

1 Jennifer Chang Newell (SBN 233033)
jnewell@aclu.org
2 Katrina L. Eiland (SBN 275701)
keiland@aclu.org
3 ACLU FOUNDATION
IMMIGRANTS' RIGHTS PROJECT
4 39 Drumm Street
San Francisco, CA 94111
5 Telephone: (415) 343-0770
Facsimile: (415) 395-0950

6 *Attorneys for Plaintiffs* (Additional counsel listed on following page)
7

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 INLAND EMPIRE – IMMIGRANT
11 YOUTH COLLECTIVE, JESUS ALONSO
12 ARREOLA ROBLES, JOSE EDUARDO
13 GIL ROBLES, AND RONAN CARLOS
DE SOUZA MOREIRA, on behalf of
themselves and others similarly situated,

14 Plaintiffs,

15 v.

16 KIRSTJEN NIELSEN, Secretary, U.S.
Department of Homeland Security; JAMES
17 McCAMENT, Acting Director, U.S.
Citizenship and Immigration Services;
18 MARK J. HAZUDA, Director, Nebraska
Service Center, U.S. Citizenship and
19 Immigration Services; SUSAN M.
CURDA, Los Angeles District Director,
20 U.S. Citizenship and Immigration Services;
THOMAS D. HOMAN, Deputy Director
21 and Senior Official Performing the Duties
of the Director, U.S. Immigration and
22 Customs Enforcement; DAVID MARIN,
Los Angeles Field Office Director, U.S.
23 Immigration and Customs Enforcement;
KEVIN K. McALEENAN, Acting
24 Commissioner, U.S. Customs and Border
Protection,

25 Defendants.
26
27

Case No. 5:17-cv-2048-PSG-SHK

**FIRST AMENDED CLASS
ACTION COMPLAINT**

1 Michael K. T. Tan*
mtan@aclu.org
2 David Hausman*
dhausman@aclu.org
3 ACLU FOUNDATION
IMMIGRANTS' RIGHTS PROJECT
4 125 Broad Street, 18th Floor
New York, NY 10004
5 Telephone: (212) 549-2660
Facsimile: (212) 549-2654

6 Ahilan T. Arulanantham (SBN 237841)
aarulanantham@aclusocal.org
7 Michael Kaufman (SBN 254575)
mkaufman@aclusocal.org
8 Dae Keun Kwon (SBN 313155)
akwon@aclusocal.org
9 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
10 1313 West 8th Street
Los Angeles, CA 90017
11 Telephone: (213) 977-5232
Facsimile: (213) 977-5297

12
13 *Attorneys for Plaintiffs*

14 * Admitted *pro hac vice*

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INTRODUCTION

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2 1. President Trump has said that “dreamers should rest easy,”¹ yet his
3 administration has placed these young immigrants, who came to the United States as
4 children, directly at risk. Since 2012, the federal government’s Deferred Action for
5 Childhood Arrivals (“DACA”) program has provided temporary protection from
6 deportation (known as “deferred action”) and authorization to work in the United
7 States for nearly 800,000 young immigrants.² Now, not only is President Trump
8 sunsetting the protections provided to these immigrant youth under DACA, but his
9 Administration is eroding the strength of those protections even while the program
10 winds down. On his watch, federal immigration authorities have targeted numerous
11 DACA recipients and unlawfully revoked the grants of deferred action and work
12 permits they have received even though these individuals have abided by all the
13 program rules and have not engaged in any conduct that would disqualify them from
14 the program. This lawsuit challenges these unlawful revocation practices.

15 2. For over half a decade, the DACA program has provided permission to live and
16 work in the United States for these young people who have known no other country as
17 home. The DACA program has allowed these talented young immigrants to come out
18 of the shadows, obtain higher education, begin their careers, and contribute more fully
19 to their communities. To establish eligibility for the program, DACA recipients must
20 undergo extensive background checks, in addition to meeting multiple other stringent
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23 ¹ Transcript of AP Interview with President Trump, Associated Press, Apr. 23,
24 2017, <https://apnews.com/c810d7de280a47e88848b0ac74690c83>.

25 ² See U.S. Citizenship & Immigration Servs., Number of I-821D, Consideration of
26 Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics
27 and Case Status: Fiscal Year 2012-2017 (June 30, 2017),
28 https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_performance_data_fy2017_qtr3.pdf.

1 criteria. Noncitizens granted DACA are eligible to receive employment authorization
2 and a Social Security Number.³

3 3. As former President Obama explained when first announcing the DACA
4 program, these young people “are Americans in their heart, in their minds, in every
5 single way but one: on paper.”⁴ President Obama recognized that “it makes no sense”
6 to deport these “young people who study in our schools, . . . play in our
7 neighborhoods, [are] friends with our kids, [and] pledge allegiance to our flag.”⁵

8 4. Despite the critically important interests at stake once an individual has
9 received a grant of DACA, the U.S. Department of Homeland Security (“DHS”) has a
10 practice of unlawfully and arbitrarily revoking DACA grants and work authorization
11 based (apparently) on alleged conduct or minor criminal history that does not
12 disqualify the individual from the program—including mere arrests or charges that are
13 later resolved in the individual’s favor. As a result, many young noncitizens who grew
14 up in this country have had their permission to remain and ability to work stripped
15 away from them, instantaneously losing their ability to support themselves and their
16 families, even though they have done nothing to change their eligibility for DACA.

17 5. Because of the government’s unlawful practices, other young immigrants across
18 the country are at likewise at risk of wrongfully losing their DACA protections.

19 6. Plaintiff Inland Empire – Immigrant Youth Collective (“IEIYC”) is a grassroots
20 organization based in Ontario, California, that serves the immigrant community in the
21 Inland Empire region by engaging in outreach and advocacy. IEIYC has multiple

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23 ³ See *Frequently Asked Questions, DHS DACA FAQs*, U.S. Citizenship &
24 Immigration Servs., [https://www.uscis.gov/humanitarian/consideration-deferred-
25 action-childhood-arrivals-process/frequently-asked-questions](https://www.uscis.gov/humanitarian/consideration-deferred-action-childhood-arrivals-process/frequently-asked-questions) (hereinafter “USCIS
26 DACA FAQs”).

27 ⁴ President Barack Obama, Remarks on Immigration Reform and Exchange with
28 Reporters, 2012 DAILY COMP. PRES. DOC. 1 (June 15, 2012),
[https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-
immigration](https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration).

⁵ *Id.*

1 members whose lives have been changed by DACA, which has made it possible for
2 them to pursue their education and careers, contribute to their communities, and
3 achieve economic stability. Like hundreds of thousands of other immigrants, IEIYC’s
4 members have relied on the promises made by the federal government in the DACA
5 program. However, because of the government’s arbitrary revocation practices,
6 IEIYC’s members fear that their DACA grants and work permits could be unlawfully
7 terminated.

8 7. Plaintiff Jesús Alonso Arreola Robles (“Arreola”) is a 23-year-old resident of
9 the Los Angeles area whose DACA grant and work permit was terminated without
10 any process. He has known the United States as his only home since he was just one
11 year old. DHS found him eligible for and granted him DACA in 2012, 2014, and
12 again in 2016. At the time that DHS terminated his DACA, Mr. Arreola was working
13 two jobs to help support his family—one as a cook at the famed Chateau Marmont in
14 West Hollywood, and one as a driver for Uber and Lyft. Mr. Arreola’s earnings
15 helped support his parents, both of whom are lawful permanent residents, and his
16 three U.S. citizen sisters—one of whom has significant disabilities.

17 8. Despite his valid DACA grant and lack of any criminal history, federal
18 immigration authorities arrested Mr. Arreola in February 2017 while he was driving a
19 customer; falsely alleged that he was trying to help his customer smuggle people into
20 the United States; and placed him in removal proceedings. Even though an
21 immigration judge promptly rejected the smuggling allegation, and he was never
22 charged with any crime, DHS nonetheless revoked his DACA grant and employment
23 authorization. Although this Court issued a preliminary injunction on November 20,
24 2017, enjoining the government’s termination of Mr. Arreola’s DACA and
25 employment authorization, the government has now indicated that it intends to
26 terminate his DACA again, even though he remains eligible under the DACA program
27 rules. The government is targeting Mr. Arreola as an “enforcement priority,” even
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1 though, because he is eligible for DACA, he is by definition a low priority under the
2 DACA rules.

3 9. Like Mr. Arreola, Plaintiffs José Eduardo Gil Robles (“Gil”) and Ronan Carlos
4 De Souza Moreira (“Moreira”) had their DACA grants and employment authorization
5 documents abruptly stripped from them, without any notice or opportunity to respond,
6 even though they had not done anything to disqualify themselves from the program.
7 Plaintiffs Arreola, Gil, and Moreira are just a few of the many young immigrants who
8 have had their DACA suddenly and unlawfully cut off.

9 10. The government’s practice of terminating DACA, apparently based on
10 unsubstantiated allegations or minor criminal history, even though the individual has
11 never engaged in any disqualifying conduct, violates the federal Administrative
12 Procedure Act (“APA”) and the Due Process Clause of the Fifth Amendment to the
13 U.S. Constitution. Individual Plaintiffs Arreola, Gil, and Moreira (hereinafter
14 collectively, “Individual Plaintiffs”), on behalf of themselves and a nationwide class
15 of others similarly situated, respectfully request that this Court: declare the
16 government’s revocation practices unlawful; order that the government vacate and
17 enjoin the revocation of the Individual Plaintiffs’ DACA grants and employment
18 authorization, as well as those of class members who have suffered unlawful
19 revocation; order the government to accept renewal applications from Individual
20 Plaintiffs and class members; and enjoin the government from revoking DACA grants
21 and work authorization pursuant to its unlawful policies and practices in the future.

22 **JURISDICTION AND VENUE**

23 11. Jurisdiction is proper under 28 U.S.C. §§ 1331 and 1343, and the APA, 5
24 U.S.C. § 702.

25 12. Declaratory and injunctive relief are available pursuant to 28 U.S.C. §§ 2201-
26 2202 and the APA, 5 U.S.C. §§ 702-703.

27 13. Venue is proper in this Court under 28 U.S.C. § 1391(e) because Defendants
28 Kirstjen Nielsen, James McCament, Mark J. Hazuda, Susan M. Curda, Thomas D.

1 Homan, David Marin, and Kevin K. McAleenan are Officers of the United States
2 acting in their official capacities, and DHS, U.S. Citizenship and Immigration
3 Services (“USCIS”), U.S. Immigration and Customs Enforcement (“ICE”), and U.S.
4 Customs and Border Protection (“CBP”) are agencies of the United States.
5 Additionally, Plaintiffs Arreola and IEIYC, as well as Defendants Susan M. Curda
6 and David Marin, all reside in this judicial district.

7 14. In addition, numerous DACA recipients similarly situated to the Individual
8 Plaintiffs, and who are members of the proposed class, reside in this district. With
9 over 200,000 DACA recipients residing in the state, California has the most DACA
10 recipients of any state in the country.

11 **PARTIES**

12 15. Plaintiff Inland Empire – Immigrant Youth Collective is a grassroots,
13 immigrant youth-led organization located in Ontario, California. Since 2010, the
14 organization has served the undocumented immigrant community in the Inland
15 Empire and has sought to empower those most impacted by immigration policy
16 through outreach and policy advocacy. The majority of IEIYC’s active membership
17 are current DACA recipients who depend on having DACA to attend school, build
18 their careers, and participate in IEIYC’s work throughout Riverside and San
19 Bernardino Counties.

20 16. Plaintiff Jesús Alonso Arreola Robles is a 23-year-old resident of the Los
21 Angeles area. He was brought to the United States from Mexico in 1995, when he was
22 one year old, and has lived in the United States ever since. From August 2012 to
23 August 2018, federal immigration authorities granted Mr. Arreola permission to live
24 and work in the United States pursuant to the DACA program. In February 2017,
25 however, Defendants terminated his DACA grant and employment authorization
26 without notice or an opportunity to be heard, and without any opportunity for
27 reinstatement. Mr. Arreola’s DACA grant was revoked even though he remains
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1 eligible for the program and has never been convicted of any disqualifying criminal
2 offense.

3 17. Plaintiff José Eduardo Gil Robles is 24-year-old resident of Coon Rapids,
4 Minnesota, near Minneapolis. He has lived in the United States since he was five
5 years old, when he entered the country from Mexico. From August 2015 to August
6 2019, federal immigration authorities granted Mr. Gil permission to live and work in
7 the United States pursuant to the DACA program. In November 2017, however,
8 Defendants terminated his DACA grant and employment authorization without notice
9 or an opportunity to be heard, and without any opportunity for reinstatement. Mr.
10 Gil's DACA grant was revoked even though he remains eligible for the program and
11 has never been convicted of any disqualifying criminal offense.

12 18. Plaintiff Ronan Carlos De Souza Moreira is a 24-year-old resident of
13 Kennesaw, Georgia, near Atlanta. Mr. Moreira, a native of Brazil who first arrived in
14 the United States on a visitor's visa, has lived in this country for almost twelve years.
15 He considers the United States his home. The federal government granted him DACA
16 three times, in 2013, 2015, and again in 2017, before USCIS terminated his DACA
17 grant and employment authorization without notice or an opportunity to be heard, and
18 without any opportunity for reinstatement. Mr. Moreira's DACA grant was revoked
19 even though he remains eligible for the program and has never been convicted of any
20 disqualifying criminal offense.

21 19. Defendant Kirstjen Nielsen is sued in her official capacity as the Secretary of
22 DHS. DHS is a cabinet department of the United States federal government with
23 responsibility for, among other things, administering and enforcing the nation's
24 immigration laws. As DHS Secretary, Ms. Nielsen is responsible for the
25 administration and enforcement of the immigration laws of the United States.

26 20. Defendant James McCament is sued in his official capacity as Acting Director
27 of USCIS, a federal agency that is part of DHS. USCIS is responsible for the
28 implementation of the immigration laws of the United States, and administers the

1 DACA program, including by processing applications and issuing notices of
2 termination. As Director of USCIS, Defendant McCament is responsible for the
3 administration of USCIS and the implementation of the immigration laws of the
4 United States.

5 21. Defendant Mark J. Hazuda is sued in his official capacity as Director of the
6 USCIS Nebraska Service Center. As Director of the Nebraska Service Center, Mr.
7 Hazuda is responsible for the administration of the USCIS Nebraska Service Center
8 and the decisions that it issues.

9 22. Defendant Susan M. Curda is sued in her official capacity as the District
10 Director of the Los Angeles District Office of USCIS. As District Director, Ms. Curda
11 is responsible for the administration of the Los Angeles District Office and the
12 decisions that it issues.

13 23. Defendant Thomas D. Homan is sued in his official capacity as Deputy Director
14 and Senior Official Performing the Duties of the Director of ICE, a law enforcement
15 agency that is part of DHS. ICE is responsible for the apprehension, detention, and
16 removal of noncitizens from the interior of the United States. In this position, Mr.
17 Homan is responsible for the overall administration of ICE and the operation of ICE's
18 immigration enforcement and detention activities.

19 24. Defendant David Marin is sued in his official capacity as the Field Office
20 Director for the Los Angeles Field Office of ICE. As Field Office Director, Mr. Marin
21 is responsible for the administration of the Los Angeles Field Office and operation of
22 the office's immigration enforcement and detention activities.

23 25. Defendant Kevin K. McAleenan is sued in his official capacity as Acting
24 Commissioner of CBP, a law enforcement agency that is part of DHS. CBP is
25 responsible for border security and the apprehension, detention, and removal of
26 noncitizens from the United States. As Acting Commissioner, he is responsible for the
27 overall administration of CBP and the operation of its immigration enforcement and
28 detention activities.

BACKGROUND

The DACA Program

26. On June 15, 2012, then-DHS Secretary of Homeland Security Janet Napolitano issued a memorandum establishing the DACA program (the “2012 DACA Memorandum”).⁶ Under the DACA framework, individuals who were brought to the United States as children and meet certain specific criteria may request deferred action for a renewable period of two years. In exchange, DACA applicants are required to provide the government with highly sensitive personal information, submit to a rigorous background check, and pay a considerable fee.

27. The 2012 DACA Memorandum explained that DACA covers “certain young people who were brought to this country as children and know only this country as home” and that the immigration laws are not “designed to remove productive young people to countries where they may not have lived or even speak the language.”⁷

28. The 2012 DACA Memorandum established the following criteria for individuals to be eligible for DACA. The applicant must:

- have come to the United States before the age of sixteen;
- have resided continuously in the United States for at least five years preceding the date of the memorandum and been present in the United States on the date of the memorandum;
- be currently in school, have graduated from high school, have obtained a general education development certificate, or be an honorably discharged veteran of the Coast Guard or Armed Forces of the United States;

⁶ Memorandum from Secretary Janet Napolitano, Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012), <https://www.dhs.gov/xlibrary/assets/s1-exercising-prosecutorial-discretion-individuals-who-came-to-us-as-children.pdf> (hereinafter “2012 DACA Memorandum”).

⁷ *Id.*

- 1 • have not been convicted of a felony offense, a significant misdemeanor offense,
- 2 or multiple misdemeanor offenses;
- 3 • not otherwise pose a threat to national security or public safety; and
- 4 • not be above the age of thirty as of June 15, 2012.⁸

5 29. USCIS describes DACA as a form of deferred action, “a discretionary
6 determination to defer a removal action of an individual as an act of prosecutorial
7 discretion An individual who has received deferred action is authorized by DHS
8 to be present in the United States, and is therefore considered by DHS to be lawfully
9 present during the period deferred action is in effect.”⁹

10 30. Because of the possibility that many DACA-eligible individuals might be
11 reluctant to voluntarily disclose information that could help facilitate their removal
12 from the United States, DHS repeatedly promised applicants that the information they
13 provided as part of the DACA application process would “not later be used for
14 immigration enforcement purposes.”¹⁰

15 31. To apply for DACA, applicants must submit extensive documentation
16 establishing that they meet the above-mentioned criteria.¹¹

17 32. Applicants must submit a Form I-765 Application for Employment
18 Authorization, and pay hundreds of dollars in fees.¹² If work authorization is granted,
19 DACA recipients are issued federal employment authorization documents (“EADs”),
20 and can apply for a Social Security Number.

21 33. DACA applicants must also undergo biometric and biographic background
22 checks. When conducting these checks, DHS reviews the applicant’s biometric and
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24 ⁸ *Id.*

25 ⁹ USCIS DACA FAQs, Question 1.

26 ¹⁰ Letter from Secretary Jeh Charles Johnson to Rep. Judy Chu (Dec. 30, 2016),
27 <https://chu.house.gov/sites/chu.house.gov/files/documents/DHS.Signed%20Response%20to%20Chu%2012.30.16.pdf>.

28 ¹¹ USCIS DACA FAQs, Questions 28–41.

¹² USCIS DACA FAQs, Question 7.

1 biographic information “against a variety of databases maintained by DHS and other
2 federal government agencies.”¹³ If any information “indicates that [the applicant’s]
3 presence in the United States threatens public safety or national security,” the
4 applicant will be ineligible for DACA absent “exceptional circumstances.”¹⁴ Under
5 the DACA program, deferred action is available for a period of two years, subject to
6 renewal.

7 34. A decision to grant or deny a DACA application or renewal is separate and
8 independent from any removal proceedings in immigration court. A noncitizen who is
9 in removal proceedings can apply for DACA separately and simultaneously.¹⁵ If that
10 application is granted, the removal proceedings continue unless the immigration judge
11 closes or terminates the proceedings. Further, an immigration judge has no power to
12 grant or deny DACA, or to review or reverse USCIS’ decision to deny DACA.

13 35. DACA recipients are eligible to receive certain benefits. These include Social
14 Security, retirement, and disability benefits, and, in certain states, benefits such as
15 driver’s licenses or unemployment insurance.¹⁶

16 36. DACA also confers other advantages. For example, DACA recipients do not
17 accrue unlawful presence under Section 212(a)(9)(B)(i) of the Immigration and
18 Nationality Act (“INA”), 8 U.S.C. § 1182(a)(9)(B)(i), which could otherwise bar an
19 individual from adjusting to lawful permanent resident status in the future.¹⁷

20 37. The DACA program has been a huge success, allowing nearly 800,000 young
21 people to go to school, advance in their careers, and serve their communities. In
22 California alone, over 220,000 young people have benefitted from DACA.

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¹³ USCIS DACA FAQs, Question 23.

26 ¹⁴ USCIS DACA FAQs, Question 65.

27 ¹⁵ 2012 DACA Memorandum at 2.

28 ¹⁶ *See, e.g.*, 8 U.S.C. §§ 1611(b)(2)–(3), 1621(d).

¹⁷ USCIS DACA FAQs, Question 5.

1 38. DACA’s benefits to young immigrants and the U.S. economy have been
2 remarkable, as reported by a recent survey of DACA recipients.¹⁸ According to the
3 survey:

- 4 • 91 percent of respondents were employed, including at top Fortune 500
5 companies such as Walmart, Apple, General Motors, Amazon, JPMorgan
6 Chase, Home Depot, and Wells Fargo.
- 7 • The average hourly wage of respondents increased by 69 percent since
8 receiving DACA; 69 percent of survey respondents responded that their
9 increased earnings had “helped me become financially independent” and 71
10 percent responded that their increased earnings had “helped my family
11 financially.” These higher wages increased tax revenues and economic growth
12 at the local, state, and federal levels.
- 13 • 16 percent of respondents purchased their first home after receiving DACA,
14 leading to broader positive economic effects such as job creation and the
15 infusion of new spending in local economies.
- 16 • 94 percent reported that, because of DACA, they were able to pursue
17 educational opportunities they could not have pursued otherwise.

18 Another study found that, altogether, DACA recipients stood to contribute more than
19 \$460 billion to the gross domestic product over the next ten years.¹⁹

20 39. Not only has the program resulted in huge benefits to the American economy,
21 but in addition, more than 86 percent of Americans support allowing DACA recipients
22 to remain in the United States.²⁰

23 ¹⁸ Tom K. Wong et al., *DACA Recipients’ Economic and Educational Gains Continue
24 to Grow*, Center for American Progress, Aug. 28, 2017,
25 [https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-
26 recipients-economic-educational-gains-continue-grow/](https://www.americanprogress.org/issues/immigration/news/2017/08/28/437956/daca-recipients-economic-educational-gains-continue-grow/).

27 ¹⁹ Nicole Prchal Svajlenka, Tom Jawetz, and Angie Bautista-Chavez, *A New Threat to
28 DACA Could Cost States Billions of Dollars*, Center for American Progress, July 21,
2017,
[https://www.americanprogress.org/issues/immigration/news/2017/07/21/436419/new-
threat-daca-cost-states-billions-dollars/](https://www.americanprogress.org/issues/immigration/news/2017/07/21/436419/new-threat-daca-cost-states-billions-dollars/).

²⁰ Scott Clement & David Nakamura, *Survey finds strong support for ‘dreamers’*,
Wash. Post, Sept. 25, 2017, <https://www.washingtonpost.com/politics/survey-finds->

1 40. After President Trump took office, his Administration continued the DACA
2 program for more than seven months. From January to September 2017, USCIS
3 continued to process and grant more than 250,000 new DACA applications and
4 applications for renewals.

5 **The Rescission of the DACA Program**

6 41. Notwithstanding the success of the DACA program and the public's
7 overwhelming support for it, DHS announced on September 5, 2017, that it was
8 rescinding the DACA program and winding it down.

9 42. Current DACA recipients will maintain their deferred action grants and work
10 permits until they expire. DHS will not consider new applications for DACA dated
11 after September 5, 2017. In addition, certain individuals were eligible for two-year
12 renewals. Individuals with a DACA grant expiring between September 5, 2017, and
13 March 5, 2018, could apply for a two-year renewal if the application was received by
14 October 5, 2017. Individuals whose DACA expires on or after March 6, 2018 will not
15 have an opportunity to renew.²¹

16 43. All DACA grants are expected to expire by the spring of 2020. In the
17 meantime, hundreds of thousands of young immigrants will continue to benefit from
18 grants of DACA and work authorization for varying lengths of time as the program
19 winds down.

20 44. Although the program is sunseting, the Administration has confirmed on
21 September 8, via Press Secretary Sarah Huckabee Sanders, that “[d]uring this six-
22 month time, there are no changes that are being made to the program at this point.”²²

23 strong-support-for-dreamers/2017/09/24/df3c885c-a16f-11e7-b14f-
24 f41773cd5a14_story.html?utm_term=.cea6f0719cc6.

25 ²¹ Memorandum from Acting Secretary Elaine C. Duke, Rescission of the June 15,
26 2012 Memorandum Entitled “Exercising Prosecutorial Discretion with Respect to
27 Individuals Who Came to the United States as Children” (Sept. 5, 2017),
<https://www.dhs.gov/news/2017/09/05/memorandum-rescission-daca>.

28 ²² *Press Briefing by Press Secretary Sarah Sanders and Homeland Security Advisor
Tom Bossert, 9/8/2017, #11, The White House, Office of the Press Secretary,*

1 **Plaintiff Jesús Alonso Arreola Robles**

2 **Mr. Arreola's Life in the United States**

3 45. Mr. Arreola was born in Mexico in May of 1994 and was brought to the United
4 States by his parents in 1995, when he was only one year old. They entered without
5 being inspected at a border crossing. He has lived in the United States continuously
6 since his arrival—indeed, this country is the only place he can call home.

7 46. Mr. Arreola attended and graduated from Los Angeles-area schools. He
8 graduated from Lankershim Elementary School in 2005, Walter Reed Middle School
9 in 2008, and East Valley High School in 2012. Mr. Arreola also attended a year of
10 college at Glendale Community College, but could not continue his studies as he had
11 to work full-time to help financially support his family.

12 47. In addition to his parents, Mr. Arreola has three younger sisters, who are all
13 U.S. citizens by birth. His oldest sister is seventeen years old. Since birth, she has had
14 progeria, autism, Down's syndrome, and diabetes, and requires special care, around
15 the clock, from her family members.

16 48. Mr. Arreola has played a critical role in caring for his sister, including checking
17 her blood; giving her insulin shots; helping her move around the house; and driving
18 her to the hospital when she needs medical care. He also does everything he can to
19 help her feel “normal,” comfortable, and loved.

20 49. Although Mr. Arreola's parents entered the United States without inspection,
21 they now have lawful permanent resident status, having obtained immigration relief in
22 the form of cancellation of removal under 8 U.S.C. § 1229a(b).

23 50. Mr. Arreola is the only member of his family without permanent lawful
24 immigration status in the United States.

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[https://www.whitehouse.gov/the-press-office/2017/09/08/press-briefing-press-
28 secretary-sarah-sanders-and-homeland-security.](https://www.whitehouse.gov/the-press-office/2017/09/08/press-briefing-press-secretary-sarah-sanders-and-homeland-security)

1 **Mr. Arreola's Grant and Renewals of DACA**

2 51. Based on the government's assurances that confidential information would not
3 be used to remove DACA recipients, Mr. Arreola first applied for deferred action and
4 employment authorization pursuant to DACA in August 2012. As part of this process,
5 Mr. Arreola provided the government with his school records and information about
6 where he lived. He was also required to attend a biometrics appointment so that
7 USCIS could take his fingerprints and photographs.

8 52. Mr. Arreola was granted DACA and work authorization on September 26,
9 2012. Mr. Arreola's initial DACA grant remained in effect for two years, until
10 September 25, 2014.

11 53. In 2014 and again in 2016, Mr. Arreola reapplied for DACA, and each time was
12 granted deferred action and work authorization after being subject to rigorous vetting.
13 As part of this process, the government sent Mr. Arreola approval notices informing
14 him that his request for deferred action had been granted.

15 54. Mr. Arreola's 2016 approval notice provides that "[u]nless terminated, this
16 decision to defer removal action will remain in effect for 2 years" and is valid until
17 August 19, 2018. The approval notice informed Mr. Arreola that his deferred action
18 could be terminated if he engaged in "[s]ubsequent criminal activity."

19 55. Since he was granted DACA, Mr. Arreola has used his work authorization to
20 help his family by working two jobs. Starting in approximately 2013, he worked at the
21 Chateau Marmont in West Hollywood, first as a dishwasher and then as a cook. In
22 April 2016, he also began working as a driver for Uber and Lyft.

23 56. The money Mr. Arreola obtained from these jobs helped his family in many
24 ways. Mr. Arreola shared his earnings and paid half the rent for the family home.

25 57. Until his DACA grant and employment authorization were unlawfully revoked,
26 Mr. Arreola had been a model employee at the Chateau Marmont and a successful
27 driver for Uber and Lyft.

28 58. Mr. Arreola has never been charged with or convicted of any crime.

1 **Mr. Arreola's Arrest and Detention**

2 59. As a driver, Mr. Arreola regularly provided rides to customers for a fee, both
3 through the Uber and Lyft apps and through referrals from friends. On February 11,
4 2017, a friend offered Mr. Arreola \$600 to drive his cousin from the Los Angeles area
5 to the San Diego area to pick up the friend's uncle and another cousin, and bring them
6 back to the Los Angeles area.

7 60. Mr. Arreola agreed to the long-distance ride and picked up his customer—his
8 friend's cousin—in Sun Valley near North Hollywood. The customer entered an
9 address near San Diego into Mr. Arreola's GPS and told him to drive to that location.
10 Being unfamiliar with the San Diego area, Mr. Arreola did not know anything about
11 the destination address and merely followed the GPS instructions.

12 61. After driving for about three and a half hours, Mr. Arreola and his customer
13 reached the destination either late in the evening on February 11, 2017 or early the
14 next morning.

15 62. His customer told Mr. Arreola to stop the car and wait while he went to get the
16 uncle and cousin.

17 63. The customer exited the car and walked toward a figure who was standing in
18 the dark, who he apparently thought was the uncle. Instead of the uncle, that
19 individual was a CBP agent. The CBP agent arrested the customer.

20 64. Although Mr. Arreola informed the CBP agent that he had been granted DACA
21 and had permission to live and work in the United States, the CBP agent also arrested
22 Mr. Arreola, apparently suspecting that he was aiding in smuggling individuals into
23 the United States.

24 65. The CBP agent brought Mr. Arreola to Forest Gate Processing Center in
25 Campo, California, where Mr. Arreola's property was confiscated, including his car
26 and cell phone.

27 66. Mr. Arreola was subsequently detained and questioned by another CBP agent.
28 Mr. Arreola also informed that CBP agent of his valid DACA grant.

1 67. The CBP agent questioned Mr. Arreola about his trip. Mr. Arreola explained
2 that he was a driver, and that he had been offered \$600 to pick up his friend's uncle
3 and cousin near the San Diego area and drive them back to the Los Angeles area. Mr.
4 Arreola explained that he had never met his customer before that day.

5 68. Mr. Arreola did not know the immigration status of his friend's uncle and
6 cousin whom he was supposed to pick up. As a driver, it was not Mr. Arreola's
7 practice to ask about the immigration status of the individuals to whom he gave rides.

8 69. Nonetheless, the CBP agents refused to release Mr. Arreola from custody.

9 70. Instead, on February 12, 2017, CBP issued Mr. Arreola a Notice to Appear
10 ("NTA"), initiating removal proceedings against him and charging him as removable
11 because he was present in the United States without admission under INA
12 § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i).

13 71. Mr. Arreola was never charged with any smuggling-related crime or any
14 smuggling-related ground of removability.

15 72. For the first two days of his detention, Mr. Arreola was not allowed to make a
16 phone call. His family had no knowledge of his whereabouts and became very worried
17 about him. Subsequently, Mr. Arreola was transferred to multiple detention centers in
18 California, Arizona, and Georgia, eventually ending up in Folkston, Georgia—nearly
19 2,500 miles away from his home.

20 73. On March 2, 2017, Mr. Arreola finally received a bond hearing before an
21 immigration judge. During the bond hearing, the ICE attorney questioned Mr. Arreola
22 at length regarding the circumstances that led to his arrest by CBP. The ICE attorney
23 suggested that Mr. Arreola was a danger to the community because he attempted to
24 smuggle people into the United States.

25 74. At the hearing, Mr. Arreola testified that he was a driver for Uber and Lyft, and
26 that he was offered \$600 by his friend to pick up his friend's uncle and cousin near the
27 San Diego area and drive them back to the Los Angeles area. He further testified that
28 he had no knowledge of the immigration status of the individuals he was supposed to

1 pick up, and denied the ICE attorney’s allegations that he was involved with
2 smuggling.

3 75. The immigration judge rejected the ICE attorney’s arguments, found Mr.
4 Arreola credible, determined that he is not a flight risk or danger to the community,
5 and ordered Mr. Arreola’s release on \$2,500 bond.

6 76. The immigration judge stated that he was “not going to accept the conclusions”
7 by the CBP agents that Mr. Arreola was involved in “smuggling aliens for financial
8 gains.” The immigration judge observed that Mr. Arreola is “an Uber and Lyft driver.
9 He’s in Hollywood, some three, three and a half hours away. Somebody is going to
10 pay him to go all that way and come back.” The immigration judge added that the
11 CBP agents made the incorrect “assumption that [Mr. Arreola] was being paid to
12 smuggle” the uncle and cousin “as opposed to pick up a fare, what would have been a
13 lucrative fare.”

14 77. On March 3, 2017, Mr. Arreola posted bond and was released from detention.
15 Mr. Arreola was detained a total of 21 days. He has been living in the Los Angeles
16 area since being released.

17 **Termination of Mr. Arreola’s DACA Grant and Employment**
18 **Authorization**

19 78. On March 6, 2017, Mr. Arreola received a Notice of Action from USCIS
20 notifying him that his DACA and EAD were “terminated *automatically* as of the date
21 [his Notice to Appear] was issued.”²³ The Notice of Action states that an “appeal or
22 motion to reopen/reconsider this notice of action may not be filed.”

23 79. Mr. Arreola was never provided with any prior notice that Defendants intended
24 to terminate his DACA and EAD, nor was he provided any opportunity to respond to
25 such a notice or otherwise contest the termination of his DACA or EAD. Neither was
26 he provided with a reasoned explanation for the decision.

27 ²³ U.S. Citizenship and Immigration Servs., Notice of Action to Jesus Alonso Arreola
28 Robles Re I-821D, Deferred Action for Childhood Arrivals (Mar. 6, 2017) (hereinafter
“Notice of Action”) (emphasis added).

1 80. Defendants failed to provide Mr. Arreola with any notice or process even
2 though the DACA program rules, including the Standard Operating Procedures
3 (“SOPs”) that govern the DACA program, require that advance notice and an
4 opportunity to respond be provided in most termination cases. Further, although the
5 SOPs envision certain circumstances in which terminations might occur without
6 notice, Defendants failed even to follow the procedures governing such terminations.

7 81. On March 17, 2017, Mr. Arreola’s counsel submitted a letter to USCIS
8 requesting that USCIS reopen and reconsider the termination of his DACA and EAD.

9 82. On May 9, 2017, USCIS responded, declining to revisit the issue. USCIS stated
10 that, among other things, that “when ICE issues and serves the Notice to Appear on
11 the DACA requestor during the DACA validity period, that action alone terminates
12 the DACA. USCIS will send a Notice of Action and update our system as Deferred
13 Action Terminated but that is only as a follow up to ICE’s action of termination.”

14 However, Mr. Arreola’s NTA was issued by CBP, not ICE.

15 83. Mr. Arreola has suffered significant and irreparable harm as a result of
16 Defendants’ actions. After his 21-day detention and subsequent release, Mr. Arreola
17 was unable to fully piece his life back together. After Mr. Arreola lost his DACA and
18 work authorization, he lost his job with Chateau Marmont, and was no longer able to
19 work as a driver for Lyft or Uber.

20 84. The revocation of Mr. Arreola’s DACA and work permit was particularly
21 difficult for him given that he and his long-term partner recently had their first child.
22 Because of Defendants’ actions, Mr. Arreola’s ability to save for his new family was
23 curtailed.

24 85. Defendants’ termination of Mr. Arreola’s DACA grant and work permit failed
25 to comply with the DACA program rules and procedures, and violated the
26 Administrative Procedure Act and the Due Process Clause of the Fifth Amendment.

The Court’s Preliminary Injunction Order and Defendants’ Subsequent Actions

1
2 86. On November 20, 2017, this Court granted a preliminary injunction enjoining
3 Defendants’ unlawful termination of Mr. Arreola’s DACA grant and employment
4 authorization. The Court held that Defendants’ automatic termination of Mr. Arreola’s
5 DACA based on the filing of a Notice to Appear (“NTA”) that charged him with
6 removal for being present in the United States without admission was arbitrary and
7 capricious and contrary to law in violation of the APA. The Court held that
8 Defendants’ revocation of his DACA, despite the absence of any disqualifying
9 convictions, also violated the APA by arbitrarily reversing the agency’s decision to
10 grant him DACA in the first place without a reasoned explanation for doing so.
11 Further, the Court recognized that Defendants’ failure to provide Mr. Arreola with
12 notice and an opportunity to respond to its termination decision violated the rules of
13 the DACA program.

14 87. As a result, Defendants reinstated Mr. Arreola’s DACA grant and employment
15 authorization. On December 20, 2017, however, Defendants issued Mr. Arreola a
16 Notice of Intent to Terminate (“NOIT”) his DACA and work authorization. The NOIT
17 asserted that ICE had determined that Mr. Arreola is “an enforcement priority,” and
18 explained that “ICE informed USCIS that you are an enforcement priority and that
19 ICE is actively pursuing your removal in immigration court.” Further, it stated that
20 “USCIS finds that continuing to exercise prosecutorial discretion to defer DHS
21 removal action against you is not consistent with the Department of Homeland
22 Security’s enforcement priorities.”

23 88. The NOIT also misstates the relevant facts of Mr. Arreola’s case in numerous
24 respects, and erroneously alleges among other things that Mr. Arreola admitted to
25 smuggling undocumented immigrants.

26 89. Defendants’ decision to terminate DACA based on the conclusion that the
27 individual is an enforcement priority even though he remains eligible for DACA
28 violates the rules for the DACA program, including the Standard Operating

1 Procedures, and is arbitrary and capricious and contrary to law in violation of the
2 APA. Among other things, the DACA program rules provide that when an individual
3 meets the eligibility criteria for DACA, the individual is a low priority for
4 immigration enforcement. Defendants' application of new enforcement priorities that
5 are inconsistent with the DACA program rules as a basis for termination of DACA is
6 unlawful. Further, to the extent Defendants have changed the DACA program rules
7 without providing a reasoned explanation or otherwise complying with the APA,
8 Defendants' actions are further unlawful.

9 **Plaintiff José Eduardo Gil Robles**

10 90. Mr. Gil is 24 years old and lives in Coon Rapids, Minnesota, near Minneapolis.
11 He has lived in the United States since he was five years old. He was born in Mexico
12 in January 1993; he came to the United States in 1998 without inspection at a border
13 crossing. He considers the United States his home.

14 91. Mr. Gil attended public schools in the Minneapolis area starting in kindergarten,
15 and is a graduate of Coon Rapids High School. He has five younger siblings, ages
16 nine to 19 years old, who were all born in this country and are U.S. citizens. He is
17 close to his siblings, taking them to do activities and helping his youngest sister with
18 her homework.

19 92. Mr. Gil has a steady girlfriend who is a U.S. citizen. He enjoys spending time
20 with her and her family: he has attended many of her family gatherings and he
21 sometimes takes her little sister and his little sister on outings to places like Chuck E.
22 Cheese's and to go swimming at a pool during the summer.

23 93. Mr. Gil is a member of his local Catholic church, St. Stephens, in Anoka
24 Minnesota. He has been an active member of the Catholic Church throughout his life,
25 and has regularly attended services at St. Stephens for about eight years. In high
26 school, he was an Altar Server. He also participates in a smaller Bible study and
27 prayer group on Thursday nights, where he meets with others to pray and discuss the
28 Bible. He also participates in community service through his church. For example, a

1 few years ago after Hurricane Sandy, he traveled to the New York City area for about
2 ten days with members of the church to help rebuild a church there that was damaged
3 in the storm. He has also volunteered to help with various landscaping projects at
4 another local church where he is involved in the youth ministry.

5 94. Mr. Gil also enjoys training at a boxing gym. He has been training since he was
6 about 14 years old and goes to the gym almost every day. Although he does not
7 compete in matches, the training helps him stay in shape and be disciplined.

8 **The Impact of DACA on Mr. Gil's Life**

9 95. Mr. Gil first applied for DACA in 2015. In doing so, he gave the government
10 his school records, information about where he lived, his fingerprints, and
11 photographs.

12 96. He was granted DACA and work authorization in August 2015. His first grant
13 of DACA was valid for two years, until August 26, 2017.

14 97. In April 2017, Mr. Gil filed a DACA renewal application and, again, the
15 government granted him deferred action and work authorization. He received the
16 approval notice in August 2017, stating that his DACA would be valid until August
17 13, 2019.

18 98. Being granted DACA had a huge positive impact on Mr. Gil's life. He worked
19 full time as a baker at a local restaurant chain called Key's Café & Bakery. At that
20 job, he was promoted to bakery manager after about a year and a half. As bakery
21 manager, he made the bakery schedule for the other bakery employees; decorated and
22 delivered wedding cakes; ordered and stocked ingredients; made sure the bakery was
23 making enough cakes and pies; and handled customer complaints. He worked at Key's
24 Café & Bakery until the summer of 2017. After that, he started working for a logistics
25 company, making deliveries of large items like furniture and appliances to homes and
26 businesses in the Minneapolis area. He liked that the job allowed him to be active and
27 spend time outside.

1 99. Since he obtained DACA, Mr. Gil used his work authorization to help his
2 family by contributing money towards rent and other living expenses. Until he lost his
3 DACA, he was paying about half of the family rent and bills. His jobs also allowed
4 him to start saving up money so that he could reach his goal of taking college classes
5 and, eventually, getting a degree.

6 100. DACA also allowed Mr. Gil to get a Social Security Number and a driver's
7 license for the first time. Having a license meant that he could drive to work and
8 church and give his siblings rides to school and to their extracurricular activities. He
9 also helped with grocery shopping and did other errands for his family using the car
10 he purchased with money from his paychecks.

11 **Mr. Gil's Arrest and Revocation of His DACA and Work Permit**

12 101. On September 20, 2017, Mr. Gil was pulled over by the police while driving in
13 his car with two passengers—a high school classmate and a friend of that classmate.
14 The officer told Mr. Gil that his driver's license had been cancelled. Mr. Gil was
15 arrested and taken to the local jail and later charged with the misdemeanor traffic
16 offense of driving after cancellation of his driver's license. Mr. Gil's driver's license
17 was supposedly cancelled because it required an immigration "status check" when his
18 previous DACA grant expired a few weeks before. Mr. Gil was not aware that there
19 was any problem with his license. Mr. Gil was released from jail the next day. The
20 misdemeanor charge against Mr. Gil is still pending.

21 102. About a month later, ICE agents appeared at his workplace and arrested him in
22 the parking lot. Mr. Gil told the agents that he had DACA, but they detained him
23 nonetheless.

24 103. On October 23, 2017, ICE gave Mr. Gil a Notice to Appear, which charged him
25 with being removable because he was present in the United States without admission.
26 ICE put Mr. Gil in deportation proceedings even though Mr. Gil had been granted a
27 two-year DACA renewal just two months before, and a minor traffic offense, like
28 driving on a cancelled license, did not disqualify him from DACA.

1 104. Mr. Gil suffered in detention. He had trouble eating and sleeping, and he
2 became depressed. He found it especially difficult to talk on the phone to his family,
3 which was having a hard time because he was in detention—especially his youngest
4 sister who is only nine years old. He hated to hear her cry.

5 105. Mr. Gil appeared at bond hearings before the immigration judge on November
6 6, 2017 and November 27, 2017. At those hearings, the government raised the events
7 that led to his arrest and charge for driving after cancellation of his license. The
8 government argued that Mr. Gil was a danger to the community because one of the
9 passengers in the car he was driving had a toy pellet gun and had allegedly shot it out
10 of the car window. Mr. Gil’s immigration attorney explained to the court that the
11 pellet gun was a toy, not a firearm, and did not belong to Mr. Gil; indeed, Mr. Gil
12 never touched the pellet gun and did not even know that his passenger had brought it
13 with him. His lawyer also gave the judge many letters from relatives, friends,
14 employers, and members of his church attesting to Mr. Gil’s good character.

15 106. After hearing the evidence, the immigration judge concluded that Mr. Gil was
16 not a danger to the public and ordered his release on a \$5,000 bond.

17 107. On November 28, 2017, Mr. Gil posted bond and was released from detention.

18 108. Mr. Gil was detained for over a month, which injured him and his family, both
19 emotionally and financially.

20 109. Upon release, Mr. Gil found out that while he was in detention, on November
21 14, 2017, USCIS had sent him a Notice of Action terminating his DACA and work
22 permit “as of the date [his] NTA was issued.” The Notice of Action stated that an
23 “appeal or motion to reopen/reconsider this notice of action may not be filed.”

24 110. Mr. Gil never received any prior notice that USCIS intended to terminate his
25 DACA and work permit, nor did he have any opportunity to respond to the notice or
26 otherwise contest the termination of his DACA or work permit beforehand. He also
27 received no explanation for the decision beyond the one sentence in the Notice of
28 Action.

1 111. Losing his DACA has changed everything for Mr. Gil. He is no longer able to
2 work at his job with the logistics company. He is no longer able to contribute to his
3 family's resources in the way he did before, and he is not able to plan for his future,
4 including saving up money to attend college.

5 112. Being in detention for over a month was frightening for both Mr. Gil and his
6 family. He missed them very much and still has bad memories of that time. Losing his
7 DACA has also created uncertainty for Mr. Gil: he is unsure what he will be able to do
8 next. The uncertainty has made him feel depressed, hopeless, and stressed.

9 **Plaintiff Ronan Carlos De Souza Moreira**

10 113. Mr. Moreira is 24 years old and lives in Kennesaw, Georgia, near Atlanta. He
11 has lived in the United States for almost twelve years. He was born in Brazil in
12 December 1992, and came to the United States in 2006 on a visitor's visa with his two
13 brothers and mother. His father already lived in the United States at that time. He has
14 never left the country since, and considers the United States his home.

15 114. Mr. Moreira attended public schools in Marietta, Georgia, starting in middle
16 school, and graduated from Wheeler High School. In school, he played soccer and
17 tennis, and participated in art club and French club. During middle school and high
18 school, he received various certificates of achievement for his excellent attendance in
19 school, as well as for getting good grades and working hard to improve his English
20 language skills. He graduated from high school in 2012.

21 115. While Mr. Moreira was in high school, he also attended a Brazilian Protestant
22 church called The Vine in Atlanta. He took spiritual maturity courses at that church
23 and eventually became a youth leader, leading youth meetings every week. While at
24 the church, he also collected food for the homeless, organized free yard sales, and
25 often volunteered at church events.

26 116. About a year after graduating from high school, Mr. Moreira started working on
27 a college degree at Perimeter College at Georgia State University in Atlanta.
28

1 However, he was unable to complete his college degree due to his family's financial
2 situation. He hopes someday to go back to college.

3 117. Mr. Moreira's mother is a Lawful Permanent Resident, and his older brother is
4 a U.S. citizen. Mr. Moreira's younger brother, who recently turned 18, has a pending
5 application for permanent residence. His father is also seeking permanent residence.
6 His aunt and two cousins, who are all U.S. citizens, also live in Georgia.

7 118. Mr. Moreira is very close to his family. They live together, and he contributes
8 to household expenses. The family spends all holidays and birthdays together, and
9 whenever they can, they travel together.

10 **The Impact of DACA on Mr. Moreira's Life**

11 119. Mr. Moreira first applied for DACA in May 2013, and was approved in August
12 2013. He applied for renewal in July 2015, and was again approved for a DACA grant
13 in October 2015, this one lasting until October 2017. Mr. Moreira again applied for
14 renewal in August 2017, and was approved on November 2, 2017.

15 120. When Mr. Moreira first applied for deferred action and work authorization in
16 2013, he gave the government his school records and information about where he
17 lived. He also went to an appointment so that USCIS could take his fingerprints and
18 photographs.

19 121. Being granted DACA changed Mr. Moreira's life. After he stopped school in
20 the fall of 2013, he took several temporary jobs, including at AT&T, a flooring
21 company, and a bakery. Starting in August 2014, Mr. Moreira began working for a
22 new flooring company permanently. He started out as an assistant to the installation
23 manager, but within six months he took over as installation manager. In that job, he
24 supervised about 20 flooring installers, dispatching them to jobs throughout the day,
25 speaking frequently with them and the company's customers, and solving problems as
26 they arose. He also worked on payroll, delivery, and inventory issues.

27 122. Mr. Moreira used his work authorization to help his family and to travel around
28 the United States when he had time off work. His job also allowed him to start saving

1 up money, which he could use to take college classes again one day. His goal is to get
2 his college degree in business administration eventually and to start his own business,
3 perhaps in the travel industry.

4 123. DACA also allowed Mr. Moreira to get a Social Security Number and a driver's
5 license for the first time. Having a license meant that he could drive to work and
6 travel.

7 **Mr. Moreira's Arrest and Revocation of His DACA and Work Permit**

8 124. On November 2, 2017, Mr. Moreira was out with a friend, and they stopped at a
9 gas station. They got into an argument there, and although it was not a serious fight,
10 they raised their voices. Someone overheard Mr. Moreira and his friend and called the
11 police. When the police arrived, they realized that the argument was not serious, but
12 they nonetheless asked to see Mr. Moreira's identification.

13 125. Upon examining Mr. Moreira's identification, the officer concluded that the
14 expiration date had been altered and arrested him. Mr. Moreira subsequently was
15 charged with the misdemeanor of possession of an altered identification document.

16 126. Mr. Moreira appeared before a judge, who immediately granted him bail, but
17 ICE had already placed an immigration hold on him, and he had to stay in jail for
18 several more days, until immigration officers came to pick him up. The immigration
19 officers brought Mr. Moreira to Irwin Detention Center in Ocilla, Georgia, where he
20 was given a Notice to Appear charging him with overstaying a visa.

21 127. Mr. Moreira had a bond hearing before the immigration judge on December 7,
22 2017. At that hearing, the government conceded that Mr. Moreira was neither a flight
23 risk nor a danger to the community, and offered him a bond, which he accepted. Mr.
24 Moreira posted the bond and was released the next day.

25 128. Being in detention for more than a month was traumatic for Mr. Moreira.
26 Although he is 25 years old, he looks younger, and he was afraid of the older men.
27 Mr. Moreira became depressed, and he missed his family.

28

1 129. While Mr. Moreira was detained, USCIS sent him a Notice of Action
2 terminating his DACA and work permit “automatically as of the date [his] NTA was
3 issued.” The Notice of Action states that an “appeal or motion to reopen/reconsider
4 this notice of action may not be filed.”

5 130. Mr. Moreira never received any prior notice that USCIS intended to terminate
6 his DACA and work permit, nor did he have any opportunity to respond to the notice
7 or otherwise contest the termination of his DACA or work permit beforehand. Mr.
8 Moreira also received no explanation for the decision beyond the one sentence in the
9 Notice of Action.

10 131. After losing his DACA, Mr. Moreira has lost his work authorization, his
11 temporary authorization to remain in the United States, and his license to drive, and is
12 uncertain about his future. The uncertainty has made him depressed. He feels
13 hopeless and stressed.

14 **Plaintiff Inland Empire – Immigrant Youth Collective**

15 132. The Inland Empire – Immigrant Youth Collective is a grassroots, immigrant
16 youth-led organization located in Ontario, California. IEIYC serves the immigrant
17 community in the Inland Empire region, which encompasses Riverside and San
18 Bernardino Counties. IEIYC’s mission is to advocate for the needs of the
19 undocumented immigrant community in the Inland Empire, including equal access to
20 higher education for undocumented youth, and to achieve justice for immigrant
21 communities by empowering those most affected by immigration policy. Since 2010,
22 IEIYC has focused its efforts on creating a safe space for undocumented youth to
23 share resources; organizing other youth to educate and mobilize their peers; and
24 advocating for regional, state, and federal policies that benefit immigrant
25 communities, including DACA recipients.

26 133. Since 2012, IEIYC has coordinated numerous DACA workshops during which
27 approximately 5,000 individuals have received immigration consultation and
28 assistance with their DACA applications. IEIYC has provided approximately 30

1 scholarships to immigrant youth since 2015, for a total of about \$15,000, to help
2 undocumented youth pursue their educational goals or to assist with the cost of DACA
3 application fees. In addition, IEIYC recently raised another \$15,000 to assist
4 individual DACA applicants with their renewal fees. IEIYC also runs a Mentorship
5 Academy for local high school and college students, including DACA recipients, to
6 provide professional and leadership development training. In addition, IEIYC has held
7 informational sessions on topics important to DACA recipients, such as their legal
8 rights when encountering law enforcement, and puts on an annual health conference to
9 provide health information and resources. IEIYC also assists in documenting and
10 responding to immigration enforcement activities in the Inland Empire and
11 collaborates with other local organizations to ensure a rapid response from the
12 community.

13 134. IEIYC currently has approximately 28 active members in Riverside and San
14 Bernardino Counties, including a staff of three part-time employees and a board of
15 directors comprised of five individuals. In various locations throughout the Inland
16 Empire, IEIYC's members help plan events and other programming, conduct
17 outreach, and attend membership meetings. Because IEIYC only has three part-time
18 staff, it is heavily dependent on its members' ability to contribute their time and
19 efforts.

20 135. At least 18 of IEIYC's members are current DACA recipients who also have
21 work authorization through the program (collectively "IEIYC DACA recipients").
22 Defendants' unlawful termination policies and practices are likely to harm IEIYC
23 DACA recipients. IEIYC DACA recipients live, work, attend school, and carry out
24 IEIYC work throughout the Inland Empire, where there is a significant CBP presence.
25 For example, there are three CBP sub-stations in Riverside County, located in
26 Murrieta, Temecula, and Indio, and a new Border Patrol complex is under
27 construction in the Moreno Valley of Riverside County. There are CBP checkpoints
28 located in Riverside County, and roving CBP patrols are also common in the area.

1 IEIYC DACA recipients are at risk of coming into contact with CBP officers and
2 being screened for possible revocation of their DACA when carrying out their day-to-
3 day activities.

4 136. Some of IEIYC's DACA recipients have had or may in the future have contact
5 with local law enforcement, which could also put them at even greater risk of having
6 their DACA terminated under the challenged practices, even though they have not
7 engaged in any disqualifying conduct.

8 **Defendants' Unlawful DACA Revocation Practices**

9 137. Notwithstanding President Trump's claims that DACA recipients "have nothing
10 to worry about,"²⁴ Defendants have engaged in a widespread practice of unlawfully
11 revoking individuals' DACA grants and work permits, apparently based on
12 unsubstantiated suspicions of criminal activity or minor criminal history, even though
13 these individuals have not violated the terms of the program and continue to be
14 eligible for it.

15 138. The targeting of DACA recipients for revocation has coincided with broader
16 changes in immigration enforcement under the Trump Administration. Administration
17 officials have made numerous public statements indicating that "*anyone* who is in this
18 country in violation of immigration law is subject to possible arrest."

19 139. In April 2017, in response to questions about a DACA recipient who was
20 removed from the country, Attorney General Jeff Sessions said, "We can't promise
21 people who are here unlawfully that they're not going to be deported."²⁵

22 140. In June 2017, Defendant Homan said, "If you're in this country illegally, and
23 you committed a crime by entering this country, you should be uncomfortable . . .
24 You should look over your shoulder."²⁶

25 _____
26 ²⁴ @realDonaldTrump, TWITTER (Sept. 7, 2017, 6:42 AM),
<https://twitter.com/realDonaldTrump/status/905788459301908480>.

27 ²⁵ Ted Hesson, *Sessions: 'We can't promise' Dreamers won't be deported*, Politico,
28 Apr. 19, 2017, <http://www.politico.com/story/2017/04/jeff-sessions-dreams-deported-237369>.

1 141. In August 2017, ICE spokeswoman Sarah Rodriguez confirmed that “ICE does
2 not exempt classes or categories of removable aliens from potential enforcement. All
3 of those in violation of the immigration laws may be subject to immigration arrest,
4 detention and, if found removable by final order, removal from the United States.”²⁷

5 142. In September 2017, the former Acting Secretary of DHS, Elaine Duke,
6 reportedly stated that she has never seen DHS guidance telling DACA applicants that
7 their information would not be used for immigration enforcement purposes.²⁸

8 143. Multiple DACA recipients have been detained by immigration authorities since
9 President Trump took office. For example, in February, immigration authorities
10 detained Josue Romero, a 19-year-old DACA recipient and arts scholarship student
11 residing in Texas, after he was arrested by local police on a misdemeanor charge.²⁹ In
12 August, ICE apprehended 22-year-old Riccy Enriquez Perdomo, a DACA recipient,
13 mother of two young children, and former Amazon employee residing in Kentucky.
14 Although she had no criminal history and a valid DACA grant, immigration
15 authorities nonetheless confiscated her work permit and detained her for a week after
16 she went to an immigration detention center to post a bond for a friend.³⁰ Just recently,

17 ²⁶ Maria Sacchetti, *ICE chief tells lawmakers agency needs much more money for*
18 *immigration arrests*, Wash. Post, June 13, 2017,
19 [https://www.washingtonpost.com/local/social-issues/ice-chief-tells-lawmakers-](https://www.washingtonpost.com/local/social-issues/ice-chief-tells-lawmakers-agency-needs-much-more-money-for-immigration-arrests/2017/06/13/86651e86-5054-11e7-b064-828ba60fbb98_story.html?utm_term=.abf9e8bb63d0)
20 [agency-needs-much-more-money-for-immigration-arrests/2017/06/13/86651e86-](https://www.washingtonpost.com/local/social-issues/ice-chief-tells-lawmakers-agency-needs-much-more-money-for-immigration-arrests/2017/06/13/86651e86-5054-11e7-b064-828ba60fbb98_story.html?utm_term=.abf9e8bb63d0)
21 [5054-11e7-b064-828ba60fbb98_story.html?utm_term=.abf9e8bb63d0](https://www.washingtonpost.com/local/social-issues/ice-chief-tells-lawmakers-agency-needs-much-more-money-for-immigration-arrests/2017/06/13/86651e86-5054-11e7-b064-828ba60fbb98_story.html?utm_term=.abf9e8bb63d0).

22 ²⁷ Tal Kopan, *ICE: Arrests still up, deportations still down*, CNN, Aug. 11, 2017,
23 [http://www.cnn.com/2017/08/11/politics/trump-administration-](http://www.cnn.com/2017/08/11/politics/trump-administration-deportations/index.html)
24 [deportations/index.html](http://www.cnn.com/2017/08/11/politics/trump-administration-deportations/index.html).

25 ²⁸ @joshgerstein, TWITTER (Sept. 27, 2017, 8:18 AM),
26 <https://twitter.com/joshgerstein/status/913060287212933120>.

27 ²⁹ Tom Dart, *Second known Daca recipient detained by immigration officials in Texas*,
28 The Guardian, Feb. 16, 2017, [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2017/feb/16/daca-dreamer-detained-immigration-texas-josue-romero)
29 [news/2017/feb/16/daca-dreamer-detained-immigration-texas-josue-romero](https://www.theguardian.com/us-news/2017/feb/16/daca-dreamer-detained-immigration-texas-josue-romero).

30 ³⁰ Mark Curnutte, *This immigrant mom had a permit to work at Amazon, now U.S.*
agents hold her in jail, Cincinnati.com, August 23, 2017,
[http://www.cincinnati.com/story/news/2017/08/23/ice-detains-young-nky-mother-](http://www.cincinnati.com/story/news/2017/08/23/ice-detains-young-nky-mother-legal-status/593734001/)
legal-status/593734001/.

1 in early September, ten DACA recipients were detained for hours by CBP at a
2 checkpoint in Texas even though they have valid DACA.³¹ Although they were
3 ultimately released, CBP scrutinized their records, presumably looking for a reason to
4 hold them and revoke their DACA.

5 144. Indeed, immigration officers have been expressly instructed to screen any
6 DACA recipient they encounter in the field for potential enforcement actions. A
7 September 6, 2017 CBP memorandum directs that, after encountering a DACA
8 recipient, immigration agents must run various systems checks to determine “whether
9 removal proceedings are appropriate.”³² Specifically, “[w]here an agent finds
10 derogatory information indicating that deferred action under DACA may no longer be
11 appropriate, the agent should contact USCIS to determine if the deferred action can be
12 terminated immediately.”³³ Consistent with this directive, a CBP official in Arizona
13 confirmed that DACA recipients whom officers encounter are screened through
14 databases and may be detained for several hours while being screened. If the officers
15 find an indication of a new conviction, or even simply an arrest, they may place the
16 DACA recipient in removal proceedings, thereby revoking their DACA grants.

17 145. According to government data, DACA revocations increased by 25 percent
18 after President Trump’s inauguration.³⁴

19
20 ³¹ Lorenzo Zazueta-Castro, *UPDATED: Family, Immigration Attorney: DACA*
21 *Recipients Being Held at Checkpoint*, *The Monitor*, Sept. 11, 2017,
22 http://www.themonitor.com/news/article_1ced27f4-970e-11e7-a609-47c4564b53ec.html.

23 ³² @ValOnTheBorder, TWITTER (Sept. 25, 2017, 7:35PM),
24 <https://twitter.com/ValOnTheBorder/status/912505757958119426>; *see also* Valerie
25 Gonzalez, “Border Patrol Memo States Procedures to Process All DACA Recipients,”
26 *KRGV.com*, Sept. 25, 2017, <http://www.krgv.com/story/36450600/border-patrol-memo-states-procedures-to-process-all-daca-recipients>.

26 ³³ ValOnTheBorder, TWITTER (Sept. 25, 2017, 7:35PM).

27 ³⁴ Keegan Hamilton, *Targeting Dreamers*, *Vice News*, Sept. 8, 2017,
28 <https://news.vice.com/story/ice-was-going-after-dreamers-even-before-trump-killed-daca>.

1 146. Upon information and belief, since January 2017 alone, there have been
2 numerous cases in which immigration authorities have targeted DACA recipients by
3 revoking their DACA grants and work permits, without providing any notice or
4 process, even though they have engaged in no disqualifying conduct and continue to
5 be eligible for the program. Indeed, Plaintiffs' counsel are aware of at least 17 such
6 terminations nationwide.

7 147. For example, in February, immigration authorities arrested and detained 23-
8 year-old Daniel Ramirez Medina, a Washington state resident. ICE issued him an
9 NTA, even though he had valid DACA and had done nothing to change his eligibility
10 for the program. Although he has no criminal history, immigration authorities claimed
11 that he was suspected of being a gang member and issued him an NTA. An
12 immigration judge determined that he is not a flight risk or danger to the community,
13 and ordered him released on bond, but USCIS had already revoked his DACA,
14 without notice or opportunity to be heard.³⁵

15 148. In April, immigration authorities detained a 26-year-old DACA recipient in
16 Georgia and issued him an NTA after he was arrested on a misdemeanor charge.
17 Although the prosecutor subsequently dropped the charge and an immigration judge
18 ordered the DACA recipient released on bond, USCIS had already revoked his
19 DACA, without notice or an opportunity to be heard.

20 149. In May, immigration authorities arrested and detained a 19-year-old DACA
21 recipient in North Carolina and issued him an NTA after he was arrested on a
22 misdemeanor charge. He pled guilty to a minor misdemeanor that did not disqualify
23 him from DACA, but USCIS had already revoked his DACA, without notice or an
24 opportunity to be heard.

25
26 _____
27 ³⁵ Emily Goldberg, *What Immigration Raids Mean for Students*, The Atlantic, Feb. 17,
28 2017, <https://www.theatlantic.com/education/archive/2017/02/why-was-a-daca-recipient-detained-by-ice/517134/>.

1 150. In May, USCIS also revoked the DACA grant and work permit of then-28-year-
2 old Georgia resident and paralegal Jessica Colotl without notice, denying her renewal
3 request and denying her an opportunity to be heard. Federal authorities publicly stated
4 that the revocation was based on minor, non-disqualifying criminal history—namely,
5 driving without a license—that Ms. Colotl had disclosed in her prior DACA
6 applications.

7 151. In June, immigration authorities arrested and detained a 22-year-old DACA
8 recipient in California for twelve days. ICE issued him an NTA, even though he had
9 valid DACA and had done nothing to change his eligibility for the program. Although
10 immigration authorities later claimed that he was suspected of being affiliated with a
11 gang, ICE voluntarily released him from detention and cancelled his removal
12 proceedings, indicating that the suspicion was not substantiated. However, USCIS had
13 already revoked his DACA, without notice or an opportunity to be heard.

14 152. In July, USCIS revoked the DACA grant and work permit of a 32-year-old
15 South Dakota resident without notice or an opportunity to be heard, despite granting
16 him a two-year renewal only seven months before in December 2016. Federal
17 authorities did not provide a clear reason for revoking his DACA, even though he has
18 only a single, non-disqualifying misdemeanor conviction that he had disclosed in his
19 prior DACA applications.

20 153. In September, USCIS revoked the DACA grant and work permit of a 30-year-
21 old Minnesota resident and mother without notice or an opportunity to be heard.
22 Federal authorities did not provide a clear reason for revoking her DACA, even
23 though she remains eligible for the program and her only contact with law
24 enforcement is limited to minor traffic violations.

25 154. In November, USCIS revoked the DACA and work permit of Felipe Abonza
26 Lopez, a 20-year-old from Texas. In October, CBP detained Mr. Abonza Lopez, who
27 wears a prosthetic leg, when the car he was riding in with undocumented family
28 members was pulled over by local police who handed the passengers over to CBP.

1 Although CBP claimed that Mr. Abonza Lopez was arrested as part of an alien
2 smuggling investigation, he was never charged with a crime. Even so, USCIS
3 revoked his DACA, without notice or an opportunity to be heard, based solely on
4 CBP's issuance of an NTA.³⁶

5 155. In October, USCIS revoked the DACA grant and work permit of a young
6 California resident without notice or an opportunity to be heard. USCIS did not
7 provide a clear reason for revoking his DACA, even though he does not have any
8 disqualifying criminal conviction.

9 156. In addition, thousands of individuals nationwide are subject to having their
10 DACA and work authorization terminated pursuant to Defendants' unlawful policies
11 and practices. Indeed, in the course of opposing the preliminary injunction motion
12 filed in the instant litigation, Defendants admitted that USCIS has a practice of
13 automatically terminating DACA based solely on the issuance of a Notice to Appear.

14 157. Defendants' unlawful termination of qualified individuals' DACA and work
15 authorization involves three systemic practices.

16 158. *First*, Defendants have a practice of revoking DACA grants without providing
17 notice, a reasoned explanation, or an opportunity to be heard prior to revocation, and
18 without providing a process for reinstatement where the revocation is in error.

19 Defendants' practice is to terminate without providing a reasoned explanation, even
20 though the termination represents a reversal of the agency's position because
21 Defendants had previously granted the individual DACA on one or more occasions.

22 159. *Second*, Defendants have engaged in a widespread practice of automatically
23 terminating DACA grants and work permits of individuals who remain eligible for
24 DACA based on the filing of a Notice to Appear by immigration authorities, including
25 where the sole basis for the NTA is the individual's presence without admission in the

26
27 ³⁶ Nicole Rodriguez, *Immigrant Who Had Prosthetic Leg Mocked by Trump Officials*
28 *to be Freed After 'Inhumane' Detention*, Newsweek,
<http://www.newsweek.com/immigrant-mocked-federal-officials-disability-be-freed-715251>.

1 United States or having overstayed a visa—charges that apply essentially to all DACA
2 recipients—and even though DACA is available to noncitizens who are already in
3 removal proceedings.

4 160. *Third*, Defendants have targeted DACA recipients for revocation, even though
5 they have committed no disqualifying conduct, based on the Trump administration’s
6 articulation of new immigration enforcement priorities. On February 20, 2017, former
7 DHS Secretary Kelly issued a memorandum setting forth priorities for DHS’s
8 enforcement of the immigration laws.³⁷ The Memorandum prioritizes for removal
9 even noncitizens who have no criminal convictions, but merely have been “charged
10 with any criminal offense that has not been resolved,” as well as any noncitizen who
11 has “committed acts which constitute a chargeable criminal offense.” These broad
12 categories presume guilt for offenses that have not been proven in court. They also
13 include minor misdemeanors that do not disqualify individuals from the DACA
14 program, such as traffic offenses or crimes related to immigration status like unlawful
15 entry into the United States.

16 161. Although the Kelly Memorandum rescinded prior guidance concerning
17 immigration enforcement priorities issued during the Obama administration, it
18 expressly kept the DACA guidance in place. Thus, the Memorandum provides that
19 “the Department no longer will exempt classes or categories of removable aliens from
20 potential enforcement” “[e]xcept as specifically noted above”—referring specifically
21 to the DACA program.³⁸ DHS also issued a “Q&A” document concerning this
22 memorandum which states (at Question 22):

23 Q22: Do these memoranda affect recipients of Deferred Action for Childhood
24 Arrivals (DACA)?

25 ³⁷ See Memorandum from John Kelly, Enforcement of the Immigration Laws to Serve
26 the National Interest 2 (Feb. 20, 2017),
27 https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf.

28 ³⁸ See *id.*

1 A22: No.³⁹

2 162. Notwithstanding the express language in the Kelly Memorandum and the
3 accompanying FAQ, immigration authorities have claimed that the Kelly
4 Memorandum justifies revoking the DACA grants of individuals who would fall
5 within the new, extremely broad enforcement priorities. Immigration authorities have
6 taken this position even though the rules of the DACA program expressly provide that
7 certain minor criminal history is not disqualifying. Under Defendants' view,
8 apparently any DACA recipient who is charged with or has allegedly committed *any*
9 criminal offense, no matter how minor, and without any charge or conviction, can
10 have his or her DACA grant and work permit stripped—in many cases, without
11 notice. Defendants' issuance of a Notice of Intent to Terminate Mr. Arreola's DACA
12 based on their conclusion that he is an "enforcement priority" is an example of this
13 practice.

14 163. Defendants' policies and practices violate the Administrative Procedures Act
15 ("APA") and the Due Process Clause of the Fifth Amendment to the U.S.
16 Constitution.

17 164. Defendants' failure to provide DACA recipients with notice, a reasoned
18 explanation, and an opportunity to be heard prior to revocation, as well as a process
19 for reinstatement where the revocation is in error, violates the Due Process Clause and
20 the rules governing the DACA program, and is arbitrary and capricious and contrary
21 to law in violation of the APA. Individuals who have been granted DACA have
22 important constitutionally protected interests in their DACA grant and employment
23 authorization. The revocation of an individual's grant of deferred action and work
24 permit under the DACA program harms those interests. Before the immigration
25

26 ³⁹ See *Q&A: DHS Implementation of the Executive Order on Enhancing Public Safety*
27 *in the Interior of the United States*, Dep't of Homeland Sec., Feb. 21, 2017,
28 <https://www.dhs.gov/news/2017/02/21/qa-dhs-implementation-executive-order-enhancing-public-safety-interior-united-states>.

1 authorities may revoke a DACA grant and work permit, they must provide, at a
2 minimum, notice, a reasoned explanation for the decision, and an opportunity to be
3 heard. This is particularly important where immigration authorities seek revocation
4 based on mere allegations. In addition, the rules for the DACA program require that
5 detailed procedures be followed before a DACA grant can be terminated, including
6 notice and an opportunity to respond in most cases. Yet Defendants fail even to follow
7 their own procedures.

8 165. In addition, Defendants' practice of automatically terminating DACA when
9 immigration authorities file a Notice to Appear—including based solely on presence
10 without admission to the United States or overstaying a visa—is arbitrary and
11 capricious and contrary to law in violation of the APA. An individual's presence
12 without admission or overstay of a visa does not provide a relevant basis for
13 terminating DACA. Defendants' practice of terminating DACA based on an NTA
14 charging presence without admission or overstaying a visa is irrational and arbitrary
15 because all DACA recipients are present in the country without lawful immigration
16 status; indeed that circumstance is what made it necessary for them to apply for
17 DACA in the first place. Further, the practice is contrary to the rules for the DACA
18 program, which do not allow for termination based merely on presence without
19 admission or overstaying a visa, and also do not permit automatic termination unless
20 certain procedures are followed. Indeed, Defendants' own rules expressly provide that
21 individuals who are in removal proceedings, or who have received a final order of
22 removal, remain eligible to apply for and receive DACA. Defendants' practice is also
23 unlawful because, in automatically revoking DACA based on an NTA, the agency
24 fails to consider the relevant facts and circumstances and exercise individualized
25 discretion in deciding whether to continue or revoke DACA. In addition, Defendants'
26 practice improperly rests the decision of whether an individual's DACA grant
27 continues to be warranted on the capricious charging decision of an individual
28

1 immigration agent. For these reasons and others, Defendants’ automatic termination of
2 DACA based on an NTA is unlawful.

3 166. Further, Defendants’ practice of revoking DACA for individuals who lack any
4 disqualifying criminal convictions without process is unlawful under the APA because
5 it reflects the agency’s reversal of its decision to grant DACA in the first place,
6 without providing a reasoned explanation for the change. The granting and renewal of
7 DACA reflects the agency’s reasoned determination that the individual is eligible for
8 and deserving of deferred action and work authorization. A revocation reflects an
9 abrupt change in the agency’s considered position, yet the agency’s practice is to
10 revoke DACA in these cases without providing a reasoned explanation that would
11 justify such a change.

12 167. Finally, Defendants’ practice of terminating DACA for individuals who have
13 committed no disqualifying conduct and continue to be eligible for the DACA
14 program, based on a determination that they are an “enforcement priority” (apparently
15 in reliance on the Kelly Memorandum), is arbitrary and capricious and contrary to law
16 in violation of the APA. This is so because such terminations violate Defendants’ own
17 rules for the DACA program, and are inconsistent with the express language of the
18 Kelly Memorandum. Among other things, applying DHS’ new enforcement priorities
19 to DACA recipients would eviscerate the DACA program because DACA recipients
20 by definition lack a lawful immigration status, and a large number of them have
21 engaged in activities related to their lack of status—such as entering the country
22 without authorization or driving without a license—that would make them an
23 immigration enforcement priority were the Memorandum to apply to them. Moreover,
24 individuals who remain eligible for DACA are, by definition, considered a low
25 priority for enforcement under the DACA program. Thus, by terminating DACA
26 based on a determination that such individuals are an enforcement priority,
27 Defendants have also changed their position without providing a reasoned explanation
28 for the change, in violation of the APA.

CLASS ALLEGATIONS

1
2 168. Together with IEIYC, representative Individual Plaintiffs bring this action
3 pursuant to Federal Rules of Civil Procedure 23(b)(2) on behalf of themselves and a
4 nationwide class of all other persons similarly situated.

5 169. Plaintiffs seek to represent the following nationwide classes:

6 A **Notice Class** defined as: All recipients of Deferred Action for
7 Childhood Arrivals (“DACA”) who, after January 19, 2017, have had
8 or will have their DACA grant and employment authorization revoked
9 without notice or an opportunity to respond, even though they have
10 not been convicted of a disqualifying criminal offense.

11 An **“Enforcement Priority” Class** defined as: All recipients of
12 Deferred Action for Childhood Arrivals (“DACA”) who, after January
13 19, 2017, have had or will have their DACA grant and employment
14 authorization revoked based on Defendants’ determination that they
15 are an enforcement priority, even though they have not been convicted
16 of a disqualifying criminal offense.

17 170. Plaintiffs Arreola, Gil, and Moreira are each adequate representatives of the
18 Notice Class. Plaintiff Arreola is an adequate representative of the “Enforcement
19 Priority” Class.

20 171. The proposed classes satisfy the requirements of Rule 23(a)(1) because each is
21 so numerous that joinder of all members is impracticable.

22 172. With respect to the Notice Class, Plaintiffs’ counsel are currently aware of at
23 least 17 individuals across the country who have had their DACA and work
24 authorization revoked without any process, even though they lack a disqualifying
25 conviction. Moreover, many more such individuals will continue to have their DACA
26 and work authorization revoked without process in the future, making joinder
27 impracticable. Indeed, thousands of current DACA recipients nationwide are subject
28 to having their DACA and work authorization revoked pursuant to Defendants’

1 policies and practices, without notice or an opportunity to respond to Defendants’
2 allegations, even though they remain eligible for the program. The risk is reinforced
3 by Defendants’ concession in this case that they have a practice of terminating DACA
4 without process.

5 173. With respect to the “Enforcement Priority” Class, Plaintiffs’ Counsel are
6 likewise aware of at least several cases in which Defendants have terminated DACA
7 based on a determination that the individual is an “enforcement priority,” even though
8 the individual has no disqualifying criminal conviction. Further, Defendants have
9 taken the position in other litigation that they may terminate DACA when the
10 recipient is considered an enforcement priority under the Kelly Memorandum, even
11 though the Kelly Memorandum on its face does not apply to the DACA program and
12 even though the individual is already defined as low priority under the DACA
13 program rules.

14 174. The classes each meet the commonality requirements of Federal Rule of Civil
15 Procedure 23(a)(2). The members of the Notice Class are subject to two common
16 practices or policies: (1) the revocation of DACA and work authorization without
17 notice, a reasoned explanation, and an opportunity to be heard prior to revocation, or a
18 process for reinstatement where the revocation is in error; (2) the automatic
19 termination of DACA grants and work permits based on the filing of a Notice to
20 Appear, even where the sole basis for the NTA is presence in the country without
21 admission or overstaying a visa. The members of the “Enforcement Priority” Class are
22 subject to the termination of DACA grants and work permits based on DHS’ new,
23 expanded immigration enforcement priorities, even though the individual has no
24 disqualifying conviction. The lawsuit raises numerous questions of law and fact
25 common to members of the proposed classes, including but not limited to:

- 26 • Whether Defendants’ practice of revoking DACA without notice, a reasoned
27 explanation of the reason for such termination, or an opportunity to be heard is
28 arbitrary and capricious and contrary to law in violation of the APA;

- 1 • Whether Defendants’ practice of revoking DACA without notice, a meaningful
2 explanation of the reason for such termination, or an opportunity to be heard
3 violates the Due Process Clause.
- 4 • Whether Defendants’ practice of revoking DACA without providing a reasoned
5 explanation for the agency’s change in position is arbitrary and capricious and
6 contrary to law in violation of the APA;
- 7 • Whether Defendants’ practice of automatically terminating DACA when
8 immigration authorities file a Notice to Appear—including based solely on
9 presence without admission to the United States or overstaying a visa—is
10 arbitrary and capricious and contrary to law in violation of the APA.
- 11 • Whether Defendants’ practice of terminating DACA based on criminal history
12 or alleged conduct, even though the individual remains eligible for the program,
13 pursuant to new immigration enforcement priorities (such as those set forth in
14 the Kelly Memorandum), is arbitrary and capricious and contrary to law in
15 violation of the APA.

16 175. The proposed classes meet the typicality requirements of Federal Rule of Civil
17 Procedure 23(a)(3) because the claims of the representative Individual Plaintiffs are
18 typical of the claims of their respective classes. Plaintiffs Arreola, Gil, and Moreira,
19 and the proposed Notice Class members are all individuals who have had or will have
20 their DACA and employment authorization revoked without notice or an opportunity
21 to be heard even though they have not been convicted of a disqualifying criminal
22 offense. Plaintiff Arreola and the proposed “Enforcement Priority” Class members are
23 all subject to Defendants’ practice of terminating DACA and employment
24 authorization based on Defendants’ new enforcement priorities even though they have
25 not been convicted of a disqualifying criminal offense. Individual Plaintiffs and their
26 respective proposed classes also share the same legal claims, which challenge the
27 legality of these revocation policies and practices under the APA and/or the Due
28 Process Clause.

1 176. The proposed classes each meet the adequacy requirements of Federal Rule of
2 Civil Procedure 23(a)(4). Individual Plaintiffs seek the same relief as the other
3 members of the Notice Class—namely, a declaration that Defendants’ policies and
4 practices violate the APA and Due Process Clause, and an order enjoining Defendants
5 from terminating DACA and work authorization on arbitrary grounds and in the
6 absence of adequate procedures. As to the “Enforcement Priority” Class, Plaintiff
7 Arreola likewise seeks the same relief as the other members of the class: a declaration
8 that Defendants’ policies and practices violate the APA, and an order enjoining
9 Defendants from terminating DACA and work authorization based on the application
10 of new enforcement priorities even though under the DACA program rules, class
11 members are not an enforcement priority. Moreover, Individual Plaintiffs have no
12 interests adverse to those of their respective classes as a whole. In defending their own
13 rights, Plaintiffs Arreola, Gil, and Moreira will defend the rights of all proposed class
14 members fairly and adequately.

15 177. In addition, the proposed classes are represented by counsel from the American
16 Civil Liberties Union Immigrants’ Rights Project and the American Civil Liberties
17 Union of Southern California. Counsel have extensive experience litigating class
18 action lawsuits and other complex cases in federal court, including civil rights
19 lawsuits on behalf of noncitizens.

20 178. The members of each of the classes are readily ascertainable through
21 Defendants’ records.

22 179. Finally, each of the proposed classes satisfies Federal Rule of Civil Procedure
23 23(b)(2). The immigration authorities have acted on grounds generally applicable to
24 each of the classes by arbitrarily stripping class members of DACA and employment
25 authorization, without adequate procedures through which they can challenge those
26 revocation decisions, and by terminating DACA based on Defendants’ new
27 enforcement priorities that conflict with the DACA program rules. Thus, final
28

1 injunctive and declaratory relief is appropriate with respect to each of the classes as a
2 whole.

3 **CLAIMS FOR RELIEF**

4 **First Claim**
5 **Administrative Procedure Act**

6 180. The foregoing allegations are repeated and incorporated as though fully set
7 forth herein.

8 181. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-06, provides that
9 courts “shall . . . hold unlawful and set aside agency action” that is “arbitrary,
10 capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C.
11 § 706(2)(A).

12 182. Defendants’ practice of terminating or revoking DACA grants and employment
13 authorization without notice, a reasoned explanation, an opportunity to be heard, or a
14 reinstatement procedure is arbitrary, capricious, and contrary to law in violation of the
15 APA because a DACA grant cannot be terminated without first providing a
16 meaningful process and complying with the DACA program rules, including the
17 SOPs.

18 183. Defendants’ practice of automatically terminating or revoking DACA and
19 employment authorization as a result of the filing of an NTA—including an NTA
20 solely charging removability for being present without admission or for having
21 overstayed a visa—is arbitrary, capricious, and contrary to law in violation of the
22 APA for multiple reasons, including that such an NTA fails to provide a reasoned
23 basis for terminating DACA; terminating on this basis is inconsistent with and
24 violates the rules of the DACA program; the practice reflects a failure of the agency to
25 exercise individualized discretion; and it rests the termination decision on the arbitrary
26 charging decision of an ICE or CBP officer.

27 184. Defendants’ practice of terminating or revoking DACA based on non-
28 disqualifying criminal history or unsubstantiated allegations is arbitrary and capricious

1 and contrary to law in violation of the APA because it represents a departure from the
2 agency's considered decision to grant DACA, without providing a reasoned
3 explanation for their change in position.

4 185. Defendants' practice of relying on the Kelly Memorandum or other
5 enforcement priorities to terminate or revoke DACA for individuals who have
6 committed no disqualifying conduct and continue to be eligible for the DACA
7 program is arbitrary and capricious and contrary to law in violation of the APA
8 because it is contrary to Defendants' own rules for the DACA program, as well as the
9 language of the Kelly Memorandum itself. Further, in terminating DACA based on a
10 determination that individuals who remain eligible for DACA are an enforcement
11 priority even though such individuals are by definition considered low priority under
12 the DACA program, Defendants have also violated the APA by failing to provide a
13 reasoned explanation for their change in position.

14 **Second Claim**

15 **Due Process Clause of the Fifth Amendment to the U.S. Constitution**

16 186. The foregoing allegations are repeated and incorporated as though fully set
17 forth herein.

18 187. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
19 provides that "[n]o person shall be . . . deprived of life, liberty, or property, without
20 due process of law." U.S. Const. amend. V.

21 188. Defendants have a policy and practice of revoking DACA recipients' DACA
22 and work authorization without providing any process. Once DACA has been granted,
23 it cannot be taken away without adequate process. Defendants' policy and practice
24 violates procedural due process because it fails to provide DACA recipients with
25 notice, a reasoned explanation for the revocation decision, and an opportunity to
26 respond, and to present arguments and evidence to demonstrate that the individual
27 continues to be eligible for and warrants the continuation of his or her DACA grant.

1 Defendants' process also fails to provide for reinstatement in cases where the
2 revocation decision was in error.

3 **PRAYER FOR RELIEF**

4 IEIYC and Individual Plaintiffs, on behalf of themselves and others similar
5 situated, ask this Court to grant the following relief:

- 6 a) Certify this case as a class action lawsuit as proposed herein, appoint Plaintiffs
7 Arreola, Gil, and Moreira as class representatives of their respective classes and
8 the undersigned counsel as class counsel;
- 9 b) Declare Defendants' DACA revocation practices and policies unlawful and
10 unconstitutional;
- 11 c) Enjoin Defendants from terminating Notice Class members' and IEIYC DACA
12 recipients' DACA grants and EADs absent a fair procedure—including
13 reasonable notice, a reasoned explanation, and an opportunity to be heard—
14 through which to challenge the termination consistent with the APA and the
15 Due Process Clause;
- 16 d) Enjoin Defendants from revoking the DACA grants and EADs of Notice Class
17 members and IEIYC DACA recipients based on the filing of an NTA charging
18 solely presence without admission to the United States or overstaying a visa,
- 19 e) Enjoin Defendants from revoking the DACA grants and EADs of "Enforcement
20 Priority" Class members and IEIYC DACA recipients based on the
21 enforcement priorities set forth in the Kelly Memorandum or other enforcement
22 priorities inconsistent with the rules of the DACA program;
- 23 f) Vacate Defendants' unlawful revocation of DACA and work authorization for
24 Individual Plaintiffs and all class members, and enjoin Defendants from
25 enforcing the revocations;
- 26 g) In the alternative, order Defendants to temporarily reinstate DACA and work
27 authorization for Plaintiffs Gil and Moreira and such Notice Class members
28 pending a fair procedure—including reasonable notice, a reasoned explanation,

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- and an opportunity to be heard—through which they may challenge the revocation decision consistent with the APA and the Due Process Clause;
- h) Order Defendants to accept renewal applications from Individual Plaintiffs and class members whose DACA protections were unlawfully revoked;
 - i) Grant an award of attorneys’ fees and costs; and
 - j) Grant any other and further relief that this Court may deem fit and proper.

Respectfully submitted,

Dated: December 21, 2017

/s/ Jennifer Chang Newell
Jennifer Chang Newell
Katrina L. Eiland
Michael K. T. Tan*
David Hausman*
ACLU FOUNDATION
IMMIGRANTS’ RIGHTS PROJECT

Ahilan T. Arulanantham
Michael Kaufman
Dae Keun Kwon
ACLU FOUNDATION
OF SOUTHERN CALIFORNIA

Attorneys for Plaintiffs
**Admitted pro hac vice*