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** pro hac vice forthcoming*

**UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA**

AL OTRO LADO, INC., a California
 corporation, 511 E. San Ysidro Blvd.
 #333, San Ysidro, CA 92173;

HAITIAN BRIDGE ALLIANCE, a
 California corporation, 4560 Alvarado
 Canyon Rd # 1H, San Diego, CA 92120;

MARIA DOE*
 c/o Center for Gender and Refugee Studies
 200 McAllister Street
 San Francisco, CA 94102;

Case No.: **'25CV1501 RBM BLM**
CLASS ACTION COMPLAINT

1 JESSICA DOE*
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2 200 McAllister Street
San Francisco, CA 94102;

3 FERNANDO DOE*
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4 200 McAllister Street
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6 ALI DOE*
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14 ROUS DOE*
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16 DIANA DOE*
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17 200 McAllister Street
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19 NIKOLAI ZOLOTOV
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20 200 McAllister Street
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21 ANAHI DOE*
c/o Center for Gender and Refugee Studies
22 200 McAllister Street
23 San Francisco, CA 94102;

1 DRAGON DOE*
2 c/o Center for Gender and Refugee Studies
3 200 McAllister Street
4 San Francisco, CA 94102,

5 Plaintiffs,

6 v.

7 DONALD J. TRUMP, President of the
8 United States, in his official capacity,
9 1600 Pennsylvania Avenue, NW,
10 Washington, DC 20500;

11 KRISTI NOEM, Secretary of the U.S.
12 Department of Homeland Security, in her
13 official capacity, 245 Murray Lane, SW,
14 Washington, DC 20528;

15 MARCO RUBIO, U.S. Secretary of State,
16 in his official capacity, Executive Office
17 of the Legal Adviser and Bureau of
18 Legislative Affairs, Suite 5.600, 600 19th
19 Street, NW, Washington DC 20522;

20 PAMELA BONDI, Attorney General of
21 the United States, in her official capacity,
22 950 Pennsylvania Avenue, NW,
23 Washington, DC 20530;

24 PETE R. FLORES, Acting Commissioner,
25 U.S. Customs and Border Protection, in
26 his official capacity, 1300 Pennsylvania
27 Avenue, NW, Washington, DC 20229;

28 DIANE J. SABATINO, Acting Executive
Assistant Commissioner, Office of Field
Operations, U.S. Customs and Border
Protection, in her official capacity, 1300
Pennsylvania Avenue, NW, Washington,
DC 20229;

Defendants.

* A motion for these Individual Plaintiffs to proceed under pseudonym will be filed as soon as a Court has been assigned to this case.

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I. INTRODUCTION

1
2 1. The 1980 Refugee Act enshrines the United States’ commitment to
3 provide protection to individuals fleeing persecution on account of race, religion,
4 nationality, membership in a particular social group, or political opinion. Under the
5 Act, Congress expressly provided that “[a]ny [noncitizen] who is physically present
6 in the United States or who arrives in the United States (whether or not at a designated
7 port of arrival ...), irrespective of such [noncitizen’s] status, may apply for asylum.”
8 8 U.S.C. § 1158(a)(1).

9 2. This case challenges actions by Defendants that override the plain text
10 of 8 U.S.C. § 1158(a)(1) by unlawfully shutting down access to asylum at ports of
11 entry along the U.S.-Mexico border (“POEs”) as of January 20, 2025.¹

12 3. From May 2023 until January 20, 2025, the only available avenue for
13 most noncitizens to seek asylum was to make an appointment through CBP One, a
14 difficult-to-use government-administered mobile application. During this time, the
15 Government repeatedly encouraged people seeking asylum to register for CBP One
16 and to wait in Mexico until they received an appointment to present themselves at a
17 POE.

18 4. When an asylum seeker appeared at a POE for their scheduled CBP One
19 appointment, DHS’s usual practice was to issue them a notice to appear in
20 immigration court and release them into the United States. The individual could then
21 apply for asylum and related relief in immigration court proceedings.

22 5. In reliance on the Government’s representations and practices,
23 Individual Plaintiffs Maria Doe, Jessica Doe, Fernando Doe, Ali Doe, Eduardo Doe,
24 Jean Doe, Rous Doe, along with the subclass of asylum seekers they seek to
25 represent, endured dangerous conditions in Mexico while trying repeatedly—often
26 for months—to obtain CBP One appointments. Once they secured appointments,

27 ¹ For purposes of this Complaint, a “port of entry” or “POE” refers to a “Class A”
28 port of entry, which indicates that the POE may be used by all travelers. 8 C.F.R.
§ 100.4(a).

1 they did whatever was necessary to ensure that they reached the designated POE at
2 the specified date and time, often navigating dangerous territory and spending
3 substantial sums on travel. In the process, most missed the 30-day deadline to apply
4 for asylum in Mexico and risked forfeiting that opportunity.

5 6. But at noon ET on January 20, 2025, Defendants effectively terminated
6 access to asylum. Defendants canceled all pending CBP One appointments and
7 disabled the application's scheduling functionality. Later that day, President Trump
8 issued an Executive Order directing the Secretary of Homeland Security to cease
9 using CBP One altogether.

10 7. The shutdown of CBP One came without prior notice, explanation, or
11 any chance for the public to comment, and effectively closed the southern border to
12 all those who wished to seek asylum and who had waited their turn for a CBP One
13 appointment.

14 8. Later on Inauguration Day, President Trump issued Proclamation No.
15 10888, 90 Fed. Reg. 8333 (Jan. 20, 2025) ("Proclamation"). The Proclamation
16 indefinitely suspends the "entry" of all noncitizens who "fail[], before entering the
17 United States, to provide Federal officials with sufficient medical information and
18 reliable criminal history and background information as to enable fulfillment of the
19 requirements of" 8 U.S.C. § 1182(a)(1)-(3). 90 Fed. Reg. 8335 at § 3.

20 9. Department of Homeland Security guidance implementing the
21 Proclamation states that noncitizens subject to the Proclamation are not permitted to
22 cross the border for inspection at POEs.²

23 10. The Proclamation also suspends both the "entry" and the "physical
24 entry" of noncitizens deemed to be "engaged in the invasion," a concept the
25 Proclamation does not define. 90 Fed. Reg. 8335-36 at §§ 1,4.

26
27 ² Ex. D to Mot. for Summary Judgment, *Refugee and Immigrant Ctr. For Ed. and*
28 *Legal Servs v. Noem*, No. 1:25-cv-00306 (D.D.C. Mar. 24, 2025), ECF No. 44-4,
<https://www.courtlistener.com/docket/69606027/44/4/refugee-and-immigrant-center-for-education-and-legal-services-v-noem/>. (Attached hereto as **Exhibit A.**)

1 11. The Proclamation explicitly restricts noncitizens who fail to provide the
2 aforementioned medical, criminal, and background information from invoking
3 provisions of the Immigration and Nationality Act (“INA”) that would permit their
4 continued presence in the United States—including 8 U.S.C. § 1158.

5 12. By taking these steps, Defendants established barriers that made it
6 effectively impossible for Individual Plaintiffs or putative class members to access
7 the U.S. asylum process at POEs.³ First, Defendants pulled the rug out from under
8 people who had made drastic and costly decisions in reliance on the processing
9 requirements the Government had created. Then, Defendants imposed new, extra-
10 statutory medical history and criminal background requirements that they knew
11 virtually no asylum seeker could meet because individuals fleeing persecution rarely
12 arrive at the border with such documents in hand. Moreover, Defendants established
13 these requirements without even providing a mechanism for individuals to comply.
14 Finally, Defendants prohibited individuals from presenting themselves at a POE to
15 seek asylum, in violation of their statutory right. Upon information and belief,
16 Defendants’ actions have shut down all avenues for Individual Plaintiffs and putative
17 class members to seek asylum in the United States.

18 13. There is no legal basis for Defendants’ decisions to cancel scheduled
19 CBP One appointments (“CBP One Cancellation”) or to effectively close southern
20 border POEs to people seeking asylum (“Asylum Shutdown Policy”). To the
21 contrary, Defendants have a statutory obligation to provide access to the U.S. asylum
22 process. Nothing in the INA or any other source of law permits Defendants’ actions.

23 14. Through the Proclamation, the Asylum Shutdown Policy, and their
24 implementation, as well as the CBP One Cancellation, Defendants have injured
25

26 ³ Through the Proclamation and its implementation, Defendants also prevented
27 noncitizens physically present in the United States, including those who crossed the
28 border between POEs, from accessing the asylum process. Those consequences of
 Defendants’ actions are the subject of a separate challenge, *Refugee and Immigrant*
 Ctr. For Ed. and Legal Servs v. Noem, No. 1:25-cv-00306 (D.D.C. amended
 complaint filed February 19, 2025).

1 Individual Plaintiffs and putative class members. These unlawful actions have
2 wreaked havoc on the lives of Individual Plaintiffs and those similarly situated by
3 depriving them of access to the U.S. asylum process and leaving them stranded
4 permanently in Mexico, where they face a persistent danger of kidnapping, murder,
5 torture, rape, and other targeted violence.

6 15. By closing all pathways for people to access the U.S. asylum process,
7 Defendants' unlawful actions have also impaired Al Otro Lado's critical efforts to
8 assist asylum seekers in Mexico in seeking protection in the United States and
9 prevented Haitian Bridge Alliance from engaging in its core work of providing legal
10 and humanitarian assistance to recently arrived Black migrants in the United States.
11 The challenged actions, by causing immense panic and an acute humanitarian
12 disaster for a vulnerable population, have interfered with both organizations' ability
13 to provide effective services to their clients.

14 16. Despite persistent efforts by Al Otro Lado and Haitian Bridge Alliance,
15 among other organizations, and despite the Individual Plaintiffs' urgent need and
16 right to seek asylum in the United States, Defendants show no signs of ending their
17 unlawful actions or restoring access to the U.S. asylum process at POEs.
18 Accordingly, Plaintiffs require the intervention of this Court to prevent Defendants
19 from continuing to imperil the lives and safety of Individual Plaintiffs and putative
20 class members, as well as Organizational Plaintiffs' core activities.

21 II. JURISDICTION AND VENUE

22 17. This case arises under the INA, 8 U.S.C. § 1101 *et seq.*, and its
23 implementing regulations; the Administrative Procedure Act ("APA," 5 U.S.C.
24 §§ 551 *et seq.* and 701 *et seq.*); and the U.S. Constitution.

25 18. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and
26 1346.

27 19. This Court has authority to grant declaratory relief under 28 U.S.C.
28 §§ 2201 and 2202.

20. The waiver of sovereign immunity in 5 U.S.C. § 702 applies to this action, in which Plaintiffs seek only non-monetary relief.

21. Venue is proper in this district under 28 U.S.C. § 1391(e) because Defendants are officers of the United States acting in their official capacity, Plaintiff Haitian Bridge Alliance's principal place of business is located in this district, Plaintiff Al Otro Lado maintains an office within this district, and a substantial part of the events or omissions giving rise to the claims occurred in this district.

III. PARTIES

A. Plaintiffs

22. Plaintiff Maria Doe, a Mexican national, intends to seek protection in the United States by presenting herself at a POE. She used the CBP One app to obtain an appointment to present herself at the San Ysidro POE. On January 20, 2025, Defendants canceled Maria's appointment and shut down all access to asylum at POEs, leaving her with no method of seeking protection.

23. Plaintiff Jessica Doe, a Colombian national, intends to seek protection in the United States by presenting herself at a POE. She used the CBP One app to obtain an appointment to present herself at the Brownsville POE. On January 20, 2025, Defendants canceled Jessica's appointment and shut down all access to asylum at POEs, leaving her with no method of seeking protection.

24. Plaintiff Fernando Doe, a Venezuelan national, intends to seek protection in the United States by presenting himself at a POE. He used the CBP One app to obtain an appointment to present himself at the Nogales POE. On January 20, 2025, Defendants canceled Fernando's appointment and shut down all access to asylum at POEs, leaving him with no method of seeking protection.

25. Plaintiff Ali Doe, an Afghan national, intends to seek protection in the United States by presenting himself at a POE. He used the CBP One app to obtain an appointment to present himself at the Nogales POE. On January 20, 2025, Defendants canceled Ali's appointment and shut down all access to asylum at POEs, leaving him

1 with no method of seeking protection.

2 26. Plaintiff Eduardo Doe, a Venezuelan national, intends to seek protection
3 in the United States by presenting himself at a POE. He used the CBP One app to
4 obtain an appointment to present himself at the San Ysidro POE. On January 20,
5 2025, Defendants canceled Eduardo's appointment and shut down all access to
6 asylum at POEs, leaving him with no method of seeking protection.

7 27. Plaintiff Jean Doe, a Haitian national, intends to seek protection in the
8 United States by presenting himself at a POE. He used the CBP One app to obtain an
9 appointment to present himself at the Nogales POE. On January 20, 2025, Defendants
10 canceled Jean's appointment and shut down all access to asylum at POEs, leaving
11 him with no method of seeking protection.

12 28. Plaintiff Rous Doe, a Venezuelan national, intends to seek protection in
13 the United States by presenting herself at a POE. She used the CBP One app to obtain
14 an appointment to present herself at the Nogales POE. On January 20, 2025,
15 Defendants canceled Rous's appointment and shut down all access to asylum at
16 POEs, leaving her with no method of seeking protection.

17 29. Plaintiff Diana Doe, a Mexican national, intends to seek protection in
18 the United States by presenting herself at a POE. On January 20, 2025, Defendants
19 shut down all access to asylum at POEs, leaving her with no method of seeking
20 protection.

21 30. Plaintiff Nikolai Zolotov, a Russian national, intends to seek protection
22 in the United States by presenting himself at a POE. On January 20, 2025, Defendants
23 shut down all access to asylum at POEs, leaving him with no method of seeking
24 protection.

25 31. Plaintiff Anahi Doe, a Guatemalan national, intends to seek protection
26 in the United States by presenting herself at a POE. On January 20, 2025, Defendants
27 shut down all access to asylum at POEs, leaving her with no method of seeking
28 protection.

1 32. Plaintiff Dragon Doe, an Ecuadorian national, intends to seek protection
2 in the United States by presenting himself at a POE. On January 20, 2025, Defendants
3 shut down all access to asylum at POEs, leaving him with no method of seeking
4 protection.

5 33. Plaintiff Al Otro Lado, Inc. (“AOL”) is a non-profit advocacy and legal
6 services organization incorporated in California and headquartered in Los Angeles,
7 with offices in San Diego, California, and Tijuana and Mexico City, Mexico. AOL
8 provides holistic legal and humanitarian support to refugees, deportees, and
9 immigrants on both sides of the U.S.-Mexico border. Its core work includes providing
10 direct services and legal representation to people seeking asylum or navigating other
11 immigration proceedings in the United States, providing know-your-rights
12 information to migrants, human rights monitoring, seeking redress for civil rights
13 violations, and advocating for immigration reform.

14 34. AOL’s Border Rights Project provides legal education, representation,
15 accompaniment, and human rights monitoring for thousands of asylum seekers in
16 Mexico who wish to seek asylum in the United States. The Border Rights Project
17 team focuses on assisting particularly vulnerable asylum seekers to access the U.S.
18 asylum process at POEs and providing them with information regarding immigration
19 processes in the United States. This includes in-person accompaniment to POEs and
20 filing humanitarian parole requests with CBP for particularly vulnerable individuals,
21 including linguistically isolated individuals and those with disabilities or urgent
22 medical needs, victims of gender-based violence, and groups that face
23 disproportionate discrimination, such as Black and LGBTQ+ individuals. AOL also
24 provides stop-gap humanitarian assistance to meet the basic needs of the populations
25 it serves while they are temporarily waiting in Mexico to access the U.S. asylum
26 process.

27 35. Through the Proclamation, the Asylum Shutdown Policy, and their
28 implementation, as well as the CBP One Cancellation, Defendants have thwarted

1 AOL's ability to carry out its core activities. AOL can no longer accompany or assist
2 individuals in accessing the U.S. asylum system at POEs because Defendants have
3 cut off all paths to seek asylum at U.S. POEs. Instead, AOL has been forced to shift
4 its focus to attempt to meet the acute humanitarian needs associated with migrants'
5 long-term presence in Mexico. AOL's clients now face indefinite—if not
6 permanent—stays in unsanitary and precarious conditions, fall victim to violence
7 perpetrated by criminal groups and Mexican officials, and even die while waiting for
8 the now nonexistent chance to present at a U.S. POE to seek asylum. The resulting
9 decrease in asylum seekers in the United States has also threatened AOL's existing
10 funding streams and its contracts for domestic work.

11 36. Plaintiff Haitian Bridge Alliance ("HBA") is a Black-led, women-led,
12 Haitian Kreyòl-speaking grassroots and community-based nonprofit organization
13 incorporated in California. HBA's main office is located in San Diego, California.
14 HBA provides migrants and immigrants with humanitarian, legal, and social services,
15 with a particular focus on Black immigrants, the Haitian community, women and
16 girls, LGBTQIA+ individuals, as well as survivors of torture and other human rights
17 abuses. HBA was founded for the purpose of assisting recently arrived Haitian and
18 other Black immigrants in acclimating to and navigating their new lives in the United
19 States, including pursuing lawful immigration status. Since 2016, this founding
20 principle has informed how HBA has developed its core work, which includes
21 providing U.S.-based legal assistance and humanitarian services to welcome recently
22 arrived Black immigrants. HBA has also grown its presence on the U.S.-Mexico
23 border in order to provide legal assistance and humanitarian services to Black
24 migrants waiting in dire conditions in Mexico for the opportunity to seek asylum at
25 U.S. POEs. HBA's border work is critical in light of the scarcity of linguistically and
26 culturally appropriate resources for the Haitian community in northern Mexico.

27 37. Through the Proclamation, the Asylum Shutdown Policy, and their
28 implementation, as well as the CBP One Cancellation, Defendants have prevented

1 HBA from engaging in its core activity of welcoming recently arrived Black migrants
2 with legal and humanitarian assistance in the United States. HBA has had to constrict
3 various aspects of its U.S.-based services as the number of Black migrants arriving
4 in the country has fallen precipitously. Additionally, the closure of POEs has
5 interfered with HBA's ability to provide meaningful services at the border, as the
6 acute humanitarian needs of their client population have vastly increased. HBA
7 cannot effectively assist community members who have experienced extreme
8 violence, medical emergencies, and even death, because they have been permanently
9 stranded in Mexico.

10 **B. Defendants**

11 38. All Defendants are sued in their official capacities.

12 39. Defendant Donald J. Trump is the President of the United States. In that
13 capacity, he issued the Proclamation challenged in this lawsuit and oversees its
14 implementation and enforcement.

15 40. Defendant Kristi Noem is the Secretary of the U.S. Department of
16 Homeland Security ("DHS"), a cabinet-level department of the federal government.
17 Defendant Noem is responsible for the administration of U.S. immigration laws
18 pursuant to 8 U.S.C. § 1103. She oversees each of the component agencies within
19 DHS, including CBP, has ultimate authority over all DHS policies, procedures, and
20 practices; and implements and enforces the Proclamation, the Asylum Shutdown
21 Policy, the CBP One Cancellation, and any related DHS policies and guidance.

22 41. Defendant Marco Rubio is the U.S. Secretary of State. In that capacity,
23 he assists in implementing and enforcing the Proclamation, the Asylum Shutdown
24 Policy, and any related agency policies and guidance.

25 42. Defendant Pamela Bondi is the U.S. Attorney General, the principal
26 officer in charge of the Department of Justice. In that capacity, Defendant Bondi is
27 charged with assisting in implementing and enforcing the Proclamation, the Asylum
28 Shutdown Policy, and any related agency policies and guidance.

1 43. Defendant Pete R. Flores is the Acting Commissioner of CBP, the DHS
2 component responsible for border security. Defendant Flores, who reports to
3 Defendant Noem, is a supervisory official with direct authority over all CBP
4 operations and responsibility for overseeing the implementation and enforcement of
5 the Proclamation, the Asylum Shutdown Policy, the CBP One Cancellation, and any
6 related CBP policies and guidance.

7 44. Defendant Diane J. Sabatino is the Acting Executive Assistant
8 Commissioner of CBP's Office of Field Operations ("OFO"). OFO is the largest
9 component of CBP and is responsible for safeguarding border security at POEs. She
10 exercises authority over 20 major field offices and 328 POEs. Defendant Sabatino,
11 who reports to Defendant Flores, is a supervisory official responsible for
12 implementing and enforcing the Proclamation, the Asylum Shutdown Policy, the
13 CBP One Cancellation, and any related OFO policies and guidance at POEs.

14 IV. LEGAL BACKGROUND

15 A. Congress Enacted Significant Statutory Protections for Asylum 16 Seekers Irrespective of Their Immigration Status.

17 45. For the past 45 years, U.S. law has provided noncitizens at POEs an
18 explicit right to seek asylum in the United States. Specifically, the INA provides that
19 any noncitizen "who is physically present in the United States or who arrives in the
20 United States (whether or not at a designated port of arrival . . .), irrespective of such
21 [noncitizen]'s status, may apply for asylum." 8 U.S.C. § 1158(a)(1).

22 46. Because § 1158(a)(1) makes the right to apply for asylum available to
23 noncitizens "at a designated port of arrival" and "irrespective of" their immigration
24 status, the lack of a visa or other entry document cannot justify denying this right to
25 any noncitizen coming to a POE.

26 47. Additionally, by using the phrase "arrives in" in 8 U.S.C. § 1158(a)(1),
27 Congress afforded this right to noncitizens who are not yet physically present in the
28 United States but are in the process of arriving in the United States at a POE.

1 48. Asylum seekers need not be “admissible” under the INA to avail
2 themselves of the right to seek asylum.

3 49. The INA defines “admission” as “the lawful entry of the [noncitizen]
4 into the United States after inspection and authorization by an immigration officer.”
5 8 U.S.C. § 1101(a)(13)(A).

6 50. The INA “sets the boundaries of admissibility to the United States.”
7 *Trump v. Hawaii*, 585 U.S. 667, 695 (2018). Section 1182(a) sets forth classes of
8 noncitizens who are “inadmissible” to the country, including people with certain
9 “health related” conditions and people with specific criminal convictions. Those who
10 are inadmissible under one or more provisions of § 1182(a) are “ineligible to receive
11 visas and ineligible to be admitted to the United States” unless the INA allows for a
12 waiver of the applicable ground of inadmissibility. 8 U.S.C. § 1182(a). Visa
13 applicants must provide the government sufficient information, including medical
14 and criminal history, to establish that they are not inadmissible to the United States
15 in order to be granted a visa that authorizes their admission into the United States at
16 a port of entry.

17 51. By contrast, asylum seekers do not need to provide such information in
18 order to present themselves at a POE. Even people who are inadmissible to the United
19 States under 8 U.S.C. § 1182(a) are allowed to apply for asylum under 8 U.S.C.
20 § 1158(a)(1).

21 52. The INA further requires that every noncitizen “who arrives in the
22 United States”—including those who arrive “at a designated port of arrival”—“shall
23 be deemed . . . an applicant for admission” and “shall be inspected by immigration
24 officers.” 8 U.S.C. § 1225(a)(1), (3). When a noncitizen at a POE lacks an entry
25 document, as is the case for most people seeking asylum at the border, CBP may
26 place such individuals in either expedited removal proceedings under 8 U.S.C.
27 § 1225(b)(1) or regular removal proceedings under 8 U.S.C. § 1229(a), or may parole
28 them into the United States under 8 U.S.C. § 1182(d)(5)(A), enabling them to file an

1 affirmative asylum application.

2 53. If a noncitizen in expedited removal proceedings expresses an intention
3 to apply for asylum or a fear of persecution, CBP has a mandatory duty to refer the
4 noncitizen for a screening interview by an asylum officer. 8 U.S.C.
5 § 1225(b)(1)(A)(ii). If the asylum officer, or the immigration judge upon review of
6 the asylum officer's decision, determines that the noncitizen has a credible fear of
7 persecution, the noncitizen will be placed in regular removal proceedings before an
8 immigration judge. *See* 8 U.S.C. § 1225(b)(1)(B)(ii); 8 C.F.R. §§ 208.30(f),
9 1208.33(b)(v)(A).

10 54. A noncitizen in regular removal proceedings may submit an asylum
11 application. 8 U.S.C. § 1158(d)(1); *see generally* 8 C.F.R. Part 208 Subpart A,
12 Part 1208 Subpart A.

13 55. In sum, 8 U.S.C. § 1158(a)(1) requires access to POEs for people
14 seeking asylum and mandates that all such individuals be given access to a process
15 to seek asylum.

16 **B. The President's Limited Authority to Suspend Entry May Not Be**
17 **Exercised in a Manner that Violates Other INA Provisions,**
Including the Statutory Right to Seek Asylum.

18 56. Congress delegated to the President the power to suspend "entry" of
19 noncitizens into the United States under specific circumstances in § 212(e) of the
20 1952 INA (8 U.S.C. § 1182(e)). *See* Pub. L. No. 82-414, 66 Stat. 163, 188 (1952).
21 The key language of that provision is identical to the current version, codified in INA
22 § 212(f) (8 U.S.C. § 1182(f)), which provides in relevant part:

23 Whenever the President finds that the entry of any [noncitizens] or of
24 any class of [noncitizens] into the United States would be detrimental to
25 the interests of the United States, he may by proclamation, and for such
26 period as he shall deem necessary, suspend the entry of all [noncitizens]
or any class of [noncitizens] as immigrants or nonimmigrants, or impose
on the entry of [noncitizens] any restrictions he may deem to be
appropriate.

27 57. In 1980, Congress enacted the Refugee Act, Pub. L. No. 96-212, 94
28 Stat. 102 (1980), to protect individuals fleeing persecution in their home countries.

1 The Refugee Act, which became part of the INA, created the right to apply for asylum
2 found in § 1158(a)(1). Congress could have included as conditions for asylum the
3 medical and criminal background information requirements that applied to visa
4 eligibility under § 1182(a)—but it did not impose such requirements for asylum
5 applicants.

6 58. Section 212(f) does not authorize the President to violate or abrogate
7 other provisions of the INA, such as § 1158. No president invoked § 212(f) for nearly
8 30 years, until 1981.⁴ Since then, the Executive Branch’s longstanding legal position
9 has been that § 212(f) does not permit the President to alter the rights and procedures
10 regarding asylum found elsewhere in the INA. *See* 89 Fed. Reg. 81156, 81163 n.53
11 (Oct. 7, 2024).

12 59. Instead, presidents have typically used § 212(f) to suspend the entry of
13 noncitizens who have an affiliation with a group that the government opposes or who
14 are engaged in objectionable conduct.

15 60. Courts have also assumed—consistent with the Executive Branch’s
16 longstanding position—that § 212(f) does not give the President authority to override
17 other provisions of the INA. *See, e.g., Hawaii*, 585 U.S. at 689.

18 61. Additionally, the suspension of entry that is contemplated by § 212(f)
19 does not permit Defendants to suspend access to the asylum process because
20 individuals who seek asylum at a POE do not legally “enter” the country.

21 62. The terms “entry” and “admission” are used interchangeably in the INA.
22 *Hawaii*, 585 U.S. at 695 n.4 (citing 8 U.S.C. § 1101(a)(13)(A)). Thus, a noncitizen
23 has not “entered” the United States if their inspection by an immigration officer
24 results in physical entry but not admission. *See Shaughnessy v. United States ex rel.*
25 *Mezei*, 345 U.S. 206, 215 (1953) (noncitizens who are physically present and paroled
26 into the country pending adjudication of rights are “treated as if stopped at the
27

28 ⁴ *See* Kelsy Y. Santamaria, et al., Cong. Rsch. Serv., *Presidential Authority to Suspend Entry of Aliens Under 8 U.S.C. § 1182(f)*, at 3, 22 (2024).

1 border,” and do not make an “entry”). Asylum seekers processed at POEs have
2 neither effectuated an entry nor been admitted. Similarly, a grant of asylum is also
3 not an “admission,” *i.e.*, an “entry.” *E. Bay Sanctuary Covenant v. Trump*, 932 F.3d
4 742, 757 (9th Cir. 2018).

5 63. The President’s authority to “suspend entry” under § 212(f) thus does
6 not encompass the power to suspend the operation of § 1158, which gives noncitizens
7 the right to apply for asylum, including at POEs. Congress has made extensive
8 changes to the INA since § 1158’s enactment but has never revised § 212(f) to permit
9 otherwise.

10 64. The other provision on which the Proclamation relies, INA
11 Section 215(a)(1), likewise does not authorize the President to abrogate the right to
12 apply for asylum. Section 215(a)(1) provides that, “[u]nless otherwise ordered by the
13 President, it shall be unlawful . . . for any [noncitizen] to depart from or enter or
14 attempt to depart from or enter the United States except under such reasonable rules,
15 regulations, and orders, and subject to such limitations and exceptions as the
16 President may prescribe.” 8 U.S.C. § 1185(a)(1).

17 65. As with § 212(f), § 215(a)(1) does not authorize the President to
18 abrogate rights or duties that Congress provided elsewhere in the INA. This provision
19 typically has been invoked in conjunction with § 212(f). And consistent with the
20 Executive Branch’s recognition that “this provision ‘substantially overlap[s]’ with”
21 § 212(f), *Hawaii*, 585 U.S. at 683 n.1 (quoting Brief submitted by the Government
22 32-33), the Executive Branch has never before claimed—and indeed has expressly
23 disavowed—that it empowers the President to “impose [a] condition and limitation
24 on asylum eligibility.” 89 Fed. Reg. at 81164 n.56.

25 66. The Proclamation also cites Article II and Article IV, Section 4 of the
26 Constitution as authority to suspend the “physical entry” of noncitizens “engaged in
27 the invasion.” 90 Fed. Reg. 8335 at § 4. Article II requires the President to “take Care
28 that the Laws be faithfully executed” and does not authorize him to suspend any acts

1 of Congress. U.S. Const. art. II, § 3. Article IV, Section 4 requires the United States—
2 not the President—to “protect each [State in this Union] from invasion.” *Id.* art. IV,
3 § 4. Asylum seekers coming to ports of entry on the border are not engaged in an
4 “invasion” within the meaning of Article IV, Section 4 or any other part of the
5 Constitution, and thus the President lacks authority to prevent their “physical entry”
6 into POEs.

7 V. FACTUAL BACKGROUND

8 67. Beginning in 2016, the Executive Branch concocted one policy
9 experiment after another to curtail access to asylum for people coming to the United
10 States at POEs along the southern border. When courts have reviewed the merits of
11 these policies, they have generally concluded that ending access to asylum at the
12 border, in whole or even in part, is beyond Defendants’ authority. So too are
13 Defendants’ new policies blocking access to asylum at POEs.

14 A. Restrictions on Access to Asylum, Late 2016 – May 2023.

15 68. From late 2016 through March 2020, the Government coordinated with
16 Mexican officials to implement a “metering,” or waitlist, system to restrict migrants’
17 access to POEs along the southern border. When people seeking asylum approached
18 a POE, CBP officers falsely claimed that CBP “lacked capacity” to inspect and
19 process them and turned them back to Mexico. These turnbacks were held to be
20 “unlawful regardless of the purported justification.” *Al Otro Lado, Inc. v. Mayorkas*,
21 619 F. Supp. 3d 1029, 1049-50 (S.D. Cal. 2022); *Al Otro Lado v. EOIR*,
22 Nos. 22-5988, 22-56036, 2024 WL 5692756 at *10 (9th Cir. May 14, 2025) (“[A]
23 noncitizen stopped by U.S. officials at the border is eligible to apply for asylum under
24 § 1158.”). CBP thereafter rescinded the policy and issued new guidance prohibiting
25 officers from engaging in metering.

26 69. With the onset of the pandemic in March 2020, the Government
27 continued turning back asylum seekers at POEs—and expelling those who managed
28 to cross the border—pursuant to a “Title 42” policy based on an order issued by the

Centers for Disease Control, purportedly to prevent the spread of COVID-19. A federal district court held that order to be both unlawful and unrelated to any public health grounds, after which the policy was rescinded. *See Huisha-Huisha v. Mayorkas*, 642 F. Supp. 3d 1 (D.D.C. 2022), *vacated as moot*, No. 22-5325, 2023 WL 5921335 (D.C. Cir. Sept. 7, 2023).

B. May 2023 – January 20, 2025: For Virtually All Individuals Arriving at a POE, CBP One Is the Only Way to Access Asylum.

70. When the Title 42 policy ended in May 2023, the Government began requiring noncitizens seeking asylum at POEs to schedule an appointment in advance using a smartphone application called “CBP One.”

71. CBP did so pursuant to two rules, the May 2023 Circumvention of Lawful Pathways Rule (“CLP Rule”)⁵ and the June 2024 Securing the Border Rule (“STB Rule”).⁶ While there are some differences between the two Rules, their effect was to channel nearly all asylum seekers coming to POEs through CBP One and to make those without a CBP One appointment ineligible for asylum.

72. The CLP and STB Rules contain certain narrow exceptions for some

⁵ Circumvention of Lawful Pathways, 88 Fed. Reg. 31,314 (May 16, 2023); 8 C.F.R. § 208.33(a)(1), (2)(ii)(B). Challenges to the validity of the CLP Rule remain pending. *E. Bay Sanctuary Covenant v. Biden*, 683 F. Supp. 3d 1025 (N.D. Cal. 2023) (vacating the CLP Rule because, *inter alia*, it is contrary to § 1158(a)(1)), *stayed pending appeal*, No. 23-16032, 2023 WL 11662094 (9th Cir. Aug. 3, 2023), *vacated and remanded for further proceedings*, 134 F.4th 545 (9th Cir. 2025); *M.A. v. Mayorkas*, No. 1:23-cv-01843, 2023 WL 5321924 (D.D.C. Jul. 6, 2023). The CLP Rule expired on May 11, 2025, and has not been extended to apply to new entrants. *E. Bay Sanctuary Covenant v. Trump*, No. 4:18-cv-06810 (N.D. Cal. May 20, 2025), ECF 210 at 1.

⁶ Securing the Border, 89 Fed. Reg. 48,710 (published June 7, 2024) (interim final rule); Securing the Border, 89 Fed. Reg. 81,156 (Oct. 7, 2024) (final rule). The suspension and limitation on entry in the STB Rule were in effect when the average number of daily encounters of migrants at the southern border surpassed a certain threshold. 89 Fed. Reg. 80,351-53. That threshold was exceeded continuously since July 2020. *See* “The Futility of ‘Shutting Down Asylum’ by Executive Action at the U.S.-Mexico Border,” WOLA (June 4, 2024), <https://www.wola.org/analysis/futility-of-shutting-down-asylum-by-executive-action-us-mexico-border/>. On May 9, 2025, the U.S. District Court for the District of Columbia vacated the STB Rule in large part. *Las Americas Immigrant Advocacy Center v. U.S. DHS*, No. 1:24-cv-01702 (D.D.C. May 9, 2025), ECF No. 92.

1 particularly vulnerable noncitizens without CBP One appointments. 88 Fed.
2 Reg. 31,318; 89 Fed. Reg. 48,491-92. But in practice, most migrants have been
3 unable to invoke the exceptions, leaving them ineligible for asylum without a CBP
4 One appointment.

5 73. Although both Rules purport to preserve access for people seeking
6 asylum who present at a POE without a CBP One appointment, CBP's inspection and
7 processing of asylum seekers at POEs without appointments nearly came to a
8 border-wide halt during the time the Rules were in force.

9 74. In violation of the INA, CBP blocked access to POEs for individuals
10 without CBP One appointments, turning them back before they could cross the
11 international border into a POE.

12 75. The CLP and STB Rules effectively created a digital metering system
13 that restricted access to the U.S. asylum process to a limited number of migrants who
14 had access to a smartphone and were technologically savvy enough to navigate the
15 app, literate in one of the languages supported by the app, and able to wait indefinitely
16 in Mexico until an appointment became available and could be scheduled.

17 76. To register on the app, noncitizens had to submit extensive biographic
18 and biometric information, after which they could request an appointment within a
19 23-hour period (e.g., 11 a.m. to 10 a.m. the following day). If they received an
20 appointment, they would be notified the next day. The app used "geofencing"
21 technology to limit its use to individuals physically located within specific
22 geographic areas of Mexico. Because the Government restricted use of the app in this
23 way, anyone hoping to access the asylum process in the United States via a southern
24 border POE had to be physically present in Mexico to request an appointment.

25 77. Beginning in July 2023, CBP made 1,450 CBP One appointments
26 available per day, divided among eight major POEs across the southern border.
27 CBP's practice was to schedule appointments approximately three weeks in advance.

28 78. The number of CBP One appointments available was inadequate

1 relative to the number of noncitizens in dire need of protection. As of November
2 2024, some Mexicans reported waiting up to 11 months for a CBP One appointment,
3 and some non-Mexicans reported waiting up to seven months.⁷

4 79. By January 2025, the practical effect of the CLP and STB Rules was
5 that only those migrants lucky enough to obtain one of the scarce CBP One
6 appointments could reach a POE, be inspected, and access the asylum process.
7 Moreover, asylum was generally unavailable to people who entered between POEs.

8 80. Until January 20, 2025, the Government lauded CBP One and
9 encouraged noncitizens to make appointments using the system. *See, e.g.*, 89 Fed.
10 Reg. at 81156, 81184, 81192, 81213, 81215 (calling CBP One “significant,”
11 “important,” “key,” “critical,” and “especially critical during emergency border
12 situations”). In doing so, the Government repeatedly made clear that noncitizens who
13 made CBP One appointments would be able to seek asylum and other humanitarian
14 relief in the United States. *See, e.g.*, 88 Fed. Reg. at 31350, 31400-01; *Las Americas*
15 *Immigrant Advocacy Ctr. v. United States DHS*, No. 1:24-cv-1702 (Dec. 4, 2024)
16 Dkt. 62, at 6-9; *id.* (Dec. 18, 2024) Dkt. 67, at 3.

17 81. Migrants seeking CBP One appointments could not count on obtaining
18 an appointment at any specific time. To the contrary, most attempts failed given the
19 limited number of appointment slots. People routinely would try to sign up every day
20 for months before securing a CBP One appointment, and thousands of people never
21 obtained one despite repeated attempts. Lack of internet access and electricity, lack
22 of understanding of the few languages available on the CBP One app, and other
23 technology-related issues prevented countless others from successfully navigating
24 the app.

25 82. Despite the obstacles to accessing the CBP One app and the egregious
26

27 ⁷ Strauss Center for International Security and Law, *Asylum Processing at the Border*
28 *Waitlists: November 2024* (Nov. 2024), at 4,
<https://www.strausscenter.org/publications/asylum-processing-at-the-u-s-mexico-border-november-2024/>.

1 living conditions they were forced to endure, thousands of people seeking asylum
2 went to great lengths to follow the Government's instructions, avoid crossing the
3 border unlawfully, and preserve their access to asylum in the United States by using
4 the app to try to schedule appointments at POEs.

5 83. Critically, for most individuals, reliance on the CBP One process
6 foreclosed the possibility of seeking asylum in Mexico because of Mexico's filing
7 deadline and how the Mexican asylum system's physical location requirement
8 interacted with the app.

9 84. To apply for asylum in Mexico, a migrant must submit an application
10 within 30 days of arriving in the country. Many migrants were advised by local
11 government or other authorities not to apply for asylum in Mexico if they intended
12 to seek protection in the United States, and their 30-day windows thus expired while
13 they were waiting for CBP One appointments. Moreover, the *Comisión Mexicana de*
14 *Ayuda a Refugiados* (COMAR), Mexico's asylum agency, recently indicated that
15 missing the deadline due to use of the CBP One app will not excuse non-compliance
16 with the 30-day deadline, thereby barring asylum for many migrants.

17 85. Additionally, an individual seeking asylum in Mexico must remain in
18 the Mexican state where they first applied for asylum throughout the pendency of
19 their claim. Departure from the state will lead COMAR to deem the application
20 abandoned. Many migrants were also required to apply in Mexico's southern states,
21 where they first encountered Mexican authorities. Because use of CBP One was
22 initially restricted to people in northern Mexico, many people were forced to abandon
23 asylum claims they had filed in other parts of the country in order to travel northward
24 to the geographic area where CBP One was accessible.

25 86. Overcoming the 30-day bar and reinstating an abandoned claim are very
26 difficult, especially for those without an attorney, and the vast majority of people
27 seeking asylum in Mexico do not have access to legal representation.

28 87. As of January 20, 2025, many migrants seeking access to POEs to apply

1 for asylum had forfeited their chance to seek asylum in Mexico, instead relying on
2 the use of CBP One to reach safety in the United States.

3 88. On the morning of January 20, 2025, approximately 30,000 asylum
4 seekers who had CBP One appointments scheduled within the next month were
5 waiting in Mexico. Some had booked flights to the border and to their eventual
6 destinations in the United States, only to arrive at the border to learn that their
7 appointments had been canceled.

8 89. At that time, many more migrants in Mexico had registered on CBP One
9 and had been using the app in the hope of obtaining an appointment. The vast
10 majority had not yet secured one of the limited appointments. Countless others had
11 not yet successfully registered on the CBP One app.

12 **C. Access to the U.S. Asylum Process at Ports of Entry Ended on**
13 **January 20, 2025.**

14 **1. Immediately After President Trump's Inauguration, CBP**
15 **Canceled All Scheduled CBP One Appointments and**
16 **Disabled CBP One.**

17 90. Beginning at noon Eastern Time on January 20, 2025, CBP—without
18 prior notice or explanation—began turning away asylum seekers with CBP One
19 appointments, telling them that their appointments had been canceled.

20 91. Just moments later, CBP posted an announcement on its website stating:
21 “Effective January 20, 2025, the functionalities of CBP One™ that previously
22 allowed undocumented [noncitizens] to submit advance information and schedule
23 appointments at eight southwest border ports of entry is [sic] no longer available, and
24 existing appointments have been cancelled.”⁸

25 92. The same day, President Trump issued the “Securing Our Borders”
26 executive order that directed the Secretary of DHS to cease using the CBP One
27 mobile application “as a method of paroling or facilitating the entry of otherwise

28 ⁸ Ximena Bustillo & Jasmine Garsd, *Trump reinforces use of his ‘Remain in Mexico’ policy*, NPR (Jan. 20, 2025, at 13:46 ET), <https://www.npr.org/2025/01/20/g-s1-43802/trump-immigration-border-remain-in-mexico-policy>.

1 inadmissible [noncitizens] into the United States.” 90 Fed. Reg. 8,467, 8,468
2 (Jan. 20, 2025). That same evening, President Trump issued the Proclamation. 90
3 Fed. Reg. 8333 (Jan. 20, 2025).

4 93. Since January 20, 2025, CBP, in coordination with Mexican authorities,
5 has been turning away people trying to present at POEs, including those who have
6 presented at the date and time designated in their CBP One appointments, and
7 refusing to inspect and process them.

8 94. On January 21, 2025, CBP issued a press release announcing the
9 “removal of the scheduling functionality of the CBP One™ mobile application,
10 effective Jan. 20, 2025, at noon EST” and the cancelation of all existing
11 appointments, totaling approximately 30,000.⁹ The press release offered no
12 justification or explanation for these actions. Nor did it mention the significant
13 reliance interests on the continued availability of CBP One appointments that the
14 Government’s prior actions had generated.

15 95. Defendants’ decision to cancel scheduled CBP One appointments and
16 remove the app’s scheduling functionality eliminated the only method available to
17 virtually all individuals seeking asylum at the U.S.-Mexico border between May
18 2023 and the morning of January 20, 2025.

19 **2. Defendants Close Ports of Entry to Asylum Seekers.**

20 96. The Proclamation, issued by President Trump on January 20, 2025,
21 asserts that “[o]ver the last 4 years,” people without entry documents coming into the
22 United States were not being effectively screened for inadmissibility under 8 U.S.C.
23 §§ 1182(a)(1)-(3) because such screening “can be wholly ineffective in the border
24 environment”; that such screening is legally “required”; and that the lack of such
25 screening thus “[led] to the unauthorized entry of innumerable illegal [noncitizens]
26

27 ⁹ *CBP Removes Scheduling Functionality in CBP One™ App*, U.S. Customs &
28 Border Protection (last modified Jan. 22, 2025),
<https://www.cbp.gov/newsroom/national-media-release/cbp-removes-scheduling-functionality-cbp-one-app>.

1 into the United States.” 90 Fed. Reg. at 8333. The Proclamation’s preamble also
2 vaguely asserts that based on the “current state of the southern border,” there is an
3 “ongoing” “invasion” there. 90 Fed. Reg. at 8334.

4 97. Invoking §§ 212(f) and 215(a)(1), the Proclamation “suspends the
5 entry” indefinitely of noncitizens “engaged in the invasion” or who “fail[], before
6 entering the United States, to provide Federal officials with sufficient medical
7 information and reliable criminal history and background information as to enable
8 fulfillment of the requirements of” § 1182(a)(1)-(3), on or after January 20, 2025. 90
9 Fed. Reg. 8335 at § 4.

10 98. Relying on the same statutory provisions, the Proclamation also
11 indefinitely “restrict[s noncitizens’] access to provisions of the INA that would
12 permit their continued presence in the United States, including, but not limited to,”
13 § 1158 (right to apply for asylum). 90 Fed. Reg. 8335 at § 3.

14 99. In addition to suspending “entry” pursuant to §§ 212(f) and 215(a)(1),
15 the Proclamation also suspends the “physical entry of any [noncitizen] engaged in
16 the invasion across the southern border.” President Trump asserts the authority to do
17 so flows from Article II and Article IV, section 4 of the Constitution. 90 Fed. Reg.
18 8335 at § 4.

19 100. The Proclamation further orders Secretary Noem, Secretary Rubio, and
20 Attorney General Bondi to “take all appropriate action” to “repel, repatriate, or
21 remove any [noncitizen] engaged in the invasion across the southern border of the
22 United States on or after the date of this order” and to otherwise take “appropriate
23 actions as may be necessary to achieve the objectives of” the Proclamation. 90 Fed.
24 Reg. 8335-36 at §§ 4-5.

25 101. Finally, the Proclamation indicates that it does not impair “the authority
26 granted by law to an executive department or agency” and provides that it “shall be
27 implemented consistent with applicable law.” 90 Fed. Reg. 8336 at § 5-6.

28 102. On information and belief, Defendants began implementing the Asylum

1 Shutdown Policy, under which they block asylum seekers from accessing POEs
2 along the southern border, immediately after the inauguration. In early February
3 2025, CBP issued written guidance to its Office of Field Operations in the form of a
4 memorandum and an attached muster memorializing the Asylum Shutdown Policy.¹⁰
5 The muster states that it is implementing Section 3 of the Proclamation. Defendants
6 updated the OFO guidance on February 28, 2025.

7 103. CBP's written guidance implements Section 3 of the Proclamation and
8 memorializes the Asylum Shutdown Policy by:

- 9 a. Stating that Section 3 of the Proclamation "suspends entry to the U.S. at
10 all [POEs] for [noncitizens] who fail to provide sufficient medical
11 information and reliable criminal history and background information
12 to enable fulfillment of the requirements of sections 1182(a)(1)-(3) of the
13 [INA]";
- 14 b. Exempting from the Proclamation U.S. citizens, lawful permanent
15 residents, people with "valid entry documents" (such as a visa), and
16 unaccompanied children; and
- 17 c. Stating that noncitizens "subject to the Proclamation shall not be
18 permitted to cross the international boundary," even if the person
19 "claims or manifests a fear at the international boundary line."

20 104. The guidance also implements the Securing Our Borders executive
21 order and notes that, at the time the muster was issued, the STB Rule was still in
22 effect.

23 105. DHS has confirmed that pursuant to CBP's guidance implementing
24 Section 3 of the Proclamation, noncitizens at land border POEs "who lack valid entry
25 documents or otherwise fail to provide sufficient medical information or reliable
26 criminal history and background information are prevented from entering the United
27 States at the physical border." *Refugee and Immigrant Ctr. For Ed. and Legal Servs.*

28 ¹⁰ Exhibit A, *supra* note 2.

1 v. *Noem*, No. 1:25-cv-00306 (D.D.C. Mar. 24, 2025), ECF 44-5, Declaration of Ihsan
2 Gunduz, Acting Deputy Assistant Secretary for Border and Immigration Policy,
3 DHS, ¶ 35.

4 106. Upon information and belief, Defendants have not provided any
5 mechanism for asylum seekers to provide medical history and criminal background
6 information to CBP prior to presenting at POEs.

7 **3. Defendants’ Unlawful Actions Place People Seeking Asylum in**
8 **Grave Danger.**

9 107. Pursuant to the Proclamation, the Asylum Shutdown Policy, and their
10 implementation, as well as the CBP One Cancellation, CBP officers are blocking
11 asylum seekers’ access to POEs, leaving them stranded under perilous conditions in
12 Mexico. To this day, the State Department warns that “[v]iolent crime—such as
13 homicide, kidnapping, carjacking, and robbery—is widespread and common in
14 Mexico.”¹¹ The State Department has also recognized that armed groups frequently
15 limit the movements of migrants within Mexico and that human smuggling
16 organizations hold significant power throughout the country.¹²

17 108. Migrants in Mexico also face local military, law enforcement, and
18 immigration officials who are hostile to their presence in the country and target them
19 for extortion, violence, and arbitrary detention.

20 109. Multiple reports have highlighted the troubling collaboration between
21 Mexican officials and criminal organizations in perpetrating crimes against migrants
22 in Mexico.¹³ Such collusion is particularly prevalent in the border towns of

23 ¹¹ U.S. Dep’t of State, Bureau of Consular Affairs, Mexico Travel Advisory (Sept. 6,
24 2024),
25 <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/mexico-travel-advisory.html>.

26 ¹² U.S. State Department, Mexico 2023 Human Rights Report (April 22, 2024)
27 https://www.state.gov/wp-content/uploads/2024/02/528267_MEXICO-2023-HUMAN-RIGHTS-REPORT.pdf.

28 ¹³ See, e.g., The Hope Border Institute, *“I am physically and mentally exhausted”*:
Migration policies and health at the US-Mexico border (February 2025)

1 Matamoros, Nuevo Laredo, and Reynosa, located in Tamaulipas state, where over
 2 40 percent of CBP One appointments were issued as of February 2024. The groups
 3 controlling criminality in Tamaulipas make millions of dollars annually from
 4 cross-border drug trafficking, human trafficking, and migrant smuggling.

5 110. The U.S. government has outsourced a substantial portion of
 6 immigration enforcement to the Mexican government and encouraged the
 7 militarization of Mexico's response to migration flows. The Mexican government
 8 has deployed thousands of National Guard soldiers alongside agents from the
 9 *Instituto Nacional de Migración* ("INM"), the Mexican immigration agency, to
 10 monitor, interdict, and turn back noncitizens seeking to reach the U.S.-Mexico
 11 border. Human Rights First has tracked reports of over 2,500 asylum seekers and
 12 other migrants who survived kidnapping, murder, torture, rape, assault, and other
 13 serious harms while they were stranded in Mexico in the year following the May
 14 2023 CLP Rule.¹⁴

15 111. Other civil society organizations have also documented widespread
 16 violence against migrants in cities along the U.S.-Mexico border and in southern
 17 Mexico, where many people seeking asylum were stranded until they obtained CBP
 18 One appointments and were permitted to travel within Mexico.¹⁵

19 _____
 20 https://www.hopeborder.org/files/ugd/e07ba9_ace6c56b089a413c8b50b459c3f99826.pdf.

21 ¹⁴ See, e.g., Human Rights First, *Trapped, Preyed Upon, and Punished: One Year of*
 22 *the Biden Administration Asylum Ban* (May 2024), https://humanrightsfirst.org/wp-content/uploads/2024/05/Asylum-Ban-One-Year-Report_final-formatted_5.13.24.pdf.

23 ¹⁵ See, e.g., Human Rights Watch, *"We Couldn't Wait": Digital Metering at the U.S.-*
 24 *Mexico Border* (May 2024) ("The more difficult it is for migrants to cross the U.S.-
 25 Mexico border, the more money cartels make, whether from smuggling operations
 26 or from kidnapping and extortion."); Doctors Without Borders, *17 Days in Captivity*
 27 *Along the U.S.-Mexico Border* (February 28, 2024) (increasing reports of sexual
 28 violence in northern Mexico); The Hope Border Institute, *"I am physically and*
 29 *mentally exhausted": Migration policies and health at the US-Mexico border,*
 30 (February 2025)

31 https://www.hopeborder.org/files/ugd/e07ba9_ace6c56b089a413c8b50b459c3f99826.pdf
 32 (recent survey of 177 migrants in Ciudad Juárez conducted by Hope Border
 33 Institute showed that four out of five respondents had been victims of some form of

112. Black, Indigenous, LGBTQI+, and non-Spanish speaking migrants face a particularly high risk of discrimination and targeted violence from local police and cartels while waiting in Mexico.¹⁶

113. In addition to threats to their physical safety, migrants in Mexico often have difficulty securing access to stable housing, employment, food, drinking water, medical care, and other basic needs.

4. Defendants' Unlawful Actions Have Caused Severe Harm to Each of the Plaintiffs.

114. **Harm to Maria Doe.** In 2019, Mexican police associated with the *Cártel de Jalisco Nueva Generación* physically assaulted Maria, her first husband, and their younger son in their home and then murdered her husband. Due to Maria's participation in the criminal case against the assailants, the cartel began its years-long retaliation against her and her family, resulting in the murder of a family friend and the disappearance of Maria's son, his wife, and their two-year-old daughter. Due to repeated threats from the cartel, Maria has relocated repeatedly in Mexico. However, cartel members have found her and kidnapped her multiple times to try to convince her to recant her testimony, which has placed several high-ranking Mexican government officials in jail. In February 2024, the cartel again kidnapped Maria along with her second husband, whom they badly beat. Maria and her husband fled to Tijuana.

cartel violence, including a particular prevalence of kidnappings in which Mexican officials were sometimes complicit); KBI and WOLA, *From the Field: The First 14 Days of Border Impacts Under the Trump Administration's Executive Orders* (Jan. 2025), <https://www.kinoborderinitiative.org/abuse-documentation/>, <https://www.kinoborderinitiative.org/wp-content/uploads/2025/02/One-Pager-2-weeks-after-Trumps-come-back-1.pdf> (comparable dangers of violence and extortion against migrants in Nogales by criminal organizations and human rights abuses by Mexican authorities); "Continúa cobro de piso en albergues de migrantes en Tijuana," *XEWT Canal 12*, August 12, 2024, <https://xewt12.com/%20noticias/continua-cobro-de-piso-en-albergues-de-migrantes-en-tijuana/> (as of August 2024, at least 10 of Tijuana's 30 shelters had reported experiencing threats from criminal groups or demands for extortion fees).

¹⁶ Human Rights First, *Trapped, Preyed Upon, And Punished: One Year of the Biden Administration Asylum Ban* (May 2024), at 12-14.

1 115. Since reaching Tijuana in August 2024, Maria and her husband have
2 lived in hiding in a shelter, where someone helped them register for CBP One. They
3 received an appointment to present at the San Ysidro port of entry on February 9,
4 2025. Their appointment was canceled on January 20, 2025.

5 116. Since then, Maria has remained in hiding with her husband, her physical
6 and mental health have deteriorated, and they live in constant fear. They recently
7 heard that the cartel has offered a reward of seven million Mexican pesos for
8 information about their whereabouts. They have changed their phone numbers and
9 do not make contact with any family or friends.

10 117. **Harm to Jessica Doe.** Jessica and her three children fled Colombia in
11 June 2024 because of intensifying death threats from a powerful gang and drug
12 trafficking organization known as *Los Paisas*. When she was 16, Jessica's family
13 moved her to live with her mother in Bogotá, where *Los Paisas* forced her to work
14 for them. They regularly raped her, beat her, threatened her and her family, and sold
15 her as a sex slave. When she tried to flee, they hurt or killed someone she loved,
16 including murdering her mother. They subsequently murdered Jessica's close friend
17 before her eyes and then brutally beat Jessica until they thought she was dead. Jessica
18 moved to other places in Colombia, but *Los Paisas* always found her. In June 2024,
19 after *Los Paisas* threatened to kill her son, Jessica and her three children fled to
20 Mexico City with the intention of seeking asylum in the United States.

21 118. After she got to Mexico City, Jessica registered immediately for CBP
22 One and tried every day to secure an appointment. The sole exception was during the
23 five days in September 2024 when she was kidnapped and detained by gang members
24 who intended to sell her into sexual slavery. After escaping from her kidnappers,
25 Jessica and her children moved to Matamoros. She resumed her daily attempts to
26 secure a CBP One appointment until January 17, 2025, when she finally received an
27 appointment scheduled for February 9, 2025.

28 119. On January 20, 2025, when Jessica learned that her appointment had

1 been canceled, she fell into a deep depression and contemplated suicide. On
2 January 25, 2025, she tried to approach the Matamoros port of entry, but Mexican
3 officials blocked her before she could get to the bridge and told her that “there was
4 no CBP One anymore.” Jessica, who has multiple sclerosis, and her children, one of
5 whom is epileptic, remain in Matamoros, where they struggle to survive and she lives
6 in constant fear that she will be kidnapped or trafficked and that her children will be
7 harmed. Jessica has not applied for asylum in Mexico because she does not feel safe
8 there and, in any case, missed the 30-day deadline to do so. If she and her children
9 were forced to return to Colombia, Jessica is certain that *Los Paisas* would kill or
10 disappear them.

11 120. **Harm to Fernando Doe.** Fernando Doe fled Venezuela in March 2024
12 after the Venezuelan government initiated a repressive crackdown against him and
13 fellow leaders of the *Voluntad Popular* party who oppose the ruling Maduro regime.
14 After he and other party activists organized large anti-government street protests,
15 many of his associates were detained without charge. Fearing that they would meet
16 the same fate, Fernando and his brother, who was also a party member, fled the
17 country. During their arduous journey north through Colombia, the Darién Gap, and
18 Central America, they were repeatedly attacked and extorted.

19 121. After reaching Chiapas, Mexico, Fernando and his brother traveled
20 north primarily on foot and by bicycle to get to Mexico City, where they could
21 register for CBP One. During their journey, they were extorted several times and
22 kidnapped and detained for two days by the *Zetas* cartel. Fernando was beaten so
23 severely that he required emergency surgery a short time later to repair
24 life-threatening damage to his internal organs. After reaching Mexico City in May
25 2024, Fernando attempted to secure a CBP One appointment every day for seven
26 months. Finally, on January 6, 2025, he secured an appointment for January 25, 2025,
27 at the Nogales POE. Fernando spent the last of his money on travel costs to get to
28 Nogales in time for his appointment. While en route to Nogales, he received

1 notification that his CBP One appointment had been canceled.

2 122. Since then, Fernando has been stranded in Nogales, where he has been
3 threatened by masked men whom he believes are linked to certain narco-trafficking
4 syndicates tied to the Maduro regime in Venezuela. Due to these risks, he cannot
5 continue his advocacy efforts in Mexico. He is extremely depressed and struggling
6 to survive. Fernando missed the 30-day deadline to apply for asylum in Mexico and
7 remains stranded and afraid for his safety. If forced to return to Venezuela, he fears
8 he will be imprisoned indefinitely or disappeared by the Maduro regime.

9 123. **Harm to Ali Doe.** Ali Doe fled Afghanistan due to the imminent
10 Taliban takeover in 2021. He feared for his life under the Taliban because of his work
11 with the previous government and his Hazara ethnicity. After spending three years in
12 Iran, he was unable to obtain status there and was deported back to Afghanistan,
13 where he lived in hiding for about a month before fleeing the country again in July
14 2024. Ali reached Tapachula, Mexico around October 2024 and left soon afterward
15 for Mexico City.

16 124. Soon after his arrival in Mexico, Ali registered for CBP One. After
17 attempting to secure an appointment for several weeks, he received one on or around
18 January 6, 2025, to present at the Nogales port of entry on January 23, 2025. Ali spent
19 approximately 9,000 Mexican pesos to travel to Nogales and presented at the POE
20 for his appointment, but U.S. immigration officials told him the CBP One program
21 was canceled and turned him away. He returned to the POE over the next week to try
22 to seek asylum but gave up hope after seeing that no one could get in.

23 125. Since his CBP One appointment was canceled, Ali has struggled with
24 depression. Unable to speak Spanish and without support, he feels unsafe. Ali missed
25 the 30-day deadline to apply for asylum in Mexico. If forced to return to Afghanistan,
26 he fears that he would be killed.

27 126. **Harm to Eduardo Doe.** Eduardo Doe fled Venezuela in November
28 2024 because police and military officials threatened to detain and kill him. An active

1 senior colonel in the Venezuelan National Guard ordered Eduardo to attend a rally in
2 support of the current Maduro regime, but he refused to comply and immediately left
3 the country. After leaving, he learned that some acquaintances who had also refused
4 to attend the rally were detained before they could escape the country. After a
5 harrowing journey through the Darién Gap, Eduardo was abducted by cartel members
6 almost immediately upon his arrival in Chiapas, Mexico. He was held for two weeks,
7 brutally tortured, and threatened with indefinite detention.

8 127. After managing to escape from his kidnappers, Eduardo made his way
9 to Tapachula, where he went into hiding while making daily attempts to secure a CBP
10 One appointment. On January 3, 2025, Eduardo received confirmation that he had
11 secured an appointment at the San Ysidro POE on January 21, 2025. He left
12 Tapachula for Tijuana around January 16, 2025, but received notification on
13 January 20, 2025, that his appointment had been canceled. On or around January 21,
14 2025, Eduardo attempted to approach the San Ysidro POE, but Mexican officials
15 blocked him before he reached the border.

16 128. Since then, Eduardo has lived in a shelter in Tijuana, where he struggles
17 to survive. He has not attempted to return to the POE because he has been told that
18 Mexican officials are detaining people who do so and sending them to Chiapas, where
19 he was previously kidnapped and tortured. The cancelation of his CBP One
20 appointment has taken a toll on Eduardo's mental health, and he lives in a state of
21 constant fear that he may be kidnapped again. He missed the 30-day deadline to apply
22 for asylum in Mexico. If forced to return to Venezuela, he fears he will be
23 disappeared or killed.

24 129. **Harm to Jean Doe.** Jean fled Haiti in October 2017, after individuals
25 who are now members of the Viv Ansanm gang killed his father and threatened him
26 with the same fate. He fled to Chile, where his wife joined him a few months later
27 and where their children were born. Jean and his family subsequently left Chile
28 because they were unable to obtain residency and because Jean feared retaliation for

1 reporting a theft by organized crime.

2 130. Following an arduous journey through several countries, Jean and his
3 family reached Mexico City and registered for CBP One in November 2023. They
4 tried every day to get a CBP One appointment. They did not apply for asylum in
5 Mexico because a Mexican immigration official had told Jean that they could not
6 seek asylum in both countries, and they missed the 30-day deadline. On January 1,
7 2025, Jean and his family finally received a CBP One appointment to present at the
8 Nogales port of entry on January 20, 2025.

9 131. Jean and his wife gave up their apartment in Mexico City and paid about
10 10,000 Mexican pesos to travel to Nogales for their CBP One appointment. On the
11 morning of January 20, 2025, while they were standing in line at the Nogales port of
12 entry, a U.S. immigration official told Jean and his family that the President had
13 blocked CBP One, sent them away, and made clear that they would not be processed
14 if they returned. The family is devastated, demoralized, and struggling financially as
15 a result of the expenses they incurred to travel to the border. They do not feel safe in
16 Mexico, especially after Jean narrowly escaped an armed kidnapping. If forced to
17 return to Haiti, Jean fears that the gang that killed his father will kill him, too.

18 132. **Harm to Rous Doe.** Rous fled Venezuela because of abuse based on
19 her sexual orientation and perceived gender identity. Both the Venezuelan police and
20 National Guard members subjected her to verbal slurs, beatings, threats, and
21 harassment on countless occasions because she presented as an effeminate gay man.
22 When she tried to file complaints with both agencies, they laughed and threatened to
23 detain her so that she would be raped in jail. In 2019, National Guard members
24 singled Rous out at a checkpoint, called her “faggot,” and destroyed her passport.
25 Fearing that the authorities would subject her to additional harm, she avoided leaving
26 her house and later fled to Colombia.

27 133. During her time in Colombia, Rous began to present as a woman, but
28 still faced discrimination, including denial of work, based on her gender identity.

1 Desperate to find safety, she decided to brave the journey through the Darién Gap to
2 seek protection in the United States.

3 134. Soon after reaching Tapachula in November 2024, Rous registered for
4 CBP One. In order to do so, she had to buy a new phone and phone chip that could
5 support the CBP One app. Due to these expenses, she had very little money for food.
6 On January 4, 2025, Rous received an appointment for January 23, 2025, at the
7 Nogales port of entry.

8 135. On January 19, 2025, while traveling by bus to Nogales for her CBP
9 One appointment, Rous was kidnapped by individuals who appeared to be Mexican
10 officials and held for seven weeks. While detained, Rous learned from another
11 hostage that all CBP One appointments had been canceled. Since her release, she has
12 been extremely traumatized. Rous missed the 30-day deadline to apply for asylum in
13 Mexico. She fears that she may be kidnapped again or otherwise targeted because
14 she is transgender.

15 136. **Harm to Diana Doe.** Diana has been attempting to flee Mexico since
16 members of the *Familia Michoacana* cartel killed and dismembered her son after she
17 failed to comply with their extortion demands. The cartel has continued to make death
18 threats against Diana, her partner, and her surviving children.

19 137. After she and her family arrived in Tijuana in March 2024, Diana
20 registered for the CBP One app. Although she requested an appointment every day
21 for many months, she did not receive one prior to the cancelation of CBP One.

22 138. Stranded in a shelter near the border, Diana and her family are afraid
23 even to go outside for fear that members of the cartel will find them. They have not
24 approached a port of entry to request asylum due to the threat posed by the cartel.
25 Since the cancelation of CBP One, Diana has been suffering physically and mentally.
26 She is depressed, still grieving the loss of her son under horrific circumstances.

27 139. **Harm to Nikolai Zolotov.** Nikolai Zolotov fled Russia around February
28 2023 to escape discrimination, harassment, and physical harm based on his sexual

1 orientation and identity as a gay man. After Nikolai participated in a protest against
2 a homophobic law, Russian authorities arrested him for promoting “LGBT
3 propaganda” and forced him to pay a fine. His brother threatened to kill him or send
4 him to the army where he would be raped. After leaving Russia, Nikolai attempted
5 to apply for asylum in Argentina, but his asylum interview was canceled multiple
6 times and his application was never adjudicated.

7 140. Nikolai traveled to Mexico in March 2024 when he heard about the CBP
8 One app. He registered for CBP One and unsuccessfully attempted to secure an
9 appointment every day until the app was terminated on January 20, 2025. He
10 encountered problems with the app, including the erasure of his registration, but was
11 repeatedly denied assistance when he sought help from CBP, both in person and by
12 reaching out to the CBP One office.

13 141. The cancelation of CBP One has seriously impacted Nikolai’s mental
14 health. He has trouble sleeping and experiences frequent nightmares. Nikolai has
15 been harassed and threatened in Mexico, including by a violent shelter manager who
16 abused his position of power. Nikolai has also witnessed extremely violent cartel
17 activity. Due to the harassment he has experienced and the pervasive targeting of
18 migrants by police and cartels in Mexico, he stays indoors most of the time and walks
19 in busier areas if he must be out. He has not applied for asylum in Mexico because
20 he does not feel safe there. Furthermore, Nikolai has missed the 30-day deadline to
21 apply for asylum in Mexico. With no status in Mexico and no ability to speak
22 Spanish, he is struggling emotionally and financially. If forced to return to Russia, he
23 fears for his life.

24 142. **Harm to Anahi Doe.** Anahi Doe fled Guatemala at the age of 18 after
25 being subjected to violence and discrimination throughout her life for being
26 perceived as gay. Her father abused her so severely that she feared for her life. She
27 is currently undergoing hormone therapy to finally be able to live as a woman,
28 consistent with her gender identity.

1 143. Anahi reached Tapachula, Mexico in September 2016. She fled
2 Tapachula in 2020 after being repeatedly threatened and harassed by armed gang
3 members who thought she had reported their illegal activities, and moved to Tijuana.

4 144. After leaving an abusive relationship with a man in Tijuana, Anahi took
5 refuge in a shelter, where she registered for the CBP One app in 2024 to seek asylum
6 in the United States. Despite daily attempts to obtain an appointment, Anahi never
7 received one before Defendants ended the use of CBP One for scheduling.

8 145. The termination of CBP One has taken a toll on Anahi's mental health,
9 and she is experiencing depression. She does not feel safe in Mexico due to the
10 discrimination and harassment she has faced for being transgender, and she fears her
11 abusive ex-partner could find her.

12 146. **Harm to Dragon Doe.** Dragon fled Ecuador in November 2024 after
13 receiving death threats from the Revolutionary Armed Forces of Colombia (FARC).
14 Although he reported the threats to the prosecutor's office, the Ecuadorian
15 government took no steps to protect him.

16 147. Dragon reached Mexico around November 20, 2024, and made his way
17 to Hidalgo, where he registered for the CBP One app. Although he attempted to
18 secure a CBP One appointment every day for nearly two months, he never received
19 one. Confused by the process and having receiving error messages on the CBP One
20 app, Dragon traveled to Nogales on or around January 18, 2025. He attempted to
21 approach the Nogales port of entry to seek asylum, but a Mexican police officer
22 outside the port told him that the United States was not letting anyone cross the
23 border. He continued trying to get a CBP One appointment until Defendants
24 terminated the use of the app for scheduling.

25 148. Dragon missed the 30-day deadline to apply for asylum in Mexico,
26 where he remains stranded and without protection. Since CBP One was canceled, he
27 has felt completely dejected. If he is forced to return to Ecuador, he fears he will be
28 killed.

1 149. **Harm to Al Otro Lado.** Defendants’ policies and actions have
2 interfered with AOL’s core work of assisting migrant populations on both sides of
3 the U.S.-Mexico border in understanding, accessing, and navigating the complex
4 asylum system in the United States. The Proclamation, the Asylum Shutdown Policy,
5 and their implementation, as well as the CBP One Cancellation, have impaired AOL’s
6 ability to provide legal education, accompaniment, and direct representation to its
7 clients by closing all pathways for people to access the U.S. asylum process.

8 150. AOL has long provided stop-gap humanitarian assistance to individuals
9 temporarily stranded in northern Mexico due to the harmful effects of restrictive U.S.
10 asylum policies. However, the nature and scope of these individuals’ needs have
11 fundamentally shifted as a result of the Proclamation, the Asylum Shutdown Policy,
12 and the CBP One Cancellation. Prior to January 20, 2025, asylum seekers required
13 access to information regarding the U.S. asylum system, accompaniment to POEs,
14 and temporary assistance with basic needs while they were waiting in Mexico. Now,
15 to meet the needs of the populations it serves, AOL must attempt to provide
16 assistance with legal needs, in finding long-term housing, securing employment,
17 enrolling children in school, and obtaining medical care—all in Mexico. AOL’s
18 clients frequently fall ill due to unsanitary and precarious conditions and a lack of
19 basic necessities, experience violence at the hands of criminal groups and Mexican
20 officials, and even die while waiting indefinitely to seek asylum in the United States.

21 151. To reach the people most impacted by Defendants’ actions, AOL had to
22 develop and implement a new risk assessment survey to identify vulnerable
23 individuals, provide them with information about the Asylum Shutdown Policy and
24 CBP One Cancellation, and connect them with the support services they need to
25 survive in Mexico. Facilitating the long-term care and integration of clients stranded
26 permanently in Mexico and coordinating with Mexican organizations requires large
27 amounts of staff time that would otherwise be allocated to providing direct services
28 to people seeking asylum in the United States.

1 152. The decrease in asylum seekers in the United States resulting from
2 Defendants' actions has also threatened AOL's existing funding streams and its
3 contracts for domestic work. Much of AOL's funding for U.S.-based legal
4 representation and services requires it to meet quantitative metrics, which have
5 become much harder to attain given the shutdown of all means of accessing the U.S.
6 asylum system at POEs.

7 153. AOL routinely submits comments on proposed federal rules that impact
8 its client population. Defendants' failure to provide an opportunity to submit
9 comments on the CBP One Cancellation have harmed AOL by depriving it of the
10 ability to advocate for the interests of the communities that it serves.

11 154. As a result of Defendants' actions, AOL staff and leadership have
12 suffered the painful emotional burden of watching their clients suffer and sometimes
13 die for lack of access to the U.S. asylum process.

14 155. **Harm to Haitian Bridge Alliance.** Defendants' actions have concretely
15 and perceptibly impaired both the legal and humanitarian services that HBA
16 provides. The Proclamation, the Asylum Shutdown Policy, and their implementation,
17 as well as the CBP One Cancellation, have prevented HBA from engaging in its core
18 work of welcoming recently arrived Black migrants to the United States by providing
19 them with legal and humanitarian assistance. Since its founding, HBA has provided
20 legal representation and immigration counseling, as well as a full range of
21 humanitarian services and referrals, to that population. However, HBA's welcoming
22 work has suffered significant setbacks as the number of Black migrants arriving in
23 the country has fallen precipitously because of Defendants' policies ending all access
24 to asylum at POEs. This includes layoffs of four individuals contracted to do the
25 domestic work of assisting recently arrived clients.

26 156. The Asylum Shutdown Policy has also frustrated HBA's core
27 U.S.-based work by creating a humanitarian disaster and causing immense panic
28 among the organization's confused and desperate clients in Mexico. Thousands of

1 Black migrants have flooded HBA with inquiries and concerns about their legal
2 options, causing HBA to struggle to meet their needs for counseling and accurate
3 information about the state of asylum in the United States. The need to focus
4 resources on the vulnerable client population stuck at the border has also forced HBA
5 to reduce some of its core work meeting the economic and living needs of Haitian
6 immigrants already in the country.

7 157. Additionally, the closure of POEs to asylum seekers has interfered with
8 HBA's ability to provide meaningful legal and humanitarian services at the border,
9 as the acute humanitarian needs of their client population have increased. Since
10 January 20, 2025, at least two of HBA's clients have died while waiting to access
11 asylum in Mexico, and many others are suffering from critical medical problems;
12 previously, HBA would have assisted such individuals by filing parole applications
13 or accompanying them to present at POEs in order to try to save their lives. Moreover,
14 numerous clients have reported experiencing pressing physical and psychological
15 ailments brought on by the dangerous and discriminatory conditions in Mexico and
16 the stress of having no recourse to seek safety in the United States. This includes
17 women with high-risk pregnancies who have had miscarriages, children suffering
18 from malnutrition and heat exhaustion, other people who have suffered heart attacks,
19 and even one client who went mute. HBA cannot effectively assist community
20 members who have experienced extreme violence, medical emergencies, and even
21 death because they have been permanently stranded in Mexico.

22 158. HBA routinely submits comments on proposed federal rules that impact
23 its client population. Defendants' failure to provide an opportunity to submit
24 comments on the CBP One Cancellation have harmed the organization by depriving
25 it of the ability to advocate for the interests of the communities that it serves.

26 159. HBA is deeply committed to supporting the Haitian and Black migrant
27 communities around the U.S.-Mexico border, but there is widespread fear within the
28 organization that it will not be able to meet its goals or effectively serve as a lifeline

1 and advocate for migrant communities if Defendants' actions remain in effect.

2 VI. CLASS ACTION ALLEGATIONS

3 160. Alongside the Organizational Plaintiffs, the Individual Plaintiffs bring
4 this action pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(1), and 23(b)(2)
5 on behalf of themselves and all other persons similarly situated. The proposed class
6 ("Asylum Class") is defined as follows:

7 All noncitizens who, on or after January 20, 2025, have sought or will
8 seek to present themselves at a Class A POE on the U.S.-Mexico border
9 to seek asylum; who were or will be prevented from accessing the U.S.
10 asylum process by or at the direction of Defendants based on the
11 Proclamation or the Asylum Shutdown Policy; who continue to seek
12 access to the U.S. asylum process; and who are not physically present
13 in the United States.

14 161. Plaintiffs also propose the following subclass (the "CBP One
15 Subclass"):

16 All noncitizens who received appointments through the CBP One app
17 to present themselves at a Class A POE on the U.S.-Mexico border;
18 whose appointments were canceled by Defendants on January 20, 2025;
19 who continue to seek access to the U.S. asylum process; and who are
20 not physically present in the United States.

21 162. **Fed. R. Civ. P. 23(a)(1) – Numerosity.** The Asylum Class and the CBP
22 One Subclass are so numerous that joinder of all class members is impractical.
23 Pursuant to the Proclamation, the Asylum Shutdown Policy, and the CBP One
24 Cancellation, Defendants have prevented thousands of noncitizens from accessing the
25 U.S. asylum process at POEs and deprived them of their statutory right to apply for
26 asylum. Moreover, class members are geographically dispersed along the
27 U.S.-Mexico border, making joinder of all class members impractical. Based on
28 Defendants' prior practices relating to CBP One appointments, there are
approximately 30,000 potential members of the CBP One Subclass alone, who are
readily identifiable by Defendants.

163. **Fed. R. Civ. P. 23(a)(2) – Commonality.** There are numerous questions
of law and fact common to the proposed Asylum Class and CBP One Subclass. The
legality of the Proclamation, the Asylum Shutdown Policy, and the CBP One

1 Cancellation are systemic questions capable of common proof. Questions of law and
2 fact that are common to the proposed Asylum Class include whether (a) Defendants
3 unlawfully prevented the class members from presenting themselves at a POE to seek
4 asylum; and (b) Defendants' actions violate the INA or the APA and/or are ultra
5 vires.

6 164. Questions of law and fact that are common to the proposed CBP One
7 Subclass include whether (a) Defendants' cancellation of putative CBP One Subclass
8 members' appointments despite their significant reliance interests was arbitrary and
9 capricious; and (b) Defendants violated the APA's procedural requirements by
10 canceling CBP One appointments without notice or explanation.

11 165. Even if there are "different factual circumstances between each class
12 member's particular experience," that "does not destroy commonality because there
13 is still a common underlying legal question regarding whether each and every class
14 member was illegally denied access to the asylum system because of the Defendants'
15 overarching policy." *Al Otro Lado, Inc. v. Wolf*, 336 F.R.D. 494, 503 (S.D. Cal.
16 2020).

17 166. **Fed. R. Civ. P. 23(a)(3) – Typicality.** Individual Plaintiffs' claims are
18 reasonably coextensive with those of the proposed Asylum Class because the
19 Individual Plaintiffs, like all proposed Asylum Class members, were or will be denied
20 access to the U.S. asylum process based on Defendants' unlawful actions in
21 implementing the Proclamation and the Asylum Shutdown Policy. The Individual
22 Plaintiffs representing the CBP One Subclass, like all CBP One Subclass members,
23 have been injured by the CBP One Cancellation because, in reliance on Defendants'
24 instructions, they waited in Mexico under dangerous conditions to obtain CBP One
25 appointments, risked forfeiting the opportunity to seek asylum in Mexico, and
26 incurred related travel and other expenses.

27 167. **Fed. R. Civ. P. 23(a)(4) – Adequacy.** Individual Plaintiffs will fairly
28 and adequately protect the interests of the class members they seek to represent.

1 Individual Plaintiffs will pursue this action vigorously through qualified counsel on
2 behalf of the Asylum Class and, where relevant, the CBP One Subclass. None of the
3 Individual Plaintiffs have antagonistic or conflicting interests. Rather, they all share
4 a common interest in enjoining and/or vacating the Proclamation, the Asylum
5 Shutdown Policy, and/or the CBP One Cancellation, and being able to access the U.S.
6 asylum process at a POE along the U.S.-Mexico border. Furthermore, Plaintiffs'
7 counsel will adequately protect the interests of the class because they have
8 demonstrated expertise in litigating class actions, including challenges to
9 Defendants' immigration policies, and have dedicated significant resources to
10 litigating this matter.

11 168. **Fed. R. Civ. P. 23(b)(2).** The Asylum Class and the CBP One Subclass
12 should also be certified because Defendants have acted or refused to act on grounds
13 that apply generally to the proposed class and subclass, rendering injunctive and
14 declaratory relief appropriate as to the Asylum Class and CBP One Subclass as a
15 whole. Specifically, Defendants have implemented, enforced, and perpetuated the
16 Proclamation and Asylum Shutdown Policy at POEs on the U.S.-Mexico border with
17 respect to all proposed Asylum Class members. Similarly, Defendants have
18 implemented the CBP One Cancellation with respect to all proposed CBP One
19 Subclass members. Pursuant to these executive actions, Defendants have deprived
20 Individual Plaintiffs and putative class members of access to the asylum process at
21 POEs on the U.S.-Mexico border in violation of the INA and the APA and in excess
22 of their authority.

23 **VII. CAUSES OF ACTION**
24 **FIRST CLAIM FOR RELIEF**
25 **Violation of the Immigration and Nationality Act,**
26 **8 U.S.C. § 1158**
27 **(All Plaintiffs Against All Defendants)**

28 169. Plaintiffs reallege and incorporate by reference each and every
allegation contained in the preceding paragraphs as if set forth fully herein.

170. The INA codifies the right of noncitizens to come to land POEs and seek

1 asylum. 8 U.S.C. § 1158(a)(1) provides that any noncitizen “who is physically
2 present in the United States or who arrives in the United States . . . at a designated
3 port of arrival” has the right to seek asylum, regardless of such individual’s
4 immigration status.

5 171. The Proclamation, the Asylum Shutdown Policy, and their
6 implementation violate 8 U.S.C. § 1158 by depriving noncitizens of the ability to
7 access the U.S. asylum process at POEs.

8 172. None of the sources of law on which the Proclamation or the Asylum
9 Shutdown Policy rely—the Proclamation itself, 8 U.S.C. § 1182(a)(1)-(3), INA
10 § 212(f), INA § 215(a)(1), or the U.S. Constitution—authorizes CBP officers or their
11 agents to violate § 1158 by preventing asylum seekers from accessing the asylum
12 process at POEs.

13 173. CBP officers, in coordination with Mexican authorities, implemented
14 the Proclamation and the Asylum Shutdown Policy at the instigation, under the
15 control or authority, or with the knowledge, consent, direction, and/or acquiescence
16 of Defendants.

17 174. Plaintiffs have a non-statutory right of action to have Defendants’
18 actions declared unlawful and enjoined.

19 175. By implementing the Proclamation and the Asylum Shutdown Policy,
20 Defendants have irreparably injured Individual Plaintiffs by depriving them of access
21 to the asylum process and by forcing them to wait indefinitely in Mexico, where they
22 risk serious harm.

23 176. In addition, by implementing the Proclamation and the Asylum
24 Shutdown Policy, Defendants have irreparably injured Plaintiffs Al Otro Lado and
25 Haitian Bridge Alliance by interfering with their core activities.

SECOND CLAIM FOR RELIEF
Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (C),
Contrary to Law
(All Plaintiffs Against All Defendants Except President Trump)

177. Plaintiffs reallege and incorporate by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

178. The APA requires courts to hold unlawful and set aside any agency action that is “not in accordance with law” or is “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. §§ 706(2)(A), (C).

179. The Asylum Shutdown Policy is a final agency action under 5 U.S.C. § 704.

180. The INA codifies the right of noncitizens to come to POEs and seek asylum. 8 U.S.C. § 1158(a)(1) provides that any noncitizen “who is physically present in the United States or who arrives in the United States . . . at a designated port of arrival” has the right to seek asylum, regardless of such individual’s immigration status.

181. The Asylum Shutdown Policy violates § 1158(a)(1) and APA § 706(2)(A) and (C) because it deprives noncitizens of the ability to access the U.S. asylum process at POEs and purports to impose requirements upon asylum seekers that Congress chose to omit from § 1158(a).

182. None of the sources of law on which the Asylum Shutdown Policy relies—the Proclamation, 8 U.S.C. § 1182(a)(1)-(3), INA § 212(f), INA § 215(a)(1), or the U.S. Constitution—authorizes CBP officers or their agents to violate or abrogate § 1158 by preventing asylum seekers from accessing the asylum process at POEs.

183. CBP officers, in coordination with Mexican authorities, implemented the Asylum Shutdown Policy at the instigation, under the control or authority, or with the knowledge, consent, direction, and/or acquiescence of Defendants.

184. By implementing the Asylum Shutdown Policy, Defendants have

1 irreparably injured Individual Plaintiffs by depriving them of access to the asylum
2 process and by forcing them to wait indefinitely in Mexico, where they risk serious
3 harm.

4 185. In addition, by implementing the Asylum Shutdown Policy, Defendants
5 have irreparably injured Plaintiffs Al Otro Lado and Haitian Bridge Alliance by
6 interfering with their core activities.

7 **THIRD CLAIM FOR RELIEF**
8 **Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A),**
9 **Arbitrary & Capricious**
10 **(All Plaintiffs Against All Defendants Except President Trump)**

11 186. Plaintiffs reallege and incorporate by reference each and every
12 allegation contained in the preceding paragraphs as if set forth fully herein.

13 187. The APA requires courts to hold unlawful and set aside any agency
14 action that is “arbitrary, capricious, [or] an abuse of discretion.” 5 U.S.C.
15 § 706(2)(A).

16 188. The Asylum Shutdown Policy is a final agency action under 5 U.S.C.
17 § 704.

18 189. The Asylum Shutdown Policy is arbitrary and capricious. Defendants
19 have failed to articulate a reasoned explanation for their actions; relied on factors
20 Congress did not intend to be considered; failed to consider important aspects of the
21 problem; and offered explanations for their actions that run counter to the evidence
22 before the agencies.

23 190. CBP officers, in coordination with Mexican authorities, implemented
24 the Asylum Shutdown Policy at the instigation, under the control or authority, or with
25 the knowledge, consent, direction, and/or acquiescence of Defendants.

26 191. By implementing the Asylum Shutdown Policy, Defendants have
27 irreparably injured Individual Plaintiffs by depriving them of access to the U.S.
28 asylum process and by forcing them to wait indefinitely in Mexico, where they risk
serious harm.

192. In addition, by implementing the Asylum Shutdown Policy, Defendants have irreparably injured Plaintiffs Al Otro Lado and Haitian Bridge Alliance by interfering with their core activities.

FOURTH CLAIM FOR RELIEF
Administrative Procedure Act, 5 U.S.C. §§ 553, 706(2)(D),
Agency Action Without Observance of Procedure Required By Law
(Plaintiffs Maria Doe, Jessica Doe, Rous Doe, Jean Doe, Fernando Doe, Ali Doe, and Eduardo Doe, on behalf of the CBP One Subclass, and the Organizational Plaintiffs Against All Defendants Except President Trump)

193. Plaintiffs repeat and incorporate by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

194. The APA requires courts to hold unlawful and set aside any agency action taken “without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

195. Pursuant to the Government’s Circumvention of Lawful Pathways and Securing the Border Rules, CBP One has been virtually the exclusive means for noncitizens approaching Class A POEs to seek asylum since May 2023.

196. The CBP One Cancellation—the decision to cancel all scheduled CBP One appointments—amounts to final agency action under 5 U.S.C. § 704.

197. Under the APA, agency action that, *inter alia*, alters the rights and obligations of parties, is considered a “legislative rule.” 5 U.S.C. §§ 553, 706(2)(D). The CBP One Cancellation is a legislative rule, under which DHS and CBP categorically canceled all preexisting CBP One appointments, thereby eliminating the ability of thousands of individuals to seek asylum at Class A POEs along the U.S.-Mexico border.

198. A “legislative rule” must undergo notice and comment. 5 U.S.C. §§ 553, 706(2)(D). Because the Government created the legal framework that made appointments obtained through CBP One the sole mechanism for seeking asylum at POEs through a legislative rule, Defendants were required to engage in notice-and-comment rulemaking to terminate the use of CBP One for this purpose.

1 Defendants failed to follow notice-and-comment rulemaking procedures prior to the
2 CBP One Cancellation.

3 199. As a result of Defendants' actions constituting violations of APA §§ 553
4 and 706(2), Defendants have irreparably injured both the Individual and
5 Organizational Plaintiffs by depriving them of the opportunity to participate in the
6 rulemaking process.

7 **FIFTH CLAIM FOR RELIEF**
8 **Administrative Procedure Act, 5 U.S.C. § 706(2)(A),**
9 **Arbitrary and Capricious**
10 **(Plaintiffs Maria Doe, Jessica Doe, Rous Doe, Jean Doe, Fernando Doe, Ali**
11 **Doe, and Eduardo Doe, on behalf of the CBP One Subclass, Against All**
12 **Defendants Except President Trump)**

13 200. Plaintiffs repeat and incorporate by reference each and every allegation
14 contained in the preceding paragraphs as if fully set forth herein.

15 201. The APA prohibits federal agency action that is “arbitrary, capricious,
16 an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C.
17 § 706(2)(A).

18 202. Pursuant to the Government's Circumvention of Lawful Pathways and
19 Securing the Border Rules, CBP One has been virtually the exclusive means for
20 noncitizens approaching Class A POEs to seek asylum since May 2023.

21 203. In reliance on the Government's representations that noncitizens who
22 made CBP One appointments would be able to seek asylum in the United States, the
23 CBP One Subclass used the CBP One app to schedule appointments at POEs;
24 incurred related travel and other expenses; spent months waiting in Mexico in
25 precarious circumstances; and risked forfeiting the opportunity to seek asylum in
26 Mexico.

27 204. The CBP One Cancellation—the decision to cancel all pending CBP One
28 appointments—amounts to final agency action under 5 U.S.C. § 704.

205. The CBP One Cancellation is arbitrary and capricious. In canceling
scheduled CBP One appointments, Defendants failed to articulate a reasoned

1 explanation for their decision, which constituted a departure from prior agency
2 policy; considered factors that Congress did not intend to be considered; entirely
3 failed to consider important aspects of the problem; and offered explanations for their
4 decision that run counter to the evidence before the agency.

5 206. Prior to the CBP One Cancellation, Defendants did not consider the
6 reliance interests of the people who had obtained appointments via CBP One.

7 207. As a result of Defendants' acts constituting violations of APA
8 § 706(2)(A), Defendants have irreparably injured the CBP One Subclass by
9 depriving them of access to the U.S. asylum process and forcing them to wait
10 indefinitely in Mexico, where they face a risk of serious harm.

11 **SIXTH CLAIM FOR RELIEF**
12 **Ultra Vires Action**
(All Plaintiffs Against All Defendants)

13 208. Plaintiffs repeat and incorporate by reference each and every allegation
14 contained in the preceding paragraphs as if fully set forth herein.

15 209. There is no statute, constitutional provision, or other source of law that
16 authorizes the Proclamation or the Asylum Shutdown Policy. Defendants' actions
17 specifically violate existing laws passed by Congress.

18 210. Plaintiffs have a non-statutory right of action to have Defendants'
19 actions declared unlawful and enjoined.

20 211. By implementing the Proclamation and the Asylum Shutdown Policy,
21 Defendants have irreparably injured Individual Plaintiffs by depriving them of access
22 to the U.S. asylum process and by forcing them to wait indefinitely in Mexico, where
23 they risk serious harm.

24 212. In addition, by implementing the Proclamation and the Asylum
25 Shutdown Policy, Defendants have irreparably injured Plaintiffs Al Otro Lado and
26 Haitian Bridge Alliance by interfering with their core activities.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- (1) Certify the Asylum Class and CBP One Subclass defined in this Complaint pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2);
- (2) Appoint all Individual Plaintiffs as representatives of the Asylum Class and appoint Plaintiffs Maria Doe, Jessica Doe, Rous Doe, Jean Doe, Fernando Doe, Ali Doe, and Eduardo Doe as representatives of the CBP One Subclass;
- (3) Appoint the undersigned counsel to serve as class counsel pursuant to Fed. R. Civ. P. 23(g);
- (4) Declare that the Proclamation and its implementation, to the extent they provide the basis for blocking Asylum Class members from accessing POEs to seek asylum, exceed Defendants' authority and are unlawful because they violate 8 U.S.C. § 1158;
- (5) Declare that the Asylum Shutdown Policy and its implementation exceed Defendants' authority and are unlawful because they violate 5 U.S.C. § 706(2) and 8 U.S.C. § 1158;
- (6) Declare that § 1182(a)(1)-(3) cannot be used as a basis to deny access to the U.S. asylum process;
- (7) Declare that Defendants' decision to cancel the CBP One Subclass's appointments to present at POEs was arbitrary and capricious, in violation of 5 U.S.C. § 706(2);
- (8) Declare that Defendants' failure to follow notice-and-comment rulemaking procedures prior to the CBP One Cancellation violated 5 U.S.C. § 706(2)(D);
- (9) Enjoin Defendants from implementing the Proclamation, to the extent the Proclamation provides the basis for blocking Asylum Class members from accessing POE to seek asylum;

- (10) Enjoin Defendants from implementing the Asylum Shutdown Policy;
- (11) Pursuant to 5 U.S.C. § 705, postpone the effective date of all agency action implementing the Proclamation, the Asylum Shutdown Policy, and the CBP One Cancellation pending a final decision in this case;
- (12) Hold unlawful and set aside the Asylum Shutdown Policy;
- (13) Hold unlawful and set aside the CBP One Cancellation and restore access to the asylum process at POEs for the CBP One Subclass;
- (14) Declare that Defendants unlawfully deprived the Asylum Class, including the CBP One Subclass, of access to the U.S. asylum process at POEs;
- (15) Order Defendants to restore access to the U.S. asylum process at POEs for the Asylum Class, including the CBP One Subclass;
- (16) Award Plaintiffs their reasonable attorneys' fees, costs, and other expenses pursuant to 28 U.S.C. § 2412 and any other applicable law; and
- (17) Grant any and all such other relief as the Court deems just and equitable.

1 Dated: June 11, 2025

Respectfully Submitted,

2 MORRISON & FOERSTER LLP

3
4 /s/ Eric M. Acker

5 Attorney for Plaintiff

6 *EAcker@mofo.com*

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Krista S. deBoer

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8 CENTER FOR GENDER AND
9 REFUGEE STUDIES

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16 Rebecca Cassler*

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17 DEMOCRACY FORWARD
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19 Sarah M. Rich*

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