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8 Attorneys for the Federal Defendants

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION
12

13 S.A.; J.A.; A.B.; R.C., on behalf of himself and
as Guardian Ad Litem for J.C., a minor child;
14 M.C.; D.D.; G.E., on behalf of himself and as
Guardian Ad Litem for B.E., a minor child; J.F.
15 on behalf of himself and as Guardian Ad Litem
for H.F. and A.F., minor children, on behalf of
16 themselves and on behalf of a class of all
similarly situated individuals, and CASA,

17 Plaintiffs,

18 v.

19 DONALD J. TRUMP, in his official capacity as
20 President of the United States; U.S.
DEPARTMENT OF HOMELAND
21 SECURITY; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; U.S.
22 DEPARTMENT OF STATE; KIRSTJEN
NIELSEN, in her official capacity as Secretary
23 of Homeland Security; MICHAEL R.
POMPEO, in his official capacity as Secretary
24 of State; L. FRANCIS CISSNA, in his official
capacity as Director of U.S. Citizenship and
25 Immigration Services; UNITED STATES OF
AMERICA,

26 Defendants.
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Case No. 18-CV-03539 LB

**DEFENDANTS' NOTICE OF MOTION AND
MOTION TO DISMISS**

Date: October 11, 2018
Time: 9:30 a.m.

The Honorable Laurel Beeler

1 **NOTICE OF MOTION AND MOTION**

2 PLEASE TAKE NOTICE that on October 11, 2018, at 9:30 a.m., or as soon thereafter as the
3 matter may be heard, in Courtroom C, 15th Floor, of the United States District Court for the Northern
4 District of California, located at 450 Golden Gate Avenue, San Francisco, California, before the
5 Honorable Laurel Beeler, the Federal Defendants shall and hereby do move, pursuant to Federal Rules
6 of Civil Procedure 12(b)(1) and 12(b)(6), to dismiss all claims in the Class Action Complaint for
7 Declaratory and Injunctive Relief.

8 Through this Motion, the Federal Defendants seek an Order dismissing plaintiffs' causes of
9 action: (1) under the Administrative Procedures Act, (2) for alleged Due Process violations, (3) for
10 alleged Equal Protection violations, and (4) for equitable estoppel. The Federal Defendants also seek to
11 have all claims of the alien parole applicants, who are nationals of, and currently residing in, either
12 Honduras, El Salvador or Guatemala, dismissed for lack of standing, as well as the direct injury claims
13 of CASA dismissed for lack of standing. Finally, all claims against President Trump should be
14 dismissed, as the President has absolute immunity and this Court lacks jurisdiction to enjoin him.

15 This Motion is based on the Memorandum In Opposition To Plaintiffs' Motion For A
16 Preliminary Injunction And In Support Of Motion To Dismiss submitted herewith, the Administrative
17 Record submitted herewith, the pleadings, records and files in this action, and such other written or oral
18 argument as may be presented at or before the time this Motion is taken under submission by the Court.

19 **ISSUES TO BE DECIDED**
20 **(Local Rule 7-4(A)(3))**

21 1. Should plaintiffs' claims under the Administrative Procedures Act be dismissed in light of the
22 fact that the agency has submitted an Administrative Record that reflects a facially legitimate basis for
23 termination of the CAM Parole Program?

24 2. Should plaintiffs' Due Process claims be dismissed in light of the fact that plaintiffs lack a
25 constitutionally-protected interest in continuation of the CAM Parole Program?

26 3. Should plaintiffs' Equal Protection claims be dismissed in light of the fact that the agency has
27 submitted an Administrative Record that reflects a facially legitimate basis for termination of the CAM
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1 Parole Program, and in light of the fact that termination of the CAM Parole Program does not single out
2 nationals of El Salvador, Guatemala and Honduras for less favorable parole consideration than nationals
3 of other countries?

4 4. Should plaintiffs' equitable estoppel claims be dismissed in light of the fact that equitable
5 estoppel does not provide an affirmative cause of action?

6 5. Should the claims of the alien parole applicants, who are nationals of, and currently residing
7 in, either Honduras, El Salvador or Guatemala, be dismissed for lack of standing? Should CASA's
8 direct injury claims also be dismissed for lack of standing?

9 6. Should all claims against President Trump be dismissed, in light of the fact that the President
10 has absolute immunity and this Court lacks jurisdiction to issue an injunction against the President?

11
12 DATED: August 24, 2018

Respectfully submitted,

13 ALEX G. TSE
14 United States Attorney

15 /s/ Wendy M. Garbers
16 WENDY M. GARBERS
Assistant United States Attorney