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15 Attorneys for Defendant/Counter-Claimant  
 16 CoreCivic, Inc.

17 **UNITED STATES DISTRICT COURT**  
 18 **SOUTHERN DISTRICT OF CALIFORNIA**

19 Sylvester Owino and Jonathan Gomez,  
 20 on behalf of themselves, and all others  
 similarly situated,

21 Plaintiffs,

22 v.

23 CoreCivic, Inc., a Maryland  
 24 corporation,

25 Defendant.

NO. 3:17-cv-01112-JLS-NLS

**CORECIVIC’S ANSWER TO  
 PLAINTIFFS’ FIRST AMENDED  
 COMPLAINT**

**and**

**CORECIVIC’S COUNTERCLAIMS  
 DEMAND FOR JURY TRIAL**

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1 CoreCivic, Inc., a Maryland  
2 corporation,  
3  
4 Counter-Claimant,  
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6 v.  
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8 Sylvester Owino and Jonathan Gomez,  
9 on behalf of themselves, and all others  
10 similarly situated,  
11  
12 Counter-Defendants.  
13

14 Defendant/Counter-Claimant CoreCivic, Inc. (“CoreCivic”), submits its  
15 Answer to Plaintiffs’ First Amended Complaint and admits, denies, and alleges as  
16 follows:  
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18 CoreCivic denies each and every allegation in the First Amended Complaint  
19 and each and every claim for relief that is not expressly admitted or otherwise pled  
20 to.  
21

### 22 INTRODUCTION

23 1. In answering Paragraph 1 of the First Amended Complaint, CoreCivic  
24 denies Plaintiffs have standing to seek declaratory and/or injunctive relief.  
25 CoreCivic further denies ever forcing detainees to work in violation of state or  
26 federal law. CoreCivic is without sufficient knowledge or information to form a  
27 belief regarding the remaining allegations in Paragraph 1, and on that basis denies  
28 the same.

### JURISDICTION AND VENUE

29 2. In answering Paragraph 2 of the First Amended Complaint, CoreCivic  
30 admits only that this Court has subject matter jurisdiction over Plaintiffs’ claims  
31 arising under 18 U.S.C. § 1589, et seq. By so admitting, CoreCivic does not admit  
32 the sufficiency of the allegations or the validity of the claims, both of which are  
33 specifically denied. CoreCivic denies all remaining allegations in Paragraph 2, and  
34 specifically denies any violation of 18 U.S.C. § 1589, et seq.

1           3.     In answering Paragraph 3 of the First Amended Complaint, CoreCivic  
2 admits only that this Court has subject matter jurisdiction over Plaintiff's claims  
3 pursuant to 28 U.S.C. § 1332(d). By so admitting, CoreCivic does not admit the  
4 sufficiency of the allegations or the validity of the claims, both of which are  
5 specifically denied. CoreCivic denies all remaining allegations in Paragraph 3, and  
6 specifically denies all allegations of wrongdoing.

7           4.     In answering Paragraph 4 of the First Amended Complaint, CoreCivic  
8 admits only that this Court has supplemental jurisdiction over the state law claims  
9 alleged in the First Amended Complaint pursuant to 28 U.S.C. § 1367. By so  
10 admitting, CoreCivic does not admit the sufficiency of the allegations or the  
11 validity of the claims, both of which are specifically denied. CoreCivic denies all  
12 remaining allegations in Paragraph 4, and specifically denies all allegations of  
13 wrongdoing.

14           5.     In answering Paragraph 5 of the First Amended Complaint, CoreCivic  
15 admits only that this Court has specific personal jurisdiction over CoreCivic as to  
16 the claims arising out of CoreCivic's California facilities. By so admitting,  
17 CoreCivic does not admit the sufficiency of the allegations or the validity of the  
18 claims, both of which are specifically denied. CoreCivic denies that this Court has  
19 general personal jurisdiction over CoreCivic as to the claims arising out of  
20 CoreCivic's non-California facilities. CoreCivic further denies all remaining  
21 allegations in Paragraph 5.

22           6.     In answering Paragraph 6 of the First Amended Complaint, CoreCivic  
23 admits only that venue is proper in this Court as to the claims arising out of  
24 CoreCivic's California facilities in the Southern District of California. By so  
25 admitting, CoreCivic does not admit the sufficiency of the allegations or the  
26 validity of the claims, both of which are specifically denied. CoreCivic denies that  
27 venue is proper in this Court as to the claims arising out of CoreCivic's California  
28 facilities located outside of the Southern District of California as well as its non-

1 California facilities. CoreCivic is without sufficient knowledge or information to  
2 form a belief regarding the remaining allegations in Paragraph 6, and on that basis  
3 denies the same.

#### 4 **PARTIES**

5 7. In answering Paragraph 7 of the First Amended Complaint, CoreCivic  
6 admits only that Plaintiff Owino was an Immigration and Customs Enforcement  
7 (“ICE”) detainee at CoreCivic’s Otay Mesa Detention Center (“OMDC”), located  
8 in San Diego, California, at various times from November 7, 2005 to March 9,  
9 2015. CoreCivic is without sufficient knowledge or information to form a belief  
10 regarding the remaining allegations in Paragraph 7, and on that basis denies the  
11 same.

12 8. In answering Paragraph 8 of the First Amended Complaint, CoreCivic  
13 admits only that Plaintiff Gomez was an ICE detainee at OMDC at various times  
14 from June 18, 2012 to September 18, 2013. CoreCivic is without sufficient  
15 knowledge or information to form a belief regarding the remaining allegations in  
16 Paragraph 8, and on that basis denies the same.

17 9. In answering Paragraph 9 of the First Amended Complaint, CoreCivic  
18 admits the allegations contained therein.

#### 19 **SUMMARY AND COMMON FACTUAL ALLEGATIONS**

20 10. In answering Paragraph 10 of the First Amended Complaint,  
21 CoreCivic admits only that it is a publicly-traded corporation that owns and  
22 operates prisons and detention facilities. CoreCivic denies ever forcing ICE  
23 detainees to work at any of its facilities in violation of state or federal law.  
24 CoreCivic is without sufficient knowledge or information to form a belief regarding  
25 the remaining allegations in Paragraph 10, and on that basis denies the same.

26 11. In answering Paragraph 11 of the First Amended Complaint,  
27 CoreCivic admits that it owns and operates detention facilities around the country,  
28 including OMDC, and that it reported \$1.79 billion in total revenue in 2016 for the

1 previous year. CoreCivic further admits that detainees at its detention facilities,  
2 including OMDC, who participate in the Detainee Voluntary Work Program are  
3 paid at least \$1 per day. CoreCivic denies all remaining allegations in Paragraph 11.

4 12. In answering Paragraph 12 of the First Amended Complaint,  
5 CoreCivic denies Plaintiffs have standing to seek declaratory and/or injunctive  
6 relief. CoreCivic further denies all allegations that it violated laws and regulations  
7 applicable to its operation of detention facilities. The remaining allegations are not  
8 directed at CoreCivic, such that no response is required and none is given. To the  
9 extent a response is required, CoreCivic denies the allegations.

10 13. In answering Paragraph 13 of the First Amended Complaint,  
11 CoreCivic denies the allegations contained therein.

12 14. In answering Paragraph 14 of the First Amended Complaint,  
13 CoreCivic denies the allegations contained therein.

14 15. In answering Paragraph 15 of the First Amended Complaint,  
15 CoreCivic admits only that detainees at its detention facilities, including OMDC,  
16 who participate in the Detainee Voluntary Work Program are paid at least \$1 per  
17 day. CoreCivic denies the remaining allegations in Paragraph 15.

18 16. In answering Paragraph 16 of the First Amended Complaint,  
19 CoreCivic denies the allegations contained therein.

20 17. In answering Paragraph 17 of the First Amended Complaint,  
21 CoreCivic admits only that detainees at its detention facilities, including OMDC,  
22 who participate in the Detainee Voluntary Work Program are paid at least \$1 per  
23 day. CoreCivic denies the remaining allegations in Paragraph 17.

24 18. In answering Paragraph 18 of the First Amended Complaint,  
25 CoreCivic denies the allegations contained therein.

26 19. In answering Paragraph 19 of the First Amended Complaint,  
27 CoreCivic denies the allegations contained therein.

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1           20. In answering Paragraph 20 of the First Amended Complaint,  
2 CoreCivic denies the allegations contained therein.

3           21. In answering Paragraph 21 of the First Amended Complaint,  
4 CoreCivic denies the allegations contained therein.

5           22. In answering Paragraph 22 of the First Amended Complaint,  
6 CoreCivic denies the allegations contained therein.

7           23. The allegations in Paragraph 23 of the First Amended Complaint are  
8 not directed at CoreCivic, such that no response is required and none is given. To  
9 the extent a response is required, CoreCivic denies the allegations.

10           24. The allegations in Paragraph 24 of the First Amended Complaint are  
11 not directed at CoreCivic, such that no response is required and none is given. To  
12 the extent a response is required, CoreCivic denies the allegations.

13           25. In answering Paragraph 25 of the First Amended Complaint,  
14 CoreCivic is without sufficient knowledge or information to form a belief regarding  
15 the allegations, and on that basis denies the same.

16           26. In answering Paragraph 26 of the First Amended Complaint,  
17 CoreCivic is without sufficient knowledge or information to form a belief regarding  
18 the allegations, and on that basis denies the same.

### 19                                   **PLAINTIFFS' EXPERIENCE**

20           27. In answering Paragraph 27 of the First Amended Complaint,  
21 CoreCivic admits only that Plaintiff Owino was an ICE detainee at OMDIC at  
22 various times from November 7, 2005 to March 9, 2015, and that he at times  
23 participated in the Detainee Voluntary Work Program. CoreCivic denies Plaintiff  
24 Owino was ever forced or coerced to work, or that such work occurred in an unsafe  
25 environment. CoreCivic is without sufficient knowledge or information to form a  
26 belief regarding the remaining allegations in Paragraph 27, and on that basis denies  
27 the same.  
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1           28. In answering Paragraph 28 of the First Amended Complaint,  
2 CoreCivic denies the allegations contained therein.

3           29. In answering Paragraph 29 of the First Amended Complaint,  
4 CoreCivic admits only that Plaintiff Gomez was an ICE detainee at OMDC at  
5 various times from June 18, 2012 to September 18, 2013, and that he at times  
6 participated in the Detainee Voluntary Work Program. CoreCivic denies Plaintiff  
7 Gomez was ever forced or coerced to work, or that such work occurred in an unsafe  
8 environment. CoreCivic is without sufficient knowledge or information to form a  
9 belief regarding the remaining allegations in Paragraph 29, and on that basis denies  
10 the same.

11                                                           **CLASS ACTION ALLEGATIONS**

12           30. The allegations in Paragraph 30 of the First Amended Complaint are  
13 not directed at CoreCivic, such that no response is required and none is given. To  
14 the extent a response is required, CoreCivic denies the allegations. CoreCivic  
15 denies that this matter is suitable for class certification. CoreCivic affirmatively  
16 alleges that Plaintiffs lack standing to assert claims on behalf of other individuals,  
17 that Plaintiffs lack standing to seek declaratory and/or injunctive relief, and that  
18 Plaintiffs are not proper class representatives.

19           31. The allegations in Paragraph 31 of the First Amended Complaint are  
20 not directed at CoreCivic, such that no response is required and none is given. To  
21 the extent a response is required, CoreCivic denies the allegations. CoreCivic  
22 denies that this matter is suitable for class certification. CoreCivic affirmatively  
23 alleges that Plaintiffs lack standing to assert claims on behalf of other individuals,  
24 that Plaintiffs lack standing to seek declaratory and/or injunctive relief, and that  
25 Plaintiffs are not proper class representatives. CoreCivic further affirmatively  
26 alleges that this Court lacks personal jurisdiction over CoreCivic as to Plaintiffs'  
27 claims arising out of CoreCivic's non-California facilities.

1           32. The allegations in Paragraph 32 of the First Amended Complaint are  
2 not directed at CoreCivic, such that no response is required and none is given. To  
3 the extent a response is required, CoreCivic denies the allegations. CoreCivic  
4 denies that this matter is suitable for class certification. CoreCivic affirmatively  
5 alleges that Plaintiffs lack standing to assert claims on behalf of other individuals,  
6 that Plaintiffs lack standing to seek declaratory and/or injunctive relief, and that  
7 Plaintiffs are not proper class representatives.

8           33. In answering Paragraph 33 of the First Amended Complaint,  
9 CoreCivic denies the allegations contained therein. CoreCivic denies that this  
10 matter is suitable for class certification. CoreCivic affirmatively alleges that  
11 Plaintiffs lack standing to assert claims on behalf of other individuals, that Plaintiffs  
12 lack standing to seek declaratory and/or injunctive relief, and that Plaintiffs are not  
13 proper class representatives.

14           34. In answering Paragraph 34 of the First Amended Complaint,  
15 CoreCivic denies the allegations contained therein. CoreCivic denies that this  
16 matter is suitable for class certification. CoreCivic affirmatively alleges that  
17 Plaintiffs lack standing to assert claims on behalf of other individuals, that Plaintiffs  
18 lack standing to seek declaratory and/or injunctive relief, and that Plaintiffs are not  
19 proper class representatives.

20           35. In answering Paragraph 35 of the First Amended Complaint,  
21 CoreCivic denies the allegations contained therein. CoreCivic denies that this  
22 matter is suitable for class certification. CoreCivic affirmatively alleges that  
23 Plaintiffs lack standing to assert claims on behalf of other individuals, that Plaintiffs  
24 lack standing to seek declaratory and/or injunctive relief, and that Plaintiffs are not  
25 proper class representatives.

26           36. In answering Paragraph 36 of the First Amended Complaint,  
27 CoreCivic denies the allegations contained therein. CoreCivic denies that this  
28 matter is suitable for class certification. CoreCivic affirmatively alleges that



1 Plaintiffs lack standing to assert claims on behalf of other individuals, that Plaintiffs  
2 lack standing to seek declaratory and/or injunctive relief, and that Plaintiffs are not  
3 proper class representatives.

4 37. In answering Paragraph 37 of the First Amended Complaint,  
5 CoreCivic denies the allegations contained therein. CoreCivic denies that this  
6 matter is suitable for class certification. CoreCivic affirmatively alleges that  
7 Plaintiffs lack standing to assert claims on behalf of other individuals, that Plaintiffs  
8 lack standing to seek declaratory and/or injunctive relief, and that Plaintiffs are not  
9 proper class representatives.

10 38. In answering Paragraph 38 of the First Amended Complaint,  
11 CoreCivic denies the allegations contained therein, including the allegations in  
12 subsections (a)-(c). CoreCivic denies that this matter is suitable for class  
13 certification. CoreCivic affirmatively alleges that Plaintiffs lack standing to assert  
14 claims on behalf of other individuals, that Plaintiffs lack standing to seek  
15 declaratory and/or injunctive relief, and that Plaintiffs are not proper class  
16 representatives.

17 39. In answering Paragraph 39 of the First Amended Complaint,  
18 CoreCivic denies the allegations contained therein, including the allegations in  
19 subsections (a)-(c). CoreCivic denies that this matter is suitable for class  
20 certification. CoreCivic affirmatively alleges that Plaintiffs lack standing to assert  
21 claims on behalf of other individuals, that Plaintiffs lack standing to seek  
22 declaratory and/or injunctive relief, and that Plaintiffs are not proper class  
23 representatives.

24 **FIRST CAUSE OF ACTION<sup>1</sup>**

25 **Violation of the Trafficking Victims Protection Act**

26 \_\_\_\_\_  
27 <sup>1</sup> The Court previously dismissed with prejudice all claims asserted in the First  
28 Cause of Action that rely on § 1595(a)'s "financial benefit" element and arose prior  
to December 23, 2008. (Doc. #38.)

1 **18 U.S.C. §§ 1589, et seq.**

2 **(On Behalf of the Plaintiffs Individually and the Putative Class)**

3 40. In answering Paragraph 40 of the First Amended Complaint,  
4 CoreCivic incorporates by reference its responses to Paragraphs 1-39, above.

5 41. In answering Paragraph 41 of the First Amended Complaint, the  
6 statute speaks for itself, and CoreCivic denies any violation of the same.

7 42. In answering Paragraph 42 of the First Amended Complaint,  
8 CoreCivic denies the allegations contained therein, including the allegations in  
9 subsections (a)-(c).

10 43. In answering Paragraph 43 of the First Amended Complaint,  
11 CoreCivic denies the allegations contained therein.

12 44. In answering Paragraph 44 of the First Amended Complaint, the  
13 statute speaks for itself, and CoreCivic denies any violation of the same.

14 45. In answering Paragraph 45 of the First Amended Complaint, the  
15 statute speaks for itself, and CoreCivic denies any violation of the same.

16 46. In answering Paragraph 46 of the First Amended Complaint,  
17 CoreCivic denies the allegations contained therein. CoreCivic affirmatively alleges  
18 that Plaintiffs lack standing to assert claims on behalf of other individuals, that  
19 Plaintiffs lack standing to seek declaratory and/or injunctive relief, and that  
20 Plaintiffs are not proper class representatives.

21 47. In answering Paragraph 47 of the First Amended Complaint,  
22 CoreCivic denies the allegations contained therein. CoreCivic affirmatively alleges  
23 that Plaintiffs lack standing to assert claims on behalf of other individuals, that  
24 Plaintiffs lack standing to seek declaratory and/or injunctive relief, and that  
25 Plaintiffs are not proper class representatives.

26 48. The allegations in Paragraph 48 of the First Amended Complaint are  
27 not directed at CoreCivic, such that no response is required and none is given. To  
28 the extent a response is required, CoreCivic denies the allegations, including the

1 allegations in subsections (a)-(e). CoreCivic denies that this matter is suitable for  
2 class certification. CoreCivic affirmatively alleges that Plaintiffs lack standing to  
3 assert claims on behalf of other individuals, that Plaintiffs lack standing to seek  
4 declaratory and/or injunctive relief, and that Plaintiffs are not proper class  
5 representatives.

6 49. In answering Paragraph 49 of the First Amended Complaint,  
7 CoreCivic denies the allegations contained therein.

8 50. In answering Paragraph 50 of the First Amended Complaint,  
9 CoreCivic denies the allegations contained therein.

10 51. In answering Paragraph 51 of the First Amended Complaint,  
11 CoreCivic denies the allegations contained therein.

12 **SECOND CAUSE OF ACTION<sup>2</sup>**

13 **Violation of the California Trafficking Victims Protection Act**

14 **Cal. Civ. Code § 52.5**

15 **(On Behalf of the Plaintiffs Individually and the Putative Class)**

16 52. In answering Paragraph 52 of the First Amended Complaint,  
17 CoreCivic incorporates by reference its responses to Paragraphs 1-51, above.

18 53. In answering Paragraph 53 of the First Amended Complaint, the  
19 statute speaks for itself, and CoreCivic denies any violation of the same.

20 54. In answering Paragraph 54 of the First Amended Complaint, the  
21 statute speaks for itself, and CoreCivic denies any violation of the same.

22 55. In answering Paragraph 55 of the First Amended Complaint, the  
23 statute speaks for itself, and CoreCivic denies any violation of the same.

24 56. In answering Paragraph 56 of the First Amended Complaint,  
25 CoreCivic denies the allegations contained therein, including the allegations in  
26 subsections (a)-(d).

27 \_\_\_\_\_  
28 <sup>2</sup> The Court previously dismissed with prejudice all claims asserted in the Second Cause of Action that arose prior to January 1, 2006. (Doc. #38.)





1 wage for work performed as part of the Detainee Voluntary Work Program, and  
2 denies any violation of the statutes and wage order referenced in Paragraph 72.

3 74. In answering Paragraph 74 of the First Amended Complaint,  
4 CoreCivic denies the allegations contained therein.

5 75. In answering Paragraph 75 of the First Amended Complaint,  
6 CoreCivic denies the allegations contained therein.

7 **FIFTH CAUSE OF ACTION**

8 **Failure to Pay Overtime Wages**

9 **Cal. Labor Code §§ 204, 510, 1194, and Wage Order 5-2001**

10 **(On behalf of Plaintiffs Individually and the Putative Class)**

11 76. In answering Paragraph 76 of the First Amended Complaint,  
12 CoreCivic incorporates by reference its responses to Paragraphs 1-75, above.

13 77. In answering Paragraph 77 of the First Amended Complaint, the  
14 statutes and Wage Order 5-2001 speak for themselves, and CoreCivic denies any  
15 violation of the same. Additionally, the Court previously dismissed Plaintiff's  
16 claims to the extent they rely on Wage Order 15-2001 (Doc. #38), such that no  
17 response is required and none is given as to those claims.

18 78. In answering Paragraph 78 of the First Amended Complaint,  
19 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
20 is or ever has been required to pay ICE detainees overtime wages for work  
21 performed as part of the Detainee Voluntary Work Program.

22 79. In answering Paragraph 79 of the First Amended Complaint,  
23 CoreCivic denies the allegations contained therein.

24 **SIXTH CAUSE OF ACTION**

25 **Failure to Provide Mandated Meal Periods**

26 **Cal. Labor Code §§ 226.7, 512, and I.W.C. Wage Order 5-2001**

27 **(On behalf of Plaintiffs Individually and the Putative Class)**

1           80. In answering Paragraph 80 of the First Amended Complaint,  
2 CoreCivic incorporates by reference its responses to Paragraphs 1-79, above.

3           81. In answering Paragraph 81 of the First Amended Complaint, the  
4 statutes and Wage Order 5-2001 speak for themselves, and CoreCivic denies any  
5 violation of the same. CoreCivic further denies that it is or ever has been required to  
6 provide meal breaks to ICE detainees who participate in the Detainee Voluntary  
7 Work Program.

8           82. In answering Paragraph 82 of the First Amended Complaint,  
9 CoreCivic denies the allegations contained therein. The statutes and Wage Order 5-  
10 2001 speak for themselves, and CoreCivic denies any violation of the same.  
11 CoreCivic further denies that it is or ever has been required to provide meal breaks  
12 to ICE detainees who participate in the Detainee Voluntary Work Program.

13           83. In answering Paragraph 83 of the First Amended Complaint,  
14 CoreCivic denies the allegations contained therein.

15                                                           **SEVENTH CAUSE OF ACTION**

16                                                           **Failure to Provide Mandated Rest Periods**

17                                                           **Cal. Labor Code § 226.7 and I.W.C. Wage Order 5-2001**

18                                                           **(On behalf of Plaintiffs Individually and the Putative Class)**

19           84. In answering Paragraph 84 of the First Amended Complaint,  
20 CoreCivic incorporates by reference its responses to Paragraphs 1-83, above.

21           85. In answering Paragraph 85 of the First Amended Complaint,  
22 CoreCivic denies the allegations contained therein. The statute and Wage Order 5-  
23 2001 speak for themselves, and CoreCivic denies any violation of the same.  
24 CoreCivic further denies that it is or ever has been required to provide rest periods  
25 to ICE detainees who participate in the Detainee Voluntary Work Program.

26           86. In answering Paragraph 86 of the First Amended Complaint,  
27 CoreCivic denies the allegations contained therein.

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**EIGHTH CAUSE OF ACTION**

**Failure to Furnish Timely and Accurate Wage Statements**

**Cal. Labor Code § 226**

**(On behalf of Plaintiffs Individually and the Putative Class)**

87. In answering Paragraph 87 of the First Amended Complaint, CoreCivic incorporates by reference its responses to Paragraphs 1-86, above.

88. In answering Paragraph 88 of the First Amended Complaint, the statute speaks for itself, and CoreCivic denies any violation of the same.

89. In answering Paragraph 89 of the First Amended Complaint, CoreCivic denies the allegations contained therein. CoreCivic further denies that it does or ever has “employed” ICE detainees, as that term is defined by California state law, and that it is or ever has been required to provide itemized wage statements to ICE detainees for work performed as part of the Detainee Voluntary Work Program.

90. In answering Paragraph 90 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

91. In answering Paragraph 91 of the First Amended Complaint, CoreCivic denies the allegations contained therein. CoreCivic further denies that it is or ever has been required to provide itemized wage statements to ICE detainees for work performed as part of the Detainee Voluntary Work Program.

92. In answering Paragraph 92 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

93. In answering Paragraph 93 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

**NINTH CAUSE OF ACTION**

**Failure to Pay Compensation Upon Termination/Waiting Time Penalties**

**Cal. Labor Code § 201-2031**

**(On behalf of Plaintiffs Individually and the Putative Class)**



1 94. In answering Paragraph 94 of the First Amended Complaint,  
2 CoreCivic incorporates by reference its responses to Paragraphs 1-93, above.

3 95. In answering Paragraph 95 of the First Amended Complaint, the  
4 statutes speak for themselves, and CoreCivic denies any violation of the same.  
5 CoreCivic denies that it does or ever has “employed” ICE detainees, as that term is  
6 defined by California state law.

7 96. In answering Paragraph 96 of the First Amended Complaint,  
8 CoreCivic denies the allegations contained therein.

9 **TENTH CAUSE OF ACTION**

10 **Imposition of Unlawful Terms and Conditions of Employment**

11 **Cal. Labor Code § 432.5**

12 **(On behalf of Plaintiffs Individually and the Putative Class)**

13 97. In answering Paragraph 97 of the First Amended Complaint,  
14 CoreCivic incorporates by reference its responses to Paragraphs 1-96, above.

15 98. In answering Paragraph 98 of the First Amended Complaint, the  
16 statute speaks for itself, and CoreCivic denies any violation of the same.

17 99. In answering Paragraph 99 of the First Amended Complaint,  
18 CoreCivic admits only that participants in the Detainee Voluntary Work Program  
19 are required to sign a Detainee Voluntary Work Program Agreement in order to  
20 participate. CoreCivic denies that it does or ever has “employed” ICE detainees, as  
21 that term is defined by California state law, and that it is or ever has been required  
22 to pay ICE detainees minimum wage or overtime wages for work performed as part  
23 of the Detainee Voluntary Work Program. CoreCivic further denies all remaining  
24 allegations in Paragraph 99.

25 100. In answering Paragraph 100 of the First Amended Complaint,  
26 CoreCivic denies that it does or ever has “employed” ICE detainees, as that term is  
27 defined by California state law, and that the Detainee Voluntary Work Program  
28 Agreement detainees are required to sign before the participate in the Detainee

1 Voluntary Work Program is an “employment contract.” CoreCivic further denies all  
2 remaining allegations in Paragraph 100.

3 101. In answering Paragraph 101 of the First Amended Complaint,  
4 CoreCivic denies the allegations contained therein.

5 **ELEVENTH CAUSE OF ACTION**

6 **Negligence**

7 **(On behalf of Plaintiffs Individually and the Putative Class)**

8 102. In answering Paragraph 102 of the First Amended Complaint,  
9 CoreCivic incorporates by reference its responses to Paragraphs 1-101, above.

10 103. Paragraph 103 of the First Amended Complaint calls for a legal  
11 conclusion to which no response is required and none is given. To the extent a  
12 response is required, CoreCivic denies the allegations contained therein. CoreCivic  
13 further denies that it does or ever has “employed” ICE detainees, as that term is  
14 defined by California state law.

15 104. Paragraph 104 of the First Amended Complaint calls for a legal  
16 conclusion to which no response is required and none is given. To the extent a  
17 response is required, CoreCivic denies the allegations contained therein. CoreCivic  
18 denies any violation of the referenced statutes. CoreCivic further denies that it does  
19 or ever has “employed” ICE detainees, as that term is defined by California state  
20 law.

21 105. Paragraph 105 of the First Amended Complaint calls for a legal  
22 conclusion to which no response is required and none is given. To the extent a  
23 response is required, CoreCivic denies the allegations contained therein. CoreCivic  
24 denies any violation of the referenced statutes. CoreCivic further denies that it does  
25 or ever has “employed” ICE detainees, as that term is defined by California state  
26 law.

27 106. In answering Paragraph 106 of the First Amended Complaint,  
28 CoreCivic denies the allegations contained therein. CoreCivic denies any violation

1 of the referenced statutes. CoreCivic further denies that it does or ever has  
2 “employed” ICE detainees, as that term is defined by California state law.

3 107. Paragraph 107 of the First Amended Complaint calls for a legal  
4 conclusion to which no response is required and none is given. To the extent a  
5 response is required, CoreCivic denies the allegations contained therein. CoreCivic  
6 denies any violation of the referenced statutes.

7 108. Paragraph 108 of the First Amended Complaint calls for a legal  
8 conclusion to which no response is required and none is given. To the extent a  
9 response is required, CoreCivic denies the allegations contained therein. CoreCivic  
10 denies any violation of the referenced statutes, rules, and regulations. CoreCivic  
11 further denies that it does or ever has “employed” ICE detainees, as that term is  
12 defined by California state law.

13 109. Paragraph 109 of the First Amended Complaint is confusing as  
14 written, such that CoreCivic is without sufficient knowledge or information to form  
15 a belief regarding the allegations contained therein, and on that basis denies the  
16 same. CoreCivic further denies that it does or ever has “employed” ICE detainees,  
17 as that term is defined by California state law.

18 110. The allegations in Paragraph 110 of the First Amended Complaint are  
19 not directed at CoreCivic, such that no response is required and none is given. To  
20 the extent a response is required, CoreCivic denies the allegations.

21 111. In answering Paragraph 111 of the First Amended Complaint,  
22 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
23 does or ever has “employed” ICE detainees, as that term is defined by California  
24 state law.

25 112. In answering Paragraph 112 of the First Amended Complaint,  
26 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
27 does or ever has “employed” ICE detainees, as that term is defined by California  
28 state law, or that it does or ever has forced ICE detainees to work.

1           113. In answering Paragraph 113 of the First Amended Complaint,  
2 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
3 does or ever has “employed” ICE detainees, as that term is defined by California  
4 state law.

5           114. In answering Paragraph 114 of the First Amended Complaint,  
6 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
7 does or ever has “employed” ICE detainees, as that term is defined by California  
8 state law.

9           115. In answering Paragraph 115 of the First Amended Complaint,  
10 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
11 does or ever has “employed” ICE detainees, as that term is defined by California  
12 state law, or that it does or ever has forced ICE detainees to work.

13           116. In answering Paragraph 116 of the First Amended Complaint,  
14 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
15 does or ever has “employed” ICE detainees, as that term is defined by California  
16 state law, or that it does or ever has forced ICE detainees to work.

17           117. In answering Paragraph 117 of the First Amended Complaint,  
18 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
19 does or ever has “employed” ICE detainees, as that term is defined by California  
20 state law, or that it does or ever has forced ICE detainees to work.

21           118. In answering Paragraph 118 of the First Amended Complaint,  
22 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
23 does or ever has “employed” ICE detainees, as that term is defined by California  
24 state law, or that it does or ever has forced ICE detainees to work.

25           119. In answering Paragraph 119 of the First Amended Complaint,  
26 CoreCivic denies that Plaintiffs and the Class Members are entitled to any of the  
27 relief they seek.  
28

**TWELFTH CAUSE OF ACTION**

**Unjust Enrichment**

**(On behalf of Plaintiffs Individually and the Putative Class)**

1  
2  
3  
4 120. In answering Paragraph 120 of the First Amended Complaint,  
5 CoreCivic incorporates by reference its responses to Paragraphs 1-119, above.

6 121. In answering Paragraph 121 of the First Amended Complaint, the  
7 cases speak for themselves, and CoreCivic denies any violation of the same.

8 122. In answering Paragraph 122 of the First Amended Complaint, the  
9 cases speak for themselves, and CoreCivic denies any violation of the same.

10 123. In answering Paragraph 123 of the First Amended Complaint,  
11 CoreCivic denies the allegations contained therein.

12 124. In answering Paragraph 124 of the First Amended Complaint,  
13 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
14 does or ever has “employed” ICE detainees, as that term is defined by California  
15 state law, or that it does or ever has forced ICE detainees to work.

16 125. In answering Paragraph 125 of the First Amended Complaint,  
17 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
18 does or ever has “employed” ICE detainees, as that term is defined by California  
19 state law, or that it does or ever has forced ICE detainees to work.

20 126. In answering Paragraph 126 of the First Amended Complaint,  
21 CoreCivic denies the allegations contained therein. CoreCivic further denies that it  
22 does or ever has “employed” ICE detainees, as that term is defined by California  
23 state law, or that it does or ever has forced ICE detainees to work.

24 127. In answering Paragraph 127 of the First Amended Complaint,  
25 CoreCivic denies the allegations contained therein.

26 128. In answering Paragraph 128 of the First Amended Complaint,  
27 CoreCivic denies the allegations contained therein.  
28

**THIRTEENTH CAUSE OF ACTION**

**Violation of Labor Code §§ 2698, et seq., Private Attorney General Act  
(On behalf of Plaintiffs Individually and the Class)**

129. In answering Paragraph 129 of the First Amended Complaint, CoreCivic incorporates by reference its responses to Paragraphs 1-128, above.

130. In answering Paragraph 130 of the First Amended Complaint, the statutes speak for themselves, and CoreCivic denies any violation of the same.

131. The allegations in Paragraph 131 of the First Amended Complaint are not directed at CoreCivic, such that no response is required and none is provided. To the extent a response is required, CoreCivic denies the allegations, and specifically denies any allegations of wrongdoing.

132. In answering Paragraph 132 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

133. The allegations in Paragraph 133 of the First Amended Complaint are not directed at CoreCivic, such that no response is required and none is provided. To the extent a response is required, CoreCivic denies the allegations, and specifically denies any allegations of wrongdoing.

134. In answering Paragraph 134 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

135. In answering Paragraph 135 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

136. In answering Paragraph 136 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

137. In answering Paragraph 137 of the First Amended Complaint, CoreCivic denies the allegations contained therein.

138. The allegations in Paragraph 138 of the First Amended Complaint are not directed at CoreCivic, such that no response is required and none is provided.

1 To the extent a response is required, CoreCivic denies the allegations, and  
2 specifically denies any allegations of wrongdoing.

3 **PLAINTIFFS' PRAYER FOR RELIEF**

4 In answering the Prayer for Relief, CoreCivic denies that Plaintiffs and the  
5 Class Members are entitled to any of the relief they seek. CoreCivic denies that this  
6 matter is suitable for class certification. CoreCivic affirmatively alleges that  
7 Plaintiffs lack standing to assert claims on behalf of other individuals, that Plaintiffs  
8 lack standing to seek declaratory and/or injunctive relief, that Plaintiffs are not  
9 proper class representatives, and that this Court lacks personal jurisdiction over  
10 CoreCivic as to Plaintiffs' claims arising out of CoreCivic's non-California  
11 facilities.

12 **AFFIRMATIVE DEFENSES**

13 1. As a separate defense, and in the alternative, CoreCivic alleges that the  
14 First Amended Complaint fails to state claims upon which relief can be granted.

15 2. As a separate defense, and in the alternative, CoreCivic alleges that  
16 Plaintiffs have failed to join a necessary party or parties under Fed. R. Civ. P. 19.

17 3. As a separate defense, and in the alternative, CoreCivic alleges that  
18 Plaintiffs' and the putative class members' alleged injuries and damages, if any,  
19 were caused by the acts of a third party who has not been named a party to this  
20 action and over whom CoreCivic had no control.

21 4. As a separate defense, and in the alternative, CoreCivic alleges that  
22 Plaintiffs' action is not certifiable as a class action pursuant to Fed. R. Civ. P. 23 et.  
23 seq.

24 5. As a separate defense, and in the alternative, CoreCivic alleges that  
25 Plaintiffs lack standing to maintain this action as a class action.

26 6. As a separate defense, and in the alternative, CoreCivic alleges that  
27 Plaintiffs lack standing to seek declaratory and/or injunctive relief.  
28

1           7. As a separate defense, and in the alternative, CoreCivic alleges that  
2 Plaintiffs lack standing to bring claims under 18 U.S.C. § 1595 and Cal. Civ. Code  
3 § 52.5.

4           8. As a separate defense, and in the alternative, CoreCivic alleges that  
5 this Court lacks personal jurisdiction over CoreCivic as to Plaintiffs' claims arising  
6 out of Plaintiffs' non-California facilities.

7           9. As a separate defense, and in the alternative, CoreCivic alleges that  
8 Plaintiffs and the putative class members failed to exhaust administrative remedies  
9 prior to filing suit in accordance with the Prison Litigation Reform Act, thereby  
10 precluding all claims asserted under federal law.

11           10. As a separate defense, and in the alternative, CoreCivic alleges that  
12 Plaintiffs and the putative class members failed to exhaust administrative remedies  
13 prior to filing suit in accordance with applicable state law or regulations, thereby  
14 precluding all claims asserted under state law.

15           11. As a separate defense, and in the alternative, CoreCivic alleges that  
16 some or all of the named Plaintiffs' and putative class members' claims are barred  
17 by the statute of limitations.

18           12. As a separate defense, and in the alternative, CoreCivic alleges that  
19 Plaintiffs have unreasonably delayed their request for relief, to CoreCivic's  
20 prejudice, such that their claims are barred by the defense of laches.

21           13. As a separate defense, and in the alternative, CoreCivic alleges that it  
22 was acting under legal process, with good, sufficient, and probable cause to be so  
23 acting, and that the actions of CoreCivic were in good faith and without malice.

24           14. As a separate defense, and in the alternative, CoreCivic alleges that  
25 Plaintiffs' requested relief violates the law, and is otherwise impossible to attain in  
26 conformance with the law. Neither Plaintiffs nor the putative class members have a  
27 legal right to work at minimum wage rates because none has sought approval from  
28



1 ICE for employment with CoreCivic, and none are qualified to work for CoreCivic  
2 under ICE's contract terms.

3 15. As a separate defense, and in the alternative, CoreCivic alleges that its  
4 actions were objectively reasonable under the circumstances and that it was acting  
5 in good faith and without malice.

6 16. As a separate defense, and in the alternative, CoreCivic alleges that, as  
7 a federal government contractor, all claims against it are barred by the government  
8 contractor defense.

9 17. As a separate defense, and in the alternative, CoreCivic alleges that, as  
10 a federal government contractor, it is entitled to derivative immunity.

11 18. As a separate defense, and in the alternative, CoreCivic alleges that the  
12 Plaintiffs' and the putative class members' injuries, losses, and damages were the  
13 result of the assumption of risk by Plaintiffs and the putative class members.

14 19. As a separate defense, and in the alternative, CoreCivic alleges that  
15 Plaintiffs and the putative class members were responsible and/or negligent, which  
16 would diminish or eliminate Plaintiffs' and the putative class members' right to  
17 recover under certain or all claims for relief.

18 20. As a separate defense, and in the alternative, CoreCivic alleges that  
19 Plaintiffs and the putative class members knowingly waived their claims when they  
20 freely elected to participate in the Detainee Voluntary Work Program.

21 21. As a separate defense, and in the alternative, CoreCivic alleges that  
22 there existed no conduct in this case motivated by an evil motive or intent, nor did  
23 any conduct involve reckless or callous indifference to the rights of Plaintiffs and  
24 the putative class members.

25 22. As a separate defense, and in the alternative, CoreCivic alleges that  
26 Plaintiffs and the putative class members are not human trafficking victims, or  
27 victims of any criminal activity specified in Title 18, Chapter 77 of the United  
28

1 States Code, such that the Trafficking Victims Protection Act, 18 U.S.C. § 1595,  
2 does not apply.

3 23. As a separate defense, and in the alternative, CoreCivic alleges that it  
4 did not knowingly obtain the labor or services of Plaintiffs or the putative class  
5 members in violation of 18 U.S.C. § 1589.

6 24. As a separate defense, and in the alternative, CoreCivic alleges that it  
7 did not knowingly benefit from participation in a venture that it knew or should  
8 have known was in violation of 18 U.S.C. § 1589.

9 25. As a separate defense, and in the alternative, CoreCivic alleges that, as  
10 a federal contractor, it is entitled to require a communal contribution by ICE  
11 detainees, including Plaintiffs and the putative class members, in the form of  
12 housekeeping tasks under the civic duty exception to the Thirteenth Amendment's  
13 prohibition against involuntary servitude.

14 26. As a separate defense, and in the alternative, CoreCivic alleges that  
15 Plaintiffs and the putative class members are not human trafficking victims, as that  
16 term is defined in Cal. Penal Code § 236.1, such that the California Trafficking  
17 Victims Protection Act, Cal. Civ. Code § 52.5, does not apply.

18 27. As a separate defense, and in the alternative, CoreCivic alleges that  
19 California's labor laws are pre-empted by federal law, including, but not limited to,  
20 the Immigration and Nationality Act and the Immigration Reform and Control Act.

21 28. As a separate defense, and in the alternative, CoreCivic alleges that  
22 ICE detainees, including Plaintiffs and the putative class members, who perform  
23 maintenance, cooking, laundry, and other assignments for \$1 per day while  
24 detained are not employees of either CoreCivic or the facility in which they are  
25 being detained, such that state labor laws do not apply.

26 29. As a separate defense, and in the alternative, CoreCivic alleges that  
27 Plaintiffs and the putative class members were paid all money owed to them under  
28 the Detainee Voluntary Work Program pursuant to federal law.

1           30. As a separate defense, and in the alternative, CoreCivic alleges that it  
2 neither received nor unjustly retained any benefits at the expense of Plaintiffs or the  
3 putative class members.

4           31. As an affirmative defense, and in the alternative, CoreCivic alleges its  
5 conduct was not negligent and did not violate the applicable standard of care.

6           32. As an affirmative defense, and in the alternative, CoreCivic alleges it  
7 did not breach any duty to Plaintiffs or the putative class members.

8           33. As an affirmative defense, and in the alternative, CoreCivic alleges it  
9 acted reasonably under the circumstances.

10           34. As a separate defense, and in the alternative, CoreCivic alleges that it  
11 would be inequitable for Plaintiffs and the putative class members to recover any  
12 damages because the actions of each Plaintiff and putative class member caused  
13 him or her to be placed in an immigration detention facility; any work any such  
14 individual performed was voluntary and/or minor and consistent with work  
15 performed by detainees at ICE facilities throughout the United States; and Plaintiffs  
16 and the putative class members received other material benefits, including but not  
17 limited to housing, food, clothing, and recreation, from CoreCivic while detained.

18           35. As a separate defense, and in the alternative, CoreCivic alleges that it  
19 is entitled to an offset from any award to Plaintiffs and/or the putative class  
20 members for costs incurred by CoreCivic in providing material benefits, including  
21 but not limited to housing, food, clothing, and recreation, to Plaintiffs and the  
22 putative class members while detained, as well as costs incurred in operating the  
23 Detainee Voluntary Work Program.

24           36. As a separate defense, and in the alternative, CoreCivic alleges that  
25 requiring it to pay Plaintiffs and/or the putative class members state law minimum  
26 wages would make it impossible for CoreCivic to comply with its contractual  
27 obligations to ICE.

28



1 he is a resident of California. The amount in controversy on the counter-claims  
2 exceeds \$75,000.00.

3 2. Alternatively, this Court has supplemental jurisdiction over these  
4 counter-claims pursuant to 28 U.S.C. § 1367(a), as these counter-claims form part  
5 of the same case or controversy as the claims asserted by Plaintiffs/Counter-  
6 Defendants under Article III of the United States Constitution.

7 3. Venue is proper in this Court, as the events giving rise to these  
8 counter-claims occurred in this district.

### 9 **PARTIES**

10 4. CoreCivic is a Maryland corporation with its principal place of  
11 business in Tennessee. During part or all of the timeframes relevant to  
12 Plaintiffs/Counter-Defendants' claims, CoreCivic owned and operated the Otay  
13 Mesa Detention Center ("OMDC"), located in San Diego, California; the San Diego  
14 Correctional Facility ("SDCF"), located in San Diego, California; and the  
15 California City Correctional Center ("CACCC"), located in California City,  
16 California.<sup>3</sup> CoreCivic currently houses federal immigration detainees at OMDC,  
17 and housed such detainees at SDCF and CACCC during the timeframes noted  
18 above, consistent with the terms and conditions of its detention services agreements  
19 with United States Immigration and Customs Enforcement ("ICE"), including  
20 administration of the Detainee Voluntary Work Program, as well as all applicable  
21 state and federal statutes and regulations and detention facility standards.

22 5. Sylvester Owino is a citizen of Kenya, who alleges he is a resident of  
23 California. Owino was an ICE detainee at SDCF at various times from

24 \_\_\_\_\_  
25 <sup>3</sup> OMDC first opened in October 2015. Prior to that, CoreCivic housed ICE  
26 detainees at SDCF, which closed in October 2015. The contract requirements,  
27 policies, and procedures in effect at both facilities are/were essentially identical,  
28 and many staff and detainees transferred from SDCF to OMDC. Indeed, the  
detention services agreement between ICE and CoreCivic, first entered into in July  
2005, makes repeated references to the facility as "Otay Mesa."

1 November 7, 2005 to March 9, 2015, during which time he received material  
2 benefits, including but not limited to housing, food, clothing, and recreation, at no  
3 cost to himself.

4 6. Jonathan Gomez is a citizen of Mexico, who alleges he is a resident of  
5 California. Gomez was an ICE detainee at SDCF at various times from June 18,  
6 2012 to September 18, 2013, during which time he received material benefits,  
7 including but not limited to housing, food, clothing, and recreation, at no cost to  
8 himself.

### 9 **FIRST CAUSE OF ACTION**

#### 10 **Unjust Enrichment**

11 7. CoreCivic's detention services agreements with ICE require all  
12 CoreCivic personnel to meet high standards of professionalism and integrity, and  
13 set specific requirements that must be met before a CoreCivic employee is  
14 permitted to enter on duty at the facility, including interviews, criminal history and  
15 other background checks, and employment eligibility verification. Pursuant to the  
16 agreements, ICE is the final approval authority for all CoreCivic personnel who  
17 work with federal detainees at CoreCivic facilities under the terms of the  
18 agreement. Proposed personnel with criminal convictions must be specifically  
19 approved by ICE; any such persons who are still under supervision or jurisdiction  
20 of any parole, probation, or correctional authority are prohibited from employment  
21 at CoreCivic facilities.

22 8. CoreCivic's detention services agreements with ICE also require  
23 CoreCivic to implement and maintain a voluntary work program for detainees, and  
24 require detainees who wish to participate in the program to sign a form  
25 acknowledging that participation in the program is voluntary. The agreements  
26 specifically prohibit detainees from being used to perform the responsibilities or  
27 duties of CoreCivic's employees.  
28

1           9.     CoreCivic operates, and has operated at all times relevant to these  
2 counterclaims, the Detainee Voluntary Work Program at its California facilities as  
3 required by its detention services agreements with ICE. Participation in the program  
4 is purely voluntary. Detainees are not required or forced to participate in the  
5 Detainee Voluntary Work Program in any way.

6           10.    Participation in the Detainee Voluntary Work Program is separate  
7 from detainees' responsibility to maintain their immediate living areas in a neat and  
8 orderly manner pursuant to ICE's Performance-Based National Detention  
9 Standards, which all detainees are required to meet.

10          11.    The Detainee Voluntary Work Program is critical to the safe and  
11 secure operation of the facility. The intent of the program is to reduce detainee  
12 idleness, improve morale, and reduce the number of disciplinary incidents, while at  
13 the same time promoting institutional maintenance and efficiency, just as similar  
14 programs in ICE facilities and other correctional and detention facilities nationwide  
15 do. The Detainee Voluntary Work Program does not, and is not intended to, create  
16 an employment relationship between CoreCivic and detainees housed in  
17 CoreCivic's California facilities.

18          12.    As such, the Detainee Voluntary Work Program does not include the  
19 traditional characteristics of a standard employment relationship. For example,  
20 CoreCivic does not require detainees who wish to participate in the program to  
21 complete and submit job applications, submit to pre-employment interviews, prove  
22 their work eligibility under federal law, compete against non-detainee applicants, or  
23 complete any of the other pre-employment requirements CoreCivic employees at  
24 CoreCivic's California facilities must complete.

25          13.    Pursuant to its detention services agreements with ICE, CoreCivic  
26 provides basic necessities to all detainees housed in its California facilities,  
27 including but not limited to housing, food, clothing, and recreation. Detainees do  
28 not pay CoreCivic or ICE for these services, either in whole or in part.

1           14. As part of their initial intake paperwork, Owino and Gomez each  
2 signed a “Voluntary Work Release,” acknowledging that, while they “[could] not  
3 be compelled to work other than to perform housekeeping tasks in [their] own  
4 cell[s] and the community living area,” they “would like to volunteer for work  
5 assignments in addition to [their] housekeeping tasks,” and that “[b]y signing below  
6 [they were] volunteering to participate in work assignments.”

7           15. Owino and Gomez also each signed an “Acknowledgment of Inmate/  
8 Detainee Orientation” form as part of their initial intake paperwork, acknowledging  
9 that they had received, read, and understood the Inmate/Detainee Orientation  
10 Handbook, which included a description of the Detainee Work Program, including  
11 that participation in the program was voluntary.

12           16. Owino and Gomez each participated in the Detainee Voluntary Work  
13 Program at various times while at SDCF.

14           17. The putative class members, like Counter-Defendants, were detained  
15 by ICE, housed in one of CoreCivic’s California facilities, and participated in the  
16 Detainee Voluntary Work Program at various times relevant to these counter-  
17 claims.

18           18. CoreCivic did not require or force Counter-Defendants or any other  
19 putative class members to participate in the Detainee Voluntary Work Program in  
20 any way.

21           19. Neither Counter-Defendants nor any of the putative class members  
22 filed formal job applications, sat for pre-employment interviews, proved their work  
23 eligibility as required by federal law, competed against non-detainee applicants, or  
24 completed any of the other pre-employment requirements CoreCivic employees at  
25 CoreCivic’s California facilities must complete.

26           20. Neither Counter-Defendants nor any of the putative class members  
27 participated in the Detainee Voluntary Work Program for more than eight hours per  
28 day or 40 hours per week, and in fact often volunteered significantly fewer hours



1 depending on their work assignment, some of which involved only one to two hours  
2 per day.

3 21. The participation of Counter-Defendants and the putative class  
4 members in the Detainee Voluntary Work Program was temporary and dependent  
5 upon their continued detention—they could not participate in the program after  
6 their detention ceased. Moreover, Counter-Defendants and the putative class  
7 members were free to withdraw from the Detainee Voluntary Work Program at any  
8 time.

9 22. During their detention at CoreCivic's California facilities, Counter-  
10 Defendants and the putative class members understood that they were not employed  
11 by CoreCivic, and chose to participate in the Detainee Voluntary Work Program  
12 with full knowledge that their participation was voluntary and that they would  
13 receive \$1 per day regardless of their work assignment and number of hours  
14 volunteered per day. Neither Counter-Defendants nor the putative class members  
15 had, nor could they have had, any reasonable expectation of entitlement to the state  
16 law minimum wage in effect at the time of their detention.

17 23. During their detention at CoreCivic's California facilities, Counter-  
18 Defendants and the putative class members were provided basic necessities,  
19 including but not limited to housing, food, clothing, and recreation. Neither  
20 Counter-Defendants nor any other putative class members paid CoreCivic or ICE  
21 for these services.

22 24. Counter-Defendants and the putative class members would unjustly  
23 benefit from the receipt of damages under California labor laws, including but not  
24 limited to state law minimum wages, overtime wages, penalties, and other damages,  
25 at rates in excess of \$1 per day for their participation in the Detainee Voluntary  
26 Work Program if they were permitted to keep the benefit of these services without  
27 offsetting such damages with the costs and expenses associated with their detention.  
28

1           25. In the event Counter-Defendants and the putative class members  
2 prevail on their theory that California labor laws, including but not limited to laws  
3 regarding minimum wage and overtime wages, apply to detention facility work  
4 programs like the Detainee Voluntary Work Program at CoreCivic's California  
5 facilities, CoreCivic is equitably entitled to recover its costs and expenses  
6 associated with detaining Counter-Defendants and the putative class members,  
7 including the administration of the Detainee Voluntary Work Program.

8                               **SECOND CAUSE OF ACTION**

9                               **Declaratory Relief—28 U.S.C. § 2201(a)**

10           26. CoreCivic incorporates the allegations in Paragraphs 1-25, above, by  
11 reference as if fully stated herein.

12           27. Pursuant to an express authorization from Congress that ICE may  
13 authorize allowances to immigration detainees for work performed while detained,  
14 ICE's pre-2011 Performance Based National Detention Standards ("PBNDS")  
15 authorized an allowance of \$1 per day for each participant in the Detainee  
16 Voluntary Work Program. ICE's 2011 PBNDS authorized payment of at least \$1  
17 per day, but ICE has never reimbursed CoreCivic at rates sufficient to pay detainees  
18 state law minimum wages for participation in the Detainee Voluntary Work  
19 Program, or required CoreCivic to pay detainees such wages.

20           28. In fact, ICE prohibits CoreCivic from employing detainees. ICE must  
21 approve any CoreCivic staff that work with federal detainees at CoreCivic's  
22 California facilities.

23           29. Counter-Defendants and the putative class members were participants  
24 in the Detainee Voluntary Work Program at CoreCivic's California facilities. They  
25 were not authorized by ICE to work for CoreCivic, and did not complete the  
26 requirements for employment specified in CoreCivic's detention services  
27 agreements with ICE.

1           30. Counter-Defendants initiated this lawsuit, claiming California's labor  
2 laws apply to them and the putative class members, when they do not. CoreCivic  
3 has already incurred attorney fees and other costs defending against Counter-  
4 Defendants' claims, and will continue to do so.

5           31. ICE detainees at CoreCivic's California facilities, including Counter-  
6 Defendants and the putative class members, are federal immigration detainees  
7 housed at those facilities pursuant to CoreCivic's detention services agreements  
8 with ICE. They are not employed by CoreCivic, and are not employees of  
9 CoreCivic. The work performed by these detainees is performed for reasons other  
10 than compensation, as detainees participating in the Detainee Voluntary Work  
11 Program do not participate in commerce and do not depend on the wages they earn  
12 for basic necessities such as, for example, housing, food, clothing, and recreation,  
13 while detained, as those necessities are provided to them at taxpayer expense.

14           32. CoreCivic therefore seeks a declaration that: (1) no employment  
15 relationship exists between CoreCivic and detainees at CoreCivic's California  
16 facilities who participate in the Detainee Voluntary Work Program, including but  
17 not limited to Counter-Defendants and the putative class members; (2) such  
18 detainees, including but not limited to Counter-Defendants and the putative class  
19 members, are not employees of CoreCivic, and CoreCivic is not their employer;  
20 and (3) as a result, California's labor laws do not apply to such detainees, including  
21 but not limited to Counter-Defendants and the putative class members.

22           WHEREFORE, CoreCivic prays for the following relief:

23           A. An order enjoining Counter-Defendants and the putative class  
24 members from claiming California's labor laws apply to them;

25           B. An order declaring California's labor laws do not apply to ICE  
26 detainees at CoreCivic's California facilities, including but not limited to laws  
27 requiring payment of minimum wage and overtime wages;

28

1 C. An order declaring CoreCivic has no employment relationship with  
2 ICE detainees at its California facilities who participate in the Detainee Volunteer  
3 Work Program, namely that CoreCivic is not the employer of such detainees, and  
4 that such detainees are not employees of CoreCivic;

5 D. In the event Counter-Defendants and the putative class members  
6 prevail on their theory that California labor laws, including but not limited to laws  
7 regarding minimum wage and overtime wages, apply to detention facility work  
8 programs like the Detainee Voluntary Work Program at CoreCivic’s California  
9 facilities, an order awarding CoreCivic all costs and expenses incurred in providing  
10 basic necessities to Counter-Defendants and the putative class members, including  
11 but not limited to housing, food, clothing, and recreation;

12 E. An award of attorney fees and costs; and

13 F. Other and further relief as the Court deems just and equitable.

14 **CoreCivic demands a jury trial as to all triable issues raised in the First**  
15 **Amended Complaint and Counterclaims.**

16 Dated: October 26, 2018

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By s/ Jacob B. Lee  
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