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11  
12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 WESTERN DIVISION  
15

16  
17 JENNY LISETTE FLORES, *et al.*,

18 Plaintiffs,

19 v.

20 MERRICK GARLAND, Attorney General  
21 of the United States, *et al.*,

22 Defendants.  
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No. CV 85-4544-DMG-AGR<sub>x</sub>

PLAINTIFFS' RESPONSE TO CBP JUVENILE  
COORDINATOR REPORT ON OPEN-AIR  
DETENTION SITES

JUDGE: Hon. Dolly M. Gee

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1 **I. Introduction**

2 Since at least February 2023, U.S. Customs and Border Protection (“CBP”)  
3 has held children in horrific conditions at open-air detention sites (“OADS”) along  
4 the U.S. border without providing basic sanitation services, medical assistance,  
5 shelter, or adequate food and water. Pls.’ Mot. to Enforce Settlement Re Open-Air  
6 Detention Sites at 2-6 [Doc # 1392-1] (“Plaintiffs’ MTE”).

7 On February 29, 2024, Plaintiffs moved to enforce the *Flores* Settlement  
8 Agreement (“Settlement” or “FSA”) due to CBP’s prolonged detention of children  
9 in unsafe and unsanitary conditions at OADS. *See* Plaintiffs’ MTE. On April 3,  
10 2024, this Court partially granted Plaintiffs’ motion, finding that children at OADS  
11 are “in the legal custody of CBP because CBP exerts control over their health,  
12 welfare, and physical movement.” Order re Pls.’ Mot. to Enforce Settlement Re  
13 Open Air Detention Sites, at 9 [Doc. # 1406] (April 3, 2024) (“Order”).  
14 Accordingly, this Court ruled children detained at OADS are *Flores* class members  
15 and that conditions at OADS violate the Settlement’s requirement that the  
16 government hold children in “safe and sanitary” facilities. *Id.* at 11-12; *see* FSA ¶  
17 12.A. The Court ordered CBP to “expeditiously process all Class Members” and  
18 “place Class Members in facilities that are safe and sanitary and consistent with  
19 DHS’s concern for the particular vulnerability of minors.” *Id.* at 11. The Court  
20 further ordered CBP to “cease directing minors to open-air sites or holding minors  
21 in open-air sites, except for the amount of time DHS reasonably requires to prepare  
22 the minor and/or actively arrange for transport of the minor to a more suitable  
23 facility, as this behavior constitutes unnecessary delay.” *Id.* at 11-12. Lastly, the  
24 Court ordered CBP’s Juvenile Coordinator to maintain information about detention  
25 of children at OADS and provide the Court with a report to assess the status of  
26 CBP’s compliance with the Order. *Id.* at 12. The Juvenile Coordinator filed his  
27 report on May 17, 2024. [Doc. # 1413, Doc # 1413-1] (“JC Report”).

28 As evidenced by declarations from class members, their parents, and

1 advocates gathered since April 3, 2024, CBP has not complied with this Court’s  
2 order to expeditiously process children and cease directing or holding children at  
3 OADS “except for the amount of time DHS reasonably requires” to prepare to  
4 transport the child. *See* Order at 12. Contrary to the statements in the JC Report,  
5 CBP continues to direct children to wait at OADS, where children often stay for  
6 several hours and sometimes overnight, while they await transport. In several  
7 instances, class members, their parents, and advocates have observed children  
8 awaiting transport at OADS while CBP seemingly fails to take any steps to prepare  
9 minors for transport.

10 The JC Report acknowledges the uncontroverted evidence that OADS  
11 remain unsafe in violation of Settlement paragraph 12.A. yet fails to demonstrate  
12 CBP’s compliance with the Court’s order. *See* JC Report at 4, 10-11 (describing  
13 lack of basic services and a hazardous environment created by a lack of shade and  
14 extreme temperatures). CBP has not significantly increased services at the OADS  
15 and still fails to provide shelter, food, or water consistently to class members  
16 waiting in OADS for processing.

17 Finally, in violation of the Court’s order, the Juvenile Coordinator failed to  
18 maintain or provide information about how many children have been detained at  
19 OADS, and for how long. A one-day visit where no class members were observed  
20 is insufficient to comply with the Court’s order. Plaintiffs therefore respectfully  
21 request the Court order the Juvenile Coordinator to conduct additional monitoring  
22 and submit a report in June 2024 assessing CBP’s compliance with the Order.

23 **II. CBP Continues to Detain Class Members in Unsafe and Unsanitary**  
24 **OADS for Prolonged Periods**

25 CBP continues to (1) direct children to OADS, (2) instruct them to remain at  
26 OADS to await processing, and (3) detain children in OADS for unsafe periods of  
27 time, including overnight. Moreover, the Juvenile Coordinator’s report  
28

1 acknowledges that OADS continue to be unsafe and unsanitary, conditions which  
2 class members, their parents, and advocates also confirm.

3 **A. CBP continues to direct children to OADS and instruct children to wait**  
4 **in OADS for processing.**

5 Since April 3rd, CBP has violated the Court’s order that it “cease directing  
6 minors to open-air sites . . . except for the amount of time DHS reasonably requires  
7 to prepare the minor and/or actively arrange for transport.” Order at 11-12. Class  
8 members and their parents continue to report that Border Patrol agents directed  
9 them to go to and wait at OADS. *See* Exhibit 1, Declaration of KPR ¶ 6, April 30,  
10 2024 [“KPR Decl.”] (“The border patrol lit the path for us and took us to a  
11 campsite. They stopped us there and they told us that if we walked any farther they  
12 would deport us.”); Exhibit 2, Declaration of AFBA ¶ 4, April 30, 2024 [“AFBA  
13 Decl.”] (“We walked for about five hours . . . a Border Patrol agent found us and  
14 told us to go and wait at a camp that was about 100 meters away.”); Exhibit 3,  
15 Declaration of Julian Silva ¶ 4, May 13, 2024 [“Silva Decl.”] (“After I crossed the  
16 border, I saw a Border Patrol agent. The agent directed us to go to this site.”);  
17 Exhibit 4, Declaration of Saba Karamat ¶ 5, May 13, 2024 [“Karamat Decl.”]  
18 (“After we crossed, we saw a border patrol officer and he told us to follow the wall  
19 to get to this site.”); *see also* Exhibit 5, Declaration of Blaine Bookey ¶ 9, April 15,  
20 2024 [“Bookey Decl.”]; Exhibit 6, Declaration of Erika Pinheiro ¶ 7, May 15, 2024  
21 [“Pinheiro Decl.”]; Exhibit 8, Declaration of Adriana Jasso ¶¶ 7-8, May 16, 2024  
22 [“Jasso Decl.”]; Exhibit 11, Declaration of Lilian Serrano ¶¶ 5-6, 8-9, May 17,  
23 2024 [“Serrano Decl.”] (describing a child who fell from the border wall and hurt  
24 his ankle but was directed by CBP to walk to Whiskey 8 where he waited, in pain,  
25 for about six hours without medical attention).

26 The Juvenile Coordinator’s statement that “[a]t the time of [his] visit, SDC  
27 informed [him] that they do not have a policy or practice of directing individuals to  
28 these locations, nor requiring them to stay at these areas” is insufficient to

1 contradict the significant evidence of this practice in Plaintiffs’ MTE, and the  
2 statements of class members and their parents since the Court’s order. *See* JC  
3 Report at 3; *Flores v. Sessions*, 394 F. Supp. 3d 1041, 1054 (C.D. Cal. 2017)  
4 (explaining that CBP declarations “generally discuss the policies and practices at  
5 the CBP stations” but “[n]one of this generalized evidence . . . undermines the  
6 veracity of Plaintiffs’ first-hand experiences.”).

7 **B. CBP detains class members at OADS without actively arranging to**  
8 **transport them.**

9 Border Patrol agents continue to direct class members to wait at OADS and  
10 monitor them while they wait, but seemingly do nothing to “prepare the minor  
11 and/or actively arrange for transport.” Order at 11-12; *see, e.g.*, KPR Decl. ¶ 7  
12 (“Border Patrol would come by the campsite and then they would leave, but they  
13 wouldn’t take any of us out . . . They told us we would have to wait there for two  
14 days.”); Karamat Decl. ¶ 5 (“[Border Patrol] told us to follow the wall to get to this  
15 site . . . We arrived here around 2:30 am . . . [i]t’s 7:20 am and we haven’t seen any  
16 officers yet.”); Bookey Decl. ¶¶ 14-17 (“Between 12:40pm and 4:30pm, I did not  
17 observe Border Patrol agents taking any steps to prepare the family for transport.”);  
18 Exhibit 9, Declaration of Dulce Rodas ¶ 10, May 14, 2024 [“Rodas Decl.”];  
19 Serrano Decl. ¶¶ 6, 8. Border Patrol agents have been seen parked within proximity  
20 of OADS and driving by or through OADS where children have been directed to  
21 wait, without stopping to speak to children or prepare them to be transported. *See*  
22 Exhibit 10, Declaration of Melissa Adamson ¶ 24, May 16, 2024 [“Adamson  
23 Decl.”]; Pinheiro Decl. ¶ 10; Jasso Decl. ¶¶ 7-9. On more than one occasion since  
24 April 3, 2024, Border Patrol has been observed ordering children “to line up in an  
25 area with no shade [then] leave the OADS, only to come back several hours later to  
26 transport the individuals out.” Pinheiro Decl. ¶ 8. Additionally, advocates reported  
27 multiple instances of CBP transporting single adults from OADS before families.  
28 *See* Jasso Decl. ¶¶ 7, 9, 11; Serrano Decl. ¶ 6; *contra* JC Report at 1. The JC

1 Report’s unsupported statement that CBP expeditiously transports children to be  
2 processed is clearly refuted by class members, their parents, and advocates who  
3 provide humanitarian assistance at the OADS regularly. *See* JC Report at 15.

4 Plaintiffs strongly disagree with the JC Report’s determination that  
5 “expeditious” processing occurs when a child is transported within six hours *of*  
6 *their field interview* at OADS. Starting the clock at the field interview despite how  
7 long a child may have been detained at the OADS prior to that interview  
8 misrepresents class members’ length of detention at OADS and is unsupported by  
9 the Court’s order. *See* JC Report at 15, 17; Order at 11-12. The JC Report contains  
10 insufficient and inaccurate information to support its statement that six hours is  
11 currently “the time USBP reasonably requires to prepare the child and arrange for  
12 transport.” JC Report at 17. For example, the JC Report cites the availability of  
13 children’s car seats as a transportation issue that causes delay, *see* JC Report at 15,  
14 but advocates who are at OADS multiple times a week report that they “have never  
15 seen agents use car seats” to transport children from OADS. *See* Jasso Decl. ¶ 10;  
16 *see also* Adamson Decl. ¶¶ 11, 16 (Plaintiffs’ counsel witnessed Border Patrol  
17 transport an infant on his mother’s lap in a van, even though that family had been  
18 directed to the Whiskey 8 OADS approximately six hours earlier).

19 Even if CBP needed six hours to “expeditiously” transport children from  
20 OADS, the Juvenile Coordinator miscalculates children’s length of time in custody  
21 by measuring from the time of the field interview and therefore fails to  
22 demonstrate expeditious processing. JC Report at 15 n.1. As DHS represented to  
23 the Supreme Court, a field interview is not required for custody to begin. *See*  
24 Reply in Supp. of Appl. to Vacate the Inj. Pending Appeal, *DHS v. Texas*, No.  
25 23A607, 2024 WL 145108, at \*\*6-8, 19 (U.S. Jan. 10, 2024) (“the noncitizens  
26 were apprehended as they exited the river: They were not free to proceed further  
27 into the United States on their own, but were directed to a staging area for further  
28 evaluation and processing.”); *see also* Pls.’ Reply in support of its Mot. to Enforce

1 Settlement re Open-Air Detention Sites, [Doc. # 1399], Section II.B.1. Some class  
2 members wait in OADS at CBP direction for hours—and sometimes overnight—  
3 before CBP conducts a field interview, which may *only* occur immediately before  
4 the child is transported. *See* Karamat Decl. ¶ 5; Adamson Decl. ¶ 11, 14-17  
5 (describing field interviews occurring in the minutes prior to transportation for  
6 family who had been at the Whiskey 8 OADS for approximately six hours); KPR  
7 Decl. ¶¶ 6-7; AFBA Decl. ¶¶ 4-5; Pinheiro Decl. ¶¶ 9-12, 15-22, 24 (describing  
8 prolonged periods during which children were detained at OADS in April and  
9 May, including “two infants under 1 year old [who] waited for 24 hours”); Jasso  
10 Decl. ¶¶ 7-10.

11 The Juvenile Coordinator admits that CBP informs migrants they “will be  
12 transported to a CBP facility to be processed if they wait at an [OADS] for pick  
13 up,” yet fails to report whether CBP then processes class members expeditiously  
14 *beginning at that point*. *See* JC Report at 4. Class members directed to go to or  
15 wait at OADS are often in custody long before the start of the field interview  
16 “because CBP exerts control over the[ ] health, welfare, and physical movement”  
17 of children at OADS. *See* Order at 9; *see* Pls.’ MTE at Section III.A.1 (arguing  
18 CBP has custody of noncitizen children from the moment of first discovery). The  
19 Juvenile Coordinator cannot reliably state that CBP expeditiously processes  
20 children at OADS if the calculation for time in custody omits the many hours some  
21 children wait at OADS—at CBP direction—prior to their field interview.

22 **C. The Juvenile Coordinator Report acknowledges OADS are unsafe and**  
23 **unsanitary.**

24 This Court held the conditions at OADS violate the Settlement’s  
25 requirement that CBP “hold minors in facilities that are safe and sanitary.” Order at  
26 10 (citing FSA ¶ 12.A) (“The limited number of dumpsters and porta-potties do not  
27 seem to be serviced frequently enough and are overflowing and unusable as a  
28 result . . . Class Members are forced to relieve themselves outdoors”). The Juvenile



1 Coordinator acknowledges that conditions at OADS continue to be unsafe and  
2 unsanitary. As the JC Report conveys, some of the OADS lack drinking water,  
3 porta-potties, hand washing stations, or dumpsters. JC Report at 4. At Whiskey 8,  
4 near the San Diego Port of Entry, migrants depend on non-governmental  
5 organizations for food. *See id.* Tower 177, an OADS in the Jacumba area, is  
6 “incredibly remote,” with “no shade for migrants, creating a hazardous desert  
7 environment.” *Id.* at 11. Temperatures in Jacumba area OADS “can reach up to  
8 115° Fahrenheit during the summer.” *Id.* Even accepting as true the general  
9 statement that CBP transports class members within six hours of their field  
10 interview at OADS, *see id.* at 16, the JC Report admits that class members may  
11 wait in OADS, with no shade, food, water, or basic sanitation services, for six  
12 hours, *see id.* at 4, 10.

13 Class members continue to describe dangerous conditions that persist at  
14 OADS after the Court’s order. *See* KPR Decl. ¶ 6 (12-year-old boy describing  
15 “very cold” conditions at OADS where he had to wait overnight); Exhibit 7,  
16 Declaration of JAF ¶ 4, April 29, 2024 (14-year-old girl stating that she stayed at  
17 OADS overnight and CBP provided no food); AFBA Decl. ¶ 4 (11-year-old boy  
18 describing waiting for 5-6 hours at OADS with “no food”). Parents of young class  
19 members also report unsafe and unsanitary conditions. *See* Silva Decl. ¶¶ 6-7  
20 (father of 6-year-old girl at Jacumba-area OADS stating that it was “very hot” and  
21 that “the only shelter here is made of thin tarps tied to scrap metal, plastic, and  
22 stones.”); Karamat Decl. ¶¶ 6-8 (mother of 7-month-old baby describing lack of  
23 sanitation at Whiskey 8, and that the only aid they received was from volunteers).

24 Advocates on the ground at OADS report that “CBP has not significantly  
25 increased services at the OADS since the Court’s order and is still not providing  
26 shelter, food, or water consistently to migrants waiting in OADS for processing.”  
27 Pinheiro Decl. ¶ 27; Jasso Decl. ¶ 14; Serrano Decl. ¶ 10; *see also* Rodas Decl. ¶ 7  
28 (describing no portable toilets, food, shelter, or water at the Tierra del Sol OADS

1 where at least 25 children were detained). The basic services CBP has provided,  
2 such as water tanks and porta-potties, are not consistently serviced. Pinheiro Decl.  
3 ¶¶ 14, 23-24 (reports of water tasting like plastic and at Moon Valley OADS, a  
4 water tank had been empty for 11 days, and porta-potties were “unusable”); Jasso  
5 Decl. ¶ 13 (woman at Whiskey 8 complained of “severe abdominal pain after  
6 drinking the water”). At the Whiskey 8 OADS, Plaintiffs’ counsel observed that  
7 class members had limited shelter (made from tarps) to protect from rain, sun, and  
8 the thick swarm of bugs. *See* Adamson Decl. ¶¶ 6, 9, 12. At the Moon Valley  
9 OADS, Plaintiffs’ counsel distributed food to class members, which was the only  
10 food available at the time. *Id.* ¶¶ 21; Silva Decl. ¶ 7. The conditions at OADS are  
11 unsafe for children, even for short periods, exemplifying the importance of CBP’s  
12 compliance with this Court’s order.

13 **III. The Juvenile Coordinator’s Report Fails to Provide Information**  
14 **Necessary to Establish Compliance with the Court’s Order**

15 The Court’s order mandated that “the CBP Juvenile Coordinator shall (a)  
16 maintain records and statistical information on minors held in CBP custody for  
17 more than 72 hours, *inclusive of* the amount of time any Class Member spends in  
18 the open-air sites; and (b) monitor compliance with the Agreement with respect to  
19 any minors held in open-air sites.” Order at 12. Additionally, the Juvenile  
20 Coordinator was ordered to “provide the Court with an update regarding the  
21 number of minors held in open-air sites and the status of compliance with this  
22 Order.” *Id.* However, the Juvenile Coordinator did not collect or provide data about  
23 children’s detention at OADS and monitored compliance with the Order by visiting  
24 OADS on only one day during which he spoke to no class members. The Juvenile  
25 Coordinator’s general assertions of CBP compliance is unpersuasive in the face of  
26 abundant evidence showing otherwise.

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1           **A. The Juvenile Coordinator did not maintain or provide information**  
2           **about when, and for how long, CBP detains children at OADS.**

3           The JC Report failed to provide basic information the Court requested. First,  
4 the Juvenile Coordinator did not inform the Court of how many class members  
5 CBP has held at OADS since the Order, despite acknowledging that CBP monitors  
6 the presence of people at OADS through surveillance cameras and patrolling  
7 agents. JC Report at 4. Second, the JC Report does not provide any information  
8 about how long class members are detained at OADS. *See generally id.* Even using  
9 CBP’s own six-hour time frame, the JC Report does not state how many class  
10 members were transported from OADS within six hours of the field interview, and  
11 how many were detained at OADS for longer periods. *See generally id.* The  
12 Juvenile Coordinator failed to provide these critical pieces of information to the  
13 Court despite CBP’s previous attestation that it collects this data about people at  
14 OADS. *See Declaration of Brent L. Schwerdtfeger in support of Defs.’ Opp. to*  
15 *Pls.’ Mot. to Enforce ¶ 2 [Doc. # 1398-1], March 15, 2024 (“I also receive reports*  
16 *pertaining to encounters of large groups . . . , including the number of*  
17 *individuals . . . , the location where the large group was encountered, and, . . . the*  
18 *length of time such individuals remained in the field before transport to a detention*  
19 *facility.”).*

20           **B. The Juvenile Coordinator did not adequately monitor class members’**  
21           **detention in OADS during the reporting period.**

22           The Juvenile Coordinator’s single visit to OADS was insufficient to comply  
23 with the order to “provide the Court with an update regarding . . . the status of  
24 compliance with [the April 3<sup>rd</sup>] Order.” Order at 12. The Juvenile Coordinator  
25 visited four OADS on only one day and “observed no class members.” JC Report  
26 at 1. The JC Report does not state at what time of day he visited these sites or how  
27 long he stayed at each site. *See generally id.* There is no evidence in the JC Report  
28 that he gathered information about class members’ presence at the different OADS

1 during the period between April 3, 2024 and the date of his visit, apart from one  
2 vague reference to unaccompanied children who were processed on April 25, 2024.  
3 *See generally id.*; *id.* at 16-17. Class members’ wait times at OADS decreased  
4 significantly immediately following the filing of Plaintiffs’ MTE and the Court’s  
5 order but began to increase again around April 12-14. *See* Pinheiro Decl. ¶ 6; Jasso  
6 Decl. ¶ 6. The fluctuation in the length of detention at OADS illustrates the  
7 necessity of gathering information over a long span of time, not just one day.  
8 Moreover, it is somewhat unsurprising that the Juvenile Coordinator observed no  
9 class members during his one-day visit to OADS, as this Court’s order  
10 acknowledged that “Plaintiffs have submitted evidence that CBP finds the ability  
11 to process children more efficiently in times of scrutiny.” Order at 11.

12 **IV. Plaintiffs recommend additional Juvenile Coordinator reporting that**  
13 **complies with the Court’s order.**

14 As explained above, CBP has failed to establish compliance with this  
15 Court’s order regarding *Flores* class members held at OADS. The JC Report did  
16 not provide an update on the number of children at OADS, when and for how long  
17 CBP detains them at OADS, or CBP’s compliance with the Order. Moreover,  
18 Plaintiffs have submitted further evidence that (1) CBP continues to direct class  
19 members to wait at OADS for processing, (2) CBP seems to detain class members  
20 at OADS without taking steps “to prepare the minor and/or actively arrange for  
21 transport of the minor to a more suitable facility,” and (3) OADS remain unsafe  
22 and unsanitary in violation of the Settlement. Therefore, Plaintiffs request that the  
23 Juvenile Coordinator be required to issue a new report in June 2024 that is  
24 compliant with the Order.

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Dated: May 17, 2024

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/s/ Mishan Wroe  
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*One of the Attorneys for Plaintiffs*

*Jenny L. Flores, et al. v. Merrick Garland, et al.*  
Case No. CV 85-4544-DMG (AGR<sub>x</sub>)

**Exhibit Index to Plaintiffs' Response to CBP Juvenile Coordinator Report on Open-Air Detention Sites**

<b>Exhibit</b>	<b>Exhibit Description</b>
1	Declaration of KPR, April 30, 2024
2	Declaration of AFBA, April 30, 2024
3	Declaration of Julian Silva, May 13, 2024
4	Declaration of Saba Karamat, May 13, 2024
5	Declaration of Blaine Bookey, April 15, 2024
6	Declaration of Erika Pinheiro, May 15, 2024
7	Declaration of JAF, April 29, 2024
8	Declaration of Adriana Jasso, May 16, 2024
9	Declaration of Dulce Rodas, May 14, 2024
10	Declaration of Melissa Adamson, May 16, 2024
11	Declaration of Lilian Serrano, May 17, 2024

# **EXHIBIT 1**

**REDACTED VERSION OF DOCUMENT  
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:  
2

3 1. This declaration is based on my personal knowledge, what I have seen and  
4 experienced. If I were asked to tell a judge or jury about these experiences in court, I  
5 would be able to speak about these facts based on what I personally know and remember.

6 2. I am 12 years old. I am from El Salvador.

7 3. I speak Spanish.

8 4. I traveled from El Salvador by foot and car with my uncle. We arrive in Mexico  
9 and walked through mountains to the border and crossed where there wasn't a wall.

10 5. There was a mom yelling and her kid was crying and then it was quiet. The mom  
11 was yelling back to us, be careful, there is something ahead. I couldn't see her because it  
12 was the night and we couldn't see far ahead.

13 6. We became lost and then we came to a street and Border Patrol was driving a van.  
14 There were twenty of us. The border patrol lit the path for us and took us to a campsite.  
15 They stopped us there and they told us that if we walked any farther they would deport  
16 us. It was extremely cold in the campsite. We arrived in the night and stayed through the  
17 night.

18 7. Border Patrol would come by the campsite and then they would leave, but they  
19 wouldn't take any of us out. Sometimes they took a few people, but they left us. They  
20 told us we would have to wait there for two days.

21 8. They separated me from my uncle. I told them he was my uncle and I wanted to  
22 stay with him.

23 9. I got here the day before yesterday, on Sunday the 28<sup>th</sup> of April.

24 10. I saw a doctor when I came but nothing was wrong.

25 11. I am sleeping in a cement room and I sleep on the floor. There are six of us, all of  
26 us are kids, around my age or older. There were some who were younger but they left.  
27 The room is maybe twice the size of the room we are in (maybe 24 feet by 24 feet, the  
28 interviewer told me) but part of the space is taken up the bathroom, so we only have half



1 of the space to sleep. There is enough space for us to sleep next to each other on the floor.

2 There are a few about my age and a few older than I am. Yesterday there were 11 of us  
3 but some kids left. There are no beds or mattresses or pillows, we sleep on the cement.

4 12. At night they never turn off the lights. They are so bright and never go off.

5 13. At night it feels like they turn on the AC higher. It is freezing at night. They  
6 haven't given me any clothes or sweaters to stay warm.

7 14. There is a bathroom but there is a camera and it points at the toilet. There is a half  
8 wall, as high as my chest, and the toilet is behind that. There are no showers. There is  
9 water but no soap to wash our hands. There are no showers. They did not give us  
10 toothbrushes. They never offered us clean clothes, I am wearing what I walked here in. I  
11 had a jacket when I came here and the border patrol agents took it.

12 15. Nobody has explained anything to me, how long I will be here, or what will  
13 happen next. I have not been allowed to see or talk to my uncle. I was able to see him  
14 when he went to eat. He got in a line to get food near our room and I was able to see  
15 through the window. There is a window in the door but no windows in the room.

16 16. The food is ok. They gave us meals, a hamburger, a sandwich, and water.

17 17. I was able to call my family yesterday. That was the only time I was able to talk to  
18 my family. I had time just to say hello, we had maybe two minutes to talk.

19 18. There is nothing to do. There are no toys, pencils, books, or a TV. We don't do  
20 anything except for sleep, eat, and look through the window in the door. I took off my  
21 shirt and we wrapped it around a shoe so we could throw it back and forth.

22 19. There aren't agents who talk to us. If I'm hungry or thirsty or if I got hurt there isn't  
23 an agent to ask. When I'm in the room I don't see agents nearby that I could ask for help  
24 if I needed it.

25 20. I want to leave here. I want to live with my aunt who lives here in the U.S. I will  
26 study in school. I learned some English in school in El Salvador so I can study here.

1 I declare under my duty to tell the truth and penalty of perjury that to the best of my  
2 knowledge, all the information I have here given is correct and complete and I understand  
3 the legal consequences of testifying falsely to the authorities. Executed on this 30 day  
4 of April 2024, at Boulevard CBP.

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CERTIFICATE OF TRANSLATION

My name is Alejandro Valdivia and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: 04/30/2024

Alejandro Valdivia

# **EXHIBIT 2**

**REDACTED VERSION OF DOCUMENT  
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:  
2

3 1. This declaration is based on my personal knowledge, what I have seen and  
4 experienced. If I were asked to tell a judge or jury about these experiences in court, I  
5 would be able to speak about these facts based on what I personally know and remember.

6 2. I am 11 years old. I am from Colombia.

7 3. I speak Spanish.

8 4. I came to the United States with my dad. We crossed into the United States  
9 yesterday, Monday April 29, 2024. We walked for about five hours with a group of about  
10 16 people. A Border Patrol agent found us and told us to go and wait at a camp that was  
11 about 100 meters away. The camp was by a border wall. We stayed at the camp for about  
12 five or six hours. There were about 100 other people there and it was clear that a lot of  
13 people had just left. There was a water tank where we could get water from, but there was  
14 no food. There were port-a-potties and tents.

15 5. A Border Patrol agent came to the camp to get families and children. From the  
16 camp, we were taken here to the Boulevard station around 5pm.

17 6. My dad and I have been here for one night.

18 7. We are in a cell alone. We're stuck in the cell and can't move anywhere. We can't  
19 go outside. There are no activities for me to do. There is no television or any books. I  
20 haven't been able to use the phone.

21 8. There is a toilet and a sink in the room but there is no privacy to use the bathroom  
22 because there is a camera. There is toilet paper, but there's no soap to wash your hands.  
23 We haven't been able to take showers, and no one has said when we can take a shower.  
24 We haven't been able to brush our teeth either.

25 9. The food is fine but there is not much food. My dad has given me his food so I can  
26 have more food. Yesterday, I was given a corndog, but it wasn't warm, and an apple and  
27 water.  
28

1 10. This morning for breakfast, I was given a cheese sandwich, an apple, and water.  
2 They also gave me a small bag of gummies today.

3 11. To sleep, my dad and I had to share one small mattress and two mylar blankets.  
4 The lights are on the whole night and day, but I was able to sleep.

5 12. It's cold in the room. When we arrived at this station, my dad and I both had  
6 jackets, but the agents took them. My dad asked an agent for a jacket for me, and they  
7 said I can't have a jacket.

8 13. The officers are treating us fine, but no one has told us what is going to happen us.  
9 My dad asked an agent to explain what's going on and they haven't told us. I don't know  
10 when I am going to be released.

11 14. I had a medical visit yesterday and was able to explain that I have asthma. I was  
12 allowed to keep my inhaler. I feel okay.

13 15. No one has given us a list of immigration lawyers.

14 16. I love playing soccer and I'm looking forward to playing soccer when I leave here.  
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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my  
2 knowledge, all the information I have here given is correct and complete and I understand  
3 the legal consequences of testifying falsely to the authorities. Executed on this 30<sup>th</sup> day  
4 of April 2024, at Boulevard, CA.

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7 ~~Name of Class Member~~

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CERTIFICATE OF TRANSLATION

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My name is Rachel Smith and I swear that I am fluent in both the English and Spanish languages and I translated the foregoing declaration from English to Spanish to the best of my abilities.

Dated: April 30, 2024

RSM  
[Name] Rachel Smith



# **EXHIBIT 3**

1 I, Julian Silva, declare as follows:

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3 1. This declaration is based on my personal knowledge, what I have seen and  
4 experienced. If I were asked to tell a judge or jury about these experiences in court, I  
5 would be able to speak about these facts based on what I personally know and remember.

6 2. I am from Brazil. I speak Portuguese.

7 3. I came to the United States with my wife and my 6-year-old daughter.

8 4. After I crossed the border, I saw a Border Patrol agent. The agent directed us to go  
9 to this site.

10 5. We have been here for about 2 or 3 hours. I haven't seen any Border Patrol agents  
11 since we've been here.

12 6. It is very hot here.

13 7. When we arrived, there was some food provided by volunteers. There are port a  
14 potties but we haven't used them. The only shelter here is made of thin tarps tied to scrap  
15 metal, plastic, and stones.

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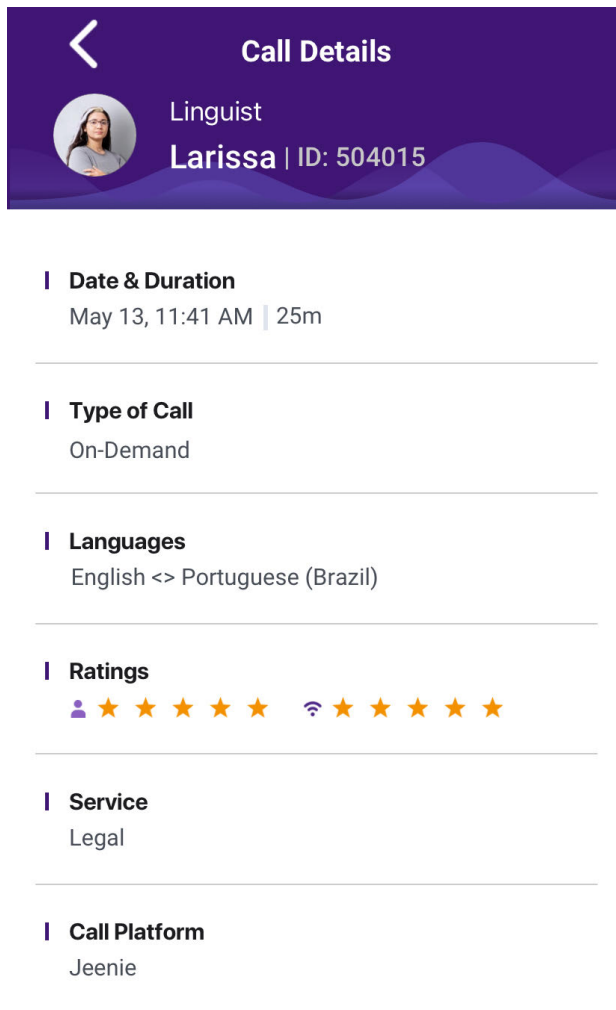
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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my  
2 knowledge, all the information I have here given is correct and complete and I understand  
3 the legal consequences of testifying falsely to the authorities. Executed on this 13<sup>th</sup> day  
4 of May 2024, at Jacumba, CA.

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6 *Rubian vaha ferreira souza*  
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CERTIFICATE OF INTERPRETATION

My name is Melissa Adamson and I swear that I read aloud the following declaration to Julian Silva using a live English to Brazilian Portuguese interpreter (interpreter ID: 504015) through the Jeenie phone application. The receipt for the call is pictured below.



Dated: May 15, 2024

Melissa Adamson

# **EXHIBIT 4**

1 I, Saba Karamat, declare as follows:

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3 1. This testimony is based on my personal knowledge and the following facts are true  
4 to the best of my understanding and recollection.

5 2. My name is Saba Karamat and I am from the Islamic Republic of Iran. When I  
6 lived in Iran, I taught English language and literature.

7 3. Myself, my husband, and my 7-month-old son left Iran in the beginning of January  
8 2024. The journey here has been unexpectedly very difficult. It has been both physically  
9 and mentally eroding.

10 4. Our baby has been sick with flu and fever for about three weeks. My husband and I  
11 have had to find him medical attention in different countries on our journey. Despite  
12 these medical visits, he has continued to be sick. He still has a runny nose and difficulty  
13 breathing, which makes it hard for him to latch and get milk from me. He doesn't eat  
14 purees or other food yet, so it's very hard when he can't breathe because that means he  
15 loses more weight and gets weaker. When we saw a doctor on our way here, he said that  
16 our baby was at nutritional risk.

17 5. We crossed the border from Mexico to the United States this morning around 2:00  
18 am. After we crossed, we saw a border patrol officer and he told us to follow the wall to  
19 get to this site. We walked for at least half an hour, following the wall until we got here.  
20 We have been told that this place is called Whiskey-8. We arrived here around 2:30 am,  
21 and haven't seen any border patrol officers since then. Other migrants told us that officers  
22 should come around 6:00 am. It's 7:20 am and we haven't seen any officers yet.

23 6. We have received water and food from the volunteers on the other side of the wall.  
24 Volunteers also gave us a nasal bulb to get the mucus out of my baby's nose so that he  
25 can breathe and measured his temperature to make sure he didn't have a fever. The only  
26 aid that we have received is from the volunteers.

27 7. The main problem here is sanitation. I want to breastfeed my baby, but there isn't  
28 anywhere clean for me to sit or lie down to feed him. The only shelter here is under some

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1 tarps tied to the fence, and the floor is dirt. It is starting to rain and there are holes in the  
2 tarps.

3 8. The tarps are tied right next to the bathrooms, so there are a lot of mosquitoes and  
4 bugs. I just got bit by a bug and have a bright red rash on my chest.

5 9. We are so happy to finally be here.

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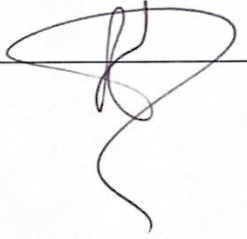
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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my  
2 knowledge, all the information I have here given is correct and complete and I understand  
3 the legal consequences of testifying falsely to the authorities. Executed on this 13 day  
4 of May 2024, at San Diego, California.

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# **EXHIBIT 5**

Declaration of Blaine Bookey

I, Blaine Bookey, hereby declare under the penalty of perjury pursuant to 28 U.S.C. § 1746:

- 1) I make this declaration based on my personal knowledge except where I have indicated otherwise. If called as a witness, I could and would testify competently and truthfully to these matters.
- 2) I am a citizen of the United States.
- 3) I am over 18 years of age.
- 4) I am Legal Director and Adjunct Professor of Law at the University of California College of the Law, San Francisco Center for Gender and Refugee Studies.
- 5) I have traveled to the San Diego/Tijuana border area on many occasions to investigate conditions for migrants and conduct know-your-rights presentations in Spanish and Haitian Creole, two languages in which I am able to communicate. In May 2023, I was in Tijuana, Mexico and witnessed the open air detention site west of the San Ysidro port of entry when there were several hundred people gathered there at the end of the Title 42 expulsion policy. I returned and visited the open air detention sites in San Ysidro and the Jacumba desert in November 13-15, 2023 along with humanitarian aid volunteers. From April 8-9, 2024, I visited the San Ysidro and Jacumba sites again as well as new sites in the Otay Mountain wilderness.
- 6) On April 9, 2024, I arrived at the Whiskey 8 open air detention site west of the San Ysidro port of entry at or around 11:30am. I was accompanied by two colleagues from CGRS and another legal organization as well as a volunteer from the Southern Border Communities Coalition who regularly provides humanitarian aid at the site.
- 7) Shortly after we arrived, a Border Patrol officer on an ATV approached and asked if we could provide him with five water bottles because a family was approaching from the east on foot.
- 8) At or around 12:40pm a family arrived at the site. The family included a mother, her two sons ages 6 and 10, and her adult brother.
- 9) We spoke with the family through slats in the border wall. The mother and her brother told me that they are from Jalisco, Mexico and are fleeing their home because of threats. They told me that after they crossed into the United States they were waiting for about an hour until a Border Patrol officer approached, pointed in the direction of the volunteer station and told them to walk to where they saw tents and water where they should wait to be processed. They said that the walk took about 30 to 40 minutes. Given the distance and their description of the site as having porta-potties, which you can see in the distance, it was likely the Whiskey 4 site closer to the port of entry.

- 10) When the family arrived, they looked distressed, sweaty, and hot from the long walk in the sun.
- 11) We provided them with food and water. The children especially appeared very hungry; while at the site, each boy ate a “cup of noodles,” several mandarins, multiple energy bars, and muffins.
- 12) The family sat under a small tarp provided by volunteers to get some protection from the sun. There are only a few such tarps which can fit about four people each. The site is very dusty, dirty, and the sun was strong. No one in the family was wearing a hat or other protection from the sun.
- 13) The mother informed me that she has diabetes and has about 10-15 days supply of medication.
- 14) Over the course of the approximately four hours the family was at the site, I saw at least five different Border Patrol vehicles drive by the site, in between the border walls and outside the secondary wall on at least ten occasions, stopping on only two occasions described here.
- 15) First, at or around 1:40pm, a Border Patrol officer got out of his vehicle and approached the family. This was the first time I observed a Border Patrol officer speak to the family following their arrival at Whiskey 8 around 12:40pm. The mother told me that the officer asked why they would cross because the United States is not accepting Mexicans right now. He told them that an officer would be back to pick them up in two hours but that they would just drop them back across in Mexico. The officer did not ask about their needs or offer any other information and then left.
- 16) Second, at or around 3:20pm, another Border Patrol officer came by and asked the family where they were from. He said that he would be back in half an hour. He did not offer any information or ask about their needs before he left.
- 17) Between 12:40pm and 4:30pm, I did not observe Border Patrol agents taking any steps to prepare the family for transport. During this period, Border Patrol agents did not provide the family with any food, water, shelter, or other assistance.
- 18) At or around 4:30pm, two Border Patrol vehicles returned to the site. The officers lined up the family and six other adults who were also waiting at the site and scanned their identification, asked them to remove items like shoelaces, hair rubber bands, and jewelry. I did not hear the officers provide any information regarding where the family was going or what to expect in the process.
- 19) The family left the site in a Border Patrol vehicle at or around 4:50pm.

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

Executed on April 15, 2024 at San Francisco, CA, United States

A handwritten signature in blue ink, appearing to read 'Blaine Bookey', is written over a horizontal line.

Blaine Bookey

# EXHIBIT 6

1 I, Erika Pinheiro, declare as follows:

2 1. The content of this declaration is based on my personal knowledge, my own  
3 observations, data collected by volunteers, contractors, and staff I oversee, and  
4 information communicated directly to me by people detained at open-air detention sites  
5 (“OADS”) and Border Patrol officers working at OADS. The following facts are true to  
6 the best of my understanding and recollection. If called to testify in this case, I would  
7 testify competently about these facts.

8 **Professional Background**

9 2. I am the Executive Director of Al Otro Lado (AOL), a nonprofit advocacy and  
10 legal services organization incorporated in California and based in Los Angeles, with  
11 offices in San Diego, California, and Tijuana, Mexico. As the Executive Director, I  
12 supervise attorneys and other staff who work directly with migrants on both sides of the  
13 U.S.-Mexico border. I am currently based in San Diego, CA and Tijuana, Mexico. I  
14 oversee programs and operations in all AOL locations.

15 3. I submitted a declaration dated February 26, 2024, in support of Plaintiffs’ Motion  
16 to Enforce the *Flores* Settlement Agreement. *See* ECF 1392-7.

17 4. After the Court’s order granting, in part, Plaintiffs’ Motion, Al Otro Lado staff,  
18 contractors, and volunteers provided humanitarian support to migrants detained at OADS  
19 in east San Diego County, including in and around the Jacumba area and at sites located  
20 in the Otay Mountain wilderness. “Humanitarian aid” includes the provision of water and  
21 food, as well as the coordination of emergency medical services for migrants in distress.

22 5. Since the Court’s order on April 3, 2024, Al Otro Lado staff, contractors, and  
23 volunteers have provided aid on a daily basis.

24 6. After Plaintiffs’ Motion and immediately after the Court’s order, I observed that  
25 families and children were held at OADS for less time than before. On average, families  
26 and children traveling alone were processed within a few hours of detention. However,  
27 about a week after the order, starting on or about April 12, 2024, conditions began to  
28

1 worsen for children and all people detained by CBP at OADS, particularly with respect to  
2 longer wait times, including multiple instances of children staying overnight at OADS.

3 **Children are Detained for Extensive Periods of Time at OADS**

4 7. CBP continues to direct migrants, including families and children, to OADS. Our  
5 staff, contractors, and volunteers ask migrants in OADS on a daily basis whether they  
6 were directed into the sites by Border Patrol, and migrants almost always answer  
7 affirmatively. Migrants report making contact with Border Patrol either at the time they  
8 cross the border or in the remote regions near the border wall, and Border Patrol agents  
9 will often tell people to walk toward established OADS. On multiple occasions, staff and  
10 contractors have observed Border Patrol either bringing migrants into OADS in vehicles  
11 or driving into OADS with migrants walking behind them. Specific instances include  
12 April 15-16, 2024, when Border Patrol ordered families to wait in an area with no shade  
13 close to the Pacific Coast Trail, which has been regularly used as a staging area for  
14 migrants. AOL contractors called the Campo Station and Border Patrol told our  
15 contractor that they were “busy.”

16 8. AOL staff, contractors, and volunteers have observed children waiting at the  
17 OADS for long periods of time without any indication that CBP is actively preparing  
18 them for transport or actively arranging transport. On other occasions since April 3, 2024,  
19 AOL staff, contractors, and volunteers have observed Border Patrol agents order  
20 migrants, including children, to line up in an area with no shade and leave the OADS,  
21 only to come back several hours later to transport individuals out.

22 9. On April 17, 2024, our contractors went to the OADS known as “Sliders” and  
23 encountered a group of around 50 migrants, including children, who had spent the night  
24 at the site; families with children reported being there for 12 hours.

25 10. On April 17, 2024, I went to the Moon OADS in Jacumba; I arrived around 10 am  
26 and was there for several hours; there were several dozen migrants there, including at  
27 least 20 children, many of whom were under the age of 5. When I arrived, I saw multiple

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1 Border Patrol vehicles and horse transport trailers parked a few hundred yards from the  
2 camp. After about two hours, I saw Border Patrol officers riding by on horses in what  
3 seemed to be a recreational event for the agents. Agents rode horses through the camp  
4 and clearly observed the children waiting, but did not stop to interact with or process the  
5 migrants. Migrants reported to me that they had been directed to wait at the site by BP.  
6 When I left the area around 1:30 PM, the children were still waiting at the camp.

7 11. On April 20, 2024, contractors reported that children had waited for 15 hours at the  
8 “Sliders” OADS. AOL contractors had difficulty accessing the site that day; the local  
9 property owner reported to my staff that Border Patrol agents had locked the access gate.  
10 When they arrived at Sliders via an alternate route, AOL contractors pushed a large  
11 rattlesnake away from migrants with a long pole. AOL contractors observed that a Border  
12 Patrol agent on site was verbally harassing migrants, including families with children,  
13 and threatening not to have them picked up.

14 12. That same day, on April 20, AOL contractors documented that children had spent  
15 approximately 8 hours at the Moon OADS in Jacumba.

16 13. On April 21, 2024, contractors went back to Sliders and observed adults who had  
17 been there for two days.

18 14. That same day, volunteers documented over 200 migrants waiting for extended  
19 periods of time at Moon Valley; that evening, Border Patrol told them that they would not  
20 have any more buses until 2 PM the following day. Border Patrol also does not provide  
21 cups or bottles for migrants to get water from the water tank on site. Volunteers provided  
22 cups, but the migrants did not want to drink from the tank because the water tasted like  
23 chlorine and plastic. Volunteers did not have enough bottled water to give out to  
24 everyone who was forced to spend the night there. Some local residents resorted to filling  
25 empty gallon jugs at their homes and bringing them into the camps, but were unable to  
26 distribute water to everyone who did not want to drink from Border Patrol’s water tank.



1 15. On April 26, 2024, two OADS near Jacumba that had been inactive for several  
2 months due to Mexican National Guard activity on the south side of the border wall  
3 started filling with migrants again. It started raining on April 26 and the area saw cold,  
4 wet weather for several days. On that day, contractors documented that a 15-year-old had  
5 waited at the Marron Valley Road OADS for 12 hours from 4 am to 4 pm. Marron Valley  
6 Road is located in the Otay Mountain Wilderness, approximately 30-40 minutes' drive  
7 west of Jacumba. It is an area frequented by migrants and has been an area from which  
8 Border Patrol has staged and processed migrants for months.

9 16. On April 27, AOL staff, contractors, and volunteers documented that children had  
10 been held on Marron Valley Road OADS for 9 hours; Border Patrol ordered the migrants  
11 to wait at the end of the access road and provided solar blankets, insinuating that the  
12 migrants, including children, would be there overnight. At Moon Valley OADS, two  
13 teenage children waited for 12 hours, even though around ten other children were  
14 transported out after only an hour. At Willows OADS, two infants under 1 year old  
15 waited for 24 hours and spent the night; volunteers took photos of them the night of April  
16 26 and again on the morning of April 27. All migrants who stayed overnight at Willows  
17 told our staff and contractors that they were directed into the site by Border Patrol agents,  
18 who told them to wait there for processing.

19 17. On April 28, 2024, AOL staff, contractors, and volunteers documented that  
20 children were held at Willows OADS for 24 hours, at Moon OADS for 12 hours, and at  
21 Marron Valley Road OADS for 8 hours. At Moon Valley, AOL contractors administered  
22 basic first aid to a 2-year-old child who had fallen onto a cactus. They also visited Sliders  
23 OADS, documented the presence of 20 children, and spoke to a migrant who said they  
24 had been there for three days. The migrant said Border Patrol knew they had been there  
25 for three days, but told them to continue waiting. A volunteer providing aid at the Willow  
26 and Tower 177 OADS that day reported that around 9:30 AM, Border Patrol told  
27 migrants they would not come and pick anyone up on that day. At that time, there were  
28

1 more than 50 people at each site with only two tents at each site, which had been  
2 provided by local residents and volunteers.

3 18. On April 29, AOL staff documented children who had been waiting at the Willows  
4 OADS for 9 hours. Two children waited at the Marron Valley Road OADS for 13 hours  
5 and did not have access to water, port-o-potties, or a dumpster. At around 7 PM on that  
6 day, local volunteers documented the presence of children at the Moon Valley OADS,  
7 and gave them supplies to spend the night there.

8 19. On May 2, 2024, AOL staff and contractors documented a group of migrants  
9 including 10 children who had been waiting at the Tower 177 OADS for 11 hours.

10 20. On the evening of May 5, 2024, a local volunteer documented a large group of  
11 migrants, including children, who had been at the Moon Valley OADS since that  
12 morning. It was very windy and migrants were sheltering in the port-o-potties. All of the  
13 tents that volunteers had placed at Moon Valley had been taken down and thrown away.  
14 Volunteers assumed that Border Patrol had taken down the tents because when right-wing  
15 activists tamper with the shelter, they usually destroy it and leave it there, but the tents on  
16 that day had been removed from where they had been placed. That night, there was an  
17 infant at Moon Valley OADS who had been there for 11 hours as of around 6 PM. The  
18 migrants and volunteers constructed a shelter of blankets and tarps to shield the baby,  
19 who they assumed would need to spend the night there.

20 21. On May 6, 2024, the weather in east county changed and became very hot. A  
21 group of migrants including five children waited at the Pacific Crest Trail OADS for 8  
22 hours. The Pacific Crest Trail starts next to the border wall south of Campo, California,  
23 and is close to other OADS in the Otay Mountain Wilderness.

24 22. On May 10, AOL contractors documented children who had been waiting at the  
25 Tower 177 OADS for 8 hours, and noted that the port-o-potties had not been serviced and  
26 were "disgusting." That same day, the contractors documented that the port-o-potties at  
27

1 Moon were also in poor shape and filled with dirty toilet paper and feces, with children  
2 waiting at least 4 hours for processing.

3 23. On May 3, 2024, local volunteers noted that the water tank at Moon Valley OADS  
4 had been empty for 11 days. It was full again by May 11, but I am not sure when it was  
5 filled. It seemed to be empty for at least two weeks.

6 24. On May 12, 2024, AOL contractors visited the Moon Valley OADS and observed  
7 that children had been waiting there to be processed for 7 hours. The contractor noted that  
8 the port-o-potties had not been serviced and were “unusable.” That day, one migrant  
9 wanted to call 911 for another migrant who was having a profuse nosebleed, and the  
10 Border Patrol agent on site tried to intimidate him, insinuating that he had done  
11 something wrong by wanting to call for emergency services, and took a picture of his  
12 passport. Migrants also reported that day that the water in the tank provided by Border  
13 Patrol did not taste right, and several migrants said they thought the water was making  
14 people sick. AOL contractors and other volunteers observed a higher than normal  
15 incidence of migrants complaining of gastrointestinal issues.

16 **Conditions at OADS Remain Unsafe**

17 25. On an almost daily basis, AOL staff, contractors, and volunteers have observed  
18 large rattlesnakes in and around OADS. AOL staff and contractors have also observed  
19 individuals (not border patrol agents) screaming at migrants in OADS to “go home,” and  
20 one individual in an ATV has run over the tents at Sliders on several occasions;  
21 thankfully there were no migrants inside of the tents when they were destroyed, but the  
22 individual did not make any attempt to check if migrants were inside before running them  
23 over. On April 30, 2024, three local residents, including one child around the age of  
24 seven, were riding ATVs on Marron Valley Road close to the staging area where  
25 migrants, including children, were waiting. The locals were driving in circles close to the  
26 migrants, taking photos of them, and harassing them. One of the adults in the group  
27 encouraged the child to drive in circles close to the child migrants waiting at the OADS,

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1 frightening the migrant children. AOL staff and contractors captured the incident on  
2 video and told the individuals to leave the migrants alone.

3 26. Far from collaborating with AOL and other aid workers servicing OADS in east  
4 San Diego County, Border Patrol has engaged in a pattern of harassment, surveillance,  
5 and has frequently locked access gates, forcing aid workers to travel remote routes to  
6 reach migrants. Border Patrol has stopped, detained, handcuffed, and followed AOL staff,  
7 contractors and volunteers. Border Patrol agents have locked gates on private property;  
8 when AOL staff asked DHS in stakeholder meetings not to lock the access gates, DHS  
9 claimed that private property owners had locked the gates. However, our team is in  
10 frequent contact with most local property owners near east county OADS and they tell us  
11 that the locks belong to Border Patrol and that they do not have the keys to open them.  
12 Border Patrol has told AOL staff and contractors to leave OADS on occasion, taken  
13 photos of them and their license plates, and followed them onto private property where  
14 our supplies are stored. Local residents in and near Jacumba have noticed an increase in  
15 migrants getting lost after crossing the border, and an increase in injuries and heatstroke,  
16 especially since May 7 when the weather began to get very hot.

17 27. CBP has not significantly increased services at the OADS since the Court's order  
18 and is still not providing shelter, food or water consistently to migrants waiting in OADS  
19 for processing. This persists even when families wait for hours and miss meal times.

20 28. The only increase in services at some OADS was recent and long-overdue.  
21 Between May 11 and May 15, 2024, Border Patrol placed port-o-potties and hand  
22 washing stations at Sliders and Bell Valley OADS, and placed a new water tank near BIA  
23 10, an OADS slightly west of Tower 177. Bell Valley is a frequently-used staging area  
24 near Sliders. These OADS were used frequently by Border Patrol as a staging areas for at  
25 least several months but had no bathrooms, water, or dumpsters available for migrants.

1 29. Border Patrol has not provided any shelter at any of the OADS in east San Diego  
2 County, and the lack of shade is becoming more dangerous as the weather becomes  
3 hotter.

4  
5 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
6 knowledge.

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8 Executed on this 15th day of May 2024, at San Diego, CA.

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10 *Carla Puleiro*  
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# **EXHIBIT 7**

**REDACTED VERSION OF DOCUMENT  
PROPOSED TO BE FILED UNDER SEAL**

1 I, [REDACTED], declare as follows:

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1. This declaration is based on my personal knowledge, what I have seen and experienced. If I were asked to tell a judge or jury about these experiences in court, I would be able to speak about these facts based on what I personally know and remember.

2. I am 14 years old. I am from Jamaica.

3. I speak English and Patois.

4. I crossed into the United States on Thursday, April 25, 2024. I came to the United States with my aunt. After we crossed into the United States, we waited by a big fence that was reddish in color. I could see two roads and cars, but I couldn't leave the space until the Border Patrol opened the fence. I got to the place by the fence on Thursday night and then Friday morning Border Patrol came back and took me to this place. The border patrol did not give me anything to eat but a lady was making food and gave me an orange.

5. Border Patrol separated me from my aunt and I haven't been able to see her since then. I do not know where she is.

6. I have been detained at the Imperial Beach facility for 3 days.

7. I am staying in a room that is very small with about 8 other kids. There are kids ranging from four to seventeen years old. We all sleep on mattresses on the floor. It feels very crowded. They don't dim the lights at all when it's time to go to bed.

8. There is no privacy to use the toilet. There is a camera in the room so someone has to help you use a blanket to create some privacy or you have to hold the blanket yourself.

9. I have not been able to take a shower or brush my teeth since I arrived. I am very cold but no one has offered any extra clothes. There is just that one bathroom available to us, so it is not enough for all the people.

10. There is nothing to do during the day. I've just been sleeping. There are no books and there is no television. If you want a coloring book you can knock on the door and ask a border patrol person and they'll bring you crayons and a book.

1 11. No one has told me anything about when I'll be able to leave.

2 12. The porridge they give me is very bitter and it needs sugar. In the morning, they  
3 give us warm porridge, a granola bar, an apple and water. Later in the day we get cereal  
4 and for lunch we have a sandwich. We get granola bars and apples for snacks. If I want  
5 more food I can ask. They have offered me a burrito, but it has beef in it and I don't like  
6 beef.

7 13. I miss my aunt and I want to know if she's okay. They don't let us talk to anyone  
8 including our family members. There are other kids I'm staying with who also have  
9 family members here and they aren't able to talk to them either. Because we are in  
10 separate room we cannot communicate with our family members.

11 14. I haven't been able to use a phone while I've been here. I would like to be able to  
12 call my grandma because I am trying to go live with her.

13 15. The border patrol people don't really interact with us that much. They can see us  
14 through the door, and we are not allowed to open the door but they can open it. They  
15 come to the door to tell us stuff or give us food.

16 16. I am the only person in my room who speaks English so it's very lonely. I don't  
17 have anyone to talk to.

18 17. No one has given me any paperwork about my immigration case or told me about  
19 possible free lawyers who could help me.

20 18. When I am able to leave here, I am looking forward to going shopping with my  
21 aunt. I want to get clothes and shoes.

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1 I declare under my duty to tell the truth and penalty of perjury that to the best of my  
2 knowledge, all the information I have here given is correct and complete and I understand  
3 the legal consequences of testifying falsely to the authorities. Executed on this 29<sup>th</sup> day  
4 of April 2024, at ~~Chicago~~ <sup>San Diego</sup> California.

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# **EXHIBIT 8**

1 I, Adriana Jasso, declare as follows:

2 1. The content of this declaration is based on my personal knowledge, my own  
3 observations, data collected by volunteers I oversee, and information communicated  
4 directly to me by people detained at open-air detention sites (“OADS”) and Border Patrol  
5 officers working at OADS. The following facts are true to the best of my understanding  
6 and recollection. If called to testify in this case, I would testify competently about these  
7 facts.

8 **Background**

9 2. I am a human rights advocate and I have worked with the American Friends  
10 Service Committee (AFSC) for 17 years assisting migrants.

11 3. I submitted a declaration dated February 21, 2024, in support of Plaintiffs’ Motion  
12 to Enforce the Flores Settlement Agreement. ECF 1392-9.

13 4. After the Court’s order granting, in part, Plaintiffs’ Motion, I continued to  
14 volunteer at OADS near San Ysidro. I continued providing humanitarian assistance to  
15 migrants by providing water, food, information and assistance when medical emergencies  
16 come up, including for children.

17 5. Since the Court’s order on April 3, 2024, I have been providing direct aid at  
18 various OADS controlled by Border Patrol agents. My schedule is typically Monday to  
19 Friday starting at 5:30AM and ending at about 10AM. On certain days I also cover  
20 certain evening hours.

21 6. After Plaintiffs’ Motion and immediately after the Court’s order, I observed that  
22 families and children traveling alone were processed within a few hours of detention.  
23 However, since about April 14th conditions and lengths of stay began to worsen.

24 **Children and Families are Detained for Extensive Periods of Time at OADS**

25 7. CBP continues to direct families and children to OADS. On April 19th at about  
26 11am, I documented a group of about 60 people, several children included, walking for  
27 over an hour from east to west. When the group arrived at Whiskey 8 (W8) they all were  
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1 visibly exhausted and scared, they begged for water and asked me several times if they  
2 needed to continue walking west since the officers they encountered shortly after crossing  
3 directed the group to W8. Border patrol asked the group to line up several times but at  
4 least three times the agency only took the single adults and left the family units waiting.  
5 Finally, at 11 pm, approximately 12 hours later, all members of this group were picked  
6 up.

7 8. I have observed children waiting at the OADS for long periods of time without any  
8 indication that CBP is actively preparing them for transport or actively arranging  
9 transport. On April 16th at about 5pm I conducted an unofficial survey with support from  
10 a young female waiting on the other side of the wall to get a sense of the number of  
11 people since Border Patrol took a group of 12 males and told the rest to wait. I became  
12 concerned since the agent on site told the group that they needed to prepare to wait up to  
13 12 hours. From the intake of the young female we registered 95-100 people, including 15  
14 children, ages 3 years-old to 14 years-old.

15 9. On April 17th a 10 year-old child arrived at the site at about 3pm with mother and  
16 father. On this particular day Border Patrol ordered the single adults to line up at least  
17 twice but ordered the families to continue waiting. The 10 year-old and his parents waited  
18 for over 17 hours. The next morning at about 11am, April 18th, Border Patrol transported  
19 out a large group, including the 10 year-old child.

20 10. On May 13th at about 5:45am I assisted a family consisting of a mother, father and  
21 a 7-month-old baby who had arrived at the site at approximately 2:30am. The parents  
22 were greatly concerned since the child had been sick for several days with a cold. I asked  
23 the parents if they thought the situation needed the assistance of an ambulance and they  
24 said they did not think it was an emergency. I spent a good deal of time supporting them  
25 to get the mucus and phlegm out from the baby's nose and mouth. Border Patrol arrived  
26 on site at about 7:40 am and shortly after asked the group to line up. Mother and child  
27 were put in one of the vehicles with a group of 8 adults. After reviewing the recent JC  
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1 Report I was surprised to find reference to the use of car seats by Border Patrol. In the  
2 many months that I have provided humanitarian aid to people on the other side of the  
3 wall, I have never seen agents use car seats. The parents and child were transported out  
4 at about 8am without the use of a car seat.

5 11. I have also observed CBP processing single adults before families and children,  
6 even if the adults arrived later. On April 19th at about 7am one agent asked everyone to  
7 line up for the second time that morning. After a conversation between the three agents  
8 they told everyone to go back to their places and wait. About 30 minutes after they asked  
9 the group to line up again. Border Patrol separated the single adults and told the families  
10 that they had no space for them and that their group would have to wait longer.

11 **Conditions at OADS Remain Unsafe**

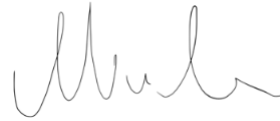
12 12. On May 10th at about 7:45am a mother of a 5 year-old asked me for an extra pair  
13 of pants and socks for her child. They had been at the site since 2:30am and the child had  
14 cried himself to sleep complaining from being cold. The mother said she was able to grab  
15 a mylar blanket from the serving station on our side of the wall and tried to keep him  
16 warm. We provided the necessary supplies.

17 13. That same day, at approximately 7am I provided medication to a young female  
18 complaining from severe abdominal pain after drinking the water Border Patrol has  
19 available on site. I asked her if she had felt sick prior to her arrival to the site to which  
20 she answered no. In recent weeks we have heard several comments about the strong taste  
21 of chlorine the water has, and parents, in particular, have been kindly ask for bottled  
22 water for their children.

23 14. CBP has not increased services at the OADS since the Court's order and is still not  
24 providing shelter or sufficient food to migrants waiting in OADS for processing. This  
25 persists even when families wait beyond four hours and miss mealtimes.  
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1 I declare under penalty of perjury that the foregoing is true and correct to the best of my  
2 knowledge.

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4 Executed on this 16th day of May 2024, at San Diego, California.

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9 Adriana Jasso

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# EXHIBIT 9

### Declaration of Dulce Rodas

I, Dulce Rodas, hereby declare under the penalty of perjury to 28 U.S.C. § 1746:

1. I make this declaration based on my personal knowledge except where I have indicated otherwise. If called as a witness, I could and would testify competently and truthfully to these matters.
2. I am a citizen of the United States.
3. I am over 18 years of age.
4. I am a Staff Attorney at the Center for Gender and Refugee Studies (CGRS), where I work on individual and strategic litigation, policy advocacy, and technical assistance and trainings. I am fluent in Spanish and conversational in Brazilian Portuguese.
5. From May 1-3, 2024, I visited the open-air detention sites in the remote areas east of San Diego including, Campo, Boulevard, and Jacumba. I visited these sites along with colleagues from CGRS, the National Immigration Law Center (NILC), and Al Otro Lado (AOL), as well as humanitarian aid volunteers.
6. On May 1, 2024, I arrived at the open-air detention site known as Tierra del Sol at or around 3:20pm.
7. The Tierra del Sol site is located along the border wall. There were no portable toilets, food, or shelter at the site. I saw a water tank but did not examine it until the following day—there was no water when I turned the nozzles at the base of the tank.
8. My colleagues and I immediately handed out food and water when we arrived at Tierra del Sol. There were over 200 people, including more than or at least 25 children. There were at least 3 visibly pregnant women when we arrived. It was difficult to get an exact total count because people were making line for the food and water that we were distributing. However, two of my colleagues and I counted a total of over 200 individuals.
9. I spoke to several individuals at the site. Most individuals told me that they arrived at the site around 9:00am or 9:30am.
10. I saw Border Patrol arrive around 3:25pm. Border Patrol took some family units around 3:45pm. Additional Border Patrol vehicles arrived at or around 4:00pm and 4:45pm. Around 4:00pm, a Border Patrol officer asked us how many pregnant women were at the site; we told him there were approximately 3 or 4 at the time we arrived. Each Border Patrol vehicle transported a group of approximately 10-15 people. By around 5:25pm, there were still approximately 125 people at the site. I did not see Border Patrol taking any steps to prepare families for transport. While I was at the site, I did not see Border Patrol officers provide food, water, shelter, or other assistance to families.



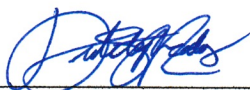
11. I spent a longer period of time speaking with a young Peruvian couple. I spoke with them sporadically between 3:45pm to 6:00pm because they lined up against the border wall each time Border Patrol arrived. They told me that Border Patrol instructed them once or twice to wait against the wall. They said they did not feel free to leave the site because Border Patrol vehicles were driving around and watching the group. They also said that there was initially one Border Patrol vehicle at each end of the site. I believe they lined up against the wall each time Border Patrol arrived because of these reasons.
12. The Peruvian couple was there with their daughter who was 1 year and 8 months old. The mother was five months pregnant. They arrived around 9:00am or 9:30am and were not picked up by Border Patrol until around 6:20pm. I did not see Border Patrol officers prepare them for transport or provide them food, water, shelter, or other assistance.
13. The couple told me that their daughter was coughing earlier in the day because of the cold morning temperature. The young mother asked me once or twice if we had additional snacks for her daughter because she was very hungry. Later in the afternoon, AOL colleagues brought additional food to the site. We provided the mother additional snacks before Border Patrol picked up the family unit.
14. I also briefly spoke with a Brazilian couple who was there with their 6-year-old child and 7-month-old baby. They told me they were at the Tierra del Sol site for approximately 7 hours. They were visibly tired. While they were in line waiting to be transported by Border Patrol, the mother asked me if Border Patrol would allow her to take the powdered baby formula she had for her baby. I told her that I did not know for certain.
15. At some point between 4:00pm and 6:00pm, Border Patrol lined up a group of people they were going to transport out of the site. I saw Border Patrol remove two pregnant women from that line. I overheard one Border Patrol officer instruct his colleague to get other migrants and specifically requested that he get the “less annoying ones.”
16. Around 9:30am on May 2, 2024, two of my CGRS and NILC colleagues and I arrived at the Tower 177 site in Jacumba where we saw several family units. My CGRS colleague spoke with a Colombian family who was there with their 5-year-old-daughter. The family told me that they arrived there around 5:00am. They fled from Colombia because the father was subjected to an attempted homicide.
17. I also saw a family unit with a girl who looked like a teenager. I did not confirm her age, but my colleague spoke with the family and informed me that the girl is fourteen years old.
18. At one point, I saw a Border Patrol vehicle arrive at the site. A colleague told me that the Border Patrol officer in the vehicle referred to the site as a “staging area” and told people to wait there.
19. My colleagues and I distributed snacks and water. We left the site around 11:30am. We returned to the area around 1:55pm with additional snacks and water bottles to distribute and

many of the migrants we saw there earlier were still there. When we returned around 4:30pm the migrants were gone.

20. We also visited the Tierra del Sol site on May 2 at around 2:45pm. There were approximately 60 people there. I did not see any children but people at the site told me that there had been approximately 10 children at the site earlier in the day. They also told me that a Border Patrol officer pepper sprayed a group of people as they were entering the United States. They said that several people were impacted by the pepper spray, including a baby and other children. The people I spoke with told me that medics arrived approximately 15-20 minutes after the incident; medics treated the people impacted by the pepper spray but did not transport them out of the site at that time though they were not there when we arrived.

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

Executed on May 14, 2024 at San Francisco, CA, United States.



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Dulce S. Rodas

# **EXHIBIT 10**

1 I, Melissa Adamson, declare as follows:

2 1. This testimony is based on my personal knowledge and the following facts are true  
3 to the best of my understanding and recollection.

4 2. I am an attorney at the National Center for Youth Law (NCYL) and counsel of  
5 record for Plaintiffs in the above-captioned case. I have interviewed more than a hundred  
6 children in federal immigration custody as part of my work at NCYL.

7 3. I execute this declaration based on personal knowledge following a monitoring  
8 visit to the Whiskey-8, Moon Valley, Tower 177, Sliders, and Marron Valley Road  
9 Open-Air Detention Sites (OADS) on May 13, 2024. This visit was conducted by myself  
10 and my colleague Rachel Smith, and together we observed conditions, provided  
11 humanitarian aid, and interviewed individuals detained in the OADS.

12 Whiskey-8 OADS (San Ysidro, California)

13 4. On May 13, 2024, Rachel Smith and I arrived at the OADS known as Whiskey-8 at  
14 approximately 5:45 am. Adriana Jasso, staff with American Friends Services Committee  
15 (AFSC), was already present at the site.

16 5. The Whiskey-8 site is located between two border walls on U.S. territory.  
17 Humanitarian organizations have set up three aid tents and provide food, water, and  
18 limited medical aid through the slats of the border wall to people arriving. It is located  
19 approximately 4.5 miles from the Imperial Beach Border Patrol Station.

20 6. At Whiskey-8, I observed three blue portapotties, two handwashing stations, a  
21 dumpster, and a large black water tank. There were a few worn tarps tied to the border  
22 wall that provided minimal shade, but no other shelter from the elements.

23 7. When Rachel and I arrived, there were approximately 25 people at the site: nine  
24 women, twelve men, and at least three children and a baby. There were people from  
25 Jamaica, India, Costa Rica, Nicaragua, Iran, and the Dominican Republic.

26 8. My colleague Rachel spoke with two families from Costa Rica who told her that  
27 they were directed to Whiskey-8 by a Border Patrol agent.

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1 9. A few minutes after we arrived, a man approached the wall and asked for help for  
2 his infant son, whom he said was sick. He told us that his son was seven months old, and  
3 that he had a runny nose and was having difficulty breathing. We followed the man along  
4 the wall to his wife and baby, who were sheltering under a worn brown tarp tied to the  
5 wall slats next to the portapotties. Photograph 6 of the CBP Juvenile Coordinator Report  
6 [Doc. # 1413-1] shows the “tent” under which this family was taking shelter.

7 10. The man and his wife told us that their baby had been sick for a few weeks, and  
8 since his runny nose made it difficult for him to breastfeed, he was losing weight. We  
9 provided them with a nasal aspirator and wipes to remove the mucus from the baby’s  
10 nose, and also measured the baby’s temperature with a thermometer. The baby’s parents  
11 showed me documentation from a medical visit in Honduras where a doctor had noted the  
12 baby’s diagnosis as “riesgo nutricional,” or nutritional risk.

13 11. I spoke with the baby’s parents for more than an hour about their experience  
14 coming to the United States and their experience at Whiskey-8. They told me that after  
15 they crossed the border around 2:00 am, they were directed by a Border Patrol agent to  
16 follow the wall until they arrived at this site. The walk took approximately 30 minutes.  
17 Since arriving at Whiskey-8 approximately five hours ago, they had not seen or interacted  
18 with any other Border Patrol agents. The declaration of the baby’s mother is attached to  
19 this filing as Exhibit 4.

20 12. As we spoke, we stood close to the wall, next to the portapotties and tarp under  
21 which the family was sheltering. There was a constant, thick swarm of bugs and  
22 mosquitoes around this area, and we were all bitten multiple times. The baby’s mother  
23 showed me a bright red rash about three inches wide on her chest where she had been  
24 bitten earlier in the morning. The baby’s parents were worried about the bugs but said  
25 that they didn’t want to move because this was the only shelter available, and it looked  
26 like it might rain.

27 13. At approximately 7:30 am, two Border Patrol vans arrived at Whiskey-8. Two  
28 Border Patrol agents directed people to line up and told them to take out their passports

1 and remove shoelaces, extra layers of clothing, and any jewelry. I witnessed one Border  
2 Patrol agent call out “Is anyone pregnant? Are there any juveniles?” in English at the line  
3 of people. No one responded, despite there being three children standing in the line. The  
4 Border Patrol agent did not repeat these questions in any language other than English and  
5 did not appear to acknowledge or note the children standing in line in front of him. Then  
6 the Border Patrol agents left in their vans and did not tell people when they would return.  
7 People were confused, and remained standing in line for several minutes after they left as  
8 they weren’t sure what to do.

9 14. At approximately 7:45 am, Border Patrol agents returned, and they directed people  
10 to line up again, but this time in a different area. Border Patrol agents searched each  
11 individual, checked their passport or other documentation, took their photograph, and  
12 then loaded them into a van.

13 15. I watched Border Patrol check the baby’s parents’ passports, search them, take  
14 their photographs, and load them into a van. Attached as Exhibit A to this declaration is a  
15 true and correct copy of an image of a Border Patrol agent searching the baby’s mother. I  
16 took this photograph on May 13, 2024, at 7:55 am.

17 16. I saw Border Patrol direct individuals where to sit in the van and saw that the  
18 baby’s mother had to hold the baby on her lap. The baby was not buckled into a car seat.

19 17. The Border Patrol van with the baby and baby’s parents left the Whiskey-8 OADS  
20 at 8:05 am.

21 18. Based on what the baby’s family shared with me, I estimate they were at the  
22 Whiskey-8 OADS for approximately five and half hours and they were transported from  
23 the Whiskey-8 OADS approximately six hours after they were first directed by Border  
24 Patrol to walk to Whiskey-8.

25 Moon Valley OADS (Jacumba, California)

26 19. We arrived at the OADS known as Moon Valley at approximately 11:15 am. When  
27 we arrived, there were approximately 25 people there, including four children under  
28 seven years old.

1 20. Moon Valley is located between a highway and steep mountains. We observed  
2 blue portapotties, two handwashing stations, two dumpsters (one large and one small),  
3 and a large black water tank. When we arrived, people were sheltering under haphazard  
4 structures made from tarps, scrap metal, plastic, and cardboard, and a canvas shelter set  
5 up by volunteers. Attached as Exhibit B to this declaration is a true and correct copy of an  
6 image of the dumpsters and makeshift tents at Moon Valley OADS. I took this  
7 photograph on May 13, 2024 at 11:34 am. Attached as Exhibit C to this declaration is a  
8 true and correct copy of an image of the portapotties and makeshift tents at Moon Valley  
9 OADS. I took this photograph on May 13, 2024 at 11:34 am.

10 21. Along with a staff member from Al Otro Lado, we handed out water bottles,  
11 granola bars, and crackers to the people at Moon Valley. We gave the toddlers and young  
12 children packets of applesauce and Pediasure nutritional shakes. Everyone gratefully  
13 accepted the food and water. Two women told me that they were hesitant to drink the  
14 water from the large black water tank because it did not smell good.

15 22. The weather was very hot, dry, and windy. The temperature gauge on our car's  
16 dashboard showed that it was 83 degrees outside.

17 23. We used Jeenie, a phone interpretation app, to speak with a father, mother, and six-  
18 year-old girl from Brazil. The girl's parents told us that a Border Patrol agent directed  
19 them to walk to the site. During our conversation, we crouched under a blue tarp tied to  
20 metal poles and sticks to shelter from the hot sun and strong wind. The declaration of the  
21 little girl's father is attached to this filing as Exhibit 3. Exhibit B shows the low blue tarp  
22 under which these parents and their little girl were sheltering.

23 24. I observed a Border Patrol agent sitting in a Border Patrol vehicle parked a few  
24 hundred feet up the road from the site when we arrived. During our time at Moon Valley,  
25 the Border Patrol vehicle left the site, then returned and drove right by the site before  
26 parking in the same location. The Border Patrol agent did not exit the vehicle to speak  
27 with people or give information on when they would be processed.

28

1 Tower 177 OADS (Jacumba, California)

2 25. We arrived at the OADS known as Tower 177 at approximately 12:30 pm. When  
3 we arrived, there were approximately 150 people there. All of the people at the site were  
4 adults.

5 26. Tower 177 is located at the end of a dirt road, approximately 5 miles from the  
6 highway. We observed four blue portapotties, handwashing stations, two dumpsters (one  
7 large and one small), and a large black water tank. People were sheltering under worn  
8 tarps tied to the dumpsters and a metal tower. The weather was hot, dry, and windy, and  
9 people had lined up in the shadow of the large electrical pole to get some shade from the  
10 sun.

11 27. My colleague Rachel spoke with an adult who said that he was dropped off at  
12 Tower 177 by a Border Patrol agent and told to wait there.

13 28. Along with a staff member from Al Otro Lado, we handed out water bottles,  
14 granola bars, and crackers to the people at Tower 177. Everyone gratefully accepted the  
15 food and water. Multiple people told us that they were hesitant to drink the water from  
16 the large black water tank because it smelled bad.

17 29. Attached as Exhibit D to this declaration is a true and correct image of the  
18 portapotties, dumpsters, water tank, and makeshift shelters at Tower 177. I took this  
19 photograph on May 13, 2024 at 12:55 pm.

20 30. I observed a Border Patrol agent in a marked vehicle parked a few hundred feet up  
21 a dirt road from the site when we arrived. During our time at Tower 177, the agent did  
22 not exit the vehicle to speak with people or give information on when they would be  
23 processed. Attached as Exhibit E to this declaration is a true and correct copy of the  
24 Border Patrol vehicle parked near the Tower 177 OADS. I took this photograph on May  
25 13, 2024 at 12:59 pm.

26 Sliders OADS (Jacumba, California)

27 31. We arrived at the OADS known as Sliders at approximately 2:50 pm.  
28



1 32. Sliders is located on a dirt road, up a very steep, rocky embankment from the  
2 border wall. We did not observe any portapotties, handwashing stations, dumpsters, water  
3 tanks, or shelter.

4 33. When we arrived, there was no one there aside from a Border Patrol agent in a  
5 parked Border Patrol vehicle. He told us that the Mexican National Guard recently set up  
6 a checkpoint on the other side of the border wall in this area, and that since then, there  
7 have been fewer people at this location.


8 34. Attached as Exhibit F to this declaration is a true and correct image of the view  
9 from Sliders OADS and two white tents set up by the Mexican National Guard. I took  
10 this photograph on May 13, 2024 at 2:51 pm.

11 Marron Valley Road (Dulzura, California)

12 35. We arrived at the OADS known as Marron Valley Road at approximately 4:03  
13 pm. When we arrived, there were no people there.

14 36. Marron Valley Road OADS is located at the end of a dirt road, near South Bay  
15 Rod and Gun Club. It is a large flat dirt area with a single dumpster and no portapotties,  
16 handwashing stations, water tanks, or shelter.

17 37. I declare under penalty of perjury that the foregoing is true and correct. Executed  
18 this 16th day of May, 2024 at San Carlos, California.

19  
20  
21  \_\_\_\_\_

22 Melissa Adamson  
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28

# Exhibit A



This photograph was taken at the Whiskey-8 OADS at 7:55 am on May 13, 2024.

# Exhibit B



This photograph was taken at the Moon Valley OADS at 11:34 am on May 13, 2024.

The family I interviewed took shelter under the low blue tarp to the right of the beige canvas structure.

# Exhibit C



This photograph was taken at the Moon Valley OADS at 11:34 am on May 13, 2024.

# Exhibit D





This photograph was taken at the Tower 177 OADS at 12:55 pm on May 13, 2024.

# Exhibit E



This photograph was taken at the Tower 177 OADS at 12:59 pm on May 13, 2024.

The Border Patrol truck is parked on the dirt road, partially obscured in this photograph by trees and shrubs.

# Exhibit F



This photograph was taken from the Sliders OADS at 2:51 pm on May 13, 2024.

# **EXHIBIT 11**

I, Lilian Serrano, declare as follows:

1. The content of this declaration is based on my personal knowledge, my own observations, and information communicated directly to me by people detained at open-air detention sites (“OADS”) and Border Patrol officers working at OADS. The following facts are true to the best of my understanding and recollection. If called to testify in this case, I would testify competently about these facts.

### **Professional Background**

2. I am the director of the Southern Border Communities Coalition, a program of Alliance San Diego. In that role, I monitor human rights conditions in the border region. I have over a decade of experience working with immigrants in the San Diego region and documenting human rights violations.

3. I submitted a declaration dated February 26, 2024 in support of Plaintiffs’ Motion to Enforce the *Flores* Settlement Agreement. ECF 1392-14.

4. Since the Court’s order on April 3, 2024, I have been providing direct aid at various OADS controlled by Border Patrol agents approximately once a week.

### **Children and Families are Detained for Extensive Periods of Time at OADS**

5. CBP continues to direct families and children to OADS. On April 17, 2024, I interacted with a group of 38 migrants including 6 children ages 14, 11, 10, 6, 6, and 5. They all told me that Border Patrol agents directed them to walk in the direction of the Whiskey 8 OADS. I heard a Border Patrol agent tell the group to “go rest anywhere in this area”. The group waited for about 6 hours.

6. On April 24, 2024, I arrived at Whiskey 8 at 6am and encountered a large group of migrants. A Border Patrol on site told me that their head count was 300 migrants including several families with children as young as 4 months old. Migrants told me that they crossed between 4am and 5am. The migrants told me that Border Patrol agents directed them to walk east in the direction of Whiskey 8. There were agents there waiting for them. The agents separated family units from single adults in different lines. While I was on site, BP agents transported 4 different buses with single adults, at different times. At 7:30am Border Patrol agents transported a group of about 30 members of family units, the rest were told they had to wait on site. I estimated that about 20 children were left behind. A couple of Border Patrol agents stayed on site the whole time with very brief interactions with the families. I left at around 11am and the families stayed. I learned from a volunteer that stayed on site that the families were transported after 12pm.

7. In the group of family units that were transported at 7:30am, there was a woman from Jamaica with her thirteen year old daughter, her 4 year old niece and 7 year old nephew, the last two kids were siblings. A Border Patrol agent told the two siblings that they were going to be separated from their aunt. Both children went into distress and cried the whole time until they were transported.

8. On April 26, 2024, I arrived at Whiskey 8 at around 10pm. There was a group of more than 300 migrants on site. Most were single adult males. A male



from Guatemala told me that he had spent town nights west of Whiskey 8. Based on his description I suspect it was the area known as Spooner's Mesa. The night that I met him, a Border Patrol had directed the group to walk to Whiskey 8. He told me he encountered family units with young children the night he crossed. A Border Patrol agent told the group to wait in that location (Spooners Mesa). The group, including the children, spent the night there. In the morning the family units and women were transported out of the site. He said that in the two days and nights that he spent at Spooners, Border Patrol agents stopped to count them several times and then leave.

### **Conditions at OADS Remain Unsafe**

9. On April 17, 2024, I met a family unit at Whiskey 8 with the two parents and a 14 year old child. The child fell from the border wall and hurt his ankle. The family encountered a Border Patrol agent as soon as they crossed. The agent directed them to walk in the direction of Whiskey 8. The family waited at Whiskey 8 for about 6 hours, The child was in pain and without medical attention the whole time.

10. I am not aware of CBP increasing any services at the OADS since the Court's order and as far as I know is still not providing shelter, food or water to migrants waiting in OADS for processing. This persists even when families wait for hours after being directed to the OADS by CBP.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this 17th day of May 2024, at San Diego, CA.

A handwritten signature in blue ink, appearing to be 'Lilian Serrano', written in a cursive style.

Lilian Serrano