Ronaldo Rauseo-Ricupero (EOIR ID [redacted])
NIXON PEABODY LLP
100 Summer Street
Boston, MA 02110
617-345-1071
rrauseoricupero@nixonpeabody.com

Andrew Wachtenheim (EOIR ID [redacted])
IMMIGRANT DEFENSE PROJECT
Immigrant Defense Project
40 West 39th Street, Fifth Floor
New York, NY 10018
646-760-0588
andrew@immdefense.org

Attorneys for Respondent
[redacted]

UNITED STATES DEPARTMENT OF JUSTICE

EXECUTIVE OFFICE OF IMMIGRATION REVIEW

OFFICE OF THE IMMIGRATION JUDGE

In the Matter of	File No. [redacted]
[redacted],	
Respondent,	Non-Detained
In Removal Proceedings.	

RESPONDENT'S STATUTORY MOTION TO RECONSIDER AND TERMINATE IN LIGHT OF *SESSIONS V DIMAYA*

[redacted]

RESPONDENT'S STATUTORY MOTION TO RECONSIDER AND TERMINATE IN LIGHT OF *SESSIONS V DIMAYA*

Pursuant to § 240(c)(6) of the Immigration and Nationality Act (INA), [redacted] "Respondent"), hereby seeks reconsideration and termination of his removal proceedings in light of the United States Supreme Court's recent decision in *Sessions v. Dimaya,* 138 S.Ct. 1204 (2018), holding that the crime of violence provision at 18 U.S.C. § 16(b) cross-referenced in the aggravated felony provision at INA §§ 237(a)(2)(A)(iii), 101(a)(43)(F) is void for vagueness under the Due Process Clause of the Fifth Amendment.

In 2002, the Department of Homeland Security (DHS) issued a putative Notice to Appear ("NTA") charging Mr. [redacted], a lawful permanent resident, as deportable for a crime of violence aggravated felony pursuant to INA §§ 237(a)(2)(A)(iii), 101(a)(43)(F), on the basis of a single conviction for violation of Texas Penal Code ("TPC") § 22.05(b). *See* Notice to Appear, Tab B. The IJ erroneously sustained the deportability charged and on January 17, 2002 ordered Mr. [redacted] removed from the United States to El Salvador exclusively on that basis. *See* IJ Decision, TabA. Because *Sessions v. Dimaya* has now clarified that the crime of violence provision at 18 U.S.C. § 16(b) (cross-referenced in INA § 101(a)(43)(F)) is void, the IJ's decision that Mr. [redacted]'s conviction was for an aggravated felony was an error of law that requires now requires this Court's reconsideration.

Further, the NTA issued to Mr. [redacted] was invalid under the Supreme Court's recent precedent decision in *Pereira v. Sessions*, 138 S.Ct. 2105 (June 21, 2018), in which the Court held that a document styled as a Notice to Appear in removal proceedings that does not contain the time or place of the first hearing does not interrupt the requisite period of continuous presence or residence for a noncitizen to be eligible for cancellation of removal. In so deciding, the Court

[redacted]

stated, "A putative notice to appear that fails to designate the specific time or place of the noncitizen's removal proceedings is not a "notice to appear under section [239(a)]."" *Pereira* at *7. The text of the INA and the governing regulations require the filing of a notice to appear, as defined at INA § 239(a), for the Immigration Court to have jurisdiction over a Respondent's case. Here, DHS never filed a valid notice to appear—the requirements of which *Pereira* has now corrected—with the Immigration Court, and thus the Immigration Court never had jurisdiction over the Respondent's case.

Therefore, this Court must reconsider its decision and terminate removal proceedings against Respondent.

I. PROCEDURAL FILING REQUIREMENTS

Pursuant to 8 C.F.R. § 1003.2(e), Respondent declares, through counsel, that the validity of his removal order is not the subject of any judicial proceeding, and that he is not the subject of any pending criminal proceeding under the Act.

II. BACKGROUND FACTS

Mr. [redacted] is a [redacted]-year-old native and citizen of [redacted]. Resp. Aff. at ¶ 1, Tab I. He came to the United States when he was approximately six years old. Resp. Aff. at ¶ 1, Tab I. He became a Lawful Permanent Resident (LPR) on September 21, 1992. See Lawful Permanent Resident Card, Tab C.

On January 18, 2000, when Mr. [redacted] was [redacted] years old, he pled guilty to one count of Texas Penal Code ("TPC") § 22.05 (Deadly Conduct) for which he was sentenced to four years of incarceration. Criminal Conviction, Tab D.

On May 10, 2001, while incarcerated in the Texas Department of Criminal Justice (TDCJ), Mr. [redacted] was served with a putative Notice to Appear (NTA), and removal proceedings

commenced. NTA, Tab B. The NTA alleged the conviction of TPC § 22.05 and charged Mr. [redacted] as deportable under INA § 237(a)(2)(A)(iii) for a conviction of an "aggravated felony" as defined in INA § 101(a)(43)(F). *Id.* Mr. [redacted], acting *pro se*, filed an Application for Withholding of Removal. Application for Withholding, Tab E.

At this removal hearing, on January 17, 2002, on the sole basis of the conviction under TPC § 22.05, the IJ sustained the deportability charge, found Mr. [redacted] removable, denied his application for withholding, and ordered him removed to [redacted]. IJ Decision, Tab A. Mr. [redacted] engaged counsel to file an appeal of that decision to the Board of Immigration Appeals (BIA), but the BIA denied that appeal as untimely because counsel submitted it one day after the filing deadline. BIA Order, Tab F.[1]

Upon completing his incarceration, Mr. [redacted] was deported to [redacted], where he resides today. Resp. Aff. at ¶¶ 1, 6, Tab I. [redacted]. Resp. Aff. at ¶ 8, Tab I. [redacted]. Resp. Aff. at ¶¶ 8-9, v. He has been a law-abiding citizen since his removal from the United States. Resp. Aff. at ¶ 8, Tab I.

[redacted] Mr. [redacted] and his family have continued to diligently investigate means by which to return Mr. [redacted] to the United States to rejoin his family and to restore his status as a lawful permanent resident. Resp. Aff. at ¶¶ 10-12, Tab I. Mr. [redacted] was repeatedly advised by various immigration lawyers that because TPC § 22.05(b)

[1] [redacted]

[redacted]

was considered a "crime of violence" and therefore, an "aggravated felony", no basis for relief was available to him. Resp. Aff. at ¶ 11, Tab I; Resp.'s Brother's Aff. at ¶ 5, Tab J.

In April 2018, upon the Supreme Court's ruling in *Sessions v Dimaya*, Mr. [redacted]'s long-held belief that his conviction was improperly deemed an aggravated felony has been vindicated. *Dimaya* at 1216. Mr. [redacted] acted diligently upon learning of the *Dimaya* decision by seeking pro bono legal assistance and submitting this motion within 90 days thereof. Resp. Aff. at ¶ 12, Tab I; *Gonzalez-Cantu v. Sessions*, 866 F.3d 302 (5th Cir. 2017).

III. STANDARD FOR RECONSIDERATION

A motion to reconsider shall specify the errors of law or fact in the previous order and shall be supported by pertinent authority. INA § 240(c)(6)(C); 8 C.F.R. § 1003.2(b)(1). In general, a respondent may file one motion to reconsider within 30 days of the date of a final removal order. INA § 240(c)(6)(A)&(B); 8 C.F.R. § 1003.2(b)(2) The Immigration Judge issued his decision in Mr. [redacted]'s case on January 17, 2002. *See* IJ Decision, Tab A. However, this Court must treat the instant motion for reconsideration as a timely filed statutory motion to reconsider because Mr. [redacted] merits equitable tolling of the time limitation, as argued below. *See infra* § IV.C. *See also Lugo-Resendez v. Lynch*, 831 F.3d 337, 344 (5th Cir. 2016).

IV. ARGUMENT

A. As a Matter of Law, the Immigration Judge Erred in Finding Respondent's Conviction to be a "Crime of Violence" Aggravated Felony Because, Under *Sessions v. Dimaya*, the Aggravated Felony Ground on Which the Immigration Judge Relied Has Been Struck Down as Void for Vagueness

In *Sessions v. Dimaya*, the Supreme Court held that 18 U.S.C § 16(b), as incorporated in the "crime of violence" aggravated felony definition in INA § 101(a)(43)(F), is unconstitutionally void for vagueness. *Dimaya,* 138 S. Ct. 1204 (2018).

[redacted]

Under INA § 101(a)(43)(F), an aggravated felony includes "a crime of violence (as defined in section 16 of the title 18, United States Code, but not including a purely political offense) for which the term of imprisonment is at least one year." Section 16 of title 18 defines a "crime of violence" as either:

> (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or
>
> (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

18 U.S.C. § 16. *Sessions v. Dimaya* addresses §16(b).

Mr. Dimaya was twice convicted of first-degree burglary under Cal. Penal Code Ann. §§459, 460 (a). *Dimaya,* 138 S.Ct. at 1211. After his second conviction, DHS initiated removal proceedings against him and an immigration judge found that his conviction was a "crime of violence" under § 16(b) and therefore an aggravated felony under INA § 101(a)(43)(F). *Id.* The BIA affirmed. *Id.* The Ninth Circuit, however, ruled in Mr. Dimaya's favor holding that § 16(b) was unconstitutionally void for vagueness. *Id.* at 1216.

The Supreme Court affirmed, finding that the Mr. Dimaya was not deportable for having been convicted of the aggravated felony of "crime of violence" under § 16(b). Relying on *Johnson v. United States*, 135 S. Ct. 2551 (2015), which held the similarly worded Armed Career Criminal Act's (ACCA's) residual clause to be unconstitutionally void for vagueness, the Court concluded that "§ 16(b) produces more unpredictability and arbitrariness than the Due Process Clause tolerates." *Id.* at 1216. Following *Johnson,* the court based it holding on the compounding uncertainties that arise from determining both "substantial risk" under § 16(b) and the "nature" of an offense, which requires an inquiry into the "ordinary case" of a crime. *Id.* at 1222.

[redacted]

Like the petitioner in *Dimaya*, Mr. [redacted] was charged with and found deportable for a § 16 "crime of violence" aggravated felony under INA § 101(a)(43)(F). *See* IJ Decision, Tab A; NTA, Tab B.

The Department bears the burden of proving removability. 8 C.F.R. § 1240.8(a); *Woodby v. INS*, 385 U.S. 276 (1966); *Matter of Pichardo*, 21 I&N Dec. 330 (BIA 1996). Here, because the putative NTA fails to specify whether it alleged removability pursuant to § 16(a) or § 16(b), it is insufficient for the government to meet its burden.[2] Nevertheless, under Fifth Circuit law, even if it had sufficiently identified the basis for its charge, neither ground is viable. Because the final remaining ground of deportability charged in the NTA has now been struck down by *Dimaya*, proceedings must be terminated.

B. As a Matter of Law, the Court Erred in Finding Jurisdiction over the Respondent's Removal Proceedings

In *Pereira v. Sessions*, the Supreme Court stated, "A notice that does not inform a noncitizen when and where to appear for removal proceedings is not a "notice to appear under section [239(a)]." *Pereira* at 2114. In the Respondent's case, under *Pereira* the putative notice to appear issued against him is not a "notice to appear under section [239(a)]" and therefore is insufficient to establish jurisdiction over this matter for this Immigration Court. Accordingly, the court must reconsider its decision in the Respondent's case and terminate his removal proceedings.

---

[2] Because Mr. [redacted]'s conviction under T.P.C. § 22.05 is not a crime of violence under either 18 U.S.C. §16(a) pursuant to *United States v. Perlaza-Ortiz*, 869 F.3d 375, 378 (5th Cir. 2017) (holding that a conviction under T.P.C. § 22.05 cannot be considered a "crime of violence," and therefore does not fall under the definition of an "aggravated felony"), or under 18 U.S.C. §16(b) because that statute has been held to be unconstitutionally vague under *Dimaya*, Mr. Gonzalez does not qualify as an aggravated felon under INA §101(a)(43)(F) and he is not deportable under INA § 237(a)(2)(A)(iii). *See also United States v. Segovia-Rivas*, 716 F. App'x 292, 295 (5th Cir. 2018) ("In light of *Mathis* and *Perlaza-Ortiz*, Segovia-Rivas's [T.P.C. § 22.05] conviction was not a crime of violence.").

[redacted]

Section 239 of the INA is titled "Initiation of removal proceedings," and sets forth various requirements for the government to commence removal proceedings against an individual. *See generally* INA § 239. Within § 239, INA § 239(a) requires the issuance of a "notice to appear" that contains certain specified information. *See* INA § 239(a)(1)(A)-(G). The required information includes the time and place of the first hearing before the immigration court. *See Pereira* at 2114 (citing INA § 239(a)).

The implementing regulations for the commencement and procedures of removal proceedings specify that "[j]urisdiction vests, and proceedings before an Immigration Judge commence, when a charging document is filed with the Immigration Court by the Service." 8 C.F.R. § 1003.14(a). They further specify that the requisite "charging document" can include a "Notice to Appear, a Notice of Referral to Immigration Judge, and a Notice of Intention to Rescind and Request for Hearing by Alien." 8 C.F.R. § 1003.13. In the Respondent's case, DHS filed a putative Notice to Appear[3] that failed to specify the time or place of his first hearing before the immigration court. *See* Notice to Appear, Tab B.

In *Pereira*, the noncitizen—like the Respondent here—was served with a document that was styled as a notice to appear (i.e., a "putative notice"), but that "did not specify the date and time of [his] removal hearing." *Pereira* at 2112. "Pereira then applied for cancellation of removal" under INA § 240A(b)(1), but the Immigration Judge (IJ) pretermitted his application and ordered him removed. *Id.* The BIA affirmed the IJ's decision, and the First Circuit deferred to the Board. *Id.*

[3] The other documents listed at 8 C.F.R. § 1003.23 are not at issue in the Respondent's case.

[redacted]

The Supreme Court reversed, holding, in the context of eligibility for cancellation of removal, that "[a] putative notice to appear that fails to designate the specific time or place of the noncitizen's removal proceedings is not a "notice to appear under section [239(a)]." *Pereira* at 2113-14. The Court found that the "plain text, the statutory context, and common sense all lead inescapably and unambiguously to that conclusion." *Pereira* at 2110. The import of the *Pereira* decision in the Respondent's case is the Supreme Court's construing the statutory phrase "notice to appear under section [239(a)]" as requiring the inclusion of time and place information specified at INA § 239(a)(G). Under *Pereira*, a putative notice to appear that does not have this information is not a notice to appear as defined under the INA.

Like the noncitizen in *Pereira*, the Mr. [redacted] was ordered removed on the basis of a putative notice to appear that did not contain the requisite time or place information under the INA and the implementing regulations. *See* NTA, Tab B. In light of the Supreme Court's decision in *Pereira*, this Court should grant reconsideration and terminate removal proceedings against the Respondent.

C. The Court Should Treat this Motion as Timely Filed Because the Respondent Merits Equitable Tolling.

1. Standard for Equitable Tolling

Mr. [redacted] has not previously filed a motion to reconsider and this motion is, therefore, not number-barred. INA § 240(c)(6)(A), 8 C.F.R. § 1003.23(b)(1). Nor is Mr. G[redacted]'s motion barred by the time limitations set forth in INA § 240(c)(6)(A) and 8 C.F.R. § 1003.23, because the doctrine of equitable tolling applies to render this motion timely. A motion to reconsider must be filed within 30 days of entry of a final administrative order of removal, INA § 240(c)(6)(B), or, under the doctrine of equitable tolling, as soon as practicable after finding out about an

extraordinary circumstance that prevented timely filing. Under the decisions of the Supreme Court and the Fifth Circuit, equitable tolling of the 30-day deadline to file a statutory motion to reconsider is warranted and required here.

The Supreme Court concisely and repeatedly has articulated the standard for determining whether an individual is "entitled to equitable tolling." *See, e.g., Holland v. Florida*, 560 U.S.631, 632 (2010). Specifically, an individual must show "'(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way' and prevented timely filing." *Id.* (quoting *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005)). *See also Credit Suisse Securities (USA) LLC v. Simmonds*, 132 S. Ct. 1414, 1419 (2012); *Lawrence v. Florida*, 549 U.S. 327, 336 (2007). The Supreme Court also requires that those seeking equitable tolling pursue their claims with "reasonable diligence," but they need not demonstrate "maximum feasible diligence." *Holland*, 560 U.S. at 653 (internal quotations omitted).

Ten courts of appeals, including the Fifth Circuit, recognize that motion deadlines in immigration cases are subject to equitable tolling. *See Lugo-Resendez v. Lynch*, 831 F.3d 337, 344 (5th Cir. 2016) ("We … join our sister circuits in holding that the deadline for filing a motion to reopen [or reconsider] is subject to equitable tolling."); *Gonzalez-Cantu v. Sessions*, 866 F.3d 302, 304 (5th Cir. 2017). *Cf. Bolieiro v. Holder*, 731 F.3d 32, 39 n.7 (1st Cir. 2013) ("Notably, every circuit that has addressed the issue thus far has held that equitable tolling applies to . . . limits to filing motions to reopen.")[4]. Thus, it is the law of the Fifth Circuit that the time limitations on motions to reconsider at issue in this case are subject to equitable tolling.

---

[4] *See also Iavorski v. INS*, 232 F.3d 124, 134 (2d Cir. 2000) (Sotomayor, J.); *Borges v.Gonzales*, 402 F.3d 398, 407 (3d Cir. 2005); *Kuusk v. Holder*, 732 F.3d 302, 305 (4th Cir. 2013); *Mezo v. Holder*, 615 F.3d 616, 620 (6th Cir. 2010); *Pervaiz v. Gonzales*, 405 F.3d 488, 489 (7th Cir. 2005); *Ortega-Marroquin v. Holder*, 640 F.3d 814, 819-20

[redacted]

2. Respondent Is Diligently Pursuing His Rights and Extraordinary Circumstances Prevented Timely Filing of this Motion.

The Supreme Court's decisions in *Sessions v. Dimaya* and *Pereira v. Sessions* constitute an extraordinary circumstance that prevented Mr. [redacted] from filing this motion within 30 or 90 days of the removal order the IJ issued against him in 2002. Since learning of the Court's 2018 decisions in *Dimaya* and *Pereira*, Mr. [redacted] acted as quickly and diligently as possible to prepare and file this motion to reconsider. As such, equitable tolling of the 30 and 90 filing deadlines for motions to reconsider and reopen is warranted and required here under the Supreme Court's and Fifth Circuit's standards.

Since Mr. [redacted]'s removal in 2002, he and his family have worked tirelessly to investigate legal options for him bringing him back to the United States to reunify with them. Over the years, Mr. Gonzalez and his family have contacted numerous immigration lawyers who have repeatedly advised them that there were no legal mechanisms to reverse the aggravated felony determination. Resp. Aff. at ¶ 11, Tab I. In efforts to help, Mr. [redacted] brother, [redacted] who is not a lawyer and has no legal training, endeavored to remain abreast of relevant cases before the BIA, Fifth Circuit, and Supreme Court. *Id.*; Resp.'s Brother's Aff. at ¶¶ 2-3, Tab J. He learned about *Sessions v. Dimaya* on April 17, 2018, the day it was decided, and informed his brother about the decisions and what he thought would be the effect on Mr. [redacted]'s case. Resp. Aff. at ¶ 12 Tab I; Resp.'s Brother's Aff. at ¶ 7, Tab J. Mr. [redacted]'s brother began assembling materials for a motion to reconsider, and contacted a hotline maintained by a non-profit organization, the Immigrant Defense Project ("IDP"), that had posted materials on its website regarding the *Dimaya* decision. Resp.'s Brother's Aff. at ¶ 10, Tab J. IDP responded to Mr. [redacted]'s inquiry, and

(8th Cir. 2011); *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1184-85 (9th Cir. 2001); *Riley v. INS*, 310 F.3d 1253, 1258 (10th Cir. 2002); *Avila-Santoyo v. AG*, 713 F.3d 1357, 1363 n.5 (11th Cir. 2013) (en banc).

IDP, Mr. [redacted] and his family began corresponding by phone and email to exchange information and documents about his case. *Id.* at ¶ 11. During that time, IDP was able to locate undersigned counsel to provide pro bono legal support to prepare the instant motion. *Id.* at ¶¶ 12-13. Undersigned counsel worked as diligently as possible to gather the required information and documents to file this motion to reconsider. During that time, the Supreme Court issued its decision in *Pereira*, and for the first time Mr. [redacted] learned about that case and its potential impact on his removal proceedings from counsel from IDP. *Id.*

Mr. [redacted] has acted with reasonable due diligence despite the extraordinary circumstances and, because of this, the allowed time for filing this motion should be tolled. Furthermore, any time restrictions on Mr. [redacted]'s ability to file a motion to reconsider would produce a grossly inequitable result. *Torabi v. Gonzales*, 165 F. Appx. 326, 331 (5th Cir. 2006).

Dimaya is an extraordinary circumstance because, prior to its ruling, the Immigration Courts (including, respectfully, this Court) were committing legal error by sustaining deportability charges brought under § 16(b). The same is true for *Pereira*, where the Immigration Courts were committing legal error by asserting jurisdiction based on deficient charging documents, in violation of the statutory provisions written by Congress. In both cases, the Supreme Court's intervention was necessary to identify and correct a legal error that, in this case, led to the deportation of a young man and longtime lawful permanent resident. As such, this circumstance warrants equitable tolling of his claim.

3. The Court Should Reconsider Mr. [redacted]'s Motion *Sua Sponte*.

In the alternative, Mr. [redacted] requests that the court exercise discretion under 8 C.F.R. § 1003(b)(1); 1003.2(a) and reconsider his case *sua sponte*. An Immigration Judge may exercise

[redacted]

sua sponte discretion and reconsider at any time, without regard to time and numerical limitations when there are "exceptional circumstances" warranting reconsidering. *Matter of J-J-* 21 I. & N. Dec. 976, 984 (BIA 1997), *Matter of Beckford,* 21 I. & N. Dec. 1216 (BIA 2000). A change in law qualifies as "exceptional circumstances" when the change is fundamental, rather than incremental, in nature. *Matter of G-D-,* 22 I. & N. Dec. 1132 (BIA 1999). A change in law may warrant *sua sponte* reconsideration even when the motion to reconsider is filed years after the change in law occurs. In *Matter of G-C-L-,* the Board deemed five years to be a "very reasonable" period of time in which to reopen asylum cases *sua sponte* following a legislative change. 23 I. & N. Dec. 359, 362 (BIA 2002).

The Supreme Court's decision in *Dimaya* finding that "crime of violence" statute 18 U.S.C. 16(b) is impermissibly vague in violation of due process which no longer qualifies Mr. [redacted] conviction an aggravated felony amounts to a fundamental change in law such as to constitute exceptional circumstances and warrant *sua sponte* reopening. See *Matter of G-D-,* 22 I. & N. Dec. 1132 (BIA 1999) (defining fundamental change as a "departure from established principles").[5]

[5] To the extent this Court deems the Supreme Court's ruling in *Dimaya* and/or the newly-recognized deficiency in Mr. [redacted]'s Notice to Appear pursuant to *Peirera* to constitute 'new facts' that change Mr. [redacted]'s circumstances rather than a change in law, Mr. Gonzalez through this motion also seeks reopening of his removal proceedings pursuant to § 240(c)(7)(A) of the INA and 8 C.F.R. § 1003.23, and avers that the facts presented herein also satisfy the procedural filing requirements of 8 C.F.R. § 1003.23(b)(1)(i) and eligibility for equitable tolling of the filing deadline for a motion to reopen, as he is filing within 90 days of the 'new facts'.

[redacted]

V. CONCLUSION

For the above reasons, Mr. [redacted] respectfully asks the Court to reconsider the proceedings pursuant to 8 C.F.R. § 1003.23(b)(1), rescind the removal order, and terminate proceedings.

Dated: July 12, 2018

Respectfully Submitted,

[redacted]

By His Attorneys,

By Ronaldo Rauseo-Ricupero

Ronaldo Rauseo-Ricupero (EOIR ID [redacted])
NIXON PEABODY LLP
100 Summer Street
Boston, MA 02110
617-345-1071
rrauseoricupero@nixonpeabody.com

Andrew Wachtenheim (EOIR ID [redacted])
IMMIGRANT DEFENSE PROJECT
Immigrant Defense Project
40 West 39th Street, Fifth Floor
New York, NY 10018
646-760-0588
andrew@immdefense.org

CERTIFICATE OF SERVICE

I hereby certify that I have sent a true and correct copy of the foregoing motion to the Department of Homeland Security, Office of the Chief Counsel, 126 Northpoint Drive, Room 2020, Houston, TX 77060 via overnight courier on this 12th day of July, 2018.

Ronaldo Rauseo-Ricupero

[redacted]

TABLE OF CONTENTS

[redacted]