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11
12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION
15

16 LUCAS R., et al.,

17 Plaintiffs,

18 v.

19 ALEX AZAR, et al.,

20 Defendants.

Case No. 2:18-CV-05741 DMG PLA

***EX PARTE APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION***

Hearing: None Set
Judge: Hon. Dolly M. Gee

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1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that pursuant to Fed. R. Civ. P. 65 and Local Rule 7-
3 19, Plaintiffs in the above-captioned matter, hereby apply *ex parte* to this Court for a
4 temporary restraining order (“TRO”) and for issuance of an order to show cause why a
5 preliminary injunction should not issue. This *ex parte* application is based upon this
6 Application, the accompanying Memorandum of Points and Authorities, the
7 concurrently-filed Declaration of Class Counsel Carlos Holguín and all exhibits thereto,
8 all papers on file in this action, and any oral argument of counsel the Court may hear.
9 The Memorandum of Points and Authorities in support of this Application is filed
10 herewith.

11 The Plaintiffs bring this application on an *ex parte* basis because, as described in
12 the Motion attached, by continuing to house Class Members in congregate care facilities
13 in the face of the COVID-19 pandemic and public health national emergency,
14 Defendants Alex Azar, Secretary of U.S. Department of Health and Human Services,
15 and E. Scott Lloyd, Director, Office of Refugee Resettlement of the U.S. Department
16 of Health and Human Services (“ORR”), violate (i) the TVPRA, 8 U.S.C. §
17 1232(c)(2)(A),¹ (ii) the January 17, 1997 Settlement Agreement in *Flores v. Reno et al.*,
18 CV 85-4544 (RJK) (Px), and (iii) the Due Process Clause of the Fifth Amendment. As
19 a result, Class Members (and the public) face grave risk to their health and lives that is
20 in need of immediate attention in order to avoid further loss of life. Plaintiffs
21 respectfully submit that *ex parte* relief is therefore appropriate given that the facts in the
22 Motion and its supporting papers evidence that immediate and irreparable injury will
23 result to Plaintiffs before opposition can be heard.

24 **Statement of Compliance with Rule with Civil Local Rule 7-19**

25 Counsel for Defendants are:

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Andrew Brenner Insenga Ernesto Molina
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28 ¹ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008,
Pub. L. 110-457, 122 Stat. 5044, codified at 8 U.S.C. § 1232 (“TVPRA”).

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Pursuant to Civil Local Rule 7-19.1 and Fed. R. Civ. P. 65, counsel for the Plaintiffs informed counsel for Defendants of the substance and date of this ex parte application. (Holguín Decl. ¶ 5.) On March 22, 2020, Plaintiff sent a letter to counsel for Defendants outlining the grave risk posed to Class Members by continuing to house them in congregate care as well as the relief Plaintiff intended to request through an application for a TRO. (*Id.*) On March 23, 2020, the parties met and conferred telephonically. (*Id.*) Counsel for Defendants informed Plaintiffs that Defendants would oppose the application for a TRO. (*Id.*) To date, Defendants have not taken any action to expedite resolution of this dispute which is endangering the health and lives of children at ORR facilities. (*Id.*)

1 Dated: March 25, 2019

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