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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

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

27 Counter-Defendants.  
28

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

**CLASS ACTION**

**PLAINTIFFS' RESPONSE TO  
NOTICE OF SUPPLEMENTAL  
AUTHORITY AND OPPOSITION TO  
REQUEST FOR SUPPLEMENTAL  
BRIEFING (ECF 172)**

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

**DEMAND FOR JURY TRIAL**

1 Plaintiffs Sylvester Owino and Jonathan Gomez (“Plaintiffs”) submit this response  
2 to CoreCivic’s Notice of Supplemental Authority regarding the Eleventh Circuit’s decision  
3 in *Barrientos v. CoreCivic, Inc.*, No. 18-15081, 2020 WL 964358 (11th Cir. Feb. 28, 2020),  
4 and opposition to CoreCivic’s Request for Supplemental Briefing (ECF 172).

5 First, the Eleventh Circuit’s decision in *Barrientos* supports the Court’s tentative  
6 decision to certify Plaintiffs’ Forced Labor classes. *Barrientos* confirms that ICE detainees  
7 may establish claims for violations of the TVPA against CoreCivic where, as here,  
8 “CoreCivic coerces alien detainees to perform labor... by, inter alia, the use or threatened  
9 use of serious harm, criminal prosecution, solitary confinement, and the withholding of  
10 basic necessities.” *Id.* at \*1.

11 Second, CoreCivic’s argument that the “National Forced Labor Class cannot be  
12 certified because each class member must *individually* establish that their particular  
13 allegation of forced labor rises to the level of an actionable claim under the [TVPA]”  
14 misrepresents the holding of *Barrientos*. The Eleventh Circuit did not address any issue  
15 outside of the narrow legal question certified for interlocutory appeal, which followed the  
16 district court’s denial of CoreCivic’s motion to dismiss. *Id.* Indeed, the Eleventh Circuit’s  
17 review was expressly “limited to the legal question of the TVPA’s applicability to private  
18 contractors operating federal immigration detention facilities” (which it decided against  
19 CoreCivic), not the “factual allegations in the complaint.” *Id.* Moreover, CoreCivic’s  
20 argument is undermined by the holding of *Barrientos*, which confirmed that if CoreCivic  
21 “actually forces detainees to provide labor (whether through a work program or not)  
22 through any of the illegal coercive means explicitly proscribed by the TVPA, it has  
23 ‘obtain[ed] the labor or services of a person’ in violation of the TVPA.” *Id.* at \*7.<sup>1</sup>

24 Third, CoreCivic’s request to present further supplemental briefing to repeat  
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26 <sup>1</sup> CoreCivic’s argument is also undermined by *Novoa v. The Geo Group, Inc.*, No. EDCV  
27 17-2514 JGB (SHKx), U.S. Dist. LEXIS 222675 (C.D. Cal. Nov. 26, 2019), which  
28 certified plaintiffs’ proposed classes for violations of the TVPA because they challenge  
generally applicable policies and practices that compelled ICE detainees to work under  
threat of discipline, duress or hardship.

1 arguments that it has made throughout several years of litigation should be denied. There  
2 is nothing about the “discrete and abstract legal issue” decided by the Eleventh Circuit (in  
3 favor of the ICE detainees and against CoreCivic) that requires further briefing. *Id.* at \*5.  
4 Further, CoreCivic’s intent to “explain the scope of ICE’s detention standards” and  
5 “highlight Plaintiffs’ allegations that fall—or may fall, depending on the particular  
6 circumstances—within the scope of those detention standards” has nothing to do with the  
7 narrow legal issue addressed by *Barrientos*. CoreCivic’s vague suggestion that the PBNDS  
8 somehow presents a defense to Plaintiffs’ TVPA claims also does not find any support in  
9 *Barrientos*, which held that “[n]othing in the PBNDS permits CoreCivic, or other private  
10 contractors operating immigration detention facilities, to force detainees to perform labor  
11 (beyond personal housekeeping tasks), and certainly not through the illegal coercive means  
12 explicitly listed in the TVPA.” *Id.* at \*7.

13 In short, CoreCivic’s deliberate misreading of the *Barrientos* decision, which was  
14 uniformly decided against it on a defense advanced by CoreCivic that this Court also  
15 rejected in its ruling on CoreCivic’s motion to dismiss, does not warrant further  
16 supplemental briefing or the resulting delay.

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18 DATED: March 20, 2020

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on March 20, 2020, 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  
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