26-1329

In the United States Court of Appeals For the First Circuit

COMMUNITY ECONOMIC DEVELOPMENT CENTER OF SOUTHEASTERN MASSACHUSETTS; NATIONAL PARENTS UNION; NATIONAL KOREAN AMERICAN SERVICE & EDUCATION CONSORTIUM; UNDOCUBLACK NETWORK INC.,

Plaintiffs-Appellees,

v.

SCOTT BESSENT, Acting Commissioner of the Internal Revenue Service and Secretary of the Treasury; SOCIAL SECURITY ADMINISTRATION; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, Secretary of Homeland Security; INTERNAL REVENUE SERVICE; DAVID J. VENTURELLA, Acting Director of U.S. Immigration and Customs Enforcement; FRANK J. BISIGNANO, Commissioner of the Social Security Administration; U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. DEPARTMENT OF THE TREASURY,

Defendants-Appellants.

On appeal from the United States District Court for the District of Massachusetts

BRIEF FOR AMICI CURIAE IMMIGRANT RIGHTS CLINIC AT NEW YORK UNIVERSITY SCHOOL OF LAW, THE LEGAL AID SOCIETY, FREE MIGRATION PROJECT, PUBLIC JUSTICE, HARBORCOV, ASIAN AMERICAN LEGAL DEFENSE AND EDUCATION FUND, BOSTON UNIVERSITY SCHOOL OF LAW IMMIGRANTS' RIGHTS AND HUMAN TRAFFICKING CLINIC, BOSTON COLLEGE LEGAL SERVICES LAB IMMIGRATION CLINIC, AND PINE TREE LEGAL ASSISTANCE IN SUPPORT OF APPELLEES AND AFFIRMANCE

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DISCLOSURE STATEMENT

Amici curiae are non-profit entities that have no parent corporation. No publicly owned corporation owns 10% or more of the stock of amici.

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INTEREST OF AMICI CURIAE[1]

Amici curiae are immigrant and civil rights organizations and legal service providers who litigate issues related to federal immigration enforcement, including the imposition of exorbitant and unlawful civil immigration fines on taxpaying immigrants. Amici have counseled individuals who have received notices of these fines, and several amici have disseminated informational materials and studied the nationwide impact of this policy. Amici's individual statements of interest are submitted as Appendix A. Amici file this brief to provide the Court with an on-the-ground view of the danger that data sharing poses to immigrants vulnerable to civil immigration fines.

SUMMARY OF ARGUMENT

Over the last year, the Department of Homeland Security ("DHS"), through its components U.S. Immigration and Customs Enforcement ("ICE") and U.S. Customs and Border Protection ("CBP"), has been assessing millions of dollars in civil monetary penalties to noncitizens who have prior removal orders as part of a punitive—and unlawful—effort to force noncitizens out of the country.[2] In their

[1] Neither party's counsel authored this brief in whole or in part and no party or person other than amici, their members, or their counsel contributed money intended to fund the preparation of submission of this brief. Fed. R. App. 29(a)(4)(E). All parties have consented to the filing of this brief.

[2] Fine recipients and a nonprofit organization have filed a class action lawsuit challenging the fines policy under the Administrative Procedure Act and several

desire to “scale” the assessment of these fines, the agencies have bypassed individual determinations, stripped notice protections, and eradicated the judicial appeal process. *See generally*, Complaint, Dkt. No. 1, *Maria L. v. Mullin*, (D. Mass. Nov. 20, 2025) (No. 25-cv-13471). These efforts implicate the very taxpayer data at issue here.

ICE asked the Internal Revenue Service (“IRS”) for the addresses of millions of non-citizen taxpayers. App. 614–15. It purported to do so for the purpose of criminal prosecution but later admitted in the course of this litigation that it uses the data for both criminal and civil enforcement. Decl. of Brian McShane, Dkt. No. 39-3 ¶ 8. Holding that this use was clearly unlawful under 26 U.S.C. § 6103, the district court granted Plaintiff-Appellees’ preliminary injunction, stopping ICE from misusing the data it possesses. App. 641.

This brief describes a growing threat this data poses: the imposition of unlawful civil immigration fines. DHS has already imposed more than $84 billion in civil fines, Press Release, U.S. Dep’t of Homeland Sec., DHS Announces More than $84 Billion in Civil Fines Issued to Illegal Immigrants (July 23, 2026), https://www.dhs.gov/news/2026/07/23/dhs-announces-more-84-billion-civil-fines-issued-illegal-aliens, [https://perma.cc/P5KX-3NB3], and has used the fines to

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provisions of the United States Constitution in *Maria L. v. Mullin*, (D. Mass. Nov. 20, 2025) (No. 25-cv-13471). Several amici serve as counsel for the plaintiffs.

garnish wages, pursue collections, and garnish tax refunds. Noncitizen taxpayers are vulnerable to having their data used against them—not only to drive them into debt, but to intimidate them into leaving the United States.

ICE currently holds the taxpayer data of 47,000 noncitizens. The only thing currently stopping ICE from wielding the data to scale up its civil enforcement operations is the district court's preliminary injunction in this litigation. As explained below, allowing DHS to misuse the data would go against Congress' clear intent to "tighten the restrictions on the use of return information by entities other than [the IRS]." *Church of Scientology of California v. I.R.S.*, 484 U.S. 9, 16 (1987) (discussing the purposes of revising § 6103).

Behind every one of the 47,000 pieces of data at issue in this case is a noncitizen who stands to lose their livelihood under the weight of crushing debt. This brief describes DHS's civil fines policy and how it seeks to use taxpayer data to impose these fines. It then shares the real-world experiences of individuals who have already been severely impacted by the fines policy. Without this Court's protection, DHS will have one fewer barrier to the mass assessment of these penalties at the expense of people's constitutional and statutory rights. Upholding the district court's preliminary injunction will ensure that taxpayer data is not misused to inflict and expand these harms. Amici urge the Court to affirm the district court's decision.

ARGUMENT

I. DHS Intends to Misuse Taxpayer Data for Non-Criminal Immigration Enforcement, including Civil Immigration Fines, in Violation of 26 U.S.C. § 6103.

As a preliminary matter, the district court correctly held that ICE would violate 26 U.S.C. § 6103 by using the taxpayer data it acquires to engage in civil immigration enforcement. In addition to using taxpayer data to identify people for detention and deportation, DHS intends to use the data to issue exorbitant and unlawful civil immigration fines. Protecting taxpayer data will help ensure that this data is not used for this improper purpose.

A. DHS's efforts to use taxpayer data for civil enforcement violate 26 U.S.C. § 6103.

26 U.S.C. § 6103(i) authorizes the disclosure of taxpayer information only for non-tax criminal matters, and only under strict safeguards. The IRS may disclose returns and return information under § 6103(i) solely to officers and employees "personally and directly engaged in" a non-tax criminal investigation or proceeding, and "solely for the use of such officers and employees" in that criminal matter. 26 U.S.C. §§ 6103(i)(1)(A), (2)(A).

Despite this prohibition, ICE admitted that its officers will use taxpayer information for civil enforcement actions. Decl. of Brian McShane ¶ 8, App. 462. The district court correctly held that this use directly contravenes 26 U.S.C. § 6103. App. 634. ICE has also admitted that it has no way of separating criminal and civil use of the data, also running afoul of § 6103. Indeed, ICE is not "organizationally capable of segregating the taxpayer addresses (which may only be used in association with a criminal investigation) from use in potential civil enforcement matters." *See* Decl. of Brian McShane ¶¶ 2, 4, App. 460–61; App. 634. Understandably, the district court "fail[ed] to understand how an ERO officer could segregate the data and only use taxpayer addresses for" criminal purposes. App. 634.

The sheer scale of ICE's requests for taxpayer data further affirms its intent to use data for civil enforcement. ICE first sought address information for the "full alien population" of more than 7.6 million individuals, then approximately 7.3 million, and finally approximately 1.2 million. App. 614–15. A demand of that magnitude cannot be reconciled with a narrow focus on criminal matters. For example, ICE's third request named a single recipient—the Assistant Director of the ERO—as the officer "personally and directly engaged" in the criminal investigations of well over a million people, an assertion the Court found "ignores the plain meaning of those words." App. 630.

In sum, ICE itself has admitted that it intends to use taxpayer data for civil enforcement, and in fact does not have the capability to prevent such data from use in potential civil enforcement, in direct violation of § 6103.

B. DHS will use taxpayer data to expand its unlawful civil fines policy, without individually assessing willfulness or voluntariness.

Among other illegal uses, access to taxpayer data would allow ICE to further scale up its program of assessing massive civil penalties against immigrants. *See* NYU Law Immigrant Rights Clinic, *Debt and the Deportation Agenda: Immigration Fines in the Second Trump Administration* ("Debt and the Deportation Agenda") 34 (2026), https://www.law.nyu.edu/sites/default/files/2026-08/Debt-and-the-Deportation-Agenda.pdf, [https://perma.cc/D67P-HF8B] (96% of fine recipients surveyed pay taxes). As part of a campaign to coerce noncitizens into leaving the country, DHS has already unlawfully assessed $84 billion in fines against over 100,000 noncitizens by bypassing individual determinations, stripping notice protections, and gutting the appellate process. Unfettered access to taxpayer data will drive these numbers even higher.

Under 8 U.S.C. § 1324d, DHS may impose a fine on a person who "willfully fails or refuses" to depart the United States following an order of removal. The statute allows for a civil penalty of "not more than" $998[3] for each day someone willfully fails to depart, up to $1,821,350.[4] Similarly, 8 U.S.C. § 1229c(d)(1)(A)

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[3] Although the statute sets a daily maximum of $500, that amount has been adjusted to $998 to account for inflation. Civil Monetary Penalty Adjustments for Inflation, 90 Fed. Reg. 1-01, *4 (Jan. 2, 2025).

[4] The maximum amount is calculated by reference to the applicable statute of

authorizes the assessment of a civil monetary penalty of $3,000[5] against individuals who fail to voluntarily depart the U.S. in a timely manner following an order granting voluntary departure. The statutes' emphasis on penalizing only "willful" and "voluntary" failures to depart is intentional and mirrors a similar criminal provision aimed at penalizing people who remain in the United States after being ordered to leave with a bad purpose or nonjustifiable excuse. *See* 8 U.S.C. § 1253; *see also Heikkinen v. United States*, 355 U.S. 273, 279 (1958). The statutes are not intended to reach the many noncitizens with removal orders and voluntary departure orders who remain in the United States while lawfully pursuing appeals, protection from deportation, and waivers or visas that allow them to gain or restore their lawful status. *Debt and the Deportation Agenda* 22. These noncitizens have families, work, and pay taxes while they continue to navigate the immigration system, and they are known to the U.S. government. *Debt and the Deportation Agenda* 26, 28, 34.

Since the civil fines statutes' enactment,[6] procedural protections have

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limitations. As the Immigration and Nationality Act ("INA") does not have its own statute of limitations, the five-year statute of limitations found in 28 U.S.C. § 2462 for an "action, suit or proceeding for the enforcement of any civil fine, penalty or forfeiture" applies to civil penalties assessed under 8 U.S.C. §§ 1324d and 1229c.

[5] By statute, voluntary departure fines can range between $1,992 and $9,970, adjusted for inflation. 8 U.S.C. § 1229c(d)(1)(A); 8 C.F.R. 280.53(b)(3) (2015). But DHS has established a standard $3,000 fine by regulation. 8 CFR § 1240.26(l) (2024).

[6] Both 8 U.S.C. § 1324d and 8 U.S.C. § 1229c(d)(1)(A) were enacted in the Illegal Immigration and Reform and Immigrant Responsibility Act ("IIRIRA") in 1996. *See*

restricted the method of their assessment. As a matter of practice, for over 20 years, no presidential administration levied these fines. But in 2017, the first Trump Administration issued an Executive Order directing DHS to assess these penalties for the first time. Executive Order 13768, 82 Fed. Reg. 8799 § 6 (Jan. 25, 2017). DHS initially assessed the penalties on a small scale—it issued 233 fine notices. Decl. of Ian Head, Dkt. No. 20-3 ¶ 22, *Mullin* (No. 25-cv-13471). At the time, regulations required DHS to provide a thirty-day notice of its intent to levy a fine, delivered by personal service or certified mail, and an opportunity to appeal to the Board of Immigration Appeals ("BIA"). 8 C.F.R. §§ 280.1, 280.11–13 (2012); 8 C.F.R. § 1003.3(a)(2) (2026). The Biden Administration later rescinded the Executive Order, calling the penalties "ineffective and unnecessary punitive measures." Press Release, DHS Announces Rescission of Civil Penalties for Failure-to-Depart, (Apr. 23, 2021), https://www.aila.org/aila-files/472FD984-7C5C-4F82-A0CF-5830149B6F5E/21042331.pdf, [https://perma.cc/2TKF-UTQU].

On January 20, 2025, President Trump reinstated the fines via a new Executive Order, which DHS followed with an interim final rule that stripped the core procedural and substantive protections governing the assessment of these penalties. *See* Executive Order 14159, 90 Fed. Reg. 8443–48 (Jan. 20, 2025); 8

Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. 104-208, 110 Stat 3009 (1996).

C.F.R. § 281 (2025). Procedurally, DHS is no longer required to use personal service or certified mail to impose the penalties and can instead serve notice by regular mail. 8 C.F.R. § 281 (2025) (citing 8 C.F.R. § 103.8(a)(1)(i) (2011)). The notice itself has switched from a Notice of Intention to Fine ("NOIF") to a Notice of Violation and Order that directly imposes penalties. *Debt and the Deportation Agenda* 20. The time noncitizens have to respond to the notice and appeal the decision has been shortened from thirty calendar days to fifteen business days. 8 C.F.R. § 281.1(e)(2) (2025). DHS has also removed the right to appeal an immigration officer's decision to the BIA and instead grants review by "a supervisory immigration officer who did not issue the original decision." *Id.*

The purpose of the interim final rule was to "scale" the imposition of these penalties. Imposition and Collection of Civil Penalties for Certain Immigration-Related Violations, 90 Fed. Reg. 27439, 27451–54 (June 27, 2025). And that is precisely what DHS has done. Within two months of promulgating the regulation, DHS assessed approximately 21,500 civil monetary penalties, totaling $6.1 billion in outstanding debt. Jack Morphet, *ICE Has Fined Immigrants $6 Billion. Now It's Coming to Collect*, The Wall St. J. (Aug. 26, 2025), https://www.wsj.com/politics/policy/ice-immigrant-fine-collection-db1a3610, [https://perma.cc/9PHG-3AWX]. Almost a year later, that number has ballooned to over 103,000 penalties, totaling $84 billion in debt. *See* DHS Press Release. The result of this accelerated campaign has been the erroneous assessment of numerous penalties, with immense consequences for noncitizens.

DHS has assessed these penalties without regard to the notice requirements under its own regulations and the Due Process Clause of the Fifth Amendment. *See Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950) (holding that notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections"). According to ICE's own data, only 23.6% of the notices sent via certified mail during the first Trump Administration were delivered. Ian Decl. of Ian Head ¶ 21–22, Dkt. No. 20-3, *Mullin* (No. 25-cv-13471). It is highly likely that even fewer noncitizens will receive an order sent by regular mail, with no means to ensure its delivery. *See, e.g.*, Decl. of A.T. in Supp. of Pls.' Mot. to Stay Agency Action ¶ 11, Dkt. No. 81-1, *Mullin* (No. 25-cv-13471) ("I never received a Notice of Intention to Fine ("NIF") or a Final Order imposing the fine before receiving the [redacted] invoice, which is presumably based on a NIF and related final Order."). In cases where fine recipients timely receive the order, it is challenging for them to respond within fifteen business days. Indeed, the truncated period leaves noncitizens little time to decode the legal jargon of a Notice of Violation and Order, collect supporting documents to show that they did not violate the law, retain an attorney if they can afford one, and prepare a response. *See Debt* *and the Deportation Agenda*, *supra* 18 (2026); *see, e.g.*, Decl. of F.G. in Supp. of Pls.' Mot. to Stay Agency Action ¶ 16, Dkt. No. 81-3, *Mullin* (No. 25-cv-13471) ("It was very difficult to respond to the notice by the deadline. Although the notice was dated [redacted], I did not receive the notice until [redacted]. That left me with very little time to respond within the deadline of fifteen business days.").

One of the most troubling aspects of DHS's fines policy is the lack of individualized assessments of the willfulness or voluntariness of the noncitizen's failure to depart. During the first Trump Administration, DHS detailed the factual allegations on which it was basing a finding of "willful" failure to depart in the NOIF form. Decl. of Ian Head ¶ 16, Dkt. No. 20-3, *Mullin* (No. 25-cv-13471) ("ICE included allegations of the ways they alleged the individual receiving the fine had violated the law, including, for example, by: failing to report, as required; evading arrest; or otherwise failing to satisfy certain conditions of release.") Under the second Trump Administration, DHS has removed that section of the form, replacing it with checkboxes next to boilerplate language that leave no room for factual allegations or other explanation. *Id.* ¶ 17. This conclusory practice violates the very laws that enable DHS to impose these fines: their plain text requires an individualized finding of willfulness or voluntariness as a prerequisite to imposing the penalty. 8 U.S.C. § 1324d; 8 U.S.C. § 1229c(d)(1)(A).

As a result, noncitizens who have legitimate defenses to these penalties are slipping through the cracks, with no opportunity to obtain meaningful review and no recourse. For example, DHS has assessed hundreds of thousands of dollars in penalties to immigrants who are married to U.S. citizens and have pending green card applications. *See, e.g.*, Decl. of A.T. ¶¶ 4, 6–7, 10, Dkt. No. 81-1, *Mullin* (No. 25-cv-13471) ("Despite the approved Form I-130 Petition and the request that ICE join me in moving to reopen my removal proceedings, both of which show I am actively pursuing immigration remedies and am not willfully failing to depart, I received an invoice for a fine."). It has assessed penalties to immigrants who are complying with an ICE Order of Supervision that allows them to remain in the country. *See, e.g.*, Decl. of Nancy M. ¶¶ 3, 12–13, Dkt. No. 20-2, *Mullin* (No. 25-cv-13471) (explaining that she received a $1.8 million fine despite her compliance with her Order of Supervision). It has even assessed penalties to immigrants who are from a country that no longer exists, rendering them stateless and unable to obtain travel documents. *See, e.g.*, Decl. of O.I. in Supp. of Pls.' Mot. to Stay Agency Action ¶¶ 14–15, 17, Dkt. No. 81-6, *Mullin* (No. 25-cv-13471). According to a recent survey of more than one hundred attorneys representing fine recipients, the majority of fine recipients have pending applications for, or have already received, lawful immigration status or protection from deportation. *See Debt and the Deportation Agenda* 25 (finding that 71% of surveyed fine recipients "either have some form of immigration status or protection against removal or are pursuing immigration status or protection against removal”). When fine recipients try to present these defenses through the modified appeal process, DHS rejects them with boilerplate responses:

> I provided an affidavit and several documents regarding [*sic*] the circumstances of my case. . . . I pointed out that I appealed my removal order, received a stay of removal, consistently reported under an order of supervision, applied for a U visa, and was granted a bona fide determination and deferred action. . . . I received an ‘Appeal Decision and Order,’ affirming the fine of over $1.8 million. . . . [W]hoever filled out the form did not check the box indicating that there was ‘documentary evidence’ submitted with my appeal. In reality, I submitted at least [redacted] different documents, totaling [redacted] pages, showing that I had the permission of the government to remain present in the country. *But it doesn’t seem like they considered any of it.*

Decl. of F.G. in Supp. of Pls.’ Mot. to Stay Agency Action ¶¶ 15, 17, Dkt. No. 81-3, *Mullin* (25-cv-13471) (emphasis added).

In addition to disregarding notice requirements and the statutory mandate to make individualized assessments, at no point does DHS consider whether fines are excessive. The plain text of the statutes creates a ceiling for the rate that DHS can charge, not a floor. 8 U.S.C. § 1324d(a)(2) (“[S]hall pay a civil penalty of *not more than* $500” per day”) (emphasis added). But as a matter of practice, DHS charges every person the same $998 per day for up to five years for those with final orders of removal. Compl. ¶ 110, Dkt. No. 1, *Mullins* (No. 25-cv-13471).

Noncitizens can seldom afford these amounts, and DHS’s failure to take individual circumstances into account is unconstitutional. Approximately 20% of undocumented people live at or below the poverty threshold, about 50% do not have health insurance, and 40% have less than a high school diploma. Ctr. for Migration Stud. of N.Y., *What You Should Know About the US Undocumented and Eligible-to-Naturalize Populations* (Aug. 4, 2021), https://cmsny.org/undocumented-eligible-to-naturalize-population-democratizing-data-release-080421/, [https://perma.cc/8LWD-5QHN]. Particularly in light of noncitizens' socioeconomic disadvantages, these civil penalties are the types of fines that this Court has described as "so onerous as to deprive [an individual] of his or her future ability to earn a living," in violation of the Excessive Fines Clause of the Eighth Amendment. *United States v. Levesque*, 546 F.3d 78, 84–85 (1st Cir. 2008).

Indeed, a $1.8 million fine would ruin the livelihoods of the majority of this country's population. As one fine recipient said, "the truth of the matter is, I cannot pay this fine or this debt. I could work for 200 years, and I still wouldn't be able to pay this fine." Decl. of Nancy M. ¶ 28, Dkt. No. 20-2, *Mullin*, (No. 25-cv-13471). In another noncitizen's own words:

> The day I got the letter about the fine[,] my wife and I were terrified. We thought that I would be taken away any minute because it is so much money and I can never pay that. . . . I work in oil fields and my wife cares for our two young U.S. citizen children. . . . Every dollar I make, we spend to support our home and our family. We do not buy items other than food. We do not go out except to church. I do not have money in savings. I could never afford to pay this fine. I am so worried I will lose my house and everything I have worked for all these years. I worry about my children and their future.

Decl. of P.D. in Supp. of Pls.' Mot. to Stay Agency Action ¶ 11, Dkt. No. 81-5, *Mullin* (No. 25-cv-13471).

Over the past year, DHS has succeeded in scaling up its assessment of civil penalties. But it has done so by disregarding meaningful evidence, cutting procedural corners, and ignoring constitutional constraints. It has done so at the expense of noncitizens all over the country who have not violated the fines statutes, who are unable to pay these staggering amounts, and who are left to bear the severe consequences that snowball as a result of this debt.

II. Without a Preliminary Injunction, Data Sharing Practices Will Expose Noncitizens to the Devastating Consequences of Unlawfully Assessed Civil Monetary Penalties.

DHS's assessment of civil monetary penalties under 8 U.S.C. §§ 1229c and 1324d is not only unlawful; it is derailing the lives of tens of thousands of people. Below, amici share several personal accounts to inform the Court about the devastating economic and emotional impact that civil penalties have had on noncitizens and their loved ones. Reversing the district court's preliminary injunction would exacerbate these harms by enabling ICE's unlawful use of taxpayer information for the assessment of civil penalties on an increased scale.

A. Fine recipients face predatory debt collection practices, ruined credit scores, and formidable federal lawsuits.

At least 103,000 noncitizens have received crushing immigration fines from DHS, totaling more than $84 billion in collective penalties. *DHS Announces More than $84 Billion in Civil Fines*, *supra*. This debt has staggering consequences.

DHS often refers the debt to private debt collection companies. Many of these companies are infamous for wielding unlawful tactics to collect federal debt. Luke Goldstein, *Trump is Siccing Shady Private Debt Collectors on Immigrants*, MSN (May 6, 2025), https://www.msn.com/en-us/news/us/trump-is-siccing-shady-private-debt-collectors-on-immigrants/ar-AA22wiFj, [https://perma.cc/P8YP-KA47]. Noncitizens have received alarming notices that add hundreds of thousands of dollars to their total debt due to steep interest and administrative fees charged by both third-party debt collectors and the government. Cary Aspinwall, *How Government Fines of $1 Million+ Are Increasingly Targeting Immigrants*, The Marshall Project (June 20, 2026, 12:00 PM ET), https://www.themarshallproject.org/2026/06/20/money-dhs-immigrant-fines, [https://perma.cc/2L8X-M96T]. One noncitizen's fine increased from $1.8 million to $2.3 million under a debt collector's fee policy. *Id.*; *see What You Need to Know About Trump's Immigration Fines*, Sample Notices—CBP Fine Notice 5-2026 (2026), https://noimmigrationfines.org/wp-content/uploads/2026/05/CBP-Fine-Notice-5-2026.pdf, [https://perma.cc/DW87-PARA] (showing that fines also increase significantly when CBP is collecting). The ruinous consequences of these practices cannot be overstated: just $6,356 of additional debt would push the average American, citizen or otherwise, into bankruptcy. Steve Fink, *Most Americans Just 3 Months Away from Financial Collapse, Bankruptcy Survey Suggests*, StudyFinds

(Mar. 31, 2026), https://studyfinds.com/most-americans-months-away-from-financial-collapse-bankruptcy-survey/, [https://perma.cc/N5YQ-HLV6]. These debt collection practices pose a threat to immigrant households' finances.

Because noncitizens cannot afford to pay these fines, the outstanding debt wreaks havoc on their credit scores. Simply referring an unpaid fine to a debt collector or credit reporting agency negatively impacts a noncitizen's credit score, which can drop by 50 points, 100 points, or more. Sarah Brady, *How Collections Affect Your Credit Score and What You Can Do About It*, InCharge Debt Solutions, https://www.incharge.org/debt-relief/credit-counseling/bad-credit/does-collections-affect-credit-score/ (last accessed July 14, 2026), [https://perma.cc/ELN6-FVEX]. Poor credit makes it harder for noncitizens to secure loans for a car, home, or small business loan, apply to rent an apartment, or receive access to social services for those who later obtain immigration status. Megan DeMatteo, *These Are the Biggest Disadvantages of Having a Bad Credit Score*, CNBC (Feb. 28, 2025), https://www.cnbc.com/select/side-effects-of-bad-credit/, [https://perma.cc/E8W6-QHVA]; *Debt and the Deportation Agenda, supra* 29 (2026). In the words of one fine recipient,

> The Department of Treasury reported the alleged debt in the amount of [redacted] to credit reporting agencies, causing a steep decline in my credit score . . . which will likely make finding a new apartment for my family more difficult. I am extremely worried about what will happen to me and my family if I am made to pay this exorbitant fine.

Decl. of A.T. in Supp. of Pls.' Mot. to Stay Agency Action ¶ 15, 17, Dkt. No. 81-1, *Mullin* (No. 25-cv-13471). The government has also resorted to filing lawsuits against noncitizens in federal courts. The Department of Justice has filed over fifty federal collection lawsuits against noncitizen fine recipients. Aspinwall, *supra*. In at least five of those cases, the government is demanding more than $1.8 million. Andrew Kreighbaum & Eric Heisig, *Trump is Taking Immigrants to Court, Seeking Millions in Fines*, Bloomberg Law (May 18, 2026, 5:05 AM ET), https://news.bloomberglaw.com/daily-labor-report/trump-is-taking-immigrants-to-court-seeking-millions-in-fines, [https://perma.cc/ECC9-EHBE]. If the government receives a judgment in a collection suit, it can then place liens on noncitizens' property (such as their car or home), garnish their wages, and freeze or seize the funds in their bank accounts. *Debt and the Deportation Agenda* 33; Aspinwall, *supra.*

B. Fine recipients are suffering property seizures and wage garnishments, which threaten their very livelihoods.

Debt is "a point of economic leverage" used to extract a person's livelihood—especially in the immigration context. *Debt and the Deportation Agenda, supra* 31 (2026). DHS has garnished people's wages and seized their tax returns, resulting in economic insecurity and creating a sense of fear for noncitizens and their families.

For example, Afissetou Tchedre, a noncitizen married to a U.S. citizen on active military duty and the mother to four minor U.S. citizen children, has faced devasting consequences as a result of a fine. Def.'s Answer, Affirm. Defenses, & Countercls. to Pl.'s Compl., & Third-Party Compl. Dkt. No. 9 at 2, *United States v. Aboulaye* (S.D.N.Y. May 6, 2026) (No. 26-cv-01035). Ms. Tchedre received an exorbitant fine of $1,368,258 under 8 U.S.C. § 1324d(a). *Id.* at 2–3. She came to the U.S. in 2011 and has been diligently pursuing lawful immigration status, first through an asylum claim and then through a family-based petition as the wife of a U.S. citizen. *Id.* at 2. The latter was approved in 2024. *Id.* at 6. Nevertheless, on July 26, 2025, Ms. Tchedre received an invoice from DHS and ICE demanding that she pay $1,368,258. *Id.* Yet she had never received notice of this fine, a final order imposing the fine, a past due notice, or any other invoice beforehand. *Id.* at 12. As such, she was never able to timely contest the fine.

This fine directly threatens Ms. Tchedre and her family's livelihood. Her family's sole source of income is her husband's military salary, which is approximately $38,055 per year. *Id.* at 13. The U.S. Department of Treasury served an administrative wage garnishment notice on Ms. Tchedre's employer in October 2025. *Id.* Thankfully, she ceased working before her wages could be garnished. *Id.* But in February 2026, the Department of Treasury seized Ms. Tchedre's $10,662 joint federal tax refund with her husband because of her alleged debt to DHS. *Id.* It also reported the debt to credit reporting agencies, causing a steep decline in her credit score. *Id.* at 13.

Ms. Tchedre's story is not unusual, as thousands of noncitizens now face wage garnishments and tax return seizures. Kreighbaum & Heisig, *supra.* Low-income noncitizens count on their tax refund and wages as a significant part of their annual budget. *Id.* Without that money, the financial stability of many families is on the brink of ruin.

C. Immigration fines coerce noncitizens to self-deport, tearing families apart.

This administration is levying immigration fines as a scare tactic to force noncitizens to leave the country: "Our message to illegal aliens is clear: LEAVE NOW. If you don't you will face the consequences, including fines . . . ." *DHS Announces More than $84 Billion in Civil Fines*, *supra*. When faced with such an exorbitant fine and the possibility of economic ruin, some noncitizens feel that they have no choice but to self-deport, even if it means leaving their families behind in the United States. Jerod MacDonald-Evoy, *'I Can't Even Sleep': Arizona Immigrant Hit with $1.8M Fine for Staying in US*, Ariz. Mirror (May 5, 2026), https://azmirror.com/2026/05/05/i-cant-even-sleep-arizona-immigrant-hit-with-1-8m-fine-for-staying-in-us/, [https://perma.cc/3QDP-XC7E]. Since many fine recipients come from mixed-status families, if they self-deport, they may be permanently separated from their family. *Debt and the Deportation Agenda* 36. For those who choose to self-deport, they still have no reprieve. DHS has refused to cease collection efforts, despite its purported promise to waive any outstanding fines if an immigrant "self-deports." *Compare Debt and the Deportation Agenda* 17 (showing a flyer that encourages fine recipients to leave the United States in order to "receive forgiveness of any civil immigration fines"), *with* Amaya Decl. ¶ 13, Dkt. No. 81-8, *Mullin*, (25-cv-13471) ("Even after my father decided to leave, they have still been trying to collect the fine.").

Mr. Sanchez's story illustrates how immigration fines put recipients in an impossible position. He came to the United States twenty years ago at just eighteen years old because his father had spoken out against the communist Castro regime. MacDonald-Evoy, *supra*. Mr. Sanchez recently received an immigration fine of $1,820,252, a staggering amount that makes him feel "like he is already in jail":

> He's worried that even if he tries to pay, he'll be put in a detention facility, and if he can't pay enough, he'll be put in prison—so he's considering self-deportation. DHS has said previously that those who chose to self-deport through their application would have their fines forgiven, but he doesn't trust DHS to be true to their word. . . . With no money and no attorney to fight for him, Sanchez said he isn't sure what other options he has . . . .

Id. Mr. Sanchez has a family, including three U.S. citizen children who are three, ten, and twelve years old. *Id.* Although he is still in the United States, Mr. Sanchez fears putting his loved ones at risk of ICE enforcement and avoids seeing his family for their own safety. *Id.* Mr. Sanchez faces an impossible choice: "He doesn't want to bring danger to his family but needs to provide for them. He isn't sure what to do." *Id.*

Another example is a close-knit family that is now dealing with the fallout of permanent separation from their husband and father, a DHS fine recipient:

> The fine caused my father to fear for his safety in the United States. He felt that because of the fine, someone was going to come find him and detain him. Being detained without his medication could risk his life. So, my father made the impossible decision to leave the country for El Salvador. . . . When my father self-deported from the [U.S.] out of fear for his safety, my family's life changed overnight. He was the primary financial provider for our household, and his absence left my mother, my siblings, and me struggling to keep our family together. I have tried to remain strong by maintaining good grades and supporting my family emotionally and financially, but the burden has been overwhelming. . . . I have had to work more than 30 hours each week at my part-time job while also working more than 30 hours each week in an unpaid internship necessary for my career goals. Much of the money I earn goes toward household bills, helping pay our mortgage, and sending financial assistance to my father in El Salvador. Even with these efforts, I have often relied on food banks to help provide groceries for my family.

Amaya Decl. ¶¶ 10, 12, Dkt. No. 81-8, *Mullin* (25-cv-13471). The consequences of family separation extend beyond noncitizens, burdening their loved ones such as parents, siblings, partners, and children. As a noncitizen's son explained, "It feels as though my life has been divided into two parts: before my father's departure and after it. . . . I often feel as though I am carrying the weight of a collapsing household while trying to pursue my education and create a better future for myself and my family." *Id.* ¶ 14.

D. Immigration fines are emotionally devastating.

Each fine that DHS issues upends a life with sudden, crushing debt. Fine recipients describe feeling "overwhelmed, nervous, and fearful because [they] know [they] will not be able to ever pay [off] the fine." *Debt and the Deportation Agenda* 38. Others report that they have been experiencing physical symptoms due to extreme, prolonged stress. *Id.* at 36. "I have not been able to properly eat or sleep[,] crying for uncertainty of [the] future[.] [E]veryday[,] I am under tremendous stress. . . . [The] fine has made my life so hard sometimes I can't breath[e]." *Id.* at 38–39.

The emotional impact of immigration fines extends beyond fine recipients to their loved ones, who also feel stressed, worried, sad, and afraid. *Id.* at 36. One individual shared the significant pain and anxiety that the fine causes:

> It is extremely taxing emotionally. Everybody is [in] constant fear and constant confusion about what the future holds. We go out to eat as a family and look at each other [thinking] is this the last time that we can eat like this or what is going to happen tomorrow.

Id. at 39. Another individual put it plainly: "My fine is almost 2 million dollars. I've never seen that much money in my entire life. Even if I sold the skin off my back, I would never be able to pay this kind of money." *Id.* at 34.

The emotional impact of an immigration fine is unique to each recipient, their loved ones, and their community. *Id.* at 35. But one noncitizen's response underscores a shared sentiment: "I feel stress, depression, fear, lack of focus, [and] discouragement. We don't know what to do. *I wouldn't wish what we're going through on anyone*[.]" *Id.* at 39 (emphasis added).

CONCLUSION[7]

This brief shares the experiences of real people—citizens and noncitizens alike—whom the imposition of these civil penalties has severely impacted. There are over 100,000 others like them. Their numbers will grow dramatically if this Court reverses the district court's preliminary injunction. Allowing DHS to misuse IRS data to scale its civil penalties operation would be hugely consequential: tens of thousands of noncitizen taxpayers and their loved ones would face the economic and emotional harms detailed here.

For these reasons and those stated in Appellees' Brief, this Court should affirm.

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[7] Thank you to Reneé Hernández Rodríguez, Jane Boettcher, and Mariam Elbakr for their valuable contributions to this brief.

Dated: August 5, 2026

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APPENDIX A

STATEMENTS OF INTEREST

1. **<u>Immigrant Rights Clinic at New York University School of Law ("IRC")</u>** has a longstanding interest in advancing and defending the rights of immigrants. IRC was counsel for immigrants during the first Trump administration who were targeted with civil penalties because they were in sanctuary. *Austin Sanctuary v. ICE*, 20-cv-01686 (S.D.N.Y. September 19, 2022). IRC is plaintiffs' counsel in *Maria L. v. Mullin*, 1:25-cv-13471-GAO (D. Mass.), a case about ICE's unlawful civil penalties policy. Most recently, IRC published a report synthesizing the results of a survey to present data about the recipients of ICE's civil penalties and the agencies' practices in assessing these fines.

2. **<u>The Legal Aid Society ("Legal Aid")</u>** has provided free legal services to low-income people in New York City since 1867. Legal Aid's Immigration Law Unit is a leader in the provision of legal services in a wide variety of immigration matters. Legal Aid's Law Reform Units engage in policy advocacy and affirmative litigation to respond to emergent issues and protect and expand the rights of our clients. Legal Aid's staff has deep interdisciplinary expertise on laws protecting the rights of noncitizens. Legal Aid also is plaintiffs' counsel in *Maria L. v. Mullin*, 1:25-cv-13471-GAO (D. Mass.). .

3. **Free Migration Project** provides direct legal services and engages in impact litigation with the goal of abolishing immigrant detention and deportation. We integrate legal representation and advocacy to empower immigrant communities. Free Migration Project also is plaintiffs' counsel in *Maria L. v. Mullin*, 1:25-cv-13471-GAO (D. Mass.).

4. **Public Justice** is a nonprofit legal advocacy organization that specializes in socially significant civil-rights litigation and focuses on fighting corporate and governmental misconduct. The organization maintains a Debtors' Prison Project, which uses strategic litigation to combat the criminalization of poverty and compel governments and their for-profit partners to abandon predatory fine and fee collection practices, and an Access to Justice Project, which pursues litigation and advocacy efforts to remove procedural obstacles that unduly restrict the ability of people whose civil rights have been violated to seek redress for their injuries in the civil court system. Public Justice also is plaintiffs' counsel in *Maria L. v. Mullin*, 1:25-cv-13471-GAO (D. Mass.).

5. **HarborCOV** is a nonprofit organization that serves survivors of domestic violence in Massachusetts. They provide direct legal representation to immigrant survivors, helping them obtain abuse prevention orders and immigration benefits. HarborCOV has an interest in protecting immigrant

survivors from unlawful enforcement and civil fines. They have clients who have received civil fines.

6. **Asian American Legal Defense and Education Fund ("AALDEF")** is a New York City-based national organization that promotes the civil rights of Asian Americans. Through litigation, advocacy, and education, AALDEF focuses on critical issues affecting Asian Americans, including protecting immigrants' rights and eliminating anti-Asian violence. Throughout its history, AALDEF has represented individuals affected by immigration enforcement, advocated for immigrants' rights, and led impact litigation challenging government actions that harm immigrant communities. AALDEF has a special interest in this litigation because of its work on behalf of individuals and community organizations whose members have received and are at risk of receiving civil fines.

7. **Boston University School of Law Immigrants' Rights and Human Trafficking Clinic ("BU IRHTP")** is a pro bono legal clinic serving noncitizens facing deportation across Massachusetts and New England. BU IRHTP has a strong interest in protecting our clients and their families from illegal enforcement and exorbitant civil fines.

8. **Boston College Legal Services LAB Immigration Clinic ("BC Immigration Clinic")** is a clinical program of Boston College Law School.

The BC Immigration Clinic represents low-income noncitizens in removal proceedings before the Immigration Court in Boston, in their appeals before the Board of Immigration Appeals and First Circuit Court of Appeals, and in their petitions for habeas corpus before local U.S. district courts. The BC Immigration Clinic has an interest in protecting community members from unlawful immigration enforcement, including civil fines.

9. **Pine Tree Legal Assistance** is a non-profit legal aid organization with offices throughout Maine whose mission is to ensure that state and federal laws affecting poor people are upheld, while also addressing the systemic barriers to justice faced by Mainers with low incomes. Over the last year Pine Tree has served clients who have received civil penalties.