

Exhibit 21

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK and ERIC
GONZALEZ, *in his official capacity as the
District Attorney of Kings County (Brooklyn),*

Plaintiff,

-against-

UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT; MATTHEW
T. ALBENCE, *in his official capacity as
Acting Director of United States Immigration
and Customs Enforcement*; UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; and KEVIN K. MCALEENAN,
*in his official capacity as Acting Secretary of
Homeland Security,*

Defendant.

CIVIL ACTION NO. 19-cv-08876-JSR

DECLARATION OF KAAVYA
VISWANATHAN

DECLARATION OF KAAVYA VISWANATHAN

I, KAAVYA VISWANATHAN, declare as follows pursuant to 28 U.S.C. § 1746:

I BACKGROUND

1. My name is Kaavya Viswanathan. My business address is 121 Avenue of the Americas, New York, NY 10013.

2. I am currently Managing Director of The Door's Legal Services Center, a position I have held since April 2019. I was a Managing Attorney at the Door from June 2018 until April 2019. The Door provides comprehensive youth development services to youth ages 12 to 24 in the New York City area. The Door's Legal Services Center serves undocumented young immigrants in all five boroughs of New York, and represents these young people in immigration

matters, including direct representation of clients applying for special immigrant juvenile status (SIJS), asylum, U and T visas, and other forms of humanitarian relief.

3. I am responsible for supervising our 33-member legal department, which represents undocumented immigrants in over 1,000 cases per year. My knowledge about the impact of ICE's courthouse arrest policy comes primarily from my staff, who share with me their personal observations made in the course of their direct client contact with undocumented immigrants. In supervision meetings with staff, we discuss how to advise their clients who are afraid of ICE in the courts and what alternatives, if any, there may be to avoid court appearances while still pursuing legal relief for clients. I also meet weekly with The Door's full legal staff, attend smaller team meetings, and provide legal guidance for the department, and in that context learn about fears of ICE in the courts of clients of my staff.

4. I am also responsible for managing our fundraising efforts, grant reporting, and budget management. This role requires me to keep funders up-to-date on our deliverables, including specific numbers of client cases we resolve, and to provide explanations if certain deliverables are not being met. As set forth below in greater detail, I have knowledge about the impact of ICE's courthouse arrest policy because I see the impact it has on our ability to meet our grant deliverables and related fundraising goals.

5. In addition, I handle a small case load of my own of about five to ten cases per year. My clients are undocumented youth applying for humanitarian immigration relief, such as SIJS, asylum, or U or T visas in the United States. I have knowledge of the impact of my clients' fears of ICE arrests in and around New York State Courts through my direct representation.

6. I also have knowledge of ICE in the courts through regular records maintained by attorneys and legal staff at The Door in Salesforce, the database where attorneys and legal staff

create records of consultations with clients. Specifically, The Door uses the “notes” section of an entry to include further details regarding a particular client. These notes are made either during or shortly after a client meeting and are created by the attorneys or legal staff who worked directly with the client. I am therefore also aware of fears of ICE in the courts through records in The Door’s Salesforce system, which I review from time to time in the course of supervising my team. I also use our Salesforce system to create records for my clients, and I have reviewed additional records in Salesforce on ICE in the courts for purposes of making this declaration. I also note that because we do not have a policy or practice requiring attorneys or other legal staff who meet with clients to document fears of ICE in the courts, our Salesforce records underestimate fears of ICE in the courts.

7. Prior to The Door, I worked at Kids in Need of Defense (“KIND”) from 2016 to 2018, where I represented and supervised pro bono representation of unaccompanied children in their immigration proceedings. Because I closely supervised over 150 pro bono matters at any given time, I regularly counseled pro bono attorneys about how to approach their representation in light of clients’ fears of ICE enforcement in and around New York courts. I also directly supervised three in-house attorneys at KIND, and learned more about ICE enforcement in courts and its impact on clients’ cases through that supervision.

8. I make this declaration based on my personal knowledge unless otherwise stated.

II ICE INTERFERES WITH THE ABILITY OF UNDOCUMENTED YOUNG IMMIGRANTS TO GET PROMPT IMMIGRATION RELIEF AND IN SOME CASES PREVENTS IMMIGRATION RELIEF ALTOGETHER

9. A majority of The Door’s legal work is representing undocumented youth in applications for Special Immigrant Juvenile status (SIJS), which allows abused, abandoned, or neglected undocumented immigrants under the age of 21 to apply for immediate immigration relief and potentially apply for lawful permanent residence. Before a minor may submit a SIJS

application (in the form of a Form I-360, which is a petition filed to classify an individual under 21 as a special immigrant), a state court must make five findings: 1) that the child is unmarried; 2) that the child is under age 21; 3) that the child has been declared dependent on a juvenile court or legally committed to or placed under the custody of a state agency or department *or an individual or entity appointed by a state or juvenile court*; 4) that reunification with one or both of the child's parents is not viable due to abuse, neglect, abandonment, or a similar basis under state law; and 5) that it is not in the child's best interest to be returned to his or her country of nationality or last habitual residence. One of the easiest ways to meet the third requirement is to identify an adult who is willing to act as a guardian or custodian for the young person.

10. ICE arrests in and around the courts have complicated and in some cases prevented undocumented young immigrants from obtaining SIJS relief. At least 15 Door clients have not brought SIJS applications or have had extreme difficulty doing so due to fears of ICE in the courts, whether their own or the fears of their potential guardians. First, our clients who are prospective SIJS applicants are afraid of going to court themselves due to ICE in the courts. For example, one of The Door's clients was arrested on a minor misdemeanor charge of petty larceny requiring a court appearance. However, she was so afraid of being arrested by ICE that she skipped her court appearance. Because an outstanding criminal charge may negatively affect a SIJS application, she eventually decided to attend, but she would not go to court alone. The Door connected her with Youth Represent, a youth defense and advocacy non-profit organization, in order to escort her to court. These types of fears, as well as the need for court escorts, were simply unheard of before 2017. I have personal knowledge of this story through my supervision of The Door's staff.

11. In other cases, guardians, who need not have lawful status, are unwilling to go to court. In particular, eligible guardians must usually go to court at least two times in the SIJS

application process: first, to be fingerprinted, which usually occurs at family court, and second, to appear before a family court judge who must conduct a hearing and issue the predicate orders necessary for the child to apply for SIJS with USCIS. Adults living in the same household as eligible guardians must also be fingerprinted in court.

12. The presence of ICE in and around courthouses has made eligible guardians fearful of exposing themselves and being arrested by ICE. Sometimes The Door is able to come up with workarounds to help potential guardians avoid court appearances, as discussed in paragraphs 15-16 below, but other times we are unable to convince potential guardians to continue with the process. If our clients cannot identify an alternative guardian, then they are unable to apply for SIJS relief altogether.

13. For example, in 2019, we referred one of our SIJS-eligible clients to one of our pro bono partners (a large law firm in New York City). This client's first proposed guardian was an undocumented aunt who was unwilling to serve as a guardian when she learned that she would have to go to court. Our client then approached a second undocumented aunt as potential guardian. However, the fear of the first aunt – who had declined to serve as a guardian – was so great that she called the second aunt and convinced her that ICE would arrest her if she went forward with the process. In the end, our client could not identify any other guardians. He was unable to move forward with his SIJS application and to my knowledge has not received any immigration relief.

14. As another example, one of my clients, who was eligible for both SIJS and a T visa, ultimately pursued only a T visa, because of her fears and her proposed guardian's fears of appearing in New York state family court.

15. In an effort to respond to fears of ICE in the courts, our attorneys have developed workarounds to avoid trips to court for fingerprinting. This is done upon motion. To date, our

attorneys have made at least 20 motions to waive fingerprinting requirements for SIJS applicants since January 2017. Preparing these motions has consumed our attorneys' time that would have otherwise been spent on other client matters.

16. However, not all motions to waive fingerprinting are successful, which then requires applicants to identify a different eligible guardian. This is not always an easy task for immigrants, who may not have extensive support networks of people willing to act as guardians.

17. Based on information from the attorneys I supervise, my own experience, and my review of The Door's files, combined with my previous interactions with clients and staff at KIND, I know that, before 2017, going to court to get fingerprinted in order to act as an eligible guardian for a SIJS applicant was straightforward and rarely, if ever, problematic. However, the presence of ICE in the courts turned a non-issue into a real and serious fear for undocumented immigrants and their potential guardians.

III IMPACT OF ICE ARRESTS ON THE DOOR'S ORGANIZATIONAL FUNCTIONING

18. ICE arrests and surveillance in and around the courts have burdened our attorneys' time and resources. We are forced to take on fewer cases because each case takes up more time than it did before ICE in the courts. The Door's attorneys do not track the exact allocations of their time spent, so it is not possible for me to quantify the exact figure. However, I can say that the family court portion of a SIJS case often takes months longer than it previously would, due to difficulties identifying a guardian, and then there may be additional motion practice to help the guardian avoid fingerprinting if necessary. Where cases might have once been resolved after just one or two family court appearances, spanning one to two months, they may now take four or five appearance, and span a year.

19. Our attorneys have spent and continue to spend significant amounts of time counseling potential guardians about the risk of ICE arrest.

20. Our attorneys also now routinely draft lengthy motions to waive fingerprinting requirements, necessitating attorney time for research, writing, and motion practice. When these motions are unsuccessful and/or when potential guardians back out of the process due to fears of ICE, our attorneys are also forced to spend time helping clients identify and counsel new potential guardians.

21. Cases also tend to stall, which was rarely a problem in the past. Clients or their guardians are unwilling to move their cases forward due to ICE in the courts. Aside from the direct impact on potential applicants themselves – who do not take advantage of the opportunity for affirmative immigration relief to which they are otherwise lawfully entitled – this puts a significant strain on our attorneys' time and resources. Where clients are nonresponsive, we do not just immediately close their cases. We keep their case files on our docket for some time in case clients reach back out or we are able to find a solution. Keeping cases open like this takes up limited resources and prevents us from taking on new cases. We usually keep a case open for several months, to give a client time to change his or her mind and decide to re-engage, and during this time, we regularly reach out to the client to offer support. This again takes up valuable attorney and staff time.¹

22. I also prepare a large amount of training materials, including for our pro bono attorney partners, related to ICE raids. I was hired by The Door in 2018, and The Door never had a need for training materials on ICE raids before then. The materials I have prepared or supervised the preparation of include flyers and other Know Your Rights materials, as well as slide decks and supporting materials to train new attorneys (including pro bono attorneys) on how to handle SIJS cases. I have also spent time advising on ICE in the courts in the context of these trainings, a topic which was not a focus before 2017, which I know from speaking with my

¹ When we eventually close a case due to individuals' fear of ICE arrests in courts, we do not state the reason that the case was closed in our Salesforce system.

predecessor and other staff at The Door. For example, The Door conducts Know Your Rights Trainings in communities around New York, and attendees, who are usually noncitizens, often ask questions about ICE in the courts. We always take the time to answer these questions. We have chosen not to include explicit information on ICE arrests in and around courthouses in these trainings because we do not want to scare noncitizens or otherwise deter them from pursuing relief in courts to which they are otherwise entitled.

23. The Door's legal department has an annual budget of approximately \$3.9 million. The majority of this funding comes from government funding (including city, federal, and state funding). The legal department also receives private foundation funding, as well as individual donations. Government funding is outcome-based, usually turning on the number of cases open, closed, or handled. In my role managing The Door's budget, I am aware that there is at least one grant where we have to report on the legal outcomes of immigration applications. Because the bulk of The Door's cases are SIJS cases, most of our funding contracts are developed with an eye to how many SIJS cases we expect to handle each year. Because fears of ICE arrest have made it more difficult to find willing guardians and slowed the number of cases we are able to handle each year, we have to expend additional resources to meet our funding requirements. *See* Exhibit A ("The Door HRA CSBG FY20 Q1 Justification Letter").

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 6, 2020, at New York,
New York.



Kaavya Viswanathan

Exhibit 21

Attachment A



Mary Castellana
Contract Manager
Human Resources Administration
4WTC/150 Greenwich St. 31st Floor
New York, NY 10007

October 18, 2019

Re: HRA CSBG Immigrant Legal Services FY19 Q1 Outcomes

Dear Ms. Castellana,

This letter is to explain under performance in outcomes and benchmarks on The Door's CSBG contract in FY20 Quarter 1.

In Q1, The Door underperformed on legal outcomes. This is because it takes more than 3 months to achieve a legal outcome in an immigration matter. The majority of the legal outcomes achieved in the first quarter were achieved for re-enrolled clients. As the fiscal year progresses and the cases progress accordingly, the number of legal outcomes will increase.

In addition, USCIS has promulgated policies that increase the risk of arrest, detention and deportation for immigrants who file affirmative applications like those we file on behalf of participants in this grant. As a result, it takes clients more time to decide whether they want to move forward with their cases and can increase the amount of time between the participant's enrollment and the achievement of a legal outcome.

In Q1, The Door underperformed on secondary outcomes. This is because we were focused on enrolling and re-enrolling participants. Additionally, many of our re-enrolled participants had accomplished their secondary outcomes in the previous fiscal year.

In Q1, The Door underperformed on benchmarks. This is because the benchmark period for many of our participants had not yet been reached in Q1.

Please do not hesitate to contact me at 212-941-9090 ext. 3409 if you need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kaavya Viswanathan', with a long horizontal flourish extending to the right.

Kaavya Viswanathan
Director, Legal Services Center