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Introduction:

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Panel Discussion:

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P R O C E E D I N G S

MS. KAMARCK: Good morning, everyone. I'm Elaine Kamarck; I'm the director of the Center for Effective Public Management here at the Brookings Institution. Thank you for coming out on a Friday morning to talk about this incredibly important issue.

We have a great panel for you. We have a C-SPAN audience and of course a live webcast. Anyone who would like to Tweet there's the #USImmigration. And we hope to have a good discussion both here and online.

You know, way back when, when I was a graduate student at the University of California Berkeley, where Secretary Napolitano runs these days, we learned about wedge issues. Wedge issues were those things that really divided the electorate, that got everybody excited, that everyone had an opinion about. Well, immigration has become a wedge issue. Wedge issues kind of come and go depending upon the year. And clearly since 2015 when President Trump started to run for office immigration has been at the forefront in terms of one of the wedge issues. It divides not just democrats and republicans, it divides republicans. In fact there's an NBC Wall Street Journal poll out today that has some fascinating divides within the Republican Party between Trump supporters and people who were -- call themselves more or less traditional republicans. So this is a big issue, this is an issue that everyone has an opinion about, as opposed to many of the other issues we talk about here at Brookings, telecommunications and things like that. Really normal people don't really have strong opinions about those issues. This is one where people do have strong opinions. And therefore it is of interest to everyone.

The issue also runs the gamut from what I call a heart issue to a head issue. In other words, people have very strong opinions about what this means for our country, what kind of country we ought to have, and we get emotional about it. But it also goes to more very practical issues.

So John Hudak, my colleague, who will be moderating this panel, and I, we just a couple of months ago took a look at the practical side. Is it possible to do what the president wants to do and in theory was elected to do? And we came up with some pretty interesting answers, which I think will be brought out in the course of the discussion.

And, finally, one of the things about a political issue that becomes so hot is that often it is

not exactly fact based. And remember, I think it was the late Senator Moynihan who said everyone's entitled to his own opinions, but not everyone is entitled to their own facts. And so in this immigration debate we have been treated to a series of statements, some from the president or from his team, which simply don't have anything to do with reality. And we'll talk about that, I'm sure too.

So thank you very much for joining us today. We're going to have our panel open up and give some statements, have some discussion, and then we will open it up to you in the audience and we will also open it up to people who are online. So, again, thank you very much. And would our panel please come up? (Applause)

MR. HUDAK: All right. Good morning, everybody. Welcome to Brookings. My name is John Hudak; I'm a senior fellow in Governance Studies and the deputy director of the Center for Effective Public Management. It's my honor today to moderate this panel and to introduce all of you to our panelists to discuss what is a critically important issue, as Elaine mentioned, broadly but also in the current political environment.

Before I begin I'd like to thank the Carnegie Corporation for their support for our research and for the event today. I'd like to welcome our viewers who are tuned in via a live webcast from the Brookings website, as well as the viewers on C-SPAN watching this live. Any of you who want to engage us on social media you can use #USImmigration to get into the conversation.

Now onto our panelists. Immediately to my left, Janet Napolitano is currently the president of the University of California system, a post she's held since 2013. Prior to becoming president of UC she served as the third secretary of the Department of Homeland Security during the first term of President Obama and a little bit into his second term. Prior to that she served as the attorney general of Arizona and then the governor of Arizona.

Immediately to her left is Carlos Guevara, a senior policy advisor at UnidosUS, previously the National Council of La Raza. He leads the immigration policy and legislative advocacy work for the organization. Previously he served in the Obama administration from 2014-2017 where he focused on developing and implementing immigration policy for the administration.

And, last but not least, on the end Doris Meissner. She's a senior fellow and director of the U.S. Immigration Policy program at the Migration Policy Institute. From 1993 to 2000 she served as

commissioner of the Immigration and Naturalization Service. And throughout a storied career in DOJ she's served under five Presidents.

So I'd like to thank our panelists for joining us today for what I hope will be an engaging conversation. And I'm going to start with my first question to President Napolitano. Recently you joined a lawsuit over the president's decision to rescind DACA as President of the University of California. The president's decision to repeal this in a six month window with the hope that Congress will step in and codify DACA into law has made for a lot of controversy throughout the United States and in a lot of policy circles. You oversee a system with 4000 students who are undocumented, many of whom have applied for DACA protection. Can you talk a little bit about what this policy means broadly and what it means for your University system and for your students?

MS. NAPOLITANO: Well, I certainly can. I'm very familiar with DACA. We did DACA when I was the secretary of homeland security and we did it out of a recognition that there were a whole host of individuals who had been brought here as children, had been raised in the country, and from any kind of an immigration enforcement perspective should be able to stay in the country without fear of deportation. And so deferred action for childhood arrivals, DACA, was the resulting program that we initiated. And it is an exercise of prosecutorial discretion. Each applicant is reviewed individually. They have to have a clean criminal record, they have to meet a whole host of other requirements to qualify. And at the University of California, you know, we estimate that we have around 4000 undocumented students and then the vast majority of them are in DACA. Indeed, about a quarter of the 800,000 DACA recipients in the country are in California. And these young people are -- they're an important part of our university community. They are by and large first generation college students, they are -- and have done everything required of them academically to get into the University of California, which is not the easiest thing in the world to do. You know, they have the brains, the energy, the initiative. They're exactly the kind of people we should want to stay in our country and contribute.

So the president's decision to rescind DACA was wrong a number of grounds. And one of the reasons the university sued was to seek and get judicial relief from the decision. It's wrong as a matter of law, it's wrong as a matter of immigration enforcement policy, and it's inconsistent with our values as a country. Whether Congress acts, who knows. You know, one can always hope. And we

hear that there may have been a deal negotiated between the president and Senator Schumer and Representative Pelosi over Chinese food and chocolate cake at the White House. But, you know, reducing that to legislation and legislation that will be brought to the floor and passed and that president will sign -- and to get that all done in six months is -- while we're going to advocate for it and believe strongly that Congress can and should act, we also think as matter of law the Court should step in and protect these 800,000 young people.

MR. HUDAK: Sure. Well, thank you for those comments. Carlos, President Napolitano talked a bit about the university community at UC and the important role that DACA recipients play in that community. Can you talk a little bit more broadly about immigrant communities nationwide, what DACA has meant for those communities? And, just as importantly, what this uncertainty that has stemmed from the president's announcement also means to those communities?

MR. GUEVARA: John, thank you for the question and the opportunity to be here, and to my co-panelists. It's an honor to be here with you both.

DACA in many ways -- I think back to where I began my legal career. And once upon a time I was a line attorney doing a lot of these cases after the previously mentioned DACA announcement. And I remember doing about 100 of these cases and thinking through the difficulty and the conversations that must have happened around many kitchen tables across the country before coming to meet with me to do a consultation about what obtaining DACA may actually mean for a family and what doors might actually open. And I mention this because DACA recipients today, by definition of the program, have been here at least 10 years. But the time the program was announced there's a lot of uncertainty within the community even then about coming forward, submitting to criminal background checks, providing information about your residence, family members, and then, oh by the way, having to come up -- in many instances when you're a low income household, with the money and take off the time to come and meet with someone like me to prepare your application. So in many ways what I'm trying to convey is that the decision even to apply to DACA in the first instance took a lot of trust in the federal government who was telling you look, there's a small piece of the grand bargain here that if you come forward you will have a relief from deportation and an opportunity to work and to amplify the opportunities for yourself and your family.

So when we have the decision, John, about the rescission that the president took on September 5, to put it mildly the trust that was violated there and part of the deal, if you will, that was undertaken by many in the community was completely eroded. So I think in this context we have to understand not only what we have ahead of us, and what I believe truly to be a window and momentum to get to a legislative fix, but really have empathy to consider what these families are going through right now. Even as we drive to get folks who are eligible to renew between now and October 5 to even come and meet with an attorney, to come to community meetings to learn about their rights and so forth. I was talking to some colleagues at American Immigration Lawyers Association recently that a reporting -- and we've seen ourselves in our network -- we have a network of about 300 affiliates that we work with across the country, including in California -- reporting that folks aren't showing up for interviews or are not attending these opportunities to renew their -- these clinics to renew their DACA status, the folks who are eligible. So we're really concerned that the environment -- and I think we'll talk about this later -- that has been created in the wake of this decision and in the wake leading up to frankly the election of the current president and since will have a chilling effect on folks coming out. We encourage strongly that people do continue to come out -- it's very important -- and that we continue to create the momentum for a legislative fix through the Congress.

So I'll stop there.

MR. HUDAK: Great. Doris, you've worked under both democratic and republican presidents on issues surrounding immigration. And I know recently you've done some work on presidential rhetoric around this issue. Can you talk a little bit about what the president's rhetoric, both on the campaign trail and once he's been in office, has meant for politics, what it has meant for voters, what it's meant for advocacy communities around issues of immigration?

MS. MEISSNER: I'll try. (Laughter) Thanks for the invitation. I think I'd like to take off from what Elaine said about this being an area that is not exactly fact based. Because what we've seen here is really new on immigration in the American experience, at least in modern time. And that is a presidential candidacy fundamentally based on immigration as a top tier issue. That has never happened before. Others have tried it. Pete Wilson tried it in the 1990s, Patrick Buchanan tried it. It's never been successful. But this time it was successful. And so a result of that candidacy of course has been the

rallying cry of build the wall, which characterized virtually every event that took place during the campaign, and an amazing drive as the president came into office to really pursue that agenda aggressively, quickly, initially through executive orders, but with lots of other implications for budgets and for passable legislation, including what has happened on DACA. And DACA is really the first issue that's come along in this agenda where there's been any rethinking whatsoever. Virtually everything else is straight out of the campaign playbook, which is also quite extraordinary in our political experience.

So you have the build the wall rallying cry and of course the promise of aggressive enforcement, obey the law, enforce the law, everybody who is in the country illegally is subject to removal because they're in violation of the law. Well, the facts on the ground are incredibly different from that overall picture and from that agenda because what we see just in two areas -- I'll talk for a moment about border enforcement and then a moment about interior enforcement. In border enforcement we're at a 40 year going on 50 year low in the numbers of apprehensions coming across the southwest border. It's an absolutely historic low. We've come from a peak in 2000 of 1.6 million apprehensions at the southwest border to an 88 percent drop by fiscal year 2016, and it will drop further when this year, fiscal 2017 numbers come in. 88 percent -- that is an enormous percentage in any policy realm and certainly in law enforcement. And along with that we've come to a point where the traditional flows, which have been Mexican flows, have been supplanted by Central American flows. So there's a real change in the character of what's taking place at the southwest border. And that change peaked in 2014. We've been coming down since then. But even though it has supplanted the Mexican flow it's at very much lower numbers than the Mexican flow ever was and it is declining and it is a very different flow. It's what we call a mixed flow in immigration terms, and that is made up of economic migration but also claims for protection, fleeing violence and persecution with people in it that are to some of extent some of them eligible for refugee status in the United States. And dealing with that kind of a flow is a very different enforcement issue than dealing with the Mexican flow because these are people that need to see judges and asylum officers and are wanting to turn themselves into the government in order to pursue a possible claim for help rather than evading and trying to slip through the southwest border.

So if ever there is not a picture that looks for a wall as an answer, this is that kind of a picture. And even that Central American flow is now falling dramatically between -- since this

administration came into office, between then and now we've seen a 40 percent drop even in the Central American flow. Again, a very significant percentage, particularly in light of the push factors for that flow. So that's one set of numbers.

The other set of numbers is in the interior where of course there is a much more muscular approach to enforcement, a very different philosophy of enforcement than you have just described that has to do with prosecutorial discretion obviously and things like holding people like the DACA recipients harmless. And this approach has created an enormous climate of fear and enormous uncertainty in the country. And it is certainly true what we read in the press, that the number of arrests are up and that the composition of the arrests are different. You have a larger share of non-criminals to criminals than was the case at the end of the Obama years, but the shift is only over what we saw in the last two years. It's only over what was begun in 2014 with very strict guidelines that at the end of the Obama administration were issued. If you look a little more broadly back to the earlier years in the Obama administration the record now falls short of what it was that was taking place between 2008 and 2012 and '13. So what's currently happening is actually falling back to being on a par or less than what it is that was taking place just a few years ago. And it is also resulting in less people actually being removed from the United States, 13 percent less people actually being sent back to their countries than had been the case under the prior administration. And that's because the border numbers are so low, there just are not that many people coming across the borders. So the experience for countries that are source countries of immigration is less pressure of returns than had been the case earlier.

Now, that is a huge gap between perception and reality. And it just seems to me -- I mean there are lots of take aways from it but, you know, the most straight forward take away, it seems to me, is how very important leadership tone matters, what the real power is of the rhetoric and of the message because we now are in an era where immigration is being portrayed as a threat to the country, as a danger to the country, not as an asset to the country. And, you know, the result of that is that we are seeing changes in behavior on the ground because of perceptions rather than what it is that's really happening.

MR. HUDAK: Thank you. What each of you have touched on with regard to the DACA rescission is that if Congress doesn't act about 800,000 individuals are supposed to be deported. Now

each of you have worked in some capacity in different capacities on issues of enforcement around immigration. And so I'd like to hear from each of you something that a lot of people don't talk about. Beyond the rhetoric, beyond a lot of what ends up in political analysis, and that is the administrative cost, that is what do you see as the challenges, the real burdens of suddenly telling the Department of Homeland Security you need to go out and deport 800,000 people. I think in this conversation a lot of times this is just seen as a quick and easy cost free process that no one needs to worry about. But in an era of budget cutting, in an era where congress and the president are committed to smaller government, can you talk a little bit about the challenges that Homeland Security Secretary will face and the agencies within DHS will face in carrying out that order?

MS. NAPOLITANO: Well, and let's not forget that if Congress doesn't act the Courts may.

MR. HUDAK: Sure, sure.

MS. NAPOLITANO: So there's both the belt and suspenders approach to preventing the rescission of DACA. But you don't just pick up somebody and all of a sudden they're in another country. There is a whole administrative procedure that goes along with that. Beginning with the ICE agent, who as to find the person and detain them and then an administrative procedure by which they're adjudicated whether they're deportable or not, then you've got to transport them and the country to which they are being deported has to receive them. So there's a whole chain of things that happens and each of those things requires resources and each takes time. And so the notion that you just flip a switch and remove 800,000 people is a myth. It just doesn't work that way. And that's kind of the reality. The perception, however, is one that I think instills a lot of fear in immigrant communities. And one of the virtues of DACA was that these dreamers didn't have to walk around always looking over their shoulder wondering whether there was an ICE agent trying to find them and deport them.

That assurance now would be gone. And so you have entire communities that live in fear of apprehension. And when the rhetoric is, to use Doris' words, so much more muscular, it just ups the temperature and makes everybody live not just in fear and trepidation but reluctant to do things. Like, for example, reluctant to report when they're the victims of crime. It's one of the reasons why local law enforcement agencies are so opposed to some of the actions being taken and the words being used on

immigration enforcement. And so these are all things that must be taken into account.

MR. HUDAK: Great.

MR. GUEVARA: If I may. I would add to that an important piece of that puzzle is where the immigration courts fall in and the opportunity that individuals have, which is also part of this process, to seek relief if available to them under our laws. So that also adds a dynamic in terms of how these things play out, and again to the perception and reality of what enforcement actually means.

I do want to talk about, if I may, John, some of the other costs, and perhaps an aspect that maybe is less talked about. What we know as the largest Latino civil rights and advocacy organization in this country is in fact nearly 8 out of every 10 Latinos in this country is a U.S. citizen. Most of these individuals that we're talking about, what we're really talking about here is millions of American families. So it goes beyond, when we talk about the enforcement construct here, it goes beyond the impact to an individual, but then also the broader fabric of who I think we are as a country. Interesting reporting recently coming out that has shown that there are 5.7 million U.S. citizen children in this country that have at least one undocumented parent. 6 out of every 10 registered Hispanic voters in this country know at least one person who is undocumented. In many cases it's family member.

So I just want to provide that context when we talk about costs of what muscular enforcement may mean. It's really not just the individual but the broader family context. And then you start talking about and thinking through what are these so called collateral costs of ramped up interior enforcement. We have, as I mentioned earlier, a broad network of affiliates throughout the country. And I'll relay just one story from an affiliate out of Los Angeles in California of an individual who was in this country for 30 years, a longtime member of his community. He's been raising 4 U.S. citizen children in the Los Angeles area, about most of them in the high school age. He had an incident that involved a misdemeanor and was ultimately picked up by ICE on the way to dropping off his kids to school. I don't mention this issue to discuss, or this case to discuss necessarily -- I hope folks would have some sympathy for the individual in question here -- but what it must be like as the daughter who, as it so turned out was recording the incident and it's now viral and on YouTube -- you can check that out -- of ICE officers on the way to school picking up your father, what that might mean to your mental health having to replay that every day, what it might mean for your attainment in school, are you going to be fully

invested in school. Oh, and by the way, two of the four daughters were actually training for the Los Angeles marathon with the help of their father. So just the other aspects of trying to be a normal teenager and the day to day. I mean I think about running a marathon, I just think about it and I get tired. But the folks who actually are trying to do other things in their day to day.

So I think it's important to think through it's not just, you know, the community member that's impacted, which there are real significant costs associated with that. But what are collateral costs to the families, in many instances the American families that are left behind with the ramped up interior enforcement that we are living through right now.

MS. MEISSNER: Let me pick up on one other point on DACA and if the DACA deal does not happen. I mean I totally agree. As dreadful as that would be as a general public policy matter I think one does have to be realistic, this is not an automatic deportation that takes place. And yes it is somewhere between 7-800,000 people, but the far more likely outcome is 7-800,000 young people who will find themselves in an extraordinarily more vulnerable circumstance in this country. Law enforcement will come across some of them in one way or another. I don't believe that there will be a targeted effort to go out and look for the DACA population, you know, if DACA ultimately is removed. But the perception and the concern about deportation is, as has been said, incredibly real in these people's lives and in their family lives.

If you step back from it probably the far more characteristic of DACA is work authorization. The work authorization that comes with DACA is what has made this community, this population of people -- has showed actually what the importance of a legalization program overall would be. Because if you have people that are legally in the labor market they are on an upward mobility track. I mean the data are clear that the DACA population got better jobs, earns better, are able to get driver's licenses and therefore have much more mobility and ability to function, are able to go to school because of tuition assistance programs in many states, et cetera. They're able to be productive. If that work authorization goes they fall back into the underground economy. And falling back into the underground economy is not only a real vulnerability for them and their families, in addition the possibility randomly of deportation, it's a real loss for labor markets and particularly the locations which are heavily concentrated. And we're talking about California, Texas. There are about six or eight locations that are the dominant

locations for the DACA population, and that's a very big loss in general to our productivity in those parts of the country.

M1: So, Doris, to pick up a little bit on costs again, one of the issues that we address in our paper and that the president has talked about is a lack of capacity to enforce immigration law. And the president's plan is to hire 15,000 ICE and border patrol agents. That's what he has set forward as his goal. Now, we talk a little bit about the financial challenges, the administrative challenges, and just the basic HR challenges of hiring. That many people specifically to those jobs. As the former Commissioner of the INS, can you talk a little bit about challenges that exist in terms of hiring, retention, et cetera, as well as the costs of hiring, and what the likelihood is of an administration able to boost those numbers by 15,000? And I would like to start with you and then open it up.

MS. MEISSNER: Well, Janet will have more recent experience with that. I can capture it in maybe one ration, 27:1. In order to hire up in the border patrol -- and this may be different today -- but during the period that I was there we had to have 27 candidates at the beginning of the process in order to get 1 coming out at the end of the process. That was in the border patrol. That's an enormously expensive undertaking and a very big recruitment challenge. And the reasons are that you don't just hire anybody to be a border patrol agent. There are physical fitness requirements, it's the only agency in the federal government outside of the Foreign Service that has a foreign language requirement, people have to speak Spanish and pass a Spanish test. The physical training requirements and the immigration law training requirements are significant. These are really very well trained law enforcement officers. And the security clearances, lots of people fail the security clearances. Frankly, today, the labor pool that is available for these sorts of jobs is a real difficulty because of drugs, because of other background clearance kinds of issues. And the locations in which these people work are remote; they're salaries are very good for those locations, but we have more than 20,000 border patrol already. The border is saturated with personnel.

The border patrol numbers though are the smaller of this agenda. The larger are ICE agents, 10,000 on a workforce -- well, I've got to look -- you all did the numbers in the report, but it's a much bigger percentage of the workforce. So when you are talking about absorbing that level of workforce your whole supervisory structure, your physical facilities -- there are tremendous ripple effects

to that kind of a ramp up. So if that sort of a ramp up does happen it will happen over the course of 5-10 years, not 2-4 years because it's simply not doable in a first term timeframe.

MS. NAPOLITANO: Yes, I would concur. And I don't think the numbers have changed all that much, Doris, since you were the Commissioner. And you are right that you have to have an enormous applicant pool to harvest one agent. The training at the academy takes a number of months. You've got to have the physical facilities in which the training can occur, you've got to have -- the stations out of which the agents operate need to be properly sized, and as you say, at the border there already have been such a significant ramp up. I mean I think the real issue at the border is the greater use of technology and both at the ports of entry and between the ports of entry, and air coverage over the border so that agents are better able to detect where unlawful passage is being attempted.

And in terms of enlarging the interior enforcement, ICE, that too will take a significant period of time and require a lot more resources than people anticipate.

MR. GUEVARA: John, if I may?

MR. HUDAK: Please.

MR. GUEVARA: Just one point there. I think to the credit of the leadership at DHS in the past eight years or so agencies like the border patrol had been moving in the direction of greater transparency and accountability, in things like establishing an internal affairs board and authorizing that division with more powers, publishing use of force data, instituting or looking at instituting body worn camera pilots and so forth. The reason I mention this is I think there's an inference that some may draw, well why don't we perhaps look at the standards, why is it so hard for folks to get into the border patrol and possibly the ICE agency as well. And I would caution against moving too far in that direction. I think to the credit again to the Department, they have been moving in the right direction to enhance accountability, to enhance and ensure that hiring standards are up to par. So I would just offer that as something that contributes to possibly the "hiring challenges", but it's a fundamental view from our community's perspective that those things do not get lost.

MR. HUDAK: Great. Thank you. So we've talked a little bit about the cost of hiring the -- Doris, as you said, the saturation already at the border of having agents and a little bit about technology. And all of this really folds into another topic that exists in the immigration debate, and that is the border

wall. As Homeland Security Secretary and as Governor you opposed the construction of a physical barrier at the southern border of the United States, President Napolitano, and you often were quoted as saying show me a 50 foot wall and I'll show you a 51 foot ladder. (Laughter)

Can you talk -- that said I would not get on a 51 foot ladder (laughter), I'll be honest. Can you talk through a little bit the challenges of this policy and what types of alternatives are not just more effective but more attainable if the heated rhetoric died down a little and people entered this conversation in a more level headed way?

MS. NAPOLITANO: Yes. So I think the notion of building a wall across the southwest border -- I mean I just -- first of all, just doing it, you know, that border from a geography standpoint, you know, you're talking about going through riverbeds, over mountains. There's a great deal of private property ownership along the border. When there was money set aside in a Secure Fence Act a decade and a half ago a number of the property owners whose property would be used for that sued. Those cases -- many of them are still in litigation, so you'll have those issues. You have Indian reservations that straddle the border. The Tohono O'odham Nation in Arizona, for example. The community lives on both sides of the border. They've already said they're not going to have a wall. So just the pure doing of it, not to mention the actual cost, which I think the numbers I've seen are low numbers. And I think you're probably talking in excess of $20 billion to build anything like a wall.

And so you have to question, well what does a wall do? Well, the notion that there's going to be some kind of impermeable structure along the border, again, you know, anybody who's been at the border and knows the border knows that that just won't fly. And what real border enforcement means is a strategy that includes manpower, that includes technology, that includes, as I said before, air coverage. It also includes working with our neighbors to the south to try to prevent traffic before it actually gets to the physical border. And, you know, I think some of the real progress that we made was with the government of Mexico and in their own efforts in protecting their southern borders. So waiting until the traffic hits a mythological structure does not suffice as an immigration policy.

MR. HUDAK: Would anyone else like to add?

MS. MEISSNER: Well, maybe I should use this opportunity to throw out my favorite number. You said the wall is probably in the $20 billion range. That's what Homeland Security has been

estimating, $21 billion. We now spend $19 billion on immigration enforcement overall in this country. That represents 25 percent more than all federal criminal law enforcement, which means the FBI, the DEA, the ATF, the Secret Service, the Marshal Service. On immigration enforcement we're spending 25 percent more than those agencies combined and now we're talking about a $20 billion wall that is even more expensive than that expenditure, and in the face of the changes in flows and the kinds of points that you've properly raised that I completely agree with, what brings about effective law enforcement. I actually will raise my hand as a proponent of barriers along the border in certain places under circumstances. About a third of the border already has barriers -- you can call it a wall, you can call it whatever you want -- a third of 2000 miles has barriers of one sort or another and it's of enormous assistance to the border patrol. But it requires repair, it's the most expensive piece of infrastructure that is there, it has to be combined with agents and technology and over flight. It's simply a method of helping to channel the flow and deal with certain types of terrain. It's not a one size fits all and solve the problem solution.

MR. HUDAK: So we have about 12 or 13 minutes before I open this up to audience questions. So now I want to get away from being accountants and actuaries and get to some more of the fun stuff and talk about the politics of this issue.

So, Carlos, I want to start with you. Unidos is one of the most high profile, most active advocacy organizations in the United States working on a whole range of issues affecting immigrant communities. I'm hoping you could talk a little bit about how Unidos has responded to the new political environment, and in many ways an unexpected political environment, since November 8, and a little bit about what has happened with Unidos and its partners. A lot of times when there is a disastrous policy situation on your radar it can bring groups together in ways that other situations may not. Can you talk a little bit about the interest group and advocacy group environment?

MR. GUEVARA: Yes, thank you. I think suffice it to say the election of President Trump, perhaps unexpectedly by some, kind of threw many of us in the advocacy space -- of course then I wasn't in the advocacy space, but now in the advocacy space, for a loop. I think that the profile or the positioning of a lot of groups today has had to be one of a more rapid response posture, whereas perhaps many were gearing up for a different dynamic had a different administration been in place. And so what

that means is it's relentless -- to your point, John, what you're alluding to -- a relentless tracking of the latest hot button issue of the day and a coming together, frankly, of groups to deal with those in the most appropriate manner. I will tell you it feels like it's a constant onslaught these days, starting from Muslim ban to ramped up interior enforcement action to DACA now. It feels like we are just always on the defensive. But I say that and I say that with some pride in the reaction that the advocacy community and other, partners have had -- in the way that they have come together to respond. And one of the ways that we are seeing that play out is in fact with response to the DACA rescission now. And that's very multifaceted approaches to that.

And as we think about the window that we have -- and I sincerely believe that we have a window right now -- to get something done, you'll see a lot of the groups carry forward the momentum and seeking forward to carry the momentum until we get to a place where we must either open the government, talk about debt ceiling and so forth, where we might have opportunities to discuss this issue more fully as a comprehensive package perhaps.

So I'll say that, that momentum and that work continues. We will continue to be in this fight and we know we have a lot at stake. As I mentioned earlier, it's not just the 800,000 individuals who are DACA recipients, it's their families, and then also the individuals not to be forgotten in this space who do not have DACA but are otherwise for all intents and purposes law abiding individuals who are trying to go about their day to day lives as well.

MR. HUDAK: President Napolitano, over the past several election cycles we've seen your home State of Arizona trend toward purple. In 2004 President Bush won Arizona by 10 points, in 2012 President Obama lost Arizona by 9 points, and in this past election President Trump won the state by on about 3.5 percent. And there are a lot of factors that go into that, but surely immigration is one of them.

Can you talk a little bit about what effect you think the president's immigration policies, broadly, whether it's rhetorical, whether it involves DACA or the wall, whether it involves controversial pardons perhaps, what that might mean for the politics on the ground in a state like Arizona in local elections, statewide elections, congressional elections, and fro the next presidential race?

MS. NAPOLITANO: Well, you're right. Arizona does trend toward purple, although it

trends a little more republican than democrat, although it has elected democratic governors and senators and the congressional delegation and the house is about equally divided. You know, I think that one impact could be to stimulate voter registration and voting by the Latino population. And the fact of the matter is that if the Latino population voted at the same percentage as the white population Arizona would be a blue state now. And so all of these actions taken together, the rhetoric, the policy pronouncements, the pardon, I think could have the impact of, as I said, increasing Latino voter turnout. And we will see that in 2018.

MR. HUDAK: Great. So, for my last question -- we've got about five minutes before audience questions -- I'm going to wrap by asking each of you to think about the next five and a half months as congress mulls over what to do on DACA, as congress mulls over a variety of immigration policies, whether it's through a funding bill that's coming up in December and probably again two or three months later and then two or three months after that. What bit of advice would you give to members of congress who are facing this set of issues? And feel free to talk about politics, policy, the human aspect, or whatever portion of that you think is most important to congressional leadership or to rank and file.

MS. NAPOLITANO: Well, I think if I were called upon to advise the members of the congress, which I would be reluctant to do (laughter), but I would say that the imminent risk now is to the dreamers and that while we all hope at some point for comprehensive immigration reform, which the country sorely needs, that achieving some sort of statutory resolution for at least that population and if they need to attach it to a must pass bill, you know, that is a strategy (laughter) that has worked in the past for other types of measures. You know, the notion arises what kind of a, you know, would you agree to anything on the enforcement side for those who have that interest paramount in their mind in order to get success for the dreamers. And there there should be some red lines. Funding for a wall should be a red line. But if you have to add some other funding for border security to the mix, whether that is well spent funding or not, that funding is going to in my view occur in some form or fashion anyway. And if you can get the Dream Act through using that as a package, that should be worthy of consideration.

So while we shouldn't lose sight of the fact that the country needs overall immigration reform the immediate need now is for the dreamers.

MR. GUEVARA: I would have one simple clear message, and that would be let's get it

done. Let's get it done. And we have been talking about the human costs today of the 800,000 or so youth and their families that would be impacted by non-action by congress. I would remind congress that we have, for all intents and purposes, a manmade disaster after the rescission of DACA and all eyes are on you to act. And I would remind congress that the American people support a pathway for these youth, that this includes not just the usual suspects of democrats and moderate republicans, but an overwhelming number of republicans who voted for President Trump. Though the time is now, we have a window to get this done.

I also would urge representatives in congress that the communities watching -- I think more broadly we are concerned and are really facing -- probably a subject for another conversation -- an issue of credibility in some of our core institutions and congress would submit as one. What better way than to show the American people that we can come together and really express who we are as a country, what our American values are, than to work together to find a solution for these youth?

So I'd say let's get it done.

MS. MEISSNER: I would say if there's any issue on which to test a time where you should break the Hastert Rule this is it because immigration legislation has never been able to pass by just one party. Immigration legislation historically has required bipartisanship. There are elements of each party, although they're not equivalent -- I don't in any way today say that this is an equivalency -- but still there are parts of each party that will resist. However, as you pointed out, so important, this issue of all others in the contentious area is one that is strongly backed across the board by the public. Members of congress know that we've got to find a way to get a functional center back into play. And this is an election, whatever else, wants to see problems solved. They picked a way to do it that was surprising, but nonetheless that's part of the message. And so you can't solve problems without bipartisanship. The leadership has got to be willing to take this to the members and allow both parties to vote for it in order to get a majority. And they will get credit for it.

M1: Great. Thank you. Now I would like to turn it over to all of you to hear some questions. I have a couple of caveats. First, short questions are great, testimony is not great. (Laughter) This is not a courtroom and I reserve the right to absolutely cut you off and shut you down if you make yourself a fifth panelist. Next, you can ask questions via Twitter. You can tweet them @Brookingsgov or

using #USImmigration, or both, and our social media team will grab a microphone and ask some along the way.

Let's start right up front here.

MS. McTAGGART: First and foremost I'd like to thank all of our panelists today. You guys were wonderful. My name is Alisha McTaggart and I am currently an intern at the U.S. Department of Homeland Security. I am working for the Office for Civil Rights and Civil Liberties.

So my question is, what components are essential to keep in mind in regards to immigration policy when working for the Office for Civil Rights and Civil Liberties?

Thank you.

MS. MEISSNER: You know DHS better than I do.

MS. NAPOLITANO: Well, you know, I think the Office, it's interesting. DHS is the only federal department that has a civil rights office that looks internally, not externally. And I think it important that that office have visibility into the policies and practices of what his happening at ICE, at CDP, that it have an effective mechanism by which complaints can be received and resolved, and that that process in and of itself be transparent.

M1: Great. All right. Right up front.

MR. ORCHOWSKI: Thanks. Peggy Orchowski; I'm a congressional correspondent for The Hispanic Outlook.

In 2013 the judiciary subcommittee considered a -- this was in July, after June, after the 2013 bipartisan comprehensive immigration bill passed. The judiciary subcommittee and the house considered a bill called the Kids Act, which was a standalone Dream Act. And every democrat on the panel opposed it. Louise Gutierrez said it is un-American to legalize just one segment of the illegal immigrant community. So the democrats had been completely against the standalone bill. Now the tables have turned, they want this as a standalone and they don't want to add anything. I think the republicans would like to add E-Verify. What do you think about that?

MR. GUEVARA: I'll maybe take a stab at this. I think to the first point of the premise of your question, moving away from perhaps a more comprehensive bill to something a little more specific, I think there's a recognition that we are not just in different times, but there's a sense of urgency and

momentum as we speak to resolve this issue and get it done for this population. So I think that's what some of the democrats that you speak to are reacting to; and not just democrats, frankly, republicans as well. So I would offer that.

In terms of E-Verify, look, I will maintain, and we have said publicly, that we are one of the organizations that is pushing for a clean Dream Act or a vehicle that is clean that contains the essential policy provisions of a Dream Act. And the proposals that we have seen to date, or what we see percolating in the background, are frankly unacceptable to the community. And why I say that is, remember one of the themes of the points here is we're not just talking necessarily about the 800,000 we're talking about the parents of DACA recipients, dreamers, and the broader undocumented population. I think E-Verify is one of these issues that I would submit we really can't have that conversation unless we talk about broader pieces of the population.

M1: Right here on the end, this gentleman.

MR. NDRECA: David Ndreca, Dickinson College. Earlier this morning you mentioned prosecutorial discretion. On February 20 DHS rescinded prosecutorial discretion. Now there's over 300,000 PD status immigrants in the United States. What do you think is going to happen to current PD status and how will that affect work authorization renewal for those immigrants?

MS. NAPOLITANO: Well, if I understand your question, during the Obama administration there were directives issued to ICE in particular on cases that were to be prioritized. And the idea was that when you have 11 million undocumented individuals in the United States you don't have the resources to deport them all, just as the Justice Department doesn't have the resources to prosecute every bad check case, for example, in the country. So the Executive Branch has the authority to exercise what's called prosecutorial discretion and have priorities. And so the Obama administration set forth those priorities. The current administration has basically undone those directives and creates a greater sense of free for all in immigration enforcement. I don't think that's a wise use of Executive Branch authorities. I think it has all of the impacts that Carlos has talked about in terms of the community. And, you know, I think that it is a misuse of the resources that the Department does have.

M1: Great. Let's see, also on the aisle, in the back.

QUESTIONER: Hi, I'm Claudia Belanos, and I spent a year at the UVA School of

Education where of course immigration became a huge talking point. My question is what can schools do to combat the human cost that Mr. Guevara was talking about?

MR. GUEVARA: Thank you for the question. I'm glad to hear from a fellow alum, a UVA alum here.

SPEAKER: I went to UVA too.

MR. GUEVARA: Oh, great. (Laughter) And thank you for the question. I think this is one of the points I was trying to describe in terms of the collateral impacts of increased interior enforcement. And one of the places that we hear time and time again from our affiliates and the folks on the ground is this very issue of, you know, what do we do in schools which are seen kind of de facto in many ways as a safe space and so forth. I think something that has been very helpful -- and I'm not advocating folks to do certain things and whatnot -- but I think schools provide an opportunity to have that convening power, if you will, to bring communities together, to discuss the broader context of what folks' rights are. Something that we're very interested and been pushing as an organization is using these venues as opportunities to screen folks for additional forms of relief. In many cases individuals' life circumstances may have changed or it's a long since they've talked to a lawyer about this stuff, so if there's ways that schools can work to facilitate that in a kind of de facto or understood place that's a safe space, I think that would go a long way. That said, we have heard the anecdotal reports, and unfortunately they are anecdotal. We're working to find a way to kind of provide this information empirically. But more aggressive tactics that start to bleed into some of these so called sensitive locations, or places that are perceived to be as safe. So that is something to be mindful of.

But I would encourage schools to really use that space for the broader, you know, the know your rights, the screenings, and getting information to people that is much needed at this time.

M1: And, Carlos -- sorry.

MS. NAPOLITANO: You know, I would just kind of list, you know, what we do at the University of California. Undocumented students pay instate tuition, we have undocumented student centers on our campuses, we provide a dream loan program, so it's a loan program for undocumented youth who can't get federal loans, and we provide legal services for our undocumented students and their families. So those are just some concrete actions we've taken over the past years, preceding the DACA

rescission, for our undocumented student population.

M1: So, Carlos, quickly before the next question, for students or school administrators of whomever who are looking to do more in this space or see what opportunities there are, are there any resources that Unidos offers that you could let them know about?

MR. GUEVARA: Yes, certainly. And folks should feel free to reach out to me. We have a top notch team that covers not just immigration issues, but education, healthcare, housing, and so forth. And we're looking at this question. So, please, if you would like to share my information I'd be happy to point people to those directions, including one piece as we're driving folks who are eligible to renew to renew, resources and information about assistance possibly that might be out there to cover fees for DACA renewals.

Thank you.

M1: All right. Right here, this gentleman.

MR. MELNICK: My name is Dan Melnick; I'm retired from the Congressional Research Service and the National Science Foundation.

My question is I'd like to ask you to relate what you've been talking about to the broader stance of America and the world, and specifically you discussed the immigration issue, because you never mentioned or never actually discussed the role of the United States in aiding refugees. And, secondly, when you talk about the effect -- the changes in the flows into the United States I'd like you to address the issue of how this reflects perhaps an impact of this rhetoric on immigration and does this mean or doesn't it mean that the policies are succeeding in a way because they're stopping the flow?

M1: Thanks.

MS. MEISSNER: I think it's an extremely interesting point. I mean there are so many things that one could talk about. The refugee realm is an entire topic of its own on which one could do a panel. And of course if we are hearing -- I mean if the rumors are correct, the numbers that the administration will request or propose are going to be dramatically lower than they've been in the past. And, of course, this year they were lower dramatically from 110,000 to 50,000. A 50,000 cap is written into the statute. We haven't gone under that since 1980 when that statute was written. But this fits with the overall world view that is being expressed by this administration, as I said, of immigration as a threat

and a danger to the country not as an asset. And of course the irony where refugees are concerned is that if there's any group in the world that is really the victims of threats around the world it's of course people that are outside of their own countries. And that's a historically high number now since the second World War. So the U.S. of course has always been a leader where refugee policy is concerned. We are abdicating that role and we are also in the process of that along with so many other things that are going on, really changing our America as a brand around the world. And I don't say that flippantly in PR terms. I mean part of our image and part of our ability to be leaders has to do with our immigration stance over time and refugees are part of that, but the rest of it is as well, that this is a welcoming nation that benefits from immigration. Obviously properly managed it shouldn't be chaotic. It is indefensible to have run a system for as many years as we have, that's relied on illegal immigration in the way that it does. Those are all important caveats, but nonetheless all of those things are now being cast in a very, very different way. But one of the ironies is what you point out, that some of this is working. There is no other good explanation right now for the drop in just the last six months of crossing at the southwest border than what's being termed "The Trump Effect". It is against all historic norms of this season of the year, it runs against what we know the causes of flows from Central America have been, it is most likely a function of this climate of fear and of the information flows through the informal networks, among the smugglers, from families in the U.S. back to countries of origin, that things have changed and it's a dangerous time.

M1: How about this gentleman here?

MR. MARCUS: Dan Marcus; I'm a retired lawyer and professor, and an alumnus of the Clinton administration.

One of the fundamental principles of immigration reform, both comprehensive proposals and the Dream Act, over the last couple of decades has been a path to citizenship. I'm sort of optimistic that something is going to get done on DACA in the next six months, but it ain't gonna include a path to citizenship I think.

So I want to ask you, if I'm right what does that mean to the long-term prospects for immigration reform for undocumented immigrants in terms of path to citizenship?

MR. GUEVARA: Thank you for the question. Look, I still maintain that we have a window and we are pushing for a vehicle or a measure that includes a pathway towards legalization. I

think that there is support. I think there is a recent polling done by our friends at Ford US that addresses this issue, that there is support among republican voters for a solution that includes a pathway towards legalization. We can talk about what that might mean, but I think it's important from our community's perspective that we continue to push for that and we insist on that because of the concerns that we have of we start introducing notions and ideas of second class citizenship and under classes and so forth, which reminds me of another group of individuals, frankly, that we have a little bit of a historical precedent with, which is the group of individuals who are currently on temporary protected status, that have kind of been in a limbo state for, in many instances, over 15 years. So we continue to believe that there's a window to get that done.

In terms of the broader question of pivoting to immigration reform, I think that we need to get past this initial conversation first. I do think that this could lead to more momentum for that broader conversation and perhaps include -- should we not get to that point of legalization -- would certainly have to include that discussion at that time.

M1: How about right in front of you?

QUESTIONER: Yes, thank you very much. President Napolitano mentioned the possibilities of voting and I wanted to ask a question related to voting at state and local levels, whether it's for governor or a house of representatives in off years. Last week we saw Nancy Pelosi being attacked at a town hall meeting and yet there is something like seven or more republican congressman in California who are not on record as supporting a Dream Act provision, sort of channeling energy in what could be said to be the wrong direction. And state and local level and in off year representative elections they respond to who vote, and Latinos have not been known to vote in off year elections and in state and local elections.

So I'd like you all to comment on the degree to which you can complain or fight a system in which you don't use the tools that you can to not elect an attorney general in Texas who brings a suit against DACAs. I mean it's convoluted, but do you see what I -- my question relates to the non-federal focus that I think is lacking in some of this discussion.

MS. NAPOLITANO: Well, I think any effort to vote and to support voting is a good thing. And when people go and they get their ballot it will have federal and state offices on the same ballot. So

the question is to get them either by voting by mail or to go to the polls on Election Day. And I think it also would be helpful for some of these state offices to do a better job educating people about what impact those office holders can have on them. For example, state attorneys general have a big impact. It was state attorneys general who filed to hold up DAPA in the Courts. It was the threat of state attorneys general filing suit that led to the Trump decision to rescind DACA. So I don't think from a turnout perspective we -- and like I said, the ballot includes federal and state offices, it's all together, but elucidating what impact some of the state office holders could have I think would also help stimulate turnout.

MR. GUEVARA: And look, certainly organizations -- just briefly, if I may -- certainly organizations like ours are looking at this issue very closely and making the push to register and so forth. I will just say that the Latino population is not monolithic and perhaps the views of some folks in the California area may be different than folks in Texas. And there's also a question of political maturity as well in certain states versus others. But certainly organizations like ours are looking closely at this issue and will be at the forefront of trying to push folks to have greater understanding of what's at stake, not in generals but at mid-terms as well.

M1: Great. In the pink blouse -- or purple. I don't know colors that well.

MS. NAPOLITANO: I think it's fuchsia.

MS. SINGLETON: Hi, good morning. My name is Selena Mendy Singleton and I'm with the National Association for Equal Opportunity in Higher Education, or NAFEO. We represent historically black colleges and universities and predominantly black institutions. And just wondering about the effect of the African and Caribbean students on our campuses. And you just mentioned TPS, but what we need to be doing to protect some of those young people as well.

MR. GUEVARA: Since I opened that one up.

MS. NAPOLITANO: Mm-hmm. (Laughter)

MR. GUEVARA: Look, I think as an organization we are acutely focused on this very question of TPS. We know that in the next five months -- so usually sixty days before an expiration date of a TPS designation the Department of Homeland Security will make an announcement as to what they're going to do with a current designation. We know that in the next four months, I guess between

now and mid-January, we'll have decisions on the top three countries in terms of populations, to include Honduras, which will have a decision -- we expect a decision at the beginning of November -- and potentially in terms of numbers we're talking about 80,000 individuals based on recent estimates, Haiti, which will be around Thanksgiving time, and we've already seen an extension back in March I believe. And some of the messaging after that has been a little concerning, suggestions being that they might not extent, but we're watching that closely. And then the big one -- so Haiti is 50,000 -- and then the big one, and certainly from the Latino perspective that -- we're concerned about all of these, but El Salvador represents something like a quarter of a million individuals who are currently protected that have been in this country for by definition at least 16 years, and in many cases much longer. So we are working hard to elevate the importance of this issue. I mean in terms of the population we're talking over -- of all the countries that are designated for TPS -- 400,000 individuals, or about half the size of the DACA population -- that will need a decision to be made. And we're working hard to elevate the importance of this issue with our friends in congress to try to get some momentum going on this issue. But we are very concerned about the state of play with these countries and the future of folks who have been lawfully in this country, work authorized, paying taxes, submitting to criminal background checks, having essentially the rugs pulled from underneath them.

So I think that the most important thing, if I was to give an action item to folks here who are interested in this issue, is to help elevate the importance of this issue and working with your partners and your constituencies to reach members and folks who may influence this administration on this particular issue to elevate the importance of that issue.

M1: We have about five minutes left. If we're efficient we can get a couple of questions in. The gentleman in the back.

SPEAKER: She's the one with the question, I just have longer arms.

M1: Oh, good plan. (Laughter)

QUESTIONER: So with the exception of possibly Canada, Mexico is one of the countries that has the highest levels of cooperation with the United States, whether that be issues of trade or environment or national security. And all of these affect both countries and require extensive bilateral cooperation.

So I guess my question is what is the administration's rhetoric and policy on immigration mean for diplomacy with Mexico?

MS. NAPOLITANO: Well, I think the timing of your question is good given the pendency of the NAFTA negotiation and the position about NAFTA. And the whole U.S.-Mexico relationship is in my view a value add to the United States. It's a value add to our economy. There are at least a half a million jobs in California alone directly related to trade with Mexico under NAFTA. It's a value add from historic and cultural ties. It's a value add certainly on the security side where over the past decade we've seen stronger and stronger partnership and cooperation with Mexico. And so we run the risk under the guise of rhetoric of really diminishing that relationship. And from every possible perspective that is the wrong way to go. What we should be doing is working ever more closely with Mexico to really look at ourselves as an economic region as we face the rest of the world, as we look as a security region and deal with our common problems in a linked up fashion, and, again, as we appreciate the other ties that we have with Mexico.

So I'm quite concerned that we are putting that key relationship at risk.

M1: All right. Time for one more quick question. Richard?

QUESTIONER: This is particularly for Secretary Napolitano and Commissioner Meissner. Let's say tomorrow morning you get a call from Chuck Schumer who tells you that Nancy and I are meeting at the White House for lunch (laughter) with the president, with Ryan and McConnell. They're ready to do a deal on DACA but they need something on border security. What could I give them on border security that would (a) not be detrimental and (b) might actually be helpful and (c) they would like? (Laughter)

SPEAKER: Tall order.

MS. NAPOLITANO: Well, that would be an interesting call. (Laughter) You know, I would say a border technology package that would include funding for sensors and for border surveillance devices that would be a force multiplier for the border patrol.

MS. MEISSNER: I would agree with that. And I mean we always used to say that in order to have an effective border enforcement regime you need people, equipment, technology, infrastructure. And you could some plussing up on all of those; that is reasonable. I would definitely put

most of my eggs in the technology basket. I completely agree. And in addition to that to a part of the border that never gets the attention that it should, and that is the ports of entry.

SPEAKER: Yeah. Yeah.

MS. MEISSNER: The ports of entry are absolutely essential. And the more effective enforcement you do between the ports of entry the more pressure there is on the ports of entry. And that is a big long-term infrastructure effort that could also align with what it is that this administration wants to achieve that is very much in our interests, both from the standpoint of enforcement and Mexico and legal flows.

So there is a conversation to be had about the border that is short of a border wall and short of the kind of heated rhetoric that has been in play now.

MR. HUDAK: So I'd like to encourage all of you to look at the work being done by Doris and her colleagues at the Migration Policy Institute, Carlos at Unidos, and we're looking for more leadership from the University of California system, particularly on this issue. I encourage you all to visit the Brookings.edu website to check out more of our work on immigration policy. For some shameless self-promotion, read the paper "Hitting the Wall" that my colleagues Elaine Kamarck and Christine Stenglein co-authored with me, as well as the latest Brookings essay by our colleague Vanda Felbab-Brown that looks at security issues specifically around the border wall and the debate around that.

With all that said, I'd like you guys to join me in thanking our panelists for a great conversation today. (Applause)

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I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

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