records in
6 ICE's possession are responsive to Plaintiffs' FOIA request, and whether such records, if they exist, are
7 subject to any exemptions or requirements under FOIA, and thus Defendants deny the allegations on that
8 basis.

9 26. Paragraph 26 consists of the Plaintiffs' and other non-parties' alleged understanding of
10 the bond process and consequences therefrom, which are not material to the resolution of the claims at
11 issue in this FOIA action, to which no response is required. To the extent a response is required,
12 Defendants deny the allegations.

13 **Bond Payment and Release from Detention**

14 27. Paragraph 27 consists of Plaintiffs' characterizations of their own and the public's alleged
15 understanding of the bond process, which are not material to the resolution of the claims at issue in this
16 FOIA action, to which no response is required. To the extent a response is required, Defendants lack
17 knowledge or information sufficient to form a belief about the allegations.

18 28. Paragraph 28 consists of Plaintiffs' characterizations of the public's alleged
19 understanding of the bond process and Plaintiffs' experience in the bond process, which are not material
20 to the resolution of the claims at issue in this FOIA action, to which no response is required. To the
21 extent a response is required, Defendants lack knowledge or information sufficient to form a belief about
22 the allegations regarding Plaintiffs' experiences. Defendants further respectfully refer the Court to the
23 Handbook for a full and accurate statement of its contents and deny any allegations inconsistent
24 therewith.

25 29. Paragraph 29 consists of Plaintiffs' characterizations of their experience in the bond
26 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
27 response is required. To the extent a response is required, Defendants lack knowledge or information

1 sufficient to form a belief about the allegations, and deny that ICE's processes regarding bond
2 determinations lack transparency, are inconsistent, or are arbitrary or discriminatory.

3 30. Paragraph 30 consists of Plaintiffs' alleged experience in and observations of the bond
4 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
5 response is required. To the extent a response is required, Defendants lack knowledge or information
6 sufficient to form a belief about the allegations.

7 31. The first sentence of Paragraph 31 consists of Plaintiffs' characterizations of the public's
8 alleged understanding of and Plaintiffs' experience in the bond process, which are not material to the
9 resolution of the claims at issue in this FOIA action, to which no response is required. To the extent a
10 response is required, Defendants lack knowledge or information sufficient to form a belief about the
11 allegations in the first sentence of Paragraph 31. The allegations in the second sentence of Paragraph 31
12 consist of Plaintiffs' characterizations of the bond process, which are not material to the resolution of the
13 claims at issue in this FOIA action, to which no response is required. To the extent a response is
14 required, Defendants admit the allegations in the second sentence of Paragraph 31.

15 32. The allegations in Paragraph 32 are not material to the resolution of the claims at issue in
16 this FOIA action and, as such, no response is required. To the extent a response is required, as to the
17 allegations in the first sentence of Paragraph 32, Defendants admit that ICE issued a memorandum on
18 bond posting hours and release policies and procedures and respectfully refer the Court to the
19 memorandum for a full and accurate statement of its contents. The remaining allegations in Paragraph
20 32 consist of Plaintiffs' characterization of their experience in the bond process, to which no response is
21 required. To the extent a response is required, Defendants lack knowledge or information sufficient to
22 form a belief about the allegations.

23 33. The allegations in Paragraph 33 are not material to the resolution of the claims at issue in
24 this FOIA action and, as such, no response is required. To the extent a response is required, Defendants
25 admit the allegations in the first sentence of Paragraph 33. The second sentence of Paragraph 33 consists
26 of Plaintiff NBFN's characterization of its alleged experience in the bond process, to which no response
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1 is required. To the extent a response is required, Defendants lack knowledge or information sufficient to
2 form a belief about the allegations in the second sentence of Paragraph 33.

3 34. Defendants lack knowledge or information sufficient to form a belief about the
4 allegations regarding Plaintiffs' information and belief. As to the remaining allegations in Paragraph 34,
5 ICE is evaluating whether records in ICE's possession are responsive to Plaintiffs' FOIA request, and
6 whether such records, if they exist, are subject to any exemptions or requirements under FOIA, and thus
7 Defendants deny the allegations on that basis.

8 35. The first sentence of Paragraph 35 consists of Plaintiffs' characterizations of the public's
9 alleged confusion pertaining to the bond process, which are not material to the resolution of the claims at
10 issue in this FOIA action, to which no response is required. To the extent a response is required,
11 Defendants lack knowledge or information sufficient to form a belief about the allegations in the first
12 sentence of Paragraph 35. Defendants lack knowledge or information sufficient to form a belief about
13 the allegations in the second sentence of Paragraph 35 regarding Plaintiffs' information and belief. As to
14 the remaining allegations in the second sentence of Paragraph 35, Defendants deny that ICE's practices
15 conflict with binding regulations. ICE is evaluating whether records in ICE's possession are responsive
16 to Plaintiffs' FOIA request, and whether such records, if they exist, are subject to any exemptions or
17 requirements under FOIA, and thus Defendants deny the allegations on that basis.

18 36. The first sentence of Paragraph 36 consists of Plaintiffs' legal conclusions and
19 characterization of a certain regulation, to which no response is required. To the extent a response is
20 required, Defendants respectfully refer the Court to the cited authority for a full and accurate statement
21 of its contents and deny any allegations inconsistent therewith. The second sentence of Paragraph 36
22 consists of Plaintiffs' characterization of the Handbook, to which no response is required. To the extent
23 a response is required, Defendants admit that ICE issued the Handbook and respectfully refer the Court
24 to the Handbook for a full and accurate statement of its contents and deny any allegations inconsistent
25 therewith. The third sentence of Paragraph 36 consists of Plaintiffs' characterization of a certain agency
26 form, to which no response is required. To the extent a response is required, Defendants respectfully
27 refer the Court to the authority cited by Plaintiffs and deny any allegations inconsistent therewith. The

1 fourth sentence of Paragraph 36 consists of citations to a web address containing a copy of ICE Form I-
2 352 and a certain Federal Register notice, to which no response is required. To the extent a response is
3 required, Defendants admit that Form I-352 is available at the stated address and respectfully refer the
4 Court to the cited authorities for a full and accurate statement of their contents and deny any allegations
5 inconsistent therewith.

6 37. The first three sentences of Paragraph 37 consist of Plaintiffs' characterizations of their
7 experience in the bond process, which are not material to the resolution of the claims at issue in this
8 FOIA action, to which no response is required. To the extent a response is required, Defendants lack
9 knowledge or information sufficient to form a belief about the allegations in the first three sentences of
10 Paragraph 37. Defendants lack knowledge or information sufficient to form a belief about the allegations
11 in the fourth sentence of Paragraph 37 regarding Plaintiffs' information and belief. As to the remaining
12 allegations in the fourth and fifth sentences of Paragraph 37, ICE is evaluating whether records in ICE's
13 possession are responsive to Plaintiffs' FOIA request, and whether such records, if they exist, are subject
14 to any exemptions or requirements under FOIA, and thus Defendants deny the allegations on that basis.

15 38. The first sentence of Paragraph 38 consists of Plaintiffs' characterizations of the public's
16 alleged confusion with the bond process, which are not material to the resolution of the claims at issue in
17 this FOIA action, to which no response is required. To the extent a response is required, Defendants lack
18 knowledge or information sufficient to form a belief about the allegations in the first sentence of
19 Paragraph 38. The second sentence in Paragraph 38 consists of Plaintiffs' characterization of ICE's
20 website and the Handbook, to which no response is required. To the extent a response is required,
21 Defendants respectfully refer the Court to the cited authorities for a full and accurate statement of their
22 contents and deny any allegations inconsistent therewith. The third sentence of Paragraph 38 consists of
23 Plaintiffs' characterizations of their own experience with the bond process, which are not material to the
24 resolution of the claims at issue in this FOIA action, to which no response is required. To the extent a
25 response is required, Defendants lack knowledge or information sufficient to form a belief about the
26 allegations in the third sentence of Paragraph 38. Defendants lack knowledge or information sufficient
27 to form a belief about the allegations in the fourth sentence of Paragraph 38 regarding Plaintiffs'

1 information and belief. As to the remaining allegations in the fourth and fifth sentences of Paragraph 38,
2 ICE is evaluating whether records in ICE's possession are responsive to Plaintiffs' FOIA request, and
3 whether such records, if they exist, are subject to any exemptions or requirements under FOIA, and thus
4 Defendants deny the allegations on that basis.

5 39. Paragraph 39 consists of Plaintiffs' characterizations of their experience in the bond
6 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
7 response is required. To the extent a response is required, Defendants lack knowledge or information
8 sufficient to form a belief about the allegations.

9 40. Defendants lack knowledge or information sufficient to form a belief about the
10 allegations in Paragraph 40 regarding Plaintiffs' information and belief. As to the remaining allegations
11 in the first sentence of Paragraph 40, ICE is evaluating whether records in ICE's possession are
12 responsive to Plaintiffs' FOIA request, and whether such records, if they exist, are subject to any
13 exemptions or requirements under FOIA, and thus Defendants deny the allegations on that basis. The
14 remaining allegations in Paragraph 40 consist of Plaintiffs' characterizations of their experience in the
15 bond process, which are not material to the resolution of the claims at issue in this FOIA action, to
16 which no response is required. To the extent a response is required, Defendants lack knowledge or
17 information sufficient to form a belief about the remaining allegations in Paragraph 40.

18 41. Paragraph 41 consists of Plaintiffs' characterizations of Plaintiff NorCal Resist's
19 volunteers' alleged experience in the bond process, which are not material to the resolution of the claims
20 at issue in this FOIA action, to which no response is required. To the extent a response is required,
21 Defendants lack knowledge or information sufficient to form a belief about the allegations.

22 42. Paragraph 42 consists of Plaintiffs' characterizations of their experience in the bond
23 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
24 response is required. To the extent a response is required, Defendants lack knowledge or information
25 sufficient to form a belief about the allegations.

26 43. Paragraph 43 consists of Plaintiffs' characterizations of their and the public's alleged
27 experience in the bond process, which are not material to the resolution of the claims at issue in this

1 FOIA action, to which no response is required. To the extent a response is required, Defendants lack
2 knowledge or information sufficient to form a belief about the allegations.

3 44. Paragraph 44 consists of Plaintiffs' characterizations of their experience in the bond
4 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
5 response is required. To the extent a response is required, Defendants lack knowledge or information
6 sufficient to form a belief about the allegations.

7 45. Defendants lack knowledge or information sufficient to form a belief about the
8 allegations in Paragraph 45 regarding Plaintiffs' information and belief. The remaining allegations in
9 Paragraph 45 consist of Plaintiffs' alleged experience in the bond process, which are not material to the
10 resolution of the claims at issue in this FOIA action, to which no response is required. To the extent a
11 response is required, Defendants lack knowledge or information sufficient to form a belief about the
12 allegations.

13 46. Defendants deny the allegations in Paragraph 46.

14 47. Defendants lack knowledge or information sufficient to form a belief about the
15 allegations in Paragraph 47 regarding Plaintiffs' information and belief. The first sentence of Paragraph
16 47 consists of Plaintiffs' legal conclusions, to which no response is required. To the extent a response is
17 required, Defendants deny the allegations in the first sentence of Paragraph 47. The second sentence of
18 Paragraph 47 consists of Plaintiffs' characterizations of their experience in the bond process, which are
19 not material to the resolution of the claims at issue in this FOIA action, to which no response is required.
20 To the extent a response is required, Defendants lack knowledge or information sufficient to form a
21 belief about the allegations in the second sentence of Paragraph 47. As to the remaining allegations in
22 Paragraph 47, ICE is evaluating whether records in ICE's possession are responsive to Plaintiffs' FOIA
23 request, and whether such records, if they exist, are subject to any exemptions or requirements under
24 FOIA, and thus Defendants deny the allegations on that basis.

25 48. Paragraph 48 consists of Plaintiffs' characterizations of the bond process, which are not
26 material to the resolution of the claims at issue in this FOIA action, to which no response is required. To
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1 the extent a response is required, Defendants lack knowledge or information sufficient to form a belief
2 about the allegations.

3 49. The first sentence of Paragraph 49 consists of Plaintiffs' characterization of the
4 Handbook, to which no response is required. To the extent a response is required, Defendants admit that
5 ICE issued the Handbook and respectfully refer the Court to the Handbook for a full and accurate
6 statement of its contents and deny any allegations inconsistent therewith. Defendants lack knowledge or
7 information sufficient to form a belief about the allegations in the second sentence of Paragraph 49
8 regarding Plaintiffs' information and belief. The remaining allegations in the second sentence of
9 Paragraph 49 are not material to the resolution of the claims at issue in this FOIA action, to which no
10 response is required. To the extent a response is required, Defendants lack knowledge or information
11 sufficient to form a belief about the allegations in the second sentence of Paragraph 49. As to the
12 remaining allegations in Paragraph 49, ICE is evaluating whether records in ICE's possession are
13 responsive to Plaintiffs' FOIA request, and whether such records, if they exist, are subject to any
14 exemptions or requirements under FOIA, and thus Defendants deny the allegations on that basis.

15 50. Paragraph 50 consists of Plaintiffs' experience in the bond process and their
16 characterizations of the public's confusion with the bond process, which are not material to the
17 resolution of the claims at issue in this FOIA action, to which no response is required. To the extent a
18 response is required, Defendants lack knowledge or information sufficient to form a belief about the
19 allegations.

20 51. Paragraph 51 consists of legal conclusions, to which no response is required. To the
21 extent a response is required, Defendants deny the allegations.

22 52. Paragraph 52 consists of Plaintiffs' legal conclusions and characterization of certain
23 regulations and agency forms, to which no response is required. To the extent a response is required,
24 Defendants respectfully refer the Court to the cited authorities cited for a full and accurate statement of
25 their contents and deny any allegations inconsistent therewith.

26 53. Paragraph 53 consists of Plaintiffs' legal conclusions and characterization of certain
27 agency forms and regulatory authority, to which no response is required. To the extent a response is

1 required, Defendants respectfully refer the Court to the cited authorities for a full and accurate statement
2 of their contents and deny any allegations inconsistent therewith.

3 54. The first sentence in Paragraph 54 consists of Plaintiffs' characterization of the
4 Handbook, to which no response is required. To the extent a response is required, Defendants admit that
5 ICE issued the Handbook and respectfully refer the Court to the Handbook for a full and accurate
6 statements of its contents and deny any allegations inconsistent therewith. Defendants lack knowledge or
7 information sufficient to form a belief about the allegations in the second and third sentences of
8 Paragraph 54 regarding Plaintiffs' information and belief. As to the remaining allegations in the second
9 and third sentences of Paragraph 54, ICE is evaluating whether records in ICE's possession are
10 responsive to Plaintiffs' FOIA request, and whether such records, if they exist, are subject to any
11 exemptions or requirements under FOIA, and thus Defendants deny the allegations on that basis.
12 Because Plaintiffs directed their FOIA request solely to ICE, DHS did not receive and had no role in
13 processing the original request, except to the extent that ICE is a component of DHS, in accordance with
14 agency regulations. As such, DHS lacks knowledge or information sufficient to form a belief about the
15 allegations in the second and third sentences of Paragraph 54.

16 55. Paragraph 55 consists of Plaintiffs' characterizations of their and the public's experience
17 in the bond process, which are not material to the resolution of the claims at issue in this FOIA action, to
18 which no response is required. To the extent a response is required, Defendants lack knowledge or
19 information sufficient to form a belief about the allegations.

20 56. Paragraph 56 consists of Plaintiffs' characterizations of their experience in the bond
21 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
22 response is required. To the extent a response is required, Defendants lack knowledge or information
23 sufficient to form a belief about the allegations.

24 57. The first sentence of Paragraph 57 consists of Plaintiffs' alleged experiences in the bond
25 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
26 response is required. To the extent a response is required, Defendants lack knowledge or information
27 sufficient to form a belief about the allegations in the first sentence of Paragraph 57. Defendants lack

1 knowledge or information sufficient to form a belief about the allegations in the second sentence of
2 Paragraph 57 regarding Plaintiffs' information and belief. As to the remaining allegations in the second
3 and third sentences of Paragraph 57, ICE is evaluating whether records in ICE's possession are
4 responsive to Plaintiffs' FOIA request, and whether such records, if they exist, are subject to any
5 exemptions or requirements under FOIA, and thus Defendants deny the allegations on that basis.

6 58. Paragraph 58 consist of Plaintiffs' characterizations of their experience in the bond
7 process, which are not material to the resolution of the claims at issue in this FOIA action, to which no
8 response is required. To the extent a response is deemed required, Defendants lack knowledge or
9 information sufficient to form a belief about the allegations.

10 59. Paragraph 59 consists of Plaintiffs' legal conclusions and characterizations of a certain
11 regulation, which are not material to the resolution of the FOIA claims at issue in this FOIA action, to
12 which no response is required. To the extent a response is required, Defendants respectfully refer the
13 Court to the cited authorities for a full and accurate statement of their contents and deny any allegations
14 inconsistent therewith.

15 60. Paragraph 60 consists of Plaintiffs' legal conclusions and characterizations of the
16 Handbook and a certain agency form, which are not material to the resolution of the FOIA claims at
17 issue in this FOIA action, to which no response is required. To the extent a response is required,
18 Defendants respectfully refer the Court to the cited authorities for a full and accurate statement of their
19 contents and deny any allegations inconsistent therewith.

20 61. Paragraph 61 consists of Plaintiffs' legal conclusions and characterizations of a certain
21 statute and regulation, which are not material to the resolution of the FOIA claims at issue in this FOIA
22 action, to which no response is required. To the extent a response is required, Defendants respectfully
23 refer the Court to the cited authorities for a full and accurate statement of their contents and deny any
24 allegations inconsistent therewith.

25 62. Defendants deny the allegations in Paragraph 62.

26 63. Defendants deny the allegations in Paragraph 63.

27 **Plaintiffs' FOIA Request**

28 DEFENDANTS' ANSWER

1 64. Defendants admit that on June 24, 2022, Plaintiffs submitted a FOIA request to ICE, and
2 that Exhibit A is a copy of Plaintiffs' June 24, 2022 FOIA request to ICE. Defendants respectfully refer
3 the Court to Plaintiffs' FOIA request for a full and accurate statement of its contents and deny any
4 allegations inconsistent therewith.

5 65. Defendants admit that Plaintiffs submitted a FOIA request to ICE and respectfully refer
6 the Court to Plaintiffs' FOIA request for a full and accurate statement of its contents and deny any
7 allegations inconsistent therewith.

8 66. Defendants admit that Plaintiffs submitted a FOIA request to ICE and respectfully refer
9 the Court to Plaintiffs' FOIA request for a full and accurate statement of its contents and deny any
10 allegations inconsistent therewith.

11 67. Defendants admit that on June 24, 2022, upon the submission of Plaintiffs' FOIA request,
12 an automated computer system assigned an ICE FOIA request reference number 2022-ICFO-21370 and
13 generated an acknowledgment message that was automatically transmitted via email to
14 yvette.changuin@raicestexas.org. Defendants admit that Exhibit B is a copy of this acknowledgment
15 email. Defendants deny the remaining allegations in Paragraph 67.

16 68. Defendants admit that in an email correspondence dated June 29, 2022, ICE
17 acknowledged receipt of Plaintiffs' June 24, 2022 FOIA request and invoked FOIA's 10-day extension
18 provision. Defendants admit that Exhibit C is a copy of this email correspondence, and respectfully refer
19 the Court to the correspondence itself for a full and accurate statement of its contents and deny any
20 allegations inconsistent therewith.

21 69. Defendants admit that as of the filing of the Complaint, ICE had not responded to
22 Plaintiffs' FOIA request. Defendants aver that certain information regarding ICE's processes for
23 immigration bonds is posted and publicly available, and thus to the extent Plaintiffs allege that
24 Defendants have not published any information about those processes, Defendants deny such
25 allegations. ICE is evaluating whether records in ICE's possession are responsive to Plaintiffs' FOIA
26 request, and whether such records, if they exist, are subject to any exemptions or requirements under
27 FOIA.

1 70. Paragraph 70 consists of Plaintiffs' characterizations of their and the public's alleged
2 interest in the requested records, as well as the alleged consequences of not providing the requested
3 records, which are not material to the resolution of the claims at issue in this FOIA action, to which no
4 response is required. To the extent a response is required, Defendants deny the allegations.

5 **FIRST CAUSE OF ACTION**

6 **(FOIA – Failure to Proactively Disclose Records under 5 U.S.C. §§ 552(a)(2)(B) & (C))**

7 71. Defendants incorporate the above paragraphs as if set forth fully herein.

8 72. Paragraph 72 consists of Plaintiffs' legal conclusions, to which no response is required.
9 To the extent a response is required, Defendants deny the allegations.

10 73. Paragraph 73 consists of Plaintiffs' legal conclusions, to which no response is required.
11 To the extent a response is required, Defendants deny the allegations.

12 74. Paragraph 74 consists of Plaintiffs' legal conclusions, to which no response is required.
13 To the extent a response is required, Defendants deny the allegations.

14 75. Paragraph 75 consists of Plaintiffs' legal conclusions, to which no response is required.
15 To the extent a response is required, Defendants deny the allegations.

16 **SECOND CAUSE OF ACTION**

17 **(FOIA – Failure to Proactively Disclose Records under 5 U.S.C. § 552(a)(2)(D))**

18 76. Defendants incorporate the above paragraphs as if set forth fully herein.

19 77. Defendants admit that Plaintiffs submitted a FOIA request to ICE and respectfully refer
20 the Court to Plaintiffs' FOIA request for a full and accurate statement of its contents and deny any
21 allegations inconsistent therewith.

22 78. Defendants admit that Plaintiffs submitted a FOIA request to ICE and respectfully refer
23 the Court to Plaintiffs' FOIA request for a full and accurate statement of its contents and deny any
24 allegations inconsistent therewith.

25 79. Paragraph 79 consists of Plaintiffs' legal conclusions, to which no response is required.
26 To the extent a response is required, as to the first sentence, Defendants admit only that the Handbook
27 has been previously requested pursuant to the FOIA and released to at least one FOIA requester, and

1 deny the remaining allegations. As to the second sentence of Paragraph 79, Defendants admit that the
2 Handbook has been released previously pursuant to the FOIA.

3 80. Paragraph 80 consists of Plaintiffs' legal conclusions, to which no response is required.
4 To the extent a response is required, Defendants deny the allegations.

5 81. Paragraph 81 consists of Plaintiffs' legal conclusions, to which no response is required.
6 To the extent a response is required, Defendants deny the allegations.

7 82. Paragraph 82 consists of Plaintiffs' legal conclusions, to which no response is required.
8 To the extent a response is required, Defendants deny the allegations.

9 **PRAYER FOR RELIEF**

10 The remainder of the Complaint sets forth Plaintiffs' request for relief, to which no response is
11 required. To the extent a response is required, Defendants deny that Plaintiffs are entitled to any of the
12 relief sought or to any other relief in this action.

13 Any allegations not specifically admitted or denied are hereby denied.

14 **DEFENSES**

15 In further answer to Plaintiffs' Complaint and as separate defenses, Defendants state as follows:

16 **FIRST DEFENSE**

17 The Complaint fails to state a claim upon which relief can be granted.

18 **SECOND DEFENSE**

19 The FOIA request that is the subject of this lawsuit implicates information protected from
20 disclosure by one or more statutory exemptions or exclusions under FOIA, 5 U.S.C. § 552, or the
21 Privacy Act, 5 U.S.C. § 552a. Disclosure of such information is not required or permitted.

22 **THIRD DEFENSE**

23 The Court lacks subject matter jurisdiction over Plaintiffs' requests for relief that exceeds the
24 relief authorized under the FOIA.

25 **FOURTH DEFENSE**

26 Plaintiffs' claims are barred, in whole or in part, to the extent Plaintiffs failed to submit a request
27 or exhaust administrative remedies.

28 DEFENDANTS' ANSWER

1 FIFTH DEFENSE

2 The Complaint should be dismissed to the extent it raises claims that are or will become moot.

3 SIXTH DEFENSE

4 The Complaint should be dismissed to the extent it raises claims that are not yet ripe.

5 SEVENTH DEFENSE

6 Defendants have conducted and are conducting adequate searches in response to the underlying
7 request under the FOIA, and have not improperly withheld any records under the FOIA.

8 EIGHTH DEFENSE

9 Plaintiffs are not entitled to remedies beyond what is provided for in 5 U.S.C. § 552(a)(4)(B).

10 NINTH DEFENSE

11 Plaintiffs' FOIA requests does not reasonably describe the records sought, and therefore does not
12 comply with the FOIA and/or does not trigger a search or production obligation.

13 TENTH DEFENSE

14 The FOIA does not authorize the injunctive relief requested.

15 Defendants have insufficient knowledge or information at this time upon which to form a belief
16 as to whether they have additional, as yet unstated, defenses available. Defendants reserve the right to
17 assert additional defenses in the event developments indicate it would be appropriate to do so.

18 To the extent the Complaint refers to or quotes from external documents, statutes, or other
19 sources, Defendants may refer to such materials for their accurate and complete contents in response;
20 however, Defendants' references are not intended to be, and should not be construed to be, an admission
21 as to the substance of the cited materials. Additionally, Defendants' references are not intended to be,
22 and should not be construed to be, an admission that the materials: (a) are correctly cited or quoted by
23 Plaintiffs; (b) are relevant to this, or any other, action; (c) contain accurate information or (d) are
24 admissible in this, or any other, action.

25 WHEREFORE, having fully answered Defendants respectfully request pray that: (1) Plaintiffs
26 take nothing by their Complaint; (2) the Complaint be dismissed with prejudice and judgment entered in
27 favor of Defendants; (3) Defendants be awarded their costs and disbursements incurred in defending this

28 DEFENDANTS' ANSWER

1 matter; and (4) the Court award such other and further relief as it deems just and proper.

2 DATED: February 10, 2023

Respectfully submitted,

3 STEPHANIE M. HINDS
4 United States Attorney

5 s/ David M. DeVito
6 DAVID M. DEVITO
7 Assistant United States Attorney

Attorneys for Defendants

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