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12 Attorneys for Plaintiffs SYLVESTER OWINO,  
JONATHAN GOMEZ, and the Proposed Class(es)

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

15 SYLVESTER OWINO and JONATHAN )  
16 GOMEZ, on behalf of themselves and all )  
others similarly situated, )

17 Plaintiffs, )

18 vs. )

19 CORECIVIC, INC., )

20 Defendant. )

21 CORECIVIC, INC., )

22 Counter-Claimant, )

23 vs. )

24 SYLVESTER OWINO and JONATHAN )  
25 GOMEZ, on behalf of themselves and all )  
26 others similarly situated, )

27 Counter-Defendants. )  
28

Case No. 3:17-CV-01112-JLS-NLS

**CLASS ACTION**

**PLAINTIFFS' REPLY BRIEF IN  
RESPONSE TO DEFENDANT'S  
SUPPLEMENTAL BRIEF**

Date: December 19, 2019  
Time: 2:30 p.m.  
Place: Courtroom 4D

Judge: Hon. Janis L. Sammartino  
Magistrate: Hon. Nita L. Stormes

DEMAND FOR JURY TRIAL

1 **I. INTRODUCTION**

2 Plaintiffs submit this Reply Brief in response to CoreCivic’s Supplemental Brief, as  
3 permitted by the Court. (Dkt. 146.) As an initial matter, CoreCivic’s argument that  
4 Plaintiffs “waived” their claims for prospective equitable relief by moving for class  
5 certification under Rule 23(b)(3) is meritless. The contrived legal standard advanced in  
6 CoreCivic’s Supplemental Brief is contradicted by (1) the fact that courts routinely certify  
7 classes seeking both damages and prospective equitable relief under Rule 23(b)(3); and (2)  
8 the questionable propriety of applying Rule 23(b)(2) given the significance of the proposed  
9 classes’ claims for damages. Because Rule 23(b)(3) can include prospective injunctive  
10 relief, CoreCivic’s argument fails.

11 Further, the two alleged “misstatements” CoreCivic references do not contain any  
12 inaccuracies. *First*, Plaintiffs’ counsel have been effectively blocked from interviewing  
13 current detainees at CoreCivic’s facilities because CoreCivic requires Plaintiffs’ counsel  
14 to obtain consent from incarcerated detainees *prior to* any interview—an exceptional  
15 difficulty when CoreCivic has not permitted any access whatsoever to detainees to obtain  
16 their consent in the first place, including when Plaintiffs’ counsel were physically present  
17 at Otay Mesa Detention Center for a site inspection. *Second*, CoreCivic attempts to draw  
18 a technical distinction between its detention facility currently called “Otay Mesa Detention  
19 Center” and the predecessor facility called “San Diego Detention Facility,” which  
20 primarily housed Plaintiffs during their periods of detention. However, the fact that  
21 Plaintiffs might refer to different facilities—which are located in Otay Mesa, California—  
22 as “San Diego Correctional Facility,” “Otay Mesa Detention Facility,” “Otay Detention  
23 Facility,” or “Otay Mesa Detention Center,” simply reflects Plaintiffs’ *understanding* as to  
24 where they were detained and who operated those facilities, and the *interchangeability* of  
25 different names in reference to the same private prison company that owned or operated  
26 the facilities where Plaintiffs were housed. Even more compelling on this point is the fact  
27 that CoreCivic admitted in its Answer (and repeatedly in briefing to the Court) that  
28 Plaintiffs were both detainees “at CoreCivic’s Otay Mesa Detention Center (“OMDC”),

1 located in San Diego, California.” [Dkt. 44 (Answer) at ¶¶ 7 – 8.] In any event, CoreCivic  
2 does not contend that the official name of a particular facility in which Plaintiffs were  
3 housed has any consequence or import (especially given CoreCivic’s common policies and  
4 practices across all facilities). CoreCivic argues a distinction without a difference in a  
5 game of semantics.

6 Finally, none of CoreCivic’s arguments undermine the propriety of Plaintiffs serving  
7 as class representatives for the five putative classes. *First*, CoreCivic does not dispute that  
8 Plaintiffs possess Article III standing to seek monetary damages, restitution, interest,  
9 penalties, punitive damages, and fees and costs for the putative classes. Nor does  
10 CoreCivic dispute in its Supplemental Brief that the Court can and should certify the five  
11 proposed classes as to claims seeking these remedies. *Second*, Plaintiffs possess Article  
12 III standing to seek prospective equitable relief because such relief is specifically  
13 authorized by various statutes under which Plaintiffs brought suit, and for the independent  
14 reason that Plaintiffs can establish a sufficient likelihood of future detainment.

15 Finally, even if the Court found that Plaintiffs did not possess Article III standing,  
16 that would not defeat the propriety of class certification because any defect is readily  
17 curable by adding a putative class member as a named plaintiff—including Mr. Achiri Geh  
18 (identified in Plaintiffs’ Supplemental Brief), or the named plaintiffs from the stayed action  
19 *Gonzalez, et al., v. CoreCivic, Inc.*, Case No. 17-CV-2573 JLS (NLS), or one of the  
20 hundreds of currently detained civil immigration detainees at CoreCivic’s facilities.

## 21 **II. ARGUMENT**

### 22 **A. Rule 23(b)(3) Is The Correct Procedural Vehicle For Certification Of** 23 **Plaintiffs’ Claims For Both Damages And Equitable Relief.**

24 CoreCivic’s argument—raised for the first time in supplemental briefing—that  
25 Plaintiffs are foreclosed from seeking certification of their claims for prospective equitable  
26 relief on the grounds that Plaintiffs “were required to establish the elements of Rule  
27 23(b)(2)” fundamentally misapprehends the function of Rule 23’s subparts. [Dkt. 145 at  
28 6:2-3 (emphasis in original).] CoreCivic is incorrect that Plaintiffs “waived any classwide

1 prospective relief.” [*Id.* at 6:23.] Courts routinely certify classes under Rule 23(b)(3) for  
2 both damages and prospective equitable relief. *See, e.g., In re Qualcomm Antitrust Litig.*,  
3 328 F.R.D. 280, 295, 319 (N.D. Cal. 2018) (certifying “proposed class for damages and  
4 injunctive relief under Rule 23(b)(3)”; *Hofstetter v. Chase Home Fin., LLC*, Case No. C  
5 10-01313 WHA, 2011 U.S. Dist. LEXIS 38124, \*48 (N.D. Cal. Mar. 31, 2011) (certifying  
6 class under Rule 23(b)(3) “to pursue *injunctive and declaratory relief*” (emphasis in  
7 original)); *Castaneda v. Burger King Corp.*, 264 F.R.D. 557, 574 (N.D. Cal. 2009)  
8 (certifying proposed classes seeking damages and injunctive relief under Rule 23(b)(3)).  
9 Contrary to CoreCivic’s unsupported argument, Plaintiffs’ proposed classes can and should  
10 be certified as to both damages and equitable relief under Rule 23(b)(3).

11 Rule 23(b)(2) provides a “less stringent standard” for class certification in cases  
12 where a claim for damages, if any, is merely incidental to the proposed class’ claim for  
13 injunctive relief. *West v. Cal. Servs. Bureau*, 323 F.R.D. 295, 300 (N.D. Cal. 2017)  
14 (“[c]lass certification under Rule 23(b)(2) is appropriate only where the primary relief  
15 sought is declaratory or injunctive.” (quoting *Ellis v. Costco Wholesale Corp.*, 657 F.3d  
16 970, 986 (9th Cir. 2011))). Where, as here, the value of the proposed classes’ damages  
17 claims are significant, “Rule 23(b)(3) certification is more appropriate . . . than Rule  
18 23(b)(2).” *Castaneda*, 264 F.R.D. at 566 (“[b]ecause the large statutory damages sought  
19 under the California statutes here predominate over the injunctive relief sought, Rule  
20 23(b)(3) analysis is more appropriate instead.”).

21 In short, there is zero merit to CoreCivic’s argument that Plaintiffs are foreclosed  
22 from seeking prospective equitable relief on the grounds that “Plaintiffs’ Motion for Class  
23 Certification did not even mention Rule 23(b)(2).” [Dkt. 145 at 6:10-11.] Rule 23(b)(3)  
24 provides the appropriate analytical framework for each form of relief requested by  
25 Plaintiffs (including prospective equitable relief).<sup>1</sup>

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<sup>1</sup> Similar to its pending Motion for Judgment on the Pleadings, none of CoreCivic’s cited cases support the incorrect legal standard it attempts to have the Court adopt here.

1           **B. The “Misstatements” Referenced By CoreCivic Are Equally Contrived.**

2           CoreCivic takes issue with two arguments raised in Plaintiffs’ Supplemental Brief,  
3 characterizing them as “misstatements.” CoreCivic’s assertion is again unsupported, and  
4 more importantly does nothing to detract from its flawed legal contentions or rebut the  
5 substance of Plaintiffs’ arguments.

6           First, Plaintiffs’ counsel were instructed by CoreCivic’s counsel that the only way  
7 they could speak with a current detainee at one of its facilities was to *identify the specific*  
8 *detainee* with whom counsel wished to speak and obtain consent from that specific  
9 detainee—all before Plaintiffs’ counsel could contact him or her. [Supp. Declaration of  
10 Eileen R. Ridley (“Supp. Ridley Decl.”), at ¶¶ 3 – 4.] CoreCivic confirms in its  
11 Supplemental Brief that would not permit Plaintiffs’ counsel to speak with any detainees  
12 during a site visit of Otay Mesa Detention Center. [Dkt. 145-2 at Ex. 2.] CoreCivic tries  
13 to dance around the issue by noting that Plaintiffs’ counsel could arrange interviews  
14 “through the normal facility channels” [Dkt. 145 at 11:23-25], but then conspicuously fails  
15 to detail for the Court what those “normal facility channels” are. To complete the picture  
16 for the Court, Plaintiffs include prior correspondence from CoreCivic’s counsel detailing  
17 the prerequisites to meet with a current detainee. [See Supp. Ridley Decl., at Ex. A  
18 (CoreCivic Email Correspondence).]

19           Obviously, it is practically impossible to obtain a detainee’s consent for an attorney  
20 visit if the attorney is precluded from speaking with the detainee to obtain consent in the  
21 first instance. Thus, it is no misstatement to say that CoreCivic’s admitted blockade  
22 inhibiting Plaintiffs’ counsel from contacting current detainees without prior consent is  
23 “effectively block[ing] Plaintiffs’ counsel from accessing and interviewing presently  
24 detained putative class members.” [Dkt. 144 at 8:27 – 9:1.]

25           Second, CoreCivic’s argument that Plaintiffs were never detained at “Otay Mesa  
26 Detention Center” relies on an artificial, semantic distinction that is of no legal  
27 consequence to Plaintiffs’ Motion for Class Certification. CoreCivic does not (and cannot)  
28 dispute that Plaintiffs were both detained in at least one of CoreCivic’s facilities in

1 California, including the San Diego Correctional Facility in Otay Mesa, California. [Dkt.  
 2 144-1 at 3; Dkt. 144-2 at 3.] Given that Plaintiffs were housed in a CoreCivic facility in  
 3 Otay Mesa, California, it should not be unexpected that they might interchangeably  
 4 reference “San Diego Correctional Facility” with “Otay Mesa Detention Facility,” “Otay  
 5 Detention Facility,” “Otay Mesa Detention Center,” or similar variations. In fact, several  
 6 documents in Plaintiffs’ respective detainee files (apparently prepared by ICE)  
 7 interchangeably refer to “San Diego Correctional Facility” and “Otay Mesa Detention  
 8 Facility.”<sup>2</sup> Even ICE appears to have historically interchanged “San Diego Correctional  
 9 Facility” and “Otay Mesa Detention Facility.”<sup>3</sup> Indeed, the San Diego Correctional Facility  
 10 became “Otay Mesa Detention Center” after CoreCivic shifted its detainee population to a  
 11 new location in Otay Mesa, California in 2015. [Dkt. 145-2 at Ex. 3.]<sup>4</sup>

12  
 13 <sup>2</sup> See, e.g., Supp. Ridley Decl., at ¶ 5 & Ex. B (Pl. Gomez Detainee File) at CCOG -  
 14 00025282 (Transfer Sheet dated June 18, 2012, indicating Gomez’s transfer to  
 15 “ODF/CCA” [Otay Detention Facility]); *id.* at -00025283 (Transfer Sheet dated June 18,  
 16 2012, indicating Gomez’s transfer to “Otay Detention Facility San Diego/CCA”); *id.* at -  
 17 00025327 – 28 (Detainee Request Forms from “Otay Mesa Detention Facility”); see also  
 18 Ridley Decl., at ¶ 6 & Ex. C (Pl. Owino Detainee File) at CCOG –00025354 (Transfer  
 19 Sheet dated Feb. 5, 2007, indicating Owino’s transfer to “CCA/ODF VIA JPATS” [Otay  
 20 Detention Facility]); *id.* at -00025283 (Transfer Sheet dated June 18, 2012, indicating  
 21 Gomez’s transfer to “Otay Detention Facility San Diego/CCA”); *id.* at -00025416 (Inmate  
 22 Request Forms from “Otay Mesa Detention Facility”); *id.* at -00025478 (Transfer Sheet  
 23 dated Feb. 9, 2015, indicating Owino’s transfer to “CCA/ODF” [Otay Detention Facility]);  
 24 *id.* at -00025479 (Admission Sheet dated June Feb. 9, 2015, indicating Owino’s admission  
 to “Otay Detention Facility San Diego/CCA”); *id.* at -00025481 (ICE Order Sheet dated  
 Mar. 9, 2015, indicating Owino’s location at “CCA/ODF”).

25 <sup>3</sup> See, e.g., Wayback Machine: Internet Archive (historical versions of webpages),  
 26 Webpage of U.S. Dept. of Homeland Security, Immigration and Customs Enforcement  
 27 (Enforcement & Removal, Detention Facilities) (preservation date Feb. 17, 2013),  
 28 available at <https://web.archive.org/web/20130217061111/http://m.ice.gov/detention-facilities/facilities/ccasdca.htm> (identifying “Otay Detention Facility” at the same address  
 as “San Diego Correctional Facility” – 446 Alta Road, Suite 5400, San Diego, CA 92158  
 – which is the same address as the forms contained in Plaintiffs’ respective detainee files  
 cited in Footnote 2, *supra*).

25 To the extent required, this Court can take judicial notice of Wayback Machine’s archived  
 26 webpages. See *Erickson v. Neb. Mach. Co.*, 2015 U.S. Dist. LEXIS 87417, at \*4 n.1 (N.D.  
 27 Cal. July 6, 2015); *Pond Guy, Inc. v. Aquascape Designs, Inc.*, 2014 U.S. Dist. LEXIS  
 85504, 2014 WL 2863871, at \*4 (E.D. Mich. Jun. 24, 2014); *In re Methyl Tertiary Butyl*  
 28 *Ether (MTBE) Products Liab. Litig.*, 2013 U.S. Dist. LEXIS 181837 (S.D.N.Y. Dec. 30,  
 2013).

<sup>4</sup> Underscoring further the interchangeability of naming conventions for these facilities is  
 that various documents from ICE refer to the facility as “San Diego Contract Detention



1 Notably, CoreCivic has not quibbled with Plaintiffs’ use of the term “Otay Mesa  
 2 Detention Center” until now, and in fact CoreCivic has repeatedly used the exact same  
 3 nomenclature to refer to the facility that housed Plaintiffs during their periods of detention  
 4 in prior briefing to the Court. For example, CoreCivic’s Answer specifically admits that  
 5 Plaintiffs were both civil immigration detainees “at CoreCivic’s Otay Mesa Detention  
 6 Center (“OMDC”), located in San Diego, California.” [Dkt. 44 (Answer) at ¶¶ 7 – 8; *see*  
 7 *also* Dkt. 118 [Opp. Class Cert.] at 27:19 – 31:18 (discussing each Plaintiff’s experiences  
 8 while detained “at SDCF or OMDC” without correction or distinction.)]

9 More importantly, it is irrelevant whether Plaintiffs were detained at San Diego  
 10 Correctional Facility or Otay Mesa Detention Center or any other CoreCivic detention  
 11 center. CoreCivic’s argument does not have any logical tether to the question of whether  
 12 Plaintiffs have standing to seek prospective equitable relief, and thus has no bearing on  
 13 Plaintiffs’ pending Motion for Class Certification, because CoreCivic implemented

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 16 Facility.” *See* U.S. Dept. Homeland Security, Office of Detention and Oversight,  
 17 “Compliance Inspection (Sept. 11 – 13, 2012), *available at*  
[https://www.ice.gov/doclib/foia/odo-compliance-inspections/sanDiego-Contract-det-  
 Fac\\_SanDiegoCA\\_Sept11-13-2012.pdf](https://www.ice.gov/doclib/foia/odo-compliance-inspections/sanDiego-Contract-det-Fac_SanDiegoCA_Sept11-13-2012.pdf) (last accessed Nov. 30, 2019).

18 But it is clear that at the expiration of CoreCivic’s lease, the San Diego Correctional Facility  
 19 would close and the Otay Mesa Detention Center would open—effecting a transition  
 20 between the two facilities with Otay Mesa Detention Center as the continuation of San  
 21 Diego Correctional Facility. *See also* CoreCivic’s SEC Form 10-K (ending Dec. 31, 2014),  
 22 at p. 15 (“[San Diego Correctional Facility] is subject to a ground lease with the County of  
 23 San Diego. Upon expiration of the lease in December 2015, ownership of the facility  
 24 automatically reverts to the County of San Diego. During the second half of 2015, we  
 25 expect to transfer the offenders at this facility to a new facility we are constructing in Otay  
 26 Mesa, California.”), *available at* [http://ir.corecivic.com/static-files/e95c7c2d-e73c-4584-  
 8e4b-5b2e8a259af1](http://ir.corecivic.com/static-files/e95c7c2d-e73c-4584-8e4b-5b2e8a259af1) (last accessed Nov. 30, 2019); *id.* at p. 74 (“In order to retain federal  
 27 inmate populations we currently manage in the 1,154-bed San Diego Correctional Facility,  
 28 we are constructing the 1,492-bed Otay Mesa Detention Center at a site in San Diego. The  
 existing San Diego Correctional Facility is subject to a ground lease with the County of  
 San Diego. Under the provisions of the lease, the facility is divided into three different  
 properties whereby, pursuant to an amendment to the ground lease executed in January  
 2010, ownership of the entire facility reverts to the County upon expiration of the lease on  
 December 31, 2015. As of December 31, 2014, we have invested approximately \$121.5  
 million related to the new facility. We have developed plans to build the Otay Mesa  
 Detention Center within a construction timeline that coincides with the expiration of the  
 ground lease with the County of San Diego. We currently estimate the total construction  
 cost, inclusive of land and site development costs already incurred, will range from  
 approximately \$153.0 million to \$157.0 million. We plan to offer this new facility to house  
 the existing federal inmate populations at the San Diego Correctional Facility.”)

1 enterprise-wide policies, procedures and practices for civil immigration detainees. [See  
2 Dkt. 84-1 (Class Cert. Mot.) at 4:19 – 13:18.] These include:

- 3 • Classifying civil immigration detainees that worked at CoreCivic’s California  
4 facilities as “volunteers” rather than “employees”;
- 5 • Forcing civil immigration detainees at all facilities to work under threat of  
6 discipline; and
- 7 • Coercing civil immigration detainees at all facilities to work by withholding  
8 basic living necessities.

9 [Id.] As a result, ICE detainees throughout CoreCivic’s facilities—both within California  
10 and nationwide—were subjected to the same challenged policies, procedures and practices  
11 that CoreCivic inflicted on Plaintiffs.

12 Plaintiffs’ claims are not against just Otay Mesa Detention Center or specific to that  
13 particular facility; rather, Plaintiffs’ claims are individual and *class* claims on a California-  
14 wide and nation-wide basis that challenge CoreCivic’s company-wide policies, procedures  
15 and practices that CoreCivic admits it implements at all of its detention facilities that house  
16 civil immigration detainees. CoreCivic’s attempt to create a distraction by raising a  
17 technical distinction that neither party has observed for over two years of litigation.  
18 CoreCivic fails to explain the legal consequence or significance of this distinction and how  
19 that distinction bears on the lawsuit. Thus, the semantic distinction is not entitled to any  
20 weight and should be disregarded.<sup>5</sup>

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22 <sup>5</sup> In this regard, the Court should also disregard the late-filed Benton Declaration. [D.I.  
23 147.] The Declaration was filed four days after the deadline for CoreCivic to submit its  
24 Supplemental Brief, and CoreCivic only did so after the Court granted *Plaintiffs* leave to  
25 file a Reply. [D.I. 146.] Ms. Benton did not perform the database query herself—she only  
26 reviewed the results—so Ms. Benton cannot testify as to the accuracy or completeness of  
27 the results she reviewed. [See D.I. 147 at ¶ 6.]

28 More importantly, the results of the query [see *id.* at ¶ 7] appear to be incorrect based on  
information contained in Plaintiffs’ detainee files. For example, Ms. Benton states that,  
based solely on her review of the database query results, Mr. Owino was detained at the  
San Diego Correctional Facility on three occasions: from May 2, 2008 to December 3,  
2009; again from March 3, 2010, to May 23, 2013; and finally from February 9, 2015, to  
March 9, 2015. [Id.] But Mr. Owino’s detainee file includes intake / admission and other  
documents for the San Diego Correctional Facility from 2007—over one year *prior* to the  
database query that Ms. Benton reviewed showing Mr. Owino’s first admission into San



1           **C. CoreCivic Does Not Dispute That Plaintiffs Possess Standing To Seek**  
 2           **Monetary Damages, Restitution, Interest, Penalties, Punitive Damages,**  
 3           **And Fees And Costs.**

4           CoreCivic does not dispute, and effectively concedes, that Plaintiffs have standing  
 5 to pursue claims seeking monetary damages, restitution, interest, penalties, punitive  
 6 damages, and fees and costs. CoreCivic also does not dispute that the Court can proceed  
 7 with certifying the proposed classes as to Plaintiffs’ claims for monetary damages,  
 8 restitution, interest, penalties, punitive damages, and fees and costs *even if* the Court finds  
 9 that Plaintiffs do not have standing to pursue prospective equitable relief. *See Tschudy v.*  
 10 *J.C. Penney Corp., Inc.*, No. 11-cv-1011 JM (KSC), 2014 U.S. Dist. LEXIS 174382, at \*19  
 11 (S.D. Cal. Dec. 17, 2014) (certifying class action and appointing plaintiffs as class  
 12 representatives as to their “claims for damages, penalties, restitution, disgorgement, and  
 13 fees and costs,” even though plaintiffs were deemed to “not have standing to seek  
 14 injunctive relief”). Plaintiffs respectfully submit to the Court that, at a minimum, the five  
 15 proposed classes should be certified as to claims seeking these remedies.

16           **D. Plaintiffs Possess Article III Standing To Pursue Their Claims For**  
 17           **Prospective Equitable Relief.**

18           In addition to claims seeking damages, Plaintiffs reiterate that they possess Article  
 19 III standing to pursue prospective equitable relief for two reasons. First, injunctive relief  
 20 is expressly authorized by both Cal. Civ. Code § 52.5(a) for victims of forced labor and  
 21 Cal. Bus. & Prof. Code § 17203 for individuals who have been damaged by unlawful,  
 22 unfair, or fraudulent business conduct. *Post-Spokeo*, courts have rejected the narrow  
 23 reading of Article III standing advanced by CoreCivic where, as here, the proposed class  
 24

25 \_\_\_\_\_  
 26 Diego Correctional Facility on May 2, 2008. [*Compare* D.I. 147 (Benton Decl.) at ¶ 6,  
 with Supp. Ridley Decl. at ¶ 7 & Ex. D.]

27 Further, the Benton Declaration’s statement about Mr. Owino being detained at San Diego  
 28 Correctional Facility “on three occasions” is misleading because it gives the impression  
 that Mr. Owino was detained on three *separate* occasions—which he was not, he was  
 merely transferred to other facilities during one continuous period of 9.5 years in detention.  
 [See D.I. 144-1 at ¶¶ 3 – 4.]

1 representatives were actually harmed by conduct proscribed by statute and the statute  
 2 authorizes prospective equitable relief. *See Ingalls v. Spotify USA, Inc.*, 2017 U.S. Dist.  
 3 LEXIS 110817, \*14-18 (N.D. Cal. July 17, 2017) (“If this order were to construe Article  
 4 III standing as narrowly as defendant advocates, federal courts could never enjoin  
 5 Section 17200 claims. Such holding ‘would eviscerate the intent of the California  
 6 Legislature.’” (citing *Ries v. Arizona Beverages USA LLC*, 287 F.R.D. 523, 533 (N.D. Cal.  
 7 2012))).

8 Second, Article III standing exists where there is “a sufficient likelihood that  
 9 [plaintiff] will again be wronged in a similar way.” *Davidson v. Kimberly-Clark Corp.*,  
 10 873 F.3d 1103, 1113 (9th Cir. 2017) (citing *City of Los Angeles v. Lyons*, 461 U.S. 95, 111  
 11 (1983)). Plaintiffs’ status within the United States remains precarious, and CoreCivic’s  
 12 dismissive assertions of “paranoia” cannot undermine the basic reality that detainment is  
 13 far from “hypothetical” and “conjectural” for Mr. Owino, who lacks lawful status in the  
 14 United States. [Dkt. 144-1 at ¶ 5.] Similarly, Mr. Gomez’s green card did not stop him  
 15 from being detained by ICE and held at a CoreCivic facility for 15 months. [Dkt. 144-2 at  
 16 ¶¶ 5 – 6.]

17 **E. Current Members Of The Putative Classes Can Readily Cure Any**  
 18 **Defects If The Court Finds That Plaintiffs Do Not Possess Standing To**  
 19 **Seek Prospective Equitable Relief.**

20 CoreCivic does not dispute that other members of the putative classes can be  
 21 substituted into the case as named Plaintiffs in the event the Court finds that Plaintiffs do  
 22 not possess Article III standing to pursue prospective equitable relief. CoreCivic admits  
 23 that Mr. Geh is a putative class member who was detained at a CoreCivic facility when the  
 24 original complaint was filed. [Dkt. 145 at 6, fn. 3] Had he been named as a plaintiff when  
 25 the lawsuit was filed, Mr. Geh indisputably would have had standing. [*Id.*] Further,  
 26 CoreCivic does not address the fact that at least three members of Plaintiffs’ putative  
 27 classes—all named plaintiffs in the currently stayed action *Gonzalez, et al., v. CoreCivic,*  
 28 *Inc.*, Case No. 17-CV-2573 JLS (NLS)—filed their separate suit while they were detained

1 at CoreCivic’s Otay Mesa Detention Center. Finally, CoreCivic also does not dispute that  
2 there are hundreds of putative class members who are currently incarcerated at CoreCivic’s  
3 facilities that would have standing to seek prospective equitable relief (if Plaintiffs’ counsel  
4 had the ability to interview them).

5 Although CoreCivic argues that a new plaintiff should not be permitted to join the  
6 lawsuit now, “[i]f an easily curable jurisdictional defect is discovered,” the new plaintiff  
7 should not “be put to the bother of filing a fresh suit ‘which at long last will merely bring  
8 the parties to the point where they now are.’” *See Cason v. P.R. Elec. Power Auth.*, 770  
9 F.3d 971, 977 (1st Cir. 2014) (citing *Hackner v. Guaranty Trust Co. of New York*, 117 F.2d  
10 95, 98 (2d Cir. 1941)). To hold otherwise would require the new plaintiffs to “jump  
11 through . . . judicial hoops merely for the sake of hypertechnical jurisdictional purity.” *Id.*  
12 (citing *Newman-Green*, 490 U.S. 826, 837 (1989)).

13 **III. CONCLUSION**

14 Plaintiffs respectfully submit to the Court that they possess Article III standing to  
15 assert the relief sought in their First Amended Complaint. In the event that the Court finds  
16 to the contrary, any defect can be readily cured by the addition of a putative class member  
17 as a named plaintiff for purposes of seeking prospective equitable relief.

18  
19 DATED: December 2, 2019

**FOLEY & LARDNER LLP**  
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23  
24 /s/ Eileen R. Ridley  
Eileen R. Ridley  
Attorneys for Plaintiffs SYLVESTER OWINO,  
25 JONATHAN GOMEZ, and the Proposed  
26 Class(es)

27 [Counsel continued on following page]  
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Attorneys for Plaintiffs SYLVESTER OWINO,  
JONATHAN GOMEZ, and the Proposed  
Class(es)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on December 2, 2019, to all counsel of record who are deemed to have consented to electronic service via the Court’s CM/ECF system per Civil Local Rule 5.4.

*/s/ Eileen R. Ridley*  
Eileen R. Ridley

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12 Attorneys for Plaintiffs SYLVESTER OWINO,  
JONATHAN GOMEZ, and the Proposed Class(es)

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

15 SYLVESTER OWINO and JONATHAN )  
16 GOMEZ, on behalf of themselves and all )  
others similarly situated, )

17 Plaintiffs, )

18 vs. )

19 CORECIVIC, INC., )

20 Defendant. )

21 CORECIVIC, INC., )

22 Counter-Claimant, )

23 vs. )

24 SYLVESTER OWINO and JONATHAN )  
25 GOMEZ, on behalf of themselves and all )  
26 others similarly situated, )

27 Counter-Defendants. )  
28

Case No. 3:17-CV-01112-JLS-NLS

**CLASS ACTION**

**SUPPLEMENTAL DECLARATION  
OF EILEEN R. RIDLEY IN SUPPORT  
OF PLAINTIFFS' REPLY BRIEF IN  
RESPONSE TO DEFENDANT'S  
SUPPLEMENTAL BRIEF**

Date: December 19, 2019  
Time: 2:30 p.m.  
Place: Courtroom 4D

Judge: Hon. Janis L. Sammartino  
Magistrate: Hon. Nita L. Stormes

1 I, Eileen R. Ridley, declare as follows:

2 1. I am over the age of eighteen, and I am an attorney at law duly licensed to  
3 practice in the State of California and before this Court. I am a partner at the law firm of  
4 Foley & Lardner LLP, counsel of record for Plaintiffs and Counter-Defendants Sylvester  
5 Owino and Jonathan Gomez, as well as the putative classes (“Plaintiffs”). I am one of the  
6 attorneys principally responsible for the representation of Plaintiffs in this lawsuit, and as  
7 a result I am familiar with the case file, documents, and history related to this action. I  
8 make this Supplemental Declaration based upon my own personal knowledge and am  
9 willing to testify, under oath, to the truth of the matter asserted herein if called to do so.

10 2. I make this Supplemental Declaration in support of Plaintiffs’ Supplemental  
11 Reply Brief In Response to CoreCivic’s Supplemental Brief, as permitted by the Court.  
12 (Dkt. 146.)

13 3. CoreCivic’s counsel told Plaintiffs’ counsel, including me, that if we wanted  
14 to speak with a detainee currently housed in a CoreCivic facility, we would have to identify  
15 the specific detainee with whom we wanted to communicate, and then present CoreCivic  
16 with that detainee’s consent before we could contact that detainee or schedule an interview.  
17 Attached hereto as **Exhibit A** is a true and correct copy of email correspondence from  
18 CoreCivic’s counsel to Plaintiffs’ counsel, including me, regarding the requirement to have  
19 a detainee’s prior consent before an interview can be scheduled with any detainee.

20 4. Given that neither I nor my colleagues have regular access to or  
21 communication with any of the civil immigration detainees housed in CoreCivic’s  
22 facilities, CoreCivic’s requirement that we obtain a detainee’s consent in advance of any  
23 meeting makes contacting those detainees practically impossible—despite that my  
24 colleagues and I seek to represent a *class* of these detainees, including the very people who  
25 are detained at this moment in these facilities.

26 5. Attached hereto as **Exhibit B** is a copy of excerpts from Plaintiff Jonathan  
27 Gomez’s detainee file, which were produced during this litigation by CoreCivic at  
28 CCOG00025282 – 283, and CCOG00025327 – 328. Portions of these excerpts have been

1 redacted because they contain personal or other identifying information. The public,  
2 redacted version of this exhibit is attached hereto. The sealed, unredacted exhibit is  
3 attached to my Declaration in support of Plaintiffs’ Motion To Seal, filed concurrently  
4 herewith.

5 6. Attached hereto as **Exhibit C** is a copy of excerpts from Plaintiff Sylvester  
6 Owino’s detainee file, which were produced during this litigation by CoreCivic at  
7 CCOG00025353, CCOG00025416, CCOG00025478 – 479, and CCOG00025481.  
8 Portions of these excerpts have been redacted because they contain personal or other  
9 identifying information. The public, redacted version of this exhibit is attached hereto.  
10 The sealed, unredacted exhibit is attached to my Declaration in support of Plaintiffs’  
11 Motion To Seal, filed concurrently herewith.

12 7. Attached hereto as **Exhibit D** is a copy of excerpts from Plaintiff Sylvester  
13 Owino’s detainee file, which were produced during this litigation by CoreCivic at  
14 CCOG00025334 – 336, CCOG00025338, CCOG00025341 – 342, and CCOG00025347 –  
15 349. Portions of these excerpts have been redacted because they contain personal or other  
16 identifying information. The public, redacted version of this exhibit is attached hereto.  
17 The sealed, unredacted exhibit is attached to my Declaration in support of Plaintiffs’  
18 Motion To Seal, filed concurrently herewith.

19 8. On December 1, 2019, my colleague, Nicholas Fox, sent an email to  
20 CoreCivic’s counsel informing CoreCivic of Plaintiffs’ intent to use Exhibits B – D  
21 attached to this Declaration. I was copied on this email. Although the Protective Order  
22 normally requires notice of three business days in advance of filing any “Confidential”  
23 documents produced by the opposing party (*see* D.I. 60), this timing requirement was  
24 impractical to satisfy for Plaintiffs’ Supplemental Reply Brief because (1) Plaintiffs were  
25 not expecting to file a Reply Brief based on the Court’s original briefing order, and when  
26 the Court authorized a Reply on November 22, 2019 (D.I. 146), Plaintiffs only had ten  
27 calendar days (or 3 – 4 business days) to file their Reply; (2) the long holiday weekend for  
28 Thanksgiving cut into the notice time; (3) the volume of documents and redactions is small,

1 making any review by CoreCivic fairly quick; and (4) most of the redactions Plaintiffs  
2 applied to Exhibits B – D were previously approved by this Court after meet/confer efforts  
3 between counsel (*see* D.I. 107).

4 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of  
5 the United States of America that the foregoing is true and correct.

6 Executed this 2nd day of December, 2019, in San Francisco, California.

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*/s/ Eileen R. Ridley*  
Eileen R. Ridley

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on December 2, 2019, to all counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system per Civil Local Rule 5.4.

*/s/ Eileen R. Ridley*  
Eileen R. Ridley

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**Index of Exhibits to Ridley Declaration**

<b>Exhibit No.</b>	<b>Description</b>	<b>Page(s)</b>
A	A true and correct copy of email correspondence from CoreCivic's counsel to Plaintiffs' counsel regarding protocol to schedule interviews with detainees.	1-3
B	A true and correct copy of excerpts from Plaintiff Jonathan Gomez's detainee file. <b>(Portions Filed Under Seal)</b>	4-7
C	A true and correct copy of excerpts from Plaintiff Sylvester Owino's detainee file. <b>(Portions Filed Under Seal)</b>	8-12
D	A true and correct copy of excerpts from Plaintiff Sylvester Owino's detainee file. <b>(Portions Filed Under Seal)</b>	13-20

# EXHIBIT A

**Fox, Nick**

---

**From:** Sherri Wolford <[SWolford@strucklove.com](mailto:SWolford@strucklove.com)>  
**Sent:** Monday, May 13, 2019 1:27 PM  
**To:** Waxman, Mark <[mwaxman@foley.com](mailto:mwaxman@foley.com)>; [lawoffice@rlteel.com](mailto:lawoffice@rlteel.com); Ouellette, Alan R. <[AQuellette@foley.com](mailto:AQuellette@foley.com)>; Raux, Geoffrey <[GRaux@foley.com](mailto:GRaux@foley.com)>; Ridley, Eileen R. <[ERidley@foley.com](mailto:ERidley@foley.com)>; Fox, Nick <[NFox@foley.com](mailto:NFox@foley.com)>  
**Cc:** Owino Team <[OwinoTeam@strucklove.com](mailto:OwinoTeam@strucklove.com)>  
**Subject:** FW: Owino - CoreCivic's responses to RFPs and other issues

**\*\* EXTERNAL EMAIL MESSAGE \*\***

Mr. Waxman,

The yellow highlighted language toward the bottom of this email should respond to your request.

Best regards,  
Sherri



Sherri Wolford  
Legal Assistant to Daniel P. Struck and Nicholas D. Acedo  
**STRUCK LOVE BOJANOWSKI & ACEDO, PLC**  
3100 West Ray Road | Suite 300 | Chandler AZ 85226  
480.420.1621 | [swolford@strucklove.com](mailto:swolford@strucklove.com) | [STRUCKLOVE.COM](http://STRUCKLOVE.COM)

**From:** Jacob Lee [<mailto:JLee@strucklove.com>]  
**Sent:** Friday, August 10, 2018 7:09 AM  
**To:** Raux, Geoff  
**Cc:** Waxman, Mark; Fox, Nick; R. L. Teel; Owino Team  
**Subject:** Owino - CoreCivic's responses to RFPs and other issues

Geoff,

This email will confirm our two-part telephonic meet and confer, which occurred on Friday, August 3 and Monday, August 6, 2018, regarding Plaintiffs' First Set of Requests for Production of Documents.

**[Meet and confer portion of email omitted]**

**[For the below, black text is CoreCivic's counsel's original email, red text is Plaintiffs' counsel's response, and dark blue text is CoreCivic's counsel's reply]**

Regarding your request for a site visit and detainee interviews, you will need to submit a formal Rule 34 request identifying the particular areas of OMDC you would like to view. Moreover, in order to speak to detainees, you will need to get agreements from specific detainees to meet with you, at which point legal visits can be arranged pursuant to the usual procedures. Plaintiffs will serve a formal Rule 34 inspection request. Please advise as to the particular procedures for scheduling detainee meetings (including if such procedures differ from facility to facility).

The procedures for scheduling attorney visits at OMDC are as follows (although procedures at other facilities may be similar, we can't guarantee they will be identical, and will have to deal with them on a case by case basis):

Again, before these procedures apply, a specific detainee would need to consent to an attorney visit. Attorneys and/or paralegals may visit detainees seven days a week from 8:30 am until 9:30 pm, including holidays.

Once that has occurred, attorney visits are set up by faxing a letter to the Warden's attention at the facility requesting the visit. The fax number is 619-671-8799. The letter needs to specify who is coming to visit, including translators, paralegals, etc.

The facility checks the letter and attorney name against the list of pre-approved attorneys, i.e., those who represent the ICE detainee in their immigration matter. (A G-28 Notice of Entry of Appearance, is the DHS Form used for those entities: <https://www.uscis.gov/sites/default/files/files/form/g-28.pdf>.)

If the attorney or staff is not on the approved list, ICE will need to run a background check to approve them to have a legal visit. In addition to the G-28, ICE will need a bar card and driver's license info for each person.

If there are other issues that arise, you will need to contact the ICE Field Office Deportation Officer for each detainee. The Main Telephone Line for the Field Office is 619-557-6117. They usually need to know the detainee name, A#, and County of Citizenship, to be able to forward you to the correct Deportation Officer.

The facility requires a minimum of 24-hours notice (excluding weekends) to set up legal visits for approved counsel. If counsel are not on the pre-approved list, it ultimately is out of the facility's hands how long ICE will take.

**[Remainder of meet and confer portion of email omitted]**

Please let us know if we have misstated our agreements and discussions in any way.

Jacob



Jacob B. Lee  
Attorney

**STRUCK LOVE BOJANOWSKI & ACEDO, PLC**  
3100 West Ray Road | Suite 300 | Chandler AZ 85226  
480.420.1621 | [swolford@strucklove.com](mailto:swolford@strucklove.com) | [STRUCKLOVE.COM](http://STRUCKLOVE.COM)

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Tax Advice Disclosure: To ensure compliance with requirements imposed by the IRS under Circular 230, we inform you that any U.S. federal tax advice contained in this communication (including any attachments), unless otherwise specifically stated, was not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

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**EXHIBIT B**  
**(REDACTED)**

*INTAKE*

FORM I-216

U.S. DEPARTMENT OF HOMELAND SECURITY  
IMMIGRATION & CUSTOMS ENFORCEMENT  
(REV. 5/22/07)

Sheet No. \_\_\_\_\_

Transfer Date: 6/18/12

RECORD OF PERSON(S) AND PROPERTY TRANSFERRED

FROM: USBP/OFO BARRACKS -5  
ORIGIN FO: San Diego Field Office

VIA (1) \_\_\_\_\_  
VIA (2) \_\_\_\_\_

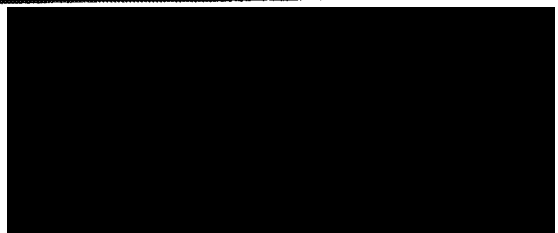
TO: ODF/CCA  
DEST FO: \_\_\_\_\_

MODE: \_\_\_\_\_  
OTHER: \_\_\_\_\_

File No.	Name of Person		DOB	Nationality	Status	Sex	Convictions	Gang Membership	Class Level	Detainee Money	Property I-77 #	Fins#	Subject ID #
	Last	First											
	GOMEZ	Jonathan											

I certify compliance with all ICE Detention and Transfer Standards and JPATS Boarding Requirements for this JPATS/Charter movement.  
Name and Title: \_\_\_\_\_ Office: ODF/SND Contact Number(s): \_\_\_\_\_

- (1)- Show whether transfer or removal. For transfers show whether NTA or Final.
  - (2)- Show medical conditions, high risk, flight risk, epileptic, insane, etc.
- Use a separate line for each person transferred.  
This form is to be executed in sufficient number of copies to allow the receiving officer to retain one copy of his/her personal expense voucher and two additional copies for the station of final delivery.



Received the above listed persons, property, and baggage checks  
Signature: \_\_\_\_\_  
Title & Star: \_\_\_\_\_  
Place & Date: 6-18-12 *[Signature]*

HOLDING CELL #	IN	OUT	CELL INSP	S/O

U.S. Department of Homeland Security

Sheet No.

**Form I-203A/B, Order to Detain / Release Aliens**

(Name and Title of Person in Charge of Facility)  
**Warden or Officer in Charge** Name of Facility: **Otay Detention Facility San Diego / CCA**

Case DETAIN / RELEASE the alien(s) listed below

Date and Time of admission / release:

Special Note:

Name

Last	First	A- Number	Nationality	Status	Sex	Convictions	Class Level	DOB	FINS #	Detainee Funds	I-77	Subject ID#
										see I-216		
										see I-216		
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GOMEZ	Jonathan									see I-216		
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										see I-216		

\* Cite Basis for Detention / Release (e.g., NTA, Reinstatement, Administrative Removal, Expedited Removal, Room & Board, Bond, IJ order, Order of Supervision, Order of Recognizance, etc.)

Printed Name and Signature of Receiving Officer: [Redacted] Printed Name and Signature of Officer Directing Action: [Redacted] Date: 6/18/2012

Title, Office and Telephone Number: [Redacted] Title, Office and Telephone Number: [Redacted]



Date Request Received by ICE: JUN 20 2012



U.S. Department of Homeland Security  
Bureau of Immigration and Custom Enforcement  
Detention and Removal Operations  
446 Alta Road, Suite 5400  
San Diego, CA 92158



Detainee Request Form / Peticion del Preso  
Otay Mesa Detention Facility

Unit A Pod D Room # 215

24170  
0D12

Notice! You must fill out this form completely, or it will not be delivered to your deportation officer  
Aviso! Debe llenar esta forma completamente, o no sera entregada a su oficial de deportacion.

Last Name Gomez  
Apellido

First Name Jonathan  
Primer Nombre

Date of Birth [Redacted]  
Fecha de Nacimiento

ICE A # [Redacted]  
Numero de Inmigracion

Nationality [Redacted]  
Nacionalidad

Have you been ordered removed? Yes/Si  No/no   
¿Tiene una orden de deportacion?

Detainee Request: I would like to receive my NTA.  
Peticion del Preso:

Do you desire a response? Yes/Si  No/no   
¿Quiere una respuesta?

Signature of Detainee Jonathan Gomez  
Firma del Preso

Date 06/19/2012  
Fecha

ICE Response: YOU DID NOT RECEIVE A COPY OF YOUR  
Repuesta de ICE: NTA WHEN YOU SIGNED IT?  
I DO NOT HAVE YOUR FICE YET.

Signature of ICE Officer [Redacted]  
Firma del Oficial de ICE

Date 6/20/12  
Fecha

JUN 25 2012

Date Request Received by ICE:



U.S. Department of Homeland Security  
Bureau of Immigration and Custom Enforcement  
Detention and Removal Operations  
446 Alta Road, Suite 5400  
San Diego, CA 92158



Detainee Request Form / Peticion del Preso  
Otay Mesa Detention Facility

0012  
24242

Unit A Pod D Room # 215

Notice! You must fill out this form completely, or it will not be delivered to your deportation officer  
Aviso! Debe llenar esta forma completamente, o no sera entregada a su official de deportacion.

Last Name Gomez  
Apellido

First Name Jonathan  
Primer Nombre

Date of Birth [Redacted]  
Fecha de Nacimiento

ICE A# [Redacted]  
Numero de Inmigracion

Nationality [Redacted]  
Nacionalidad

Have you been ordered removed? Yes/Si  No/no   
¿Tiene una orden de deportacion?

Detainee Request: I would like the name of my deportation officer, if you already have my NTA can you please send me a copy.  
Peticion del Preso: officer, if you already have my NTA can you please send me a copy.

Do you desire a response? Yes/Si  No/no   
¿Quiere una respuesta?

Signature of Detainee Jonathan Gomez  
Firma del Preso

Date 06/22/2012  
Fecha

ICE Response: WHERE IS YOUR COPY OF YOUR NTA? I DO NOT HAVE YOUR FILE TO PROVIDE YOU WITH A COPY. YOU SHOULD HAVE BEEN GIVEN A COPY OF IT AFTER YOU SIGNED IT.

Signature of ICE Officer [Redacted]  
Firma del Official de ICE

Date 6/25/12  
Fecha

**EXHIBIT C**  
**(REDACTED)**



**INTAKE**

**RECORD OF PERSON AND PROPERTY TRANSFERRED**

Date of transfer: **February 05, 2007**

From: **FLO**

To: **CCA/ODF VIA JPATS**

File No.	Name of Person	Nationality	DOB	Alert	IDENT	Status	FINS	Baggage Receipt	Money Receipt / \$	File Location
	OWINO, SYLVESTRE							1310592	21652031	SND

**JPATS Flight Operations: If relevant, include the following information.**

1. A-File with body (Yes/No) or it has been FedEx to the subjects final Destination.
2. If the subject has been IDENT'ed, note in the appropriate block.
3. If the subject has property, money or valuables, note the I-77 and G-589 receipt numbers in the appropriate block.

This form is to be executed in sufficient number of copies to allow each receiving officer to retain one copy for his office files.

Received the above listed persons, property and baggage checks

Signature \_\_\_\_\_

Title \_\_\_\_\_

Place and Date

**ODF 2/5/07**

Original Copy - 50

United States Department of Homeland Security  
United States Immigration and Customs Enforcement  
Detention and Removal Operations

446 Alta Road, Suite 5400  
San Diego, CA 92158



Inmate Request Form/Peticion del Preso  
Otay Mesa Detention Facility

Unit A Pod D Room# 116

09 2007

Notice! You must fill out this form completely, or it will not be delivered to your deportation officer.  
¡Aviso! Debe llenar esta forma completamente, o no sera entregada a su oficial de deportacion.

Last Name Gwinio  
Apellido

First Name Sylvester  
Primer Nombre

Date of Birth [Redacted]  
Fecha de Nacimiento

ICE A# [Redacted]  
Numero de Inmigracion

Nationality [Redacted]  
Nacionalidad

Have you been ordered removed? Yes/ No/  
¿Tiene una orden de deportacion?

Inmate Request:

Peticion del Preso:

Please provide me with the address to the federal Tort Claims that covers San Diego jurisdiction or closer to San Diego. If possible, provide with also telephone #. I have requested this address through Library Assistant [Redacted] but he can not get it. I'm in need of this address so as to communicate with this court. I've asked [Redacted] for over 3 weeks now. Please help promptly and if not direct me to the right direction. I need this address A.S.A.P. Thanks in advance for your anticipated prompt response with this request. Respectfully Submitted Gwinio

Do you desire a response? Yes/ No/  
¿Quiere una respuesta?

Signature of Inmate [Signature]  
Firma del Preso

Date 07/09/07  
Fecha

ICE Response:

Repuesta de ICE:

it is 880 Front St  
San Diego, Ca, 92101

Signature of ICE Officer [Redacted]  
Firma del Oficial de ICE

Date 7/11/07

Exhibit C Page 9



RFD

**Form I-216**  
U.S. DEPARTMENT OF HOMELAND SECURITY  
IMMIGRATION & CUSTOMS ENFORCEMENT  
(Rev 04/28/11)

Sheet No. 2300874 (page 1 of 1)

Transfer Date: 02/09/15

**RECORD OF PERSONS TRANSFERRED**

FROM: FLORENCE STAGING FACILITY (IHSC) VIA (1) IWA TO: SAN DIEGO, CA  
 Origin FO: FLORENCE, AZ, PROCESSING CENTER VIA (2) SAN Dest. FO: SAN DIEGO, CA  
 MODE: ICE AIR  
 Other:

File No.	Name of Person		DOB	Nationality	Status (1)	Sex	Convictions	Gang Membership	Class Level	Fine #	Subject ID	Comments (2)
	LAST	FIRST										
	OWING	SYLVESTER OTIENO										

I certify compliance with all ICE Detention and Transfer Standards and ICE Air Boarding Requirements for this ICE Air/Charter movement.

Name and Title: [Redacted] Office: FLO Contact Number: [Redacted]

- (1) - Show whether transfer or removal. For transfers show whether NTA or Final Order (F/O)
- (2) - Show medical conditions, high risk, flight risk, epileptic, insane, etc.

Use a separate line for each person transferred.  
 This form is to be executed in sufficient number of copies to allow the officer to retain one copy of his personal expense voucher and two copies for station of final delivery.

Received the above listed persons

Signature:

HOLDING	IN	OUT	CELL	D/O
CELL			INSPI	

[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
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Department of Homeland Security

Sheet No.

Form I-203A/B, Order to Detain / Release Aliens

(Name and Title of Person in Charge of Facility) <b>Warden or Officer in Charge</b>	Name of Facility: <b>Otay Detention Facility San Diego / CCA</b>
--	--

Please DETAIN / RELEASE the alien(s) listed below Special Note:	Date and Time of admission / release: <b>02/09/15; 2100</b>
--	---

Name		A- Number	Nationality	Status	Sex	Convictions	Class Level	DOB	FINS #	Detainee Funds	I-77	Subject ID#
OWINO	SYLVESTER OTIENO	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	see I-216	[REDACTED]	[REDACTED]
										see I-216		
										see I-216		
			#REF!							see I-216		
										see I-216		
										see I-216		
										see I-216		
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										see I-216		
										see I-216		
										see I-216		
										see I-216		
#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	#REF!	see I-216	#REF!	#REF!
		LONG TERM R&B								see I-216		
										see I-216		

\* Cite Basis for Detention / Release (e.g., NTA, Reinstatement, Administrative Removal, Expedited Removal, Room & Board, Bond, IJ order, Order of Supervision, Order of Recognizance, etc.)

Printed Name and Signature of Receiving Officer [REDACTED]	Printed Name and Signature of Officer Directing Action [REDACTED]
Office and Telephone Number [REDACTED], ODF, X3868	Title, Office and Telephone Number [REDACTED]
Date 2/9/2015	

ORDER TO Detain ALIEN

Sheet No. 328553 (page 1 of 1)

TO: \_\_\_\_\_

Please detain or release the following  
 Detain \_\_\_\_\_

NAME OF FACILITY:  
 CCA/ODF

Nature of Proceedings \_\_\_\_\_

NAME	POUCH NO.	AGE	SEX	NATIONALITY	BIRTHDATE Month/Date/Year	ALIEN NUMBER	CLS CODE	REMOVAL	
								PREVIOUS CONVICTIONS	FINS NUMBER
OWINO SYLVESTER OTIEND									

FINGERPRINTS \_\_\_\_\_ AM PHOTO \_\_\_\_\_

Signature of Retention Officer, Sheriff, or Receiving Official: \_\_\_\_\_ Date: 3/8/2015

Signature of Officer Directing Action: \_\_\_\_\_ Date: 3/8/2015

Title: D.O. Station: SAN DIEGO

Form I-203 Phila. DEPARTMENT OF HOMELAND SECURITY - US IMMIGRATION AND CUSTOMS ENFORCEMENT

[REDACTED]

P-242  
 61555-5599  
 IIR-09-2018-13565-1 from ICE DRG

**EXHIBIT D**  
**(REDACTED)**

DATE: 02-06-07 TIME: 0015

DOB: [REDACTED]

2. AGE | 3. COUNTRY OF CITIZENSHIP

5. DATE APPREHENDED  
02/06/2007

6. OFFICE  
ICE

BIRTH PLACE

SEX

10. OSC/WA SERVED  
 Yes  No

FILE NUMBER

12. BOND \$ | DATE POSTED

13. CINS

Yes  No

14. MEDICAL ALERT  
 No  Yes (Explain)

14A.

5. TRANSFER DATE

02/06/2007

FROM

TO

SAN DIEGO CORRECTIONAL FACILITY

18. ADMITTED BY:

19. RELEASED TO:  W/R  DEPORT

22. RT. INDEX PRINT --IN

23. RT. INDEX PRINT --OI

15. DATE ADMITTED:

2/06/2007

20. RELEASED BY:

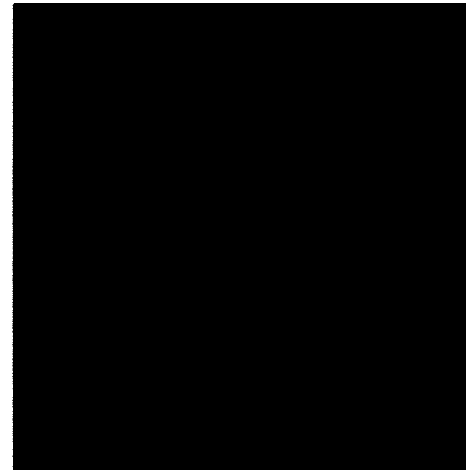
21. DATE RELEASED:

16. REMARKS

SAN DIEGO CORRECTIONAL FACILITY  
INMATE COMMITMENT SUMMARY

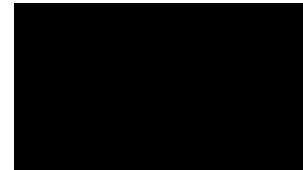
Print Date: 02/07/2007

Full Name: OWINO, SYLVESTER OTIENO AGENCY ID # [REDACTED]  
Committed By: IMMIGRATION AND CUSTOMS ENFORCEME  
Arrested By:  
Transported By: ICE  
Admission Type: DETAINEE  
Booking Date: 02/06/2007  
Booking Time: 04:05AM  
Booking Officer: [REDACTED]  
Shift: [REDACTED]



Current Age: [REDACTED]  
Sex: [REDACTED]  
Race: [REDACTED]  
Marital Status: [REDACTED]  
SSN: [REDACTED]  
Height: [REDACTED]  
Weight: [REDACTED]  
Eye Color: [REDACTED]  
Hair Color: [REDACTED]  
Complexion: [REDACTED]  
Build: [REDACTED]  
Citizen Of: [REDACTED]  
Place of Birth: [REDACTED]  
Country of Birth: [REDACTED]  
Religion: [REDACTED]  
Church Attendance: [REDACTED]  
Gang: [REDACTED]  
Valid Driver's Lic.?: [REDACTED]  
Driver's Lic. State: [REDACTED]  
License#: [REDACTED]  
Commissary Choice: [REDACTED]

Custody Level: [REDACTED]  
CCA # [REDACTED]  
Permanent ID#: [REDACTED]  
Booking # [REDACTED]



Can Inmate Read English?  
Read Language:  
Can Inmate Write English?  
Write Language:  
Legal Address:

Phone #: (XXX)XXX-XXXX

Emergency Contact



Secondary Emergency Contact: .....

Scars / Tattoos

Known Aliases



**RECEIVING & DISCHARGE CHECKLIST**

Inmate/Resident Name: Nombre del Detenido:	<b>OWINO, SYLVESTER OTIENO</b>	Inmate/Resident #: Numero del Detenido:	[REDACTED]
---	--------------------------------	--	------------

**RECEIVING CHECKLIST:**

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Verification of Commitment Papers</li> <li><input checked="" type="checkbox"/> Searched at intake</li> <li><input checked="" type="checkbox"/> Shower at Intake</li> <li><input checked="" type="checkbox"/> Issue of Clean, laundered clothing</li> <li><input checked="" type="checkbox"/> Disposition of all monies at intake</li> <li><input checked="" type="checkbox"/> Medical, dental, mental health screening</li> <li><input checked="" type="checkbox"/> Assignment of CCA Number</li> <li><input checked="" type="checkbox"/> Personal Property Inventoried (copy given to inmate/resident)</li> </ul> | <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Assignment to a Housing unit</li> <li><input checked="" type="checkbox"/> Photograph/I.D. Card</li> <li><input checked="" type="checkbox"/> Classification Booking Sheet</li> <li><input checked="" type="checkbox"/> Hygiene items Issued</li> <li><input checked="" type="checkbox"/> Explanation of Mail and Visiting Procedures</li> <li><input checked="" type="checkbox"/> Issue of Look (if applicable)</li> <li><input checked="" type="checkbox"/> Telephone Calls</li> <li><input checked="" type="checkbox"/> Other:</li> </ul> |
|---|---|

**INMATE/RESIDENT HANDBOOK ACKNOWLEDGMENT:** BY SIGNING BELOW, I ACKNOWLEDGE RE AN INMATE/RESIDENT HANDBOOK ON THIS DATE.

**ACUSE DE RECIBO MANUAL POR DETENIDOS:** POR MI FIRMA, YO RECIBO UN MANUAL POR DE EN ESTE DIA

[REDACTED]

2/6/07  
Date/Fecha

Inmate/Resident Signature/Firma del Detenido  
[REDACTED]

Receiving Officer (Signature)

**VOLUNTARY WORK RELEASE**

As a pre-trial or un-sentenced detainee, I understand that I may not be compelled to work other than to perform hou: tasks in my own cell and the community living area. I would like to volunteer for work assignments in addition to my hou: tasks. I am aware that I will be working with inmates/residents who are serving a sentence for convictions of crimes. I below I am volunteering to participate in work assignments.

**LIBERACION VOLUNTARIA DE TRABAJO**

Como un detenido antes de prueba o sin sentencia, yo entiendo que no puedo ser obligado a trabajar en ninguna area que sea la limpieza de mi propia celda y el area comun. Me gustaria ser voluntario para asignaciones de trabajo junto c de limpieza de mi celda. Yo estara trabajado con presos que estan cumpliendo su sentencia por convicciones de crime firma abajo yo de voluntario quiero participar en asignaciones de trabajo.

[Signature]  
Inmate/Resident Signature/Firma del Detenido

2/6/07  
Date/Fecha

**DISCHARGE CHECKLIST:**

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Verification of identity of inmate/resident</li> <li><input type="checkbox"/> Return of all inmate/resident personal property (if any)</li> <li><input type="checkbox"/> Completion of all pending actions with CCA</li> <li><input type="checkbox"/> Return of all inmate/resident funds (if any)</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Verification of proper release authority</li> <li><input type="checkbox"/> Return of all CCA issued property</li> <li><input type="checkbox"/> Inmate/resident received all release papers</li> <li><input type="checkbox"/> Other:</li> </ul> |
|---|--|

Discharging Officer (Signature)

Date/Fecha

Inmate/Resident (Signature)/Firma del Detenido

San Diego Correctional Facility  
INMATE/DETAINEE PROPERTY RECEIPT

NAME: OWINO, SYLVESTER OTIENO  
AGENCY ID#: [REDACTED]

**SEIZED PROPERTY:**

Property ID: 269C

Location: VALUABLE PROPERTY/DRAWER 5 (241-300)

QTY	CATEGORY	DESCRIPTION	STYLE	COLOR	ORIGINAL COM
1	JEWELR	NECKLACE	BEADS	BLUE/YELLOW	USED
1	CLOTHE	SHIRT	L/S	YELLOW	USED
1	CLOTHE	SOCKS		WHITE	USED
1	SHOES	TENNIS SHOES		WHITE	USED
1	CLOTHE	TROUSERS/SLACKS	SWEATS	GRAY	USED
1	CLOTHE	UNDERSHIRT		WHITE	USED
3	CLOTHE	UNDERWEAR	BRIEFS	WHITE	USED
1	JEWELR	WATCH	LEATHER	BROWN	POOR

**PROPERTY IN INMATE CUSTODY:**

Property ID:

Location:

QTY	CATEGORY	DESCRIPTION	STYLE	COLOR	ORIGINAL COM
1		BLANKET			
2		CUP			
1		LAUNDRY BAG			
1		MATTRESS			
2		PANTS			
1		PILLOW			
1		PILLOW CASE			
2		SHEETS			
2		SHIRTS			
1		SHOES			
1		SHOWER SHOES			
5		SOCKS			
1		SPORK			
2		TOWEL			
5		T-SHIRT			
5		UNDERWEAR			
1		WASHCLOTH			

Property ID: 269C

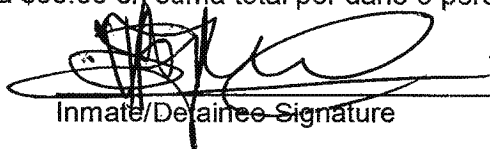
Location: VALUABLE PROPERTY/DRAWER 5 (241-300)

QTY	CATEGORY	DESCRIPTION	STYLE	COLOR	ORIGINAL COM
1	JEWELR	RING	BAND	YELLOW	USED



I understand that Corrections Corporation of America is not responsible for items I keep and will only compensate total for damage to or loss of property they store.

Por este medio entiendo que Corrections Corporation of America no es responsable por articulos que yo tenga en propiedad y solamente compensara \$50.00 en suma total por dano o perdida de propiedad que ellos guardan o de

  
\_\_\_\_\_  
Inmate/Detainee Signature

02/06/07

\_\_\_\_\_  
Date

\_\_\_\_\_  
Discharge Officer Signature

\_\_\_\_\_  
Date Returned

\_\_\_\_\_  
Inmate/Detainee Signature

\_\_\_\_\_  
Date Returned

### SAN DIEGO CORRECTIONAL FACILITY INMATE/DETAINEE SAFETY RULES

Each new commitment will be required to read and sign the below safety regulations. In the event the inmate/detainee cannot read, the regulations will be read and explained to him/her, and this will be indicated in the signature area. If, for any reason, an inmate/detainee refuses to sign, it will be noted on the bottom portion of this form.

#### DISCIPLINARY ACTION MAY RESULT FROM FAILURE TO FOLLOW THESE SAFETY REGULATIONS:

1. Every effort will be made to provide a safe environment for inmates/detainees incarcerated in the facility. Matters relating to occupational safety and health policy and practice will adhere to state and local codes. Compliance with established safety practices will be the responsibility of each CCA employee, inmate and detainee.
2. It is the responsibility of each inmate/detainee worker to use the safety equipment issued to protect them against physical injury and/or health hazards. Make certain you follow instructions for properly wearing required personal protective equipment, such as goggles, aprons, and arm guards before you begin an operation.
3. Hearing protection must be worn on all workstations designated as high noise level areas.
4. You must wear work or safety shoes, when instructed to do so.
5. Report all safety hazards immediately to your work supervisor. Do not continue to work in any area or on any machinery or equipment that is deemed unsafe or improperly guarded by the work supervisor. If your work supervisor does not agree that an unsafe work condition exists, you should report the information to the Safety Officer, either verbally or in writing.
6. Inmates/detainees will perform only work that is assigned to them. Operation of equipment, or performing any operation that has not been specifically assigned, is strictly forbidden.
7. Operating equipment without using the safety guard(s) provided or removal of the safety guard(s) is forbidden.
8. The fabrication or repair of personal items using CCA equipment is against safety regulations and is prohibited.
9. Do not try to adjust, oil, repair, or perform any maintenance on any machine while it is in motion. Stop the machine first. Use the lockout devices where possible.
10. Inmate/detainees who are injured while performing their assigned duties will immediately report such injury to their work supervisor (staff member). Report a work injury to your supervisor or any other staff member, immediately.
11. It is the responsibility of each inmate/detainee worker to exercise care, cooperation, and common sense in conducting his/her assigned work. Horseplay on the job or in this facility will not be tolerated.
12. Cell and dayroom fixtures and furniture (chair, tables, etc.) will not be used as ladders or stepstools for any reason.

"I HAVE READ AND UNDERSTOOD THE SAFETY RULES"  
 \_\_\_\_\_  
 Inmate/detainee Signature  
 \_\_\_\_\_  
 Staff Witness Signature

OWINO, SYLVESTRE  
 A# [REDACTED] 17  
 DATE: 02-06-07 TIME: 0015  
 DOB: [REDACTED]  
 \_\_\_\_\_  
 Number  
 \_\_\_\_\_  
 Title

"SAFETY RULES"  
 \_\_\_\_\_  
 Date  
 2/6/07  
 \_\_\_\_\_  
 Date

**CORRECTIONS CORPORATION OF AMERICA  
SAN DIEGO CORRECTIONAL FACILITY**

**HAZARDOUS CHEMICAL  
TRAINING ACKNOWLEDGEMENT**

- 
1. YOU HAVE THE RIGHT TO INFORMATION CONCERNING HAZARDOUS CHEMICALS THAT YOU MAY BE EXPOSED TO IN YOUR WORKPLACE.
  2. MATERIAL SAFETY DATA SHEETS (MSDS), ARE AVAILABLE TO ALL EMPLOYEES, INMATES/DETAINEES, THEIR DESIGNATED REPRESENTATIVE, AND TREATING HEALTH CARE WORKERS UPON REQUEST, AND AT THE LOCATION WHERE THE MATERIAL IS STORED.
  3. ALL CONTAINERS OF HAZARDOUS CHEMICALS MUST BE LABELED WITH CHEMICAL NAME(S), APPROPRIATE WARNINGS, AND MANUFACTURERS NAME AND ADDRESS.
  4. YOU MAY NOT BE DISCHARGED FROM YOUR JOB OR DISCIPLINED FOR SEEKING INFORMATION ABOUT ANY HAZARDOUS CHEMICAL.
  5. IF PERSONAL PROTECTIVE EQUIPMENT OR SPECIAL INSTRUCTIONS ARE NEEDED BEFORE USING A CHEMICAL, THIS INFORMATION WILL BE PROVIDED BY YOUR SUPERVISOR.
  6. USE ALL CHEMICALS ACCORDING TO THE MANUFACTURER'S RECOMMENDATIONS. IF YOU HAVE ANY QUESTIONS, ASK YOUR SUPERVISOR.

**I HAVE RECEIVED THE HAZARDOUS COMMUNICATIONS TRAINING AS DESCRIBED IN THE WRITTEN HAZARD COMMUNICATIONS PROGRAM AND THE INSTRUCTOR ANSWERED ANY QUESTIONS THAT I MAY HAVE HAD.**



SIGNATURE OF INMATE/DETAINEE

OWINO, SYLVESTRE

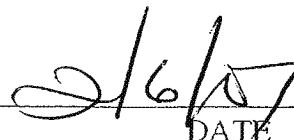
A# [REDACTED] 7

DATE: 02-06-07 TIME: 0015

DOB: [REDACTED]



SIGNATURE OF INSTRUCTOR

  
DATE

## San Diego Correctional Facility

### Receipt of Detainee Orientation Handbook

(Reconocimiento de Recibido del Libro de Orientacion del Detenido)

I \_\_\_\_\_ HEREBY ACKNOWLEDGE THAT I  
 Name and A #

HAVE RECEIVED, READ AND UNDERSTOOD THE INMATE DETAINEE ORIENTATION HANDBOOK. IN ADDITION, I ALSO AKNOWLEDGE THAT I HAVE ATTENDED AND UNDERSTOOD ALL INFORMATION GIVEN DURING AN ORIENTATION SESSION DURING THE ADMISSIONS AND ORIENTATION PROCESS.

\_\_\_\_\_  
 Inmate Signature and A number

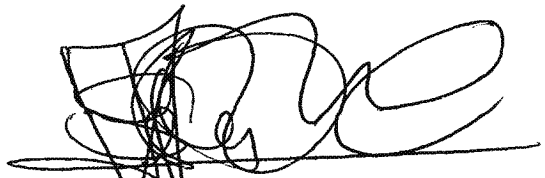
\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Unit/Cell/Pod

OWINO, SYLVESTRE  
 A# \_\_\_\_\_ 17  
 DATE: 02-06-07 TIME: 0015  
 DOB: \_\_\_\_\_

YO \_\_\_\_\_ POR LA PRESENTE RECONOSCO QUE  
 Nombre y Numero de Identificacion

RECIBI, Y HE LEIDO Y ENTENDIDO EL LIBRO DE ORIENTACION DEL DETENIDO. ASI MISMO, RECONOSCO QUE HE ATENDIDO Y COMPRENDIDO TODA LA INFORMACION PRESENTADA DURANTE UNA SESION DE ORIENTACION DURANTE EL PROCESO DE ADMISION Y ORIENTACION.

  
 \_\_\_\_\_  
 Firma del Detenido

  
 \_\_\_\_\_  
 Fecha

\_\_\_\_\_  
 Unidad / Celda