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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

IMMIGRANT DEFENDERS LAW CENTER,
et al.,

Plaintiffs,

v.

CHAD WOLF, et al.,

Defendants.

Case No. 2:20-cv-09893-JGB-SHK

DECLARATION OF LINDSAY TOCZYLOWSKI

1 I, Lindsay Toczyłowski, hereby declare under the penalty of perjury pursuant
2 to 28 U.S.C. § 1746:

3 1. I make this declaration based on my personal knowledge except where I
4 have indicated otherwise. If called as a witness, I could and would testify competently
5 and truthfully to these matters.

6 2. I am the Co-Founder and Executive Director of Immigrant Defenders
7 Law Center (“ImmDef”) where I have been employed for five years. ImmDef is a
8 non-profit organization headquartered in Los Angeles, California with additional
9 offices in San Diego, Santa Ana, and Riverside; we also operate a workspace in
10 Adelanto. ImmDef believes in providing universal representation so that no
11 immigrant is forced to face removal proceedings without an attorney or accredited
12 representative.

13 3. In my role as Executive Director, I make executive decisions related to
14 all of ImmDef’s programs and budgets, oversee the management of ImmDef’s
15 representation and advocacy programs, and fundraise to support ImmDef’s work. I
16 am also a case-carrying attorney and represent a small number of individuals across
17 all of ImmDef’s representation programs.

18 4. As of October 2020, ImmDef has a total of 104 employees, including 47
19 attorneys, 4 law fellows and 29 legal support staff members. Funding for our
20 programs comes from a variety of sources that include the federal government, private
21 foundations, and state and local governments. On occasion, especially when faced
22 with urgent humanitarian crises, ImmDef also raises money through crowdsourcing
23 and individual donor campaigns.

24
25 **ImmDef’s Removal Defense Representation**

26 5. ImmDef’s vision is to create a public defender system for immigrants
27 facing deportation. It pursues this mission through a number of different programs
28 and projects.

1 6. ImmDef represents approximately 1400 noncitizens annually in their
2 removal proceedings and provides other legal services to approximately 1200
3 additional noncitizens. We provide *pro bono* representation to unaccompanied minor
4 children, indigent detained adults, individuals deemed mentally incompetent to
5 represent themselves, families separated at the border, and most recently, to
6 individuals subject to the Migrant Protection Protocols (MPP).

7 7. ImmDef’s Children’s Representation Project is one of the largest
8 programs of its kind in the United States and provides representation and *pro*
9 *bono* placement (referrals for free representation by non-ImmDef attorneys) for more
10 than 850 children each year. ImmDef has a subcontract via the Office for Refugee
11 Resettlement (“ORR”), which is managed by the prime contractor Vera Institute of
12 Justice, where we provide legal orientation classes to all unaccompanied children in
13 ORR custody in the Los Angeles area and “friend of court” services or full-scope
14 representation to any detained unaccompanied minor who has to go to court in the
15 greater Los Angeles area while in custody. Further, we provide full-scope deportation
16 defense to all unaccompanied children who are released from ORR shelters that we
17 service to sponsors in any of the following counties in Southern CA: Los Angeles,
18 Orange, San Bernardino, Riverside, Kern, Santa Barbara or Ventura. Full-scope
19 representation includes representation in immigration court as well as any ancillary
20 state court proceedings that are necessary to obtain relief from removal.

21 8. ImmDef’s “Local Funding Initiatives,” a separate program, provides
22 removal defense through contracts with local government entities in Southern
23 California to immigrants facing deportation. ImmDef currently receives local-
24 government funding to protect our communities in the cities of Long Beach, Santa
25 Ana and Los Angeles as well as the county of Los Angeles. We also receive some
26 private foundation funding to supplement our local government funding and grow our
27 detained removal defense programs in Los Angeles and the Inland Empire.

28 9. ImmDef’s National Qualified Representative Program provides

1 representation to immigrants in detention who are entitled to court-appointed counsel
2 because of serious mental disorders that render them unable to represent themselves.
3 This model of court-appointed counsel in immigration court is possible due to *Franco*
4 *v Holder*, a class action lawsuit and settlement. For these cases, handled through the
5 Executive Office for Immigration Review’s (EOIR) National Qualified
6 Representation Program (“NQRP”), ImmDef has a contract with the Vera Institute of
7 Justice through which ImmDef handles more than 100 deportation cases annually and
8 agrees to a set number of new cases each year. When EOIR identifies a person who
9 is not competent to represent themselves, they will refer the case to Vera, which will
10 then assign it to us.

11 10. ImmDef’s Family Unity Project provides legal representation to
12 separated families, pursues the release of parents, fights for the reunification of
13 families, and provides reunified families with zealous defense in their immigration
14 proceedings. ImmDef’s Family Unity Project is funded entirely through private
15 donations and foundations. Since January 2019 some of the funding from this
16 program has been diverted to our Cross-Border Initiative in order to meet the
17 representation needs of clients subject to the Migrant Protection Protocols.

18 11. Finally, ImmDef’s Cross Border Initiative (“CBI”) fights against cruelty
19 toward migrants at the border with a focus on assisting children and families. Since
20 the Trump administration established MPP in January 2019, more than 50,000
21 migrants seeking asylum in the United States have been returned to overflowing
22 shelters in border cities and put at grave risk. ImmDef’s CBI team, among other
23 things, (1) provides legal screenings/consultations; (2) conducts “Know Your Rights”
24 presentations; (3) trains families to represent themselves; (4) provides border “turn-
25 in” preparation for asylum-seeking families and those who are seeking “non-
26 refoolment” interviews; (5) identifies particularly vulnerable asylum-seeking families
27 in Mexico who are at risk of family separation and provides them with specialized
28 legal services to minimize risks of family separation and detention; (6) provides

1 comprehensive credible fear preparation; (7) provides full-scale deportation defense
2 to asylum-seeking families with MPP proceedings in San Diego, as well as those
3 released from MPP who are detained in Southern California ICE facilities, and those
4 who stay in Southern California following their release from border facilities; and (8)
5 seeks to create systemic change in treatment of children and families in CBP
6 custody by monitoring conditions and treatment of clients, publicizing information,
7 and engaging in policy advocacy.

8 12. ImmDef receives requests for assistance from our various projects in
9 several ways. As mentioned above, ImmDef provides representation for children and
10 adults who do not have the capacity to represent themselves through contracts with
11 the Vera Institute; we receive these cases as direct placements from Vera or through
12 Vera-funded legal service provider networks. ImmDef also has an email address for
13 referrals, and receives many clients through referrals from partner legal services
14 organizations that operate hotlines or Legal Orientation Programs. In addition, we
15 work with community-based organizational partners who refer cases to us for
16 residents of Santa Ana, Long Beach, Los Angeles, and Inland Empire.

17
18 **ImmDef-San Diego's Cross-Border Initiative Project**

19 13. ImmDef opened its San Diego Office and established its Cross-Border
20 Initiative Project in response to the Trump Administration's Migrant Protection
21 Protocols ("MPP") or "Remain in Mexico" policy, which requires asylum seekers
22 from Central American countries to remain in Mexico while their claims for asylum,
23 withholding of removal, and/or protection under the Convention Against Torture are
24 adjudicated by an immigration court in the United States.

25 14. Implementation of MPP has had a major impact on ImmDef's
26 representation and advocacy programs. First, given ImmDef's mission of expanding
27 access to representation to any and all noncitizens in removal proceedings, we felt
28 compelled to assist and represent individuals placed in MPP. Second, the fact that

1 MPP respondents could not be easily paroled into the United States meant that we
2 would have to represent them before the San Diego Immigration Court, which is the
3 only court in California to hear MPP cases. Previously, most of ImmDef’s removal
4 defense work took place in the Los Angeles immigration courts. Finally, to represent
5 MPP respondents, ImmDef had no choice but to engage in international, cross-border
6 travel into Mexico on a regular basis.

7 15. ImmDef’s CBI Program focuses on providing direct representation, pro
8 se assistance, and advocacy for individuals subject to MPP who have cases pending
9 before the San Diego Immigration Court. Our representation of MPP respondents
10 entails representation of individuals and families in the following areas: (1)
11 applications for immigration relief and requests for bond before the San Diego
12 Immigration Court; (2) appeals before the Board of Immigration Appeals; (3) Non-
13 Refoulement Interviews (NRI) before United States Citizenship and Immigration
14 Services (USCIS); and (4) parole requests to U.S. Immigration and Customs
15 Enforcement and U.S. Customs and Border Protection. ImmDef also conducts
16 regular Know Your Rights Presentations in Spanish for pro se MPP respondents in
17 Mexicali and Tijuana. In addition, ImmDef is engaged in advocacy on behalf of MPP
18 respondents.

19 16. Prior to MPP, ImmDef attorneys, myself included, rarely needed to travel
20 to Mexico to meet with our clients. Nor did we need to represent individuals before
21 the San Diego Immigration Court because our motions to transfer venue to the
22 immigration courts in Los Angeles, where our organization and most of our staff are
23 based, were routinely granted. Motions for change of venue for MPP cases are
24 routinely denied by the San Diego immigration courts.

25 17. Because ImmDef and other local legal service providers did not have
26 advance notice of MPP, we were not prepared. From January 2019 until April 2019,
27 some of my staff and I took turns traveling to Tijuana to provide pro se assistance to
28 individuals placed in MPP. We also agreed to represent several clients during this

1 time. ImmDef attorneys, including myself, frequently traveled back and forth from
2 our Los Angeles headquarters to Tijuana (240 miles roundtrip) and Mexicali (234
3 miles roundtrip) to meet with individuals placed in MPP, to escort them to the port-
4 of-entry on days they had court, and to represent them before the San Diego
5 immigration court. These trips, which sometimes required overnight stays in San
6 Diego or Tijuana, took staff away from other projects in Los Angeles.

7 18. I quickly realized that travelling back and forth was unsustainable and
8 that ImmDef would need to open a physical office in San Diego with its own
9 dedicated staff. As soon as it became apparent that MPP would continue despite court
10 litigation to enjoin it, I began spending significant portions of my time on fundraising,
11 applying for grants to help sustain our MPP work, and opening our San Diego office.

12 19. In April 2019, ImmDef hired Margaret Cargioli as a temporary staff-
13 attorney to help establish the CBI Project. Margaret was the first San Diego-based
14 staff member we hired. By September 2019, to meet the growing need for
15 representation of MPP clients, we promoted Margaret into a Managing Attorney
16 position, assigned our Legal Services Director (who continues to be based in Los
17 Angeles) to oversee the opening of the San Diego office, and hired a Supervising
18 Attorney focused on federal litigation and a Paralegal. By November 2019, we added
19 two staff attorneys, and in May 2020 we hired an additional administrative staff
20 member to support the operations of the office. Additional fundraising was necessary
21 to help cover the administrative costs of opening a new office, including IT support,
22 human resources, development and communications, and operations.

23 20. ImmDef first opened an office within a co-working space in San Diego,
24 but we have since moved into a permanent office location in downtown San Diego,
25 within walking distance of the San Diego Immigration Court. Our San Diego office
26 costs approximately \$4500 monthly in utilities, rent and other associated costs.

27 21. ImmDef has diverted funding from planned projects in Los Angeles,
28 including from our Family Unity Project, to fund our MPP representation work under

1 the Cross-Border Initiative. In 2018 when we opened our Family Unity Project, we
2 had planned to have four full-time staff members on the project as the need for
3 representation of families before the Los Angeles immigration courts remained high.
4 However, given the crisis that has continued to fester with MPP at the San
5 Diego/Tijuana border and the relative danger that clients in MPP face, ImmDef
6 decided to eliminate positions within our Family Unity Project and use the funds to
7 support expansion of our team in San Diego, which focuses almost exclusively on
8 serving asylum seekers in MPP. This decision was driven by our sense of the urgency
9 of the need and relative lack of resources from partner organizations to assist MPP
10 families. As a result of our decision to redirect resources to address the MPP crisis,
11 our Family Unity Project team has shrunk to the equivalent of one full-time staff
12 attorney and a part-time case management associate; funds previously raised for that
13 program now help support our Cross-Border Initiative. This was a strategic decision
14 to put our resources where they were (and are) most needed, but the unfortunate result
15 is that we are taking on far fewer cases of families at risk of separation in the Los
16 Angeles area, despite the continued need.

17 22. Additional costs related to MPP representation include travel expenses to
18 both Tijuana and Mexicali from San Diego, travel for leadership staff from Los
19 Angeles to San Diego and Mexico, phones with international plans for staff, salaries
20 for staff in San Diego, and rental of space to meet with clients in Tijuana. Since
21 January 2019, ImmDef has spent approximately \$400,000 on these costs associated
22 with launching and sustaining our CBI program to support legal services for MPP
23 clients. ImmDef has largely funded this work through reallocation of previously
24 raised funds, individual donations and crowdsourcing, private foundations, and more
25 recently through a grant from the state of California. ImmDef's fundraising for our
26 Cross-Border Initiative work has been time intensive and involved significant travel
27 to Tijuana and Mexicali by ImmDef executive team members based in Los Angeles,
28 including myself, to document and publicize our work in Mexico for donors.

1 Additionally, significant staff resources have been put into events to benefit our
2 Cross-Border Initiative, including multiple large events in collaboration with our
3 partners at This Is About Humanity. Prior to May 2019, such events would have
4 benefited our Family Unity Project.

5 23. The fundraising for this project has been particularly challenging and
6 resource-intensive because many people in the US (our primary individual donors)
7 do not understand the dire predicament of people who are being forced to wait in
8 Mexico. Further, we know that the most impactful requests for donations on social
9 media or at events include statements, videos and photographs of the intended
10 beneficiaries (clients) who need help, but this is nearly impossible to do with MPP
11 clients because they remain in so much danger in Mexico that few are willing to
12 publicly speak about the help they need. Discussing the risks and counseling our
13 clients on engaging in this public-facing advocacy takes additional staff time, as does
14 using those messages to educate potential donors.

15 24. ImmDef has struggled to find and retain qualified applicants for the jobs
16 with our CBI due to the logistical barriers and risks involved in crossing an
17 international border to provide legal assistance. The work is incredibly challenging
18 and requires long hours given delays at the ports of entry and travel time. At times,
19 crossing the border to meet with a client or to get documents signed can add several
20 hours to a staff member's workday. There have also been well-publicized instances
21 of U.S. and Mexican immigration officials targeting attorneys from partner
22 organizations for the work they do to assist asylum seekers, so engaging in the work
23 of the CBP project creates personal risks for staff members. When we lose staff
24 members whom we have already trained on the unique aspects of representing people
25 in MPP, the loss of specialized skills is acute, and we have to invest significant time
26 and resources in training replacement staff. On average, we get significantly fewer
27 applications for our San Diego-based attorney positions than we do for similar staff
28 attorney positions in Los Angeles. The time and energy we have to spend recruiting

1 for Cross-Border Initiative staff attorneys is therefore greater than for other projects.

2 25. Prior to the COVID-19 pandemic and the Centers for Disease Control
3 border ban, ImmDef's San Diego staff traveled regularly to Tijuana and Mexicali to
4 meet with MPP clients. With the pandemic, ImmDef has implemented strict work-
5 from-home policies for its entire staff to protect them and their families from
6 infection, including a moratorium on all cross-border trips. Meanwhile, the San
7 Diego Immigration Court has postponed all MPP hearings indefinitely. Despite this
8 indefinite suspension, CBI attorneys must continue to prepare cases given the
9 uncertainty around when and whether hearings will resume. CBI attorneys must also
10 monitor their clients in Mexico for circumstances that might give rise to an
11 opportunity to seek a non-refoulement interview, request release from MPP, or seek
12 parole into the United States.

13 26. Our staff's inability to travel across the border amidst this pandemic
14 significantly impacts our ability to prepare cases, meet with clients, conduct
15 consultations and conduct Know-Your-Rights presentations. Unlike our cases where
16 clients are detained in ICE facilities in the United States, we are unable to regularly
17 set confidential phone appointments with our MPP clients or meet with them in
18 person. For our clients who are released into the United States, we are able to conduct
19 meetings in our offices with proper health-related precautions. It is thus much easier
20 to effectively represent U.S.-based clients than clients forced to remain in Mexico
21 pursuant to MPP.

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I declare under penalty of perjury under the laws of the United States of
America that the foregoing is true and correct.

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Executed on November 8, 2020 at Los Angeles, California

A handwritten signature in black ink, appearing to read "Lindsay Toczyłowski", is written over a horizontal line.

Lindsay Toczyłowski