

**DISTRICT COURT, TELLER COUNTY, COLORADO**

101 W. Bennett Avenue, Cripple Creek, Colorado 80813

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CASE NUMBER: 2019CV30051

**Plaintiffs-Counterclaim Defendants:** BERCK NASH;  
JOANNA NASH; RODNEY SAUNDERS; DARLENE  
SCHMURR-STEWART; PAUL MICHAEL STEWART; and  
JANET GOULD,

**Defendant-Counterclaimant:** JASON MIKESELL, in his  
official capacity as Sheriff of Teller County, Colorado.

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Case No. 2019CV030051

Division: 11

**AMENDED COMPLAINT**

Plaintiffs Berck Nash, Joanna Nash, Rodney Saunders, Darlene Schmurr-Stewart, Paul Michael Stewart, and Janet Gould state the following in support of this Amended Complaint against Defendant Jason Mikesell, in his official capacity as Sheriff of Teller County, Colorado:

### **INTRODUCTION**

1. When county jail prisoners post bond, complete their sentences, or otherwise resolve their criminal cases, the Colorado Constitution requires that sheriffs release them. These constitutional commands apply even when federal immigration authorities suspect that the prisoner is removable from the country. Being present in violation of federal immigration laws is a civil matter, not a crime. Teller County Sheriff Jason Mikesell, however, plans to keep such prisoners in custody, in violation of the Colorado Constitution and in direct violation of a recently-enacted Colorado statute that specifically prohibits law enforcement from extending a person's detention for immigration purposes.

2. In pursuit of this plan for illegal arrests and detentions, Sheriff Mikesell is diverting taxpayer funds and taxpayer resources from their intended purposes in order to pay for and launch an unlawful program that he lacks Colorado authority to carry out. Sheriff Mikesell has signed an agreement, known as a 287(g) agreement, with U.S. Immigration and Customs Enforcement (ICE). Under this agreement, three deputies of the Teller County Sheriff's Office (TCSO) will travel out of state to undergo four weeks of training in immigration law, at TCSO's expense. After this training, which is scheduled to begin on August 12, 2019, these TCSO deputies will investigate, interrogate, and re-arrest jail prisoners suspected of being subject to removal from the country. In discharging these immigration-enforcement tasks, they will carry out arrests and detentions that are prohibited by Colorado law.

3. To launch and execute this 287(g) program, Sheriff Mikesell is expending and will expend taxpayer funds in violation of the Colorado Constitution and Colorado law. Plaintiffs are taxpaying residents of Teller County who object to Sheriff Mikesell's plans to divert their tax money from its intended purpose and to expend it instead on a program that violates state law. The Sheriff's plan threatens to repeat the problems that have plagued 287(g) programs in other jurisdictions, such as racial profiling, diminished community trust in law enforcement, and substantial costs to local governments.

4. Plaintiffs seek a declaratory judgment and an injunction to stop Sheriff Mikesell's program of illegal arrests and detentions for suspected civil immigration violations and his expenditure of taxpayer funds for an unconstitutional purpose.

### **PARTIES, JURISDICTION, AND VENUE**

5. Plaintiff Berck Nash is a resident of Teller County and has lived in the county for close to seven years. He pays property tax on the home he owns in Teller County, specific ownership tax on the vehicles he has registered in Teller County, and sales tax on the purchases he regularly makes in Teller County. These taxes are used in part to fund the Teller County General Fund, and the TCSO budget draws funds from the Teller County General Fund.

6. Plaintiff Joanna Nash is a resident of Teller County and has lived in the county for close to seven years. Like her husband Berck, she pays property tax on the home she owns in Teller County and sales tax on the purchases she regularly makes in Teller County. These taxes go toward the Teller County General Fund, and the TCSO budget draws funds from the Teller County General Fund.

7. Plaintiff Rodney Saunders is a resident of Teller County and has lived in the county for a total of 15 years. He pays property taxes on the home and eight acres of land he owns in Teller County, specific ownership tax on the vehicles he has registered in Teller County, and sales tax on the purchases he regularly makes in Teller County. These taxes are used in part to fund the Teller County General Fund, and the TCSO budget draws funds from the Teller County General Fund.

8. Plaintiff Darlene Schmurr-Stewart is a resident of Teller County. She has lived in Teller County for two years and has owned her home in Teller County for four years. She pays property taxes on that home, specific ownership tax on the vehicles she has registered in Teller County, and sales tax on the purchases she regularly makes in Teller County. These taxes are used in part to fund the Teller County General Fund, and the TCSO budget draws funds from the Teller County General Fund.

9. Plaintiff Paul Michael Stewart is a resident of Teller County. Like his wife Darlene, he has lived in Teller County for two years and has owned his Teller County home for four years. He pays property taxes on that home, specific ownership tax on the vehicles he has registered in Teller County, and sales tax on the purchases he regularly makes in Teller County. These taxes are used in part to fund the Teller County General Fund, and the TCSO budget draws funds from the Teller County General Fund.

10. Plaintiff Janet Gould is a resident of Teller County and has lived in the county for 31 years. She pays property tax on the home she owns in Teller County, specific ownership tax on the vehicle she has registered in Teller County, and sales tax on the purchases she regularly makes in Teller County. These taxes are used in part to fund the Teller County General Fund, and the TCSO budget draws funds from the Teller County General Fund.

11. Defendant Jason Mikesell is the Sheriff of Teller County. He is responsible for all policies and practices of TCSO and has ultimate supervisory responsibility for employees and deputies who work at TCSO. He is sued in his official capacity.

12. This Court has jurisdiction under the Uniform Declaratory Judgments Law, C.R.S. §§ 13-51-101, *et seq.*, and C.R.C.P. 57 and 65.

13. Venue is proper with this Court pursuant to C.R.C.P. 98(c).

## FACTUAL ALLEGATIONS

### **A. Sheriff Mikesell's Unconstitutional Arrests Based on ICE Requests**

14. ICE enforcement officers often seek the assistance of county sheriffs to help identify and apprehend individuals suspected of being subject to removal from the United States.

15. When Sheriff Mikesell assumed office in 2017, he began honoring ICE's requests to keep certain individuals in custody beyond the time when they were entitled to release. ICE makes these requests to assist the agency's enforcement of the civil provisions of federal immigration law, which include removal from the country.

16. By keeping these individuals in custody for a new purpose, Sheriff Mikesell effectuates new arrests. These arrests were and are without legal authority and in violation of the Colorado Constitution.

17. ICE's requests for continued custody of suspected removable detainees are formalized by standardized ICE documents that ICE officers send to the jail regarding particular prisoners.

18. These documents include an immigration detainer, ICE Form I-247A, and an administrative warrant, Form I-200 or I-205. ICE also sometimes issues a bed-rental tracking form, Form I-203. None of these forms is reviewed, approved, or signed by a judicial officer.

#### ***i. The Immigration Detainer, ICE Form I-247A***

19. An immigration detainer, ICE Form I-247A, names a prisoner being held in a local jail. It asserts that ICE believes that the prisoner may be removable from the United States. It requests the jail to continue to detain that prisoner for an additional 48 hours after he or she would otherwise be released, to allow time for ICE to take the prisoner into federal custody.

#### ***ii. The Administrative Warrant, ICE Forms I-200 and I-205***

20. In 2017, ICE began sending sheriffs an administrative warrant, Form I-200 or Form I-205, to accompany the I-247A detainer.

21. An administrative warrant names a particular person and asserts that ICE has grounds to believe that the subject is removable from the United States. It directs an ICE officer to arrest the person and take him or her into ICE custody for removal proceedings. Form I-200 is titled "Warrant for Arrest of Alien," and Form I-205 is titled "Warrant of Removal/Deportation."

22. Like immigration detainers, ICE administrative warrants are issued by ICE enforcement officers. They are not reviewed, approved, or signed by a judge or a judicial officer.

**iii. *The Tracking Form, ICE Form I-203***

23. The U.S. Department of Homeland Security has signed a contract with TCSO that provides for housing ICE detainees, at a daily rate, at the Teller County Jail. This bed-rental contract is called an Intergovernmental Service Agreement (“IGSA”).

24. The IGSA provides for housing certain detainees who are already in federal custody at the time that they are booked into the jail as IGSA detainees.

25. To track detainees housed at its various contract detention facilities, ICE uses an internal administrative tracking form, Form I-203. It accompanies ICE detainees when ICE officers place them in, or remove them from, a particular detention facility.

26. Although the I-203 Form bears the title “Order to Detain or Release Alien,” it is not reviewed, authorized, approved, or signed by a judge or a judicial officer.

27. When ICE has presented an immigration detainer and/or an administrative warrant, it has been Sheriff Mikesell’s admitted and acknowledged practice to refuse to release prisoners who have posted bond, completed their sentence, or otherwise resolved their criminal case.

**B. *Sheriff Mikesell’s Immigration Arrests Violate Colorado Law***

**i. *In Cisneros v. Elder, the court ruled that sheriffs violate the Colorado Constitution when they grant ICE’s requests to hold prisoners who would otherwise be released***

28. In 2018, in a class action challenging similar practices of the El Paso County Sheriff, a Colorado district court held that these arrests at the behest of federal immigration authorities violate the Colorado Constitution. The court ruled that when county jail prisoners post bail, complete their sentences, or otherwise resolve their criminal cases, the Colorado Constitution requires that the sheriff release them. This state constitutional imperative applies, the court held, even when ICE has provided the sheriff’s office with an immigration detainer, an administrative warrant, an I-203 Form, or any combination of these forms. *Cisneros v. Elder*, No. 18CV30549, 2018 Colo. Dist. LEXIS 3388 (Colo. Dist. Ct. Dec. 6, 2018) (“the *Cisneros* ruling”) (granting summary judgment and issuing permanent injunction against the challenged practices).

**ii. *The Colorado legislature adopted and codified the Cisneros ruling***

29. The Colorado General Assembly subsequently adopted the *Cisneros* ruling and codified it in the Colorado Revised Statutes. See *Nash*, 2021 COA 148M, § 8, n.1. Governor Jared Polis signed H.B. 19-1124 into law on May 28, 2019.

30. The statute contains legislative declarations condemning the arrest or continued detention of release-eligible jail prisoners on the basis of ICE documents that are not signed by a judge. The statute declares that such detentions constitute unconstitutional warrantless arrests. C.R.S. § 24-76.6-102(1).

31. The statute prohibits arrests or detentions that rely on “civil ICE detainees,” which are defined to include ICE detainees, ICE administrative warrants, and I-203 Forms. C.R.S. §§ 24-76.6-101(1), 102(2).

32. Thus, the new statute prohibits the warrantless immigration arrests and detentions that Sheriff Mikesell has carried out and intends to carry out at ICE’s request.

### **C. Sheriff Mikesell Has Entered Into a 287(g) Agreement with ICE**

33. Despite the limits on his authority imposed by the Colorado Constitution and Colorado statutes, Sheriff Mikesell plans to continue arresting and detaining individuals who are eligible for release but who are suspected of being removable from the country.

34. Sheriff Mikesell’s plan relies on the 287(g) agreement he has signed with federal immigration authorities. A copy of the Memorandum of Agreement (MOA) is attached as Exhibit 1. A one-year extension of the MOA to June 30, 2020 is attached as Exhibit 2.

35. The Sheriff’s plan requires him to devote considerable taxpayer funds and resources to an activity that Colorado law does not authorize him to pursue: investigating and enforcing federal immigration law.

36. When the TCSO 287(g) program becomes operational, it will be the only 287(g) program in Colorado.

37. Pursuant to the 287(g) agreement, three TCSO deputies will attend four weeks of training, at Teller County taxpayers’ expense, at the Federal Law Enforcement Training Center in South Carolina, beginning in August, 2019.

38. When the training is completed, ICE will allow these deputies to carry out a host of specified functions, under ICE supervision, that are ordinarily performed only by federal immigration officers.

39. Pursuant to the MOA, the immigration-enforcement duties of the three TCSO deputies will include:

- a. Issuing ICE detainees;
- b. Serving ICE administrative arrest warrants;
- c. Interrogating any foreign-born person in the jail “about his or her right to be or remain in the United States”;

- d. Gathering and considering evidence and completing required processing, which includes administering oaths; fingerprinting, photographing, and interviewing of individuals; and preparing affidavits and sworn statements for ICE supervisory review;
- e. Drafting ICE I-213 Forms, titled “Record of Deportable/Inadmissible Alien,” which are typically multi-page reports that include narratives with information such as the circumstances under which the individual came into contact with ICE as well as the individual’s criminal history, enforcement priorities summary, immigration history, and family information.
- f. Carrying out records and database checks and obtaining records of court proceedings and criminal convictions;
- g. Preparing charging documents to initiate removal proceedings, such as Notices to Appear; and
- h. Detaining and transporting arrested individuals subject to removal to ICE-approved detention facilities.

40. In addition, upon request by ICE, TCSO will provide statistical or aggregated arrest data, as well as “specific tracking data and/or any information, documents, or evidence related to the circumstances of a particular arrest . . . .” Ex. 1 at 6.

41. The 287(g) agreement also requires TCSO to meet with the ICE Field Office Director “at least annually, and as needed, to review and assess the immigration enforcement activities conducted by the participating TCSO personnel, and to ensure compliance with the terms of th[e] MOA.” Ex. 1 at 8. The agreement also requires TCSO to engage in Steering Committee meetings and other community outreach efforts. Ex. 1 at 9.

**D. Sheriff Mikesell Plans to Expend Substantial Taxpayer Funds to Carry Out the 287(g) Agreement**

42. Sheriff Mikesell has diverted and will continue to divert substantial amounts of local tax revenue collected from Teller County residents, including Plaintiffs, in order to implement the 287(g) agreement.

43. Pursuant to federal law, it is local law enforcement that must bear the costs of participating in 287(g) programs.

44. Plaintiffs pay taxes that go into the Teller County General Fund, including property taxes, sales taxes, and specific ownership taxes on their vehicles.

45. The TCSO budget draws funds from the Teller County General Fund.

46. Sheriff Mikesell's plan to participate in the 287(g) program includes expending substantial amounts of tax dollars from the Teller County General Fund. These funds are allocated to TCSO to fulfill the Sheriff's constitutional and statutory duties, but the Sheriff plans to expend them instead on the following:

- a. The roundtrip airfare and transportation costs for three deputies to attend the required four-week training in South Carolina;
- b. The cost of four weeks of housing for three deputies during the required ICE training;
- c. The per diem expenses for three deputies for four weeks, including daily meals, transportation, and other incidental expenses;
- d. The full salaries, benefits, and overtime for the three deputies to attend the four-week training;
- e. The full salaries, benefits, and overtime of the three deputies when they attend the required refresher trainings every two years, and during any additional training that ICE may require;
- f. The full salaries, benefits, and overtime cost of assigning three deputies to replace the three 287(g) deputies during the time they are away for the initial four-week training and future trainings;
- g. The full salaries, benefits, and overtime pay for the three 287(g) deputies to spend a significant portion of their time—after they are trained—not on local law enforcement duties, but instead on the myriad immigration enforcement duties spelled out in the 287(g) agreement; and
- h. Costs associated with local transportation, official issue material, cabling and power upgrades at the jail, additional administrative supplies and security equipment, and an ICE supervisory office at the Jail.

47. Sheriff Mikesell has publicly stated that TCSO is understaffed, that the County does not have enough money to hire more officers to adequately patrol the County, and that he needs to hire more deputies to carry out his existing local law enforcement duties. He has stated repeatedly that there often are only two deputies out on patrol. Nevertheless, he plans to expend substantial amounts of tax dollars from the General Fund to pay the above-mentioned costs, and any additional expenses, so that he can continue assisting federal officers in targeting, arresting, and detaining persons believed to be removable from the country.



## **E. 287(g) Agreements Have Created Serious Problems for the Communities Where They Have Been Implemented**

48. Substantial cost to local taxpayers is one of many problems that have plagued 287(g) programs around the country, including the last one to operate in Colorado.

49. The El Paso County, Colorado Sheriff's Office terminated its 287(g) in 2015. In a statement, it noted that ICE's 287(g) program "has attracted a wide range of criticism," including that the program "exhausted local resources."

50. The statement continued: "The resources used to operate this Program will now be allocated to local issues . . . . The end of this Program signifies the Sheriff's Office[s] commitment to fiscal responsibility . . . ." <sup>1</sup>

51. Other jurisdictions have suffered from the immense financial costs of implementing 287(g) agreements. For example, Prince William County, Virginia, had to raise property taxes to support its 287(g) program, because the first year of the program cost \$6.4 million.<sup>2</sup> Harris County, Texas, ceased its 287(g) program due to increased salary costs totaling \$675,000.<sup>3</sup> In North Carolina, the first year of Mecklenburg County's 287(g) program cost a total of \$5.5 million, and the first year of Alamance County's program cost \$4.8 million.<sup>4</sup> Gwinnett County, Georgia is spending an estimated \$1.2 million to \$3.7 million on its 287(g) program annually.<sup>5</sup>

52. Other problems associated with 287(g) programs include racial profiling by local law enforcement. The statement by the El Paso County Sheriff noted widespread criticism that 287(g) programs "lacked proper Federal oversight . . . and ultimately, resulted in the profiling of undocumented immigrants." Ending the 287(g) program, the sheriff said, signified "the strengthening of relationships with all citizens of the community."

53. A U.S. Department of Justice investigation concluded that the sheriff's office in Maricopa County, Arizona, engaged in a pattern or practice of unconstitutional policing,

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<sup>1</sup> Press Release, El Paso County Sheriff's Office, Sheriff's Office Ends 287(g) Program (May 1, 2019), <https://www.epcsheriffsoffice.com/news-releases/sheriff%E2%80%99s-office-ends-287g-immigration-enforcement-program>.

<sup>2</sup> Audrey Singer et al., *Immigrants, Politics, and Local Response in Suburban Washington*, Metropolitan Policy Program at Brookings 18 (Feb. 2009), [https://www.brookings.edu/wp-content/uploads/2016/06/0225\\_immigration\\_singer.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/0225_immigration_singer.pdf).

<sup>3</sup> James Pinkerton & St. John Barned-Smith, *Sheriff cuts ties with ICE program over immigrant detention*, Houston Chronicle (Feb. 21, 2017), <https://www.houstonchronicle.com/news/houston-texas/houston/article/Sheriff-cuts-ties-with-ICE-program-over-immigrant-10949617.php>.

<sup>4</sup> American Immigration Council, *The 287(g) Program: An Overview* 6 (Mar. 15, 2017), <https://www.americanimmigrationcouncil.org/research/287g-program-immigration>.

<sup>5</sup> Wesley Tharpe, Georgia Budget and Policy Institute, *Voluntary Immigration Enforcement a Costly Choice for Georgia Communities* 6 (July 2018), <https://cdn.gbpi.org/wp-content/uploads/2018/07/Voluntary-Immigration-Enforcement-a-Costly-Choice-for-Georgia-Communities.pdf>.

including the racial profiling of Latinos, through its 287(g) program.<sup>6</sup> The Justice Department reached similar conclusions with respect to the 287(g) program in Alamance County, North Carolina.<sup>7</sup> A study on 287(g) programs in North Carolina concluded that they were “utilized not as a tool to aid law enforcement, but instead as a localized immigration weapon and tool for intimidation and isolation of foreign nationals and Hispanic residents and citizens[.]”<sup>8</sup> And various forms of racial profiling by law enforcement have been documented in Georgia counties with 287(g) agreements, including Cobb and Gwinnett Counties.<sup>9</sup>

54. 287(g) agreements have a negative impact on public safety because they erode the community’s trust. They can lead to immigrants’ “avoidance of public places, changes in driving behavior, fear and mistrust of public authorities, and reluctance to report crimes.”<sup>10</sup> In Georgia, “community members were less likely to call the police even if they were victims of a crime, including victims of domestic violence, due to fear of getting caught up in immigration proceedings.”<sup>11</sup> The Major Cities Chiefs Association, which includes police chiefs from the 69 largest police departments in the U.S. and Canada, has noted that immigration enforcement by local law enforcement can “result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes . . . .”<sup>12</sup>

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<sup>6</sup> Letter from Thomas E. Perez, Assistant Attorney General, to Bill Montgomery, Maricopa County Attorney, Re: United States’ Investigation of the Maricopa County Sheriff’s Office (Dec. 15, 2011), [https://www.justice.gov/sites/default/files/crt/legacy/2011/12/15/mcso\\_findletter\\_12-15-11.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2011/12/15/mcso_findletter_12-15-11.pdf).

<sup>7</sup> Letter from Thomas E. Perez, Assistant Attorney General, to Clyde B. Albright, Alamance County Attorney, Re: United States’ Investigation of the Alamance County Sheriff’s Office (Sept. 18, 2012), <https://www.justice.gov/iso/opa/resources/171201291812462488198.pdf>.

<sup>8</sup> ACLU of N.C. & Univ. of N.C. Immigr. & Hum. Rts. Pol’y Clinic, *The Policies and Politics of Local Immigration Enforcement Laws: 287(g) Program in North Carolina* 27 (Feb. 2009), <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf>.

<sup>9</sup> Priyanka Bhatt & Azadeh Shahshahani, *Opinion: Ga. should end detention of undocumented immigrants*, *Atlanta Journal-Constitution* (June 14, 2019), <https://www.ajc.com/news/opinion/opinion-should-end-detention-undocumented-immigrants/PYi21JXNfrq96UMdhHLSTO/>.

<sup>10</sup> Randy Capps et al., *Migration Policy Institute, Delegation and Divergence: 287(g) State and Local Immigration Enforcement* 3 (Jan. 2011), <https://www.migrationpolicy.org/research/delegation-and-divergence-287g-state-and-local-immigration-enforcement>; see also Laura Muñoz Lopez, *How 287(g) Agreements Harm Public Safety*, *Center for American Progress* (May 8, 2018), <https://www.americanprogress.org/issues/immigration/news/2018/05/08/450439/287g-agreements-harm-public-safety/>; American Immigration Council, *supra* note 4, at 6-7; ACLU of N.C., *supra* note 8, at 35 (“The consequence of participation in § 287(g), therefore, is the increasing isolation and victimization of an already vulnerable segment of society. This leads to decreased security for the Hispanic community specifically and for the entire community as a whole. Anecdotal evidence collected in Alamance County correlates with this phenomenon: undocumented residents report being increasingly unwilling to contact law enforcement to report crimes or otherwise come forward to aid the police department.”).

<sup>11</sup> Bhatt & Shahshahani, *supra* note 8.

<sup>12</sup> Major Cities Chiefs Association, *Position Statement: Enforcement of Immigration Laws by Local Police Agencies* 6 (June 2006), [https://www.majorcitieschiefs.com/pdf/MCC\\_Position\\_Statement.pdf](https://www.majorcitieschiefs.com/pdf/MCC_Position_Statement.pdf); see also *Final Report of The President’s Task Force on 21st Century Policing* 18 (May 2015), [https://cops.usdoj.gov/pdf/taskforce/taskforce\\_finalreport.pdf](https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf) (“Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement.”).

55. Indeed, when enacting H.B. 13-1258 in 2013, the Colorado General Assembly acknowledged that local law enforcement's participation "in enforcing federal immigration laws can undermine public trust . . ." H.B. 13-1258 § 1(2) (repealing 2006 statute that had required local law enforcement to notify federal immigration authorities of persons suspected of immigration violations).

### **CLAIM FOR RELIEF**

(Declaratory and Injunctive Relief Under C.R.C.P. 57 and 65)

56. Plaintiffs incorporate the foregoing paragraphs as if fully restated herein.

57. Sheriff Mikesell is diverting substantial amounts of taxpayer funds and taxpayer resources from their intended purposes in order to carry out an *ultra vires* program of arrests and detentions that violate the Colorado Constitution.

58. In order to carry out these arrests and detentions, Sheriff Mikesell plans to implement a 287(g) agreement with ICE.

59. The 287(g) agreement, however, cannot legalize what the Colorado Constitution and Colorado law forbids.

60. The 287(g) agreement itself is *ultra vires*. Colorado law provides no authority for Sheriff Mikesell to enter into such an agreement for the purpose of identifying and targeting individuals for removal under federal civil immigration law.

61. Colorado courts have strictly limited public officers, including sheriffs, to 1) the express grants of authority in the state constitution and their governing statutes and 2) the implied powers necessary to carry out their specified functions.

62. In the absence of a warrant signed by a judge, the Colorado Constitution forbids arrests and detentions of individuals who have resolved their criminal cases and are eligible for release but who are suspected of being removable from the country. The Colorado Constitution provides no authority for Colorado sheriffs to enforce federal civil immigration law or to enter into 287(g) agreements. Nor can any such power or authority be implied, as the power to arrest or detain for alleged immigration violations or otherwise enforce federal civil immigration law is not necessary for sheriffs to carry out their constitutional and statutory duties.

63. Nor does any statute provide authority to enter into a 287(g) agreement or otherwise enforce federal civil immigration law. Indeed, Colorado statutes, including H.B. 19-1224, evince legislative disapproval of such pursuits.

64. Accordingly, Sheriff Mikesell's plan to carry out arrests and detentions of suspected immigration violators, his plan to participate in the 287(g) agreement, and his plan to enforce the civil provisions of federal immigration law, all exceed the constitutional limits of his authority.

65. As taxpaying residents of Teller County, Plaintiffs have a protected legal interest in preventing the expenditure of taxpayer funds for these unconstitutional and unlawful activities and for an unconstitutional program.

66. Plaintiffs face a real and immediate threat of irreparable injury as a result of Sheriff Mikesell's plans as described in this Complaint.

67. Accordingly, Plaintiffs are entitled to a declaratory judgment and preliminary and permanent injunctive relief.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs are entitled to judgment in their favor and respectfully request that the Court:

A. Declare that Sheriff Mikesell exceeds the limits of the authority granted to him by the Colorado Constitution and statutes by entering into a 287(g) agreement and by undertaking the enforcement of federal civil immigration law;

B. Declare that, notwithstanding the 287(g) agreement, Sheriff Mikesell violates the Colorado Constitution and C.R.S. § 24-76.6-102(1) & (2) by arresting or detaining persons who would otherwise be released on the basis of ICE documents that are not reviewed or signed by a judge, such as ICE detainers, ICE administrative warrants, and/or ICE I-203 Forms;

C. Enjoin Sheriff Mikesell from expending taxpayer resources in connection with arresting or detaining persons suspected of being removable, sending, implementing the 287(g) agreement, or otherwise enforcing federal immigration law;

D. Enjoin Sheriff Mikesell from arresting or detaining persons who would otherwise be released, on the basis of ICE documents that are not reviewed or signed by a judicial officer, such as detainers, administrative warrants, and/or I-203 Forms; and

E. Grant further relief as this Court deems just and proper.

DATED: June 23, 2022.

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***ATTORNEYS FOR PLAINTIFFS-COUNTERCLAIM  
DEFENDANTS***

**CERTIFICATE OF SERVICE**

I hereby certify that on June 23, 2022, a true and correct copy of the foregoing was filed electronically through the E-Filing System and served upon the following:

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