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

AL OTRO LADO, INC., *et al.*,  
Plaintiffs,  
v.  
ALEJANDRO N. MAYORKAS, *et al.*,  
Defendants.

Case No.: 3:23-cv-01367-AGS-BLM

Hon. Andrew G. Schopler

**EXHIBIT 24 TO THE  
DECLARATION OF STEPHEN M.  
MEDLOCK IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PROVISIONAL CLASS  
CERTIFICATION**

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## DECLARATION OF CAITLYN YATES

I, Caitlyn Yates, pursuant to 28 U.S.C. § 1746, hereby declare as follows:

1. I am a U.S. citizen and a current resident of Tijuana, Mexico. I have personal knowledge of the matters set forth herein except where I have indicated otherwise. If called as a witness, I can and will testify competently and truthfully to these matters.

2. I am a Fellow in the Central America and Mexico Policy Initiative (“CAMPI”) at the Strauss Center for International Security and Law at the University of Texas at Austin. In this role, I co-lead the CAMPI project on metering that documents asylum processing, waitlists, and conditions for asylum seekers across the U.S.-Mexico border. I also conduct original research on the U.S.-Mexico border and migration in and throughout Latin America generally.

3. Additionally, I am a PhD candidate in Socio-cultural Anthropology at the University of British Columbia (“UBC”). I am an affiliate of UBC’s Centre for Migration Studies. My work there focuses on human security, transit migration, organized crime, migrant facilitation, and borders in Latin America.

4. Prior to my work at UBC, I worked as a researcher at the Institute for National Strategic Studies and at IBI Consultants. I have also worked as a consultant at the Migration Policy Institute.

5. My fieldwork has specifically focused on both the U.S.-Mexico and the Colombia-Panama borders. I have presented my work before the United Nations Office on Drugs and Crime, as well as U.S. and Mexican government agencies and departments, and at academic conferences.

6. Since December 2018, CAMPI has published quarterly reports on U.S. Customs and Border Protection's ("CBP") asylum processing and the conditions for asylum seekers in Mexican border cities (the "Reports"). The Reports are based on information that I and other members of CAMPI have collected directly from field and phone interviews and direct observation on visits to Mexican border cities.

7. From November 2018 through February 2020, the Reports were typically published quarterly and documented asylum waitlists in Mexican border cities. However, during the COVID-19 pandemic, CBP stopped processing asylum seekers at ports of entry under a Centers for Disease Control and Prevention ("CDC") order promulgated pursuant to Title 42. This authority prevented asylum seekers from seeking protection at U.S. ports of entry ("POEs"). It also allowed CBP officers to immediately expel apprehended individuals of certain nationalities, including asylum seekers, to a Mexican border city or to their home countries. Under Title 42, many of the asylum waitlists along the border were frozen—meaning that list managers did not allow any new individuals to add their names—or they were dissolved. The Reports during this time documented that for brief periods in 2021,

and then again beginning in April 2022, the United States began processing some vulnerable asylum seekers under Title 42 exceptions along the border.

8. On January 12, 2023, CBP began requiring asylum seekers requesting a Title 42 exception to use a mobile application known as “CBP One” to make an appointment at a U.S. POE. Then, on May 11, 2023, the Title 42 public health order expired. At that time, and as of the date of this Declaration, the CBP One application was and continues to be the primary method for accessing asylum at POEs. In May 2023, POEs in only eight cities along the U.S.-Mexico border were processing migrants with CBP One appointments: Tijuana, Mexicali, Nogales, Ciudad Juarez, Piedras Negras, Nuevo Laredo, Reynosa, and Matamoros.<sup>1</sup>

9. With the end of Title 42, the U.S. government announced a new final rule titled “Circumvention of Lawful Pathways,” which affects asylum processing at the U.S.-Mexico border. This final rule makes non-Mexican individuals ineligible for asylum if they do not enter the U.S. via a CBP One appointment unless they enter the U.S. through a separate parole process or applied for and were denied asylum in a transit country en route to the U.S. There are also three narrow exceptions for non-Mexican individuals who enter outside of these processes and who: (1) “ha[ve] an

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<sup>1</sup> In the Reports, we discuss POEs using the cities in which they are located on the Mexican side of the U.S.-Mexico border. For ease of reference, the U.S. equivalents of the above POEs are: San Diego, CA; Calexico, CA; Nogales, AZ; El Paso, TX; Eagle Pass, TX; Laredo, TX; McAllen, TX; and Brownsville, TX.

acute medical emergency,” (2) face[ ] an imminent and extreme threat to life or safety,” or (3) “demonstrate that [CBP One] was not possible to access or use due to language barrier, illiteracy, significant technical failure, or other ongoing and serious obstacle.”<sup>2</sup> However, in my experience, many individuals without a CBP One appointment—even individuals who may meet these exception criteria—have been unable to access the asylum process at POEs following Title 42’s expiration.

10. Individuals attempting to obtain a CBP One appointment frequently confront serious technical challenges with the application in creating a profile. One of the most pressing issues, though, is that the number of daily appointments available through the application is far less than the number of individuals waiting for access to the asylum process. For instance, in the week that Title 42 expired, INM estimated that more than 10,000 migrants were waiting in Ciudad Juarez with only about 150 daily appointments, with new migrants arriving to the city each day. This means that many individuals will wait for weeks or months before receiving an appointment.

11. In May 2023, I co-authored a Report with Stephanie Leutert, the Director of CAMPI, that provides an update on asylum processing at the U.S.-Mexico border with a specific focus on the CBP One appointment process following

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<sup>2</sup> Circumvention of Lawful Pathways, 88 Fed. Reg. 31314, 31318 (May 16, 2023).

Title 42's expiration.<sup>3</sup> As with prior Reports, the May 2023 Report draws on phone and WhatsApp interviews with asylum seekers, government officials, members of civil society organizations, and legal service providers on both sides of the U.S.-Mexico border. It also relies on local news articles to fill in gaps.

12. Although I do not reproduce here all of the relevant data and findings in the May 2023 Report, the Report generally found the following:

- a. The data shows that half of the POEs on the U.S.-Mexico border that are processing asylum seekers—including Piedras Negras, Ciudad Juarez, Mexicali, and Tijuana—are processing *only* asylum seekers with CBP One appointments. Individuals who seek access to the asylum process at these POEs without a CBP One appointment are almost always turned back. Notably, for asylum seekers, Ciudad Juarez and Tijuana are two of the busiest POEs on the U.S.-Mexico border.
- b. The other half of the POEs on the U.S.-Mexico border that are processing CBP One appointments—including Matamoros, Reynosa, Nuevo Laredo, and Nogales—are doing so almost exclusively through CBP One appointments but with a small

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<sup>3</sup> The Report is publicly available and can be found here: <https://www.strausscenter.org/publications/asylum-processing-at-the-u-s-mexico-border-may-2023/>.



number of asylum seekers also being processed via allowances by Mexico's Instituto Nacional de Migracion ("INM"). INM controls access to these POEs and allows physical entry to a small number of asylum seekers in conjunction with local shelters and organizations.

13. It is clear from the border-wide data that although the "Circumvention of Lawful Pathways" final rule provides for exceptions to the use of CBP One, CBP is not permitting the vast majority of asylum seekers to avail themselves of those exceptions. CBP is almost uniformly requiring asylum seekers to obtain a CBP One appointment in order to be inspected and processed, regardless of whether they may be eligible for an exception.

14. In Tijuana, I have witnessed first-hand individuals attempting to seek asylum at POEs and being turned back by CBP and/or INM officials even though they may be eligible for the exceptions noted in the final rule. One group of individuals who frequently present at POEs in Tijuana are Russian language speakers. Given that the CBP One application is only available in English, Spanish, and Haitian Creole, Russian language speakers face a significant language barrier in using the application, and thus should qualify for an exception to the rule. However, in my experience, many have been turned back in Tijuana. This is also the case for any individual who speaks a language other than the languages of the application. In

Tijuana, other frequently spoken languages include Dari and Indigenous languages native to Mexico, parts of Central America, and Ecuador.

15. Another group of individuals who frequently present at the POE in Tijuana without a CBP One appointment are Mexican nationals whose lives are in imminent danger while waiting to obtain a CBP One appointment in their own country. I have witnessed first-hand Mexican nationals attempting to present themselves to CBP officials at the San Ysidro POE given ongoing threats or attempts on their lives. These individuals were turned back and instructed to use the CBP One application, despite the insufficient number of appointments, putting their lives and those of their families at risk. That is the case despite the fact that the Circumvention of Lawful Pathways rule does not apply to Mexicans.

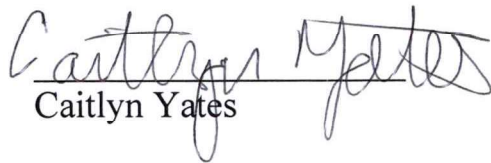
16. Finally, a third group of individuals I have witnessed attempt to present themselves at POEs are individuals who encounter severe technical difficulties. These are not just limited error messages or an inability to obtain a CBP One appointment. Rather, some individuals try for weeks to get the application to even open or to successfully create a profile to begin requesting a CBP One appointment, but the application responds only with looping error messages. These are individuals who have installed, uninstalled, and reinstalled the application; who have tried using multiple SIM cards; and/or who have repeatedly contacted CBP through the CBP One application to report the technical issue without receiving a response. These

individuals have also been turned back either by CBP or by INM officials before they even reach the POE.

17. In Tijuana, I have also personally witnessed coordination between CBP and Grupo Beta (INM). CBP gives Grupo Beta the number of appointments per time slot, and if Grupo Beta is concerned that an asylum seeker is arriving without a CBP One appointment, Grupo Beta will write or call CBP directly to confirm the individual's appointment before allowing that individual to enter the POE.

I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on the 8<sup>th</sup> day of August, 2023, in Tijuana.

  
Caitlyn Yates