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16 **UNITED STATES DISTRICT COURT**  
17 **CENTRAL DISTRICT OF CALIFORNIA**  
18 **EASTERN DIVISION – RIVERSIDE**

18 FAOUR ABDALLAH FRAIHAT, *et al.*,

19 Plaintiffs,

20 v.

21 U.S. IMMIGRATION AND CUSTOMS  
22 ENFORCEMENT, *et al.*,

23 Defendants.

Case No.: 19-cv-01546-JGB(SHKx)

**Reply in Support of Ex Parte  
Application for Issuance of  
Notice to Class Members of the  
Preliminary Injunction Order,  
and to Obtain Information and  
Documents from Defendants  
Necessary to Monitor  
Compliance with that Order**

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1 Plaintiffs' *ex parte* application asks the Court to require that Defendants take  
2 specific steps to provide notice of the PI<sup>1</sup> and class certification<sup>2</sup> orders in its  
3 detention facilities and to provide specific information that will help Class Counsel  
4 and the Court monitor Defendants' compliance with the PI Order and protect  
5 people in ICE's custody from COVID-19. Defendants' opposition boils down to  
6 (a) class members do not need notice because they cannot opt out or do anything  
7 else, i.e., they have to rely only on Defendants to protect them instead of being  
8 empowered to take steps themselves; (b) providing notice would divert ICE from  
9 implementing the requirements of the PI Order; and (c) discovery is premature  
10 because Defendants haven't yet violated the PI Order and the Court didn't include  
11 compliance discovery in the PI Order. In essence, Defendants resist the requested  
12 relief by saying "trust us, you can always do something later if we fail that trust."

13 But Defendants have not earned the trust they ask of the Court—particularly  
14 given the emergent circumstances. As detailed in the complaint and in Plaintiffs'  
15 previous motion papers, Defendants have a long history of failing to protect the  
16 health of those in ICE's custody. That neglect is starkly evident in their response to  
17 the COVID-19 pandemic, as this Court noted in finding them objectively  
18 deliberately indifferent. Plaintiffs earlier noted that people in ICE custody are  
19 "'sitting ducks' in an ever more perilous pond." Pls.' Reply Brief in Supp. of  
20 Emergency Mot. for Prelim. Inj., ECF No. 113 at 1. They graphically presented the  
21 facts establishing the spread of the virus in detention facilities prior to the PI Order.  
22 The facts disclosed by ICE since then only amplify the peril that class members  
23 face.

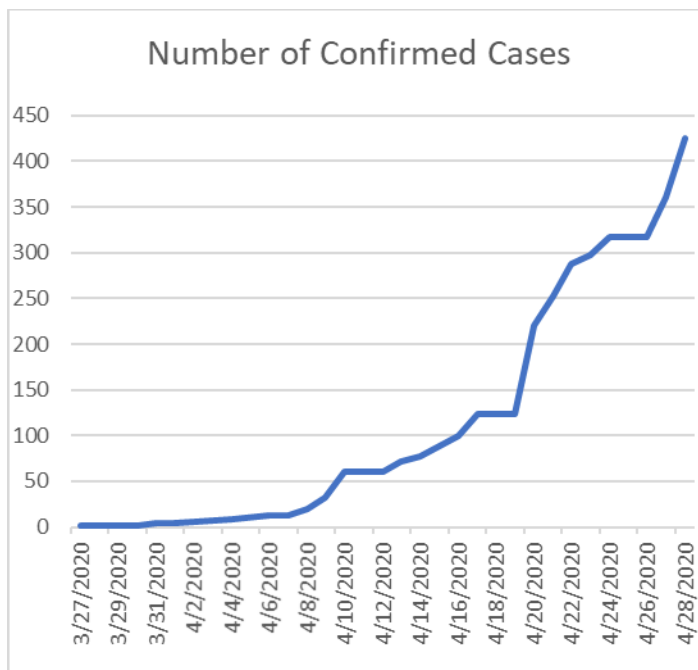
24 From no confirmed cases when Plaintiffs filed their PI motion on March 24,  
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26 <sup>1</sup> Order (1) Granting Mots. to File Amicus Brs.; (2) Granting Pls.' Emergency Mot.  
27 to Certify Subclass; (3) Granting Pls.' Mot. for Prelim. Inj.; and Denying as Moot  
Pls.' Ex Parte Appl. to File Suppl. ("PI Order") ECF No. 132.

28 <sup>2</sup> Order on Pls.' Emergency Mot. for Provisional Class Certification, ECF No. 133.

1 the number of cases had reached 72 by the time of the April 13 hearing; 220 by the  
 2 time of the Court's decision one week later on April 20; 317 when Plaintiffs filed  
 3 their *ex parte* application on April 24; and 425 by the time Defendants responded  
 4 yesterday, only four days later (including counts of 84, 49, 45 and 41 at the four  
 5 most infected facilities). In the barely two weeks since the hearing, the number of  
 6 cases has grown six-fold. A graphic illustration, updated through yesterday's  
 7 reported numbers, highlights the escalation of the peril on Defendants' watch and  
 8 its explosion since the Court issued the PI Order:



20

21 Even more harrowing, ICE disclosed yesterday that it has conducted only  
 22 705 tests of detained people, of which the 425 positive results constitute over 60  
 23 percent. Decl. of Maia Fleischman In Supp. of Pls.' Reply in Supp. of Ex Part Appl  
 24 (Fleischman Decl.) Exh. A. With approximately 2 percent of the people currently  
 25 in detention having been tested, we may be seeing only the tip of a lethal iceberg  
 26 that demands careful scrutiny for compliance with the Court's injunction.

27 Defendants concede that the Court has the inherent power to require parties  
 28 to provide information regarding their compliance with a court order. Defs.' Opp'n

1 to Pls.’ Ex Parte Appl. For Order Requiring Issuance of Class Notice, and to  
2 Obtain Info. and Documents to Monitor Compliance with Prelim. Inj., ECF No.  
3 139 at 3. But they argue that the cases Plaintiffs have cited are inapposite because  
4 the courts there had incorporated compliance discovery into the PI Order itself. *Id.*  
5 at 4. Needless to say, they provide no reason why the Court cannot incorporate  
6 that critical requirement now, especially when we have already seen what happens  
7 when Defendants are left to their own devices, unmonitored by the Court, to  
8 protect class members in ICE’s custody. It is not enough for Defendants to say  
9 “trust us” when the consequences of failure can be so deadly and the numbers  
10 already belie Defendants’ assurances. Here, Defendants tell the Court that they  
11 “promptly began taking action to comply with the PI Order” (*id.* at 5)), but, with  
12 only one day remaining before the 10-day deadline by which Defendants must  
13 complete most custody re-determinations, Defendants provide no evidence to  
14 support that conclusory assurance. To the contrary, in a hearing in a separate case  
15 that occurred yesterday afternoon, Defendants stated that it would be  
16 “burdensome” and take “a significant amount of time” to identify people with  
17 health vulnerabilities. Fleischman Decl. at ¶¶ 18-19 & exs. B (at 13) and C.

18 Moreover, the evidence gathered by class counsel since issuance of the PI  
19 Order only confirms that Defendants’ assurances ring hollow. Practitioners around  
20 the country report myriad difficulties in advocating for subclass members to  
21 receive a custody redetermination review consistent with this Court’s Order. *Id.* ¶  
22 2-3. For example, requests have gone unanswered, have been denied because ICE  
23 has not issued a directive for individual Deportation Officers to follow, or have  
24 been summarily rejected within minutes of filing. Deportation Officers have denied  
25 that someone has a Risk Factor despite evidence of a diagnosis, have claimed that  
26 someone’s Risk Factor is being treated in detention, or have denied that someone  
27 had symptoms of COVID-19. *Id.* at ¶¶ 8, 11, 14, 12. Procedural hurdles such as not  
28 accepting requests by email or only accepting them in person; requiring original

1 documents from the person who would receive the detained person from their  
2 home and then losing such documents; or requiring detained people to make their  
3 requests and provide supporting evidence within a 24-hour window have all been  
4 thrown up. Subclass members who are supposedly in mandatory detention have  
5 been rejected using formulaic language, evincing a failure to conduct an  
6 individualized, meaningful review. *Id.* at ¶¶ 9, 10, 6, 15,

7 Similarly, Defendants make no mention of complying with the Court's  
8 Order to issue a performance standard or supplement to their Pandemic Response  
9 Requirement (PRR) defining the minimum acceptable detention conditions for  
10 detainees with the Risk Factors to reduce their risk of COVID-19 infection as  
11 required by the Order.<sup>3</sup> There is similarly no indication they have conducted the  
12 Court's mandated training, and the evidence above strongly suggests it has not  
13 been carried out. Further, Defendants' failure to monitor and enforce facility-wide  
14 compliance with the PRR has led to continued chaotic and dangerous environments  
15 in detention facilities, according to reports gathered by Plaintiffs' Counsel.

16 Advocate organizations have "continued to receive widespread reports of medical  
17 neglect, lack of access to essential supplies, and failure on the part of ICE or prison  
18 officials to observe public health protocols."<sup>4</sup> Defendants have continued to engage  
19 in dangerous practices that contravene CDC policies, such as: continuing to  
20 transfer people in its custody (including from and between facilities with  
21 confirmed COVID-19 cases), failing to implement quarantines for new arrivals,  
22 holding people in overcrowded conditions where social distancing is impossible (at  
23 Richwood Correctional Center in Louisiana, people detained reported being placed  
24

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25 <sup>3</sup> PI Order at 38.

26 <sup>4</sup> Freedom for Immigrants, *COVID-19 in ICE Custody Biweekly Analysis and*  
27 *Update*, (Apr. 29, 2020), at. 1, available at:  
28 <https://static1.squarespace.com/static/5a33042eb078691c386e7bce/t/5ea9a35aa606fa11a8683e60/1588175706860/FFI+April+29+COVID-19+Update+%281%29.pdf>.

1 in two dorms with an intended capacity of 40 people each, but which housed 96 in  
2 each dorm), failure of staff to follow proper health protocols (not wearing face  
3 masks or gloves when interacting with detained people or touching surfaces or  
4 items in commonly used spaces), and ongoing shortages of essential supplies,  
5 including hygiene and cleaning supplies.<sup>5</sup>

6 Defendants do not claim that any of the information Plaintiffs ask them to  
7 provide is not useful to the Court. Indeed, if Defendants are in fact complying with  
8 the PI Order, that information would be readily at hand and in fact helpful to  
9 Defendants' own self-monitoring. Similarly, they lament that requiring them to  
10 provide concise notice of the Court's orders in ICE facilities would "place  
11 competing demands on the agency and impact how ICE goes about implementation  
12 of the PI Order". ECF No. 39 at 2 They do not, however, attack any of the  
13 information in the proposed notice. Instead, while conceding that the Court may  
14 direct appropriate notice to members of a (b)(1) or (b)(2) class, they say that the  
15 Court didn't order notice in its class certification order and that class members are  
16 powerless to influence the procedures mandated by the PI Order (at 2:12). Again,  
17 of course, they provide no reason why the Court could not enter such an order  
18 now.<sup>6</sup> The "competing demands" they say notice would impose on ICE resources  
19 is a fiction. Posting a notice in designated physical places where class members  
20 are located, or informing class members of requirements of the PI Order, is a  
21 minimal task compared to the cost and burdens of providing notice to the dispersed  
22 members of a (b)(3) class.

23 Nor should Defendants' argument that class members do not need notice  
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25 <sup>5</sup> *Id.* at 4, 5 6, 9.

26 <sup>6</sup> See *Barahona-Gomez v. Reno*, 167 F.3d 1228, 1236–37 (9th Cir. 1999),  
27 *supplemented*, 236 F.3d 1115 (9th Cir. 2001)(district court did not err in ordering  
28 defendants to issue notice of preliminary injunction where notice would not be  
unduly burdensome, it would prevent the irreparable harm of an erroneous  
deportation, and where defendant INS was uniquely positioned to ascertain class  
membership.)

1 because they are powerless to influence ICE’s custody re-determinations or any  
2 other aspect of Defendants’ compliance with the PI Order carry any weight. The  
3 proposed notice plan informs class members of the Risk Factors that define their  
4 inclusion in the class and tells them that, under the PI Order, ICE must review  
5 whether it can continue to hold them in detention. Letting people know what  
6 defines their membership in the class and the rights being a class member entails  
7 will obviously help them protect those rights and advise class counsel if they are  
8 denied. This is all the more so where the Defendants have a track record of  
9 improper screening and tracking and provision of inadequate care.

10 The need to inform class members of the Court’s class determination order  
11 is particularly urgent in light of Defendants’ repeated reliance on that order in  
12 individual or class actions for habeas relief around the country. *See, e.g.,*  
13 Fed. Defs.’ Opp’n to Mots. for TRO and Provisional Class Certification, & Mot. to  
14 Stay in Light of *Fraihat, Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC (N.D.  
15 Cal. S.F. Div. Apr. 25, 2020), ECF No. 37 (moving for a stay of a class habeas in  
16 light of *Fraihat*); Resp’ts- Pet’rs’ Resp. to Pet’r Mejia Hernandez’s Req. for  
17 Emergency Status Conference, *Brinez Urdaneta v. Keeton*, No. CV-20-00654-  
18 PHX-SPL (JFM) (D. Ariz. Apr. 28, 2020), ECF No. 47 (habeas petitioner will have  
19 a review pursuant to *Fraihat*). Having now rested on this Court’s PI Order as the  
20 basis for argument seeking to deny relief in other cases, Defendants cannot be  
21 heard to complain when asked to provide information that permits monitoring of  
22 their compliance with that Order.<sup>7</sup>

23 Perhaps the most dangerous aspect of Defendants’ “trust us” plea is the  
24 argument that monitoring is premature because Defendants haven’t yet failed to  
25

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26 <sup>7</sup> As this Court noted in the PI Order, nothing in the Order forecloses detained  
27 people from pursuing “more expeditious paths to relief” such as habeas actions.  
28 Order at 37. Rather, the Defendants’ “damned if you do, damned if you don’t” flip-  
flopping in habeas actions and this case is untenable, particularly in light of the  
ongoing pandemic.



1 comply with the PI Order. But the long history of Defendants’ failure to protect the  
2 health of those in its custody demands proactive oversight by the Court and class  
3 counsel. In these circumstances, the consequences are too deadly to justify  
4 Defendants’ “wait and see” attitude.

5 The Court should direct Defendants to provide the notice proposed by  
6 Plaintiffs and provide the information requested by Plaintiffs to permit monitoring  
7 of Defendants’ compliance with the PI Order.

8 DATED: April 29, 2020

9  
10 Respectfully submitted,

11  
12 /s/ Jared Davidson

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17 **CENTRAL DISTRICT OF CALIFORNIA**  
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23 ENFORCEMENT, *et al.*,  
24 Defendants.

Case No.: 19-cv-01546-JGB(SHKx)

**DECLARATION OF MAIA  
FLEISCHMAN IN SUPPORT OF  
PLAINTIFFS' REPLY TO THE  
EX PARTE APPLICATION**

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27 \*Admitted Pro Hac Vice

28 \*\*Pro Hac Vice Application Forthcoming

1 **DECLARATION OF MAIA FLEISCHMAN**

2 1. My name is Maia Fleischman. I am an attorney in good standing in  
3 Florida, and I am one of the counsel for the Plaintiffs in the above-referenced case.  
4 I am submitting this Declaration in Support of Plaintiffs' Reply to the *Ex Parte*  
5 Application.

6 2. On April 21, 2020, the Southern Poverty Law Center set up an e-mail  
7 address for practitioners to contact *Fraihat* class counsel with any questions about  
8 custody redetermination requests following the Court's April 20<sup>th</sup> Order and Class  
9 Certification. The e-mail address is also used to track the results of these requests.  
10 Practitioners can send their questions and updates regarding *Fraihat* custody  
11 redeterminations at [fraihatcovidcustody@splcenter.org](mailto:fraihatcovidcustody@splcenter.org).

12 3. I have been monitoring the inbox daily. As of April 29, 2020, the e-  
13 mail address has received over 50 emails from practitioners nationwide with  
14 questions and reporting the results of their requests.

15 4. ICE Field Offices nationwide have provided practitioners with several  
16 different responses to *Fraihat* custody redeterminations. They have sometimes not  
17 responded.

18 5. One reported response from the Miami Field Office was that they did  
19 not have jurisdiction over an individual detained in a facility located in their area  
20 of responsibility there.

21 6. One advocate reported that on April 23, a facility under the Miami  
22 Field Office's jurisdiction was providing detained individuals a COVID-19 Pro Se  
23 Parole Request form. The form appears to have been created by a non-profit  
24 organization—not by ICE. When individuals attempted to turn in the signed form  
25 less than a week later, ICE told them that the form had been due April 24. Detained  
26 individuals were only given 24 hours to read, complete, and submit the form to  
27 ICE officials.

1           7.     Another advocate submitted *Fraihat* requests to the Miami Field  
2 Office on behalf of two individuals. Shortly thereafter, the two individuals were  
3 transferred to other facilities without ICE responding to the pending *Fraihat*  
4 requests or notifying the advocates of the transfers.

5           8.     The Miami Field Office and the Newark ICE Field Office have  
6 responded to requests stating that because ICE has not provided them directives  
7 based on the *Fraihat* Order, they cannot respond to the custody redetermination  
8 request.

9           9.     The Miami Field Office and the Los Angeles Field Office have  
10 responded that advocates must submit their requests through mail or in-person to  
11 the Field Offices—not email. Both Miami Dade County and Los Angeles County  
12 are under stay-at-home orders.

13          10.    The San Diego Field Office required originals of a subclass  
14 member’s Sponsor documents and then the documents have gotten lost in the  
15 facility after being delivered. The Field Office has declined to respond to the  
16 request that attached copies.

17          11.    On April 23, 2020, the Los Angeles Field Office received custody  
18 redetermination requests on behalf of 25 *Fraihat* class members at Adelanto and  
19 has not responded to any of them. Similarly, this Field Office has not responded to  
20 *Fraihat* counsel’s requests for custody redetermination on behalf of the individual  
21 plaintiffs in this case in Adelanto.

22          12.    The Philadelphia Field Office, the New York City Field Office, and  
23 the New Orleans Field Office, have denied custody redeterminations based on the  
24 class members either not exhibiting symptoms of COVID-19 or responding that the  
25 class member’s qualifying illness or disability was being treated. The El Paso Field  
26 Office denied a request stating that the class member in question did not have the  
27 qualifying illness and disability, despite documentation confirming her diagnosis.  
28

1           13.     Out of several *Fraihat* requests submitted, the Atlanta Field Office  
2 has responded to one—denying the request without providing a justification or  
3 explanation.

4           14.     The Newark Field Office denied a request within 10 minutes of  
5 receipt.

6           15.     The Denver Field Office has denied *Fraihat* request with formulaic  
7 language that mirrors language used by this office prior to the Apr. 20 order in  
8 *Fraihat*.

9           16.     The New York City Field Office denied a *Fraihat* reconsideration  
10 request citing that the detained individual was mandatory detention.

11          17.     Attached as Exhibit A is a true and correct copy of U.S. Immigration  
12 and Customs Enforcement, ICE Guidance on COVID-19, Confirmed Cases,  
13 available at <https://www.ice.gov/coronavirus> (last visited Apr. 28, 2020), for Apr.  
14 28, 2020.

15          18.     Attached as Exhibit B is a true and correct copy of Order Granting  
16 Mot. for Provisional Class Certification, Granting Mot. for a TRO, and Denying  
17 Mot. for a Stay, *Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC (N.D. Cal. S.F.  
18 Div. Apr. 20, 2020), ECF No. 53.

19          19.     Attached as Exhibit C is a true and correct copy of a docket entry  
20 from *Zepeda Rivas v. Jennings*, No. 20-CV-02731-VC (N.D. Cal. S.F. Div. Apr.  
21 20, 2020).

1 I declare under penalty of perjury that the statements above are true and  
2 correct to the best of my knowledge and that this declaration was executed on  
3 April 29, 2020 in Miami, Florida.

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8 

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# **EXHIBIT A**



# ICE

Report Crimes: [Email](#) or Call 1-866-DHS-2-ICE

NOTICE

[Click here for the latest ICE guidance on COVID-19](#)

## ICE Guidance on COVID-19

Overview & FAQs

Confirmed Cases

Previous Statements

### CONFIRMED CASES AMONG DETAINEES

**425**

### DETAINEES TESTED

**705**

There have been 425 confirmed cases of COVID-19 among those in ICE custody\*. To date, there have been 705 total detainees tested.

- 12 detainees in Adams County Correctional Center (Natchez, MS)
- 2 detainees in Bergen County Jail (Hackensack, NJ)
- 20 detainees in Bluebonnet Detention Facility (Anson, TX)
- 49 detainees in Buffalo Federal Detention Facility (Batavia, NY)
- 2 detainees in Caroline Detention Facility (Bowling Green, VA)
- 7 detainees in Catahoula Correctional Center (Harrisonburg, LA)
- 7 detainees in El Paso Processing Center (El Paso, TX)
- 13 detainees in Elizabeth Detention Center (Elizabeth, NJ)
- 2 detainees in Essex County Correctional Facility (Newark, NJ)
- 10 detainees in Florence Detention Center (Florence, AZ)
- 9 detainees in Hudson County Jail (Kearny, NJ)
- 1 detainee in IAH Secure Adult Detention Facility (Livingston, TX)
- 2 detainees in Irwin County Detention Center (Ocilla, GA)
- 2 detainees in Joe Corley Detention Center (Conroe, TX)
- 4 detainees in Krome Detention Center (Miami, FL)
- 24 detainees in La Palma Correctional Facility (Eloy, AZ)
- 7 detainees in LaSalle ICE Processing Center (Jena, LA)
- 3 detainees in Montgomery Processing Center (Conroe, TX)
- 6 detainees in Morrow County Correctional Facility (Mount Gilead, OH)
- 84 detainees in Otay Mesa Detention Center (San Diego, CA)

## Exhibit A

- 3 detainees in Otero County Processing Center (Chaparral, NM)
- 16 detainees in Pike County Correctional Facility (Hawley, PA)
- 17 detainees in Pine Prairie ICE Processing Center (Pine Prairie, LA)
- 41 detainees in Prairieland Detention Center (Alvarado, TX)
- 12 detainees in Pulaski County Detention Center (Ullin, IL)
- 45 detainees in Richwood Correctional Center (Monroe, LA)
- 2 detainees in River Correctional Center (Ferriday, LA)
- 5 detainees in South Texas ICE Processing Center (Pearsall, TX)
- 5 detainees in St. Clair County Jail (Huron, MI)
- 9 detainees in Stewart Detention Center (Lumpkin, GA)
- 2 detainees in Winn Correctional Center (Winnfield, LA)
- 1 detainee in Wyatt Detention Center (Central Falls, RI)
- 1 detainee in York County Prison (York, PA)

\*This list is cumulative. Some detainees may no longer be in ICE custody, and may have since tested negative for the virus.

Updated 04/28/2020 6:00pm

ICE EMPLOYEES AT DETENTION CENTERS

36

There have been 36 confirmed cases of COVID-19 among ICE employees working in ICE detention facilities.

- 14 at Alexandria Staging Facility (Alexandria, LA)
- 2 at Aurora Contract Detention Facility (Aurora, CO)
- 1 in Bergen County Jail (Hackensack, NJ)
- 1 at Butler County Jail (Hamilton, OH)
- 1 at El Paso Processing Center (El Paso, TX)
- 2 at Elizabeth Contract Detention Facility (Elizabeth, NJ)
- 1 at Essex County Correctional Facility (Newark, NJ)
- 1 at Florence Correctional Center (Florence, AZ)
- 2 at Houston Contract Detention Facility (Houston, TX)
- 1 at Hudson County Jail (Kearny, NJ)
- 8 at Otay Mesa Detention Center (San Diego, CA)
- 2 at Stewart Detention Center (Lumpkin, GA)

Updated 04/28/2020 7:00pm

ICE EMPLOYEES

There have been 92 confirmed cases of COVID-19 among ICE employees not assigned to detention facilities.

Exhibit A

Updated 04/28/2020 7:00pm

Last Reviewed/Updated: 04/28/2020

**Exhibit A**

# **EXHIBIT B**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ANGEL DE JESUS ZEPEDA RIVAS, et  
al.,

Plaintiffs,

v.

DAVID JENNINGS, et al.,

Defendants.

Case No. [20-cv-02731-VC](#)

**ORDER GRANTING MOTION FOR  
PROVISIONAL CLASS  
CERTIFICATION, GRANTING  
MOTION FOR A TEMPORARY  
RESTRAINING ORDER, AND  
DENYING MOTION FOR A STAY**

A group of ICE detainees at the Mesa Verde Detention Facility and the Yuba County Jail have filed a proposed habeas class action challenging the conditions of their confinement. They contend they are at serious risk of becoming infected with Covid-19 because ICE has refused to alter conditions at the facilities so as to enable people to keep their distance from one another. The plaintiffs have filed a motion to provisionally certify a class of all detainees at the facilities, along with a motion for a temporary restraining order requiring ICE to take measures that will enable social distancing. The government, for its part, has moved for a stay of these proceedings in light of a separate case in which a federal judge certified a nationwide class of immigration detainees challenging ICE's overall response to the pandemic. The motion for provisional class certification is granted, as is the motion for a temporary restraining order. The motion for a stay is denied. As described more fully below, ICE is ordered to provide information to class counsel and to the Court to facilitate consideration of applications by detainees to be released on bail while this case is pending. In roughly 14 days, after individual bail applications have been processed, the Court will hold a preliminary injunction hearing to determine what measures, if

any, ICE must take to ensure social distancing and other protections for the people who remain detained at the facilities. Because time is of the essence, and because federal courts around the country have addressed most issues raised by these motions (including the public health threat currently posed by crowded detainee populations and ICE’s failure to respond), this ruling assumes that the reader is familiar with the legal arguments and factual materials submitted by the parties.

### Provisional Class Certification

1. There is nothing about the procedural posture of this lawsuit—such as the fact that it seeks habeas relief or that it is on behalf of immigration detainees—that precludes provisional class certification.<sup>1</sup>

2. The government’s arguments regarding commonality, typicality, adequacy, and Rule 23(b) do not defeat class certification. At root, this lawsuit is not about whether any particular person should be released; it is about the conditions of confinement at the facilities. The primary question is whether the people detained at those facilities are being exposed to an unreasonable risk of infection in violation of the Due Process Clause. As the plaintiffs argue in their papers, “class members have suffered the same injury—the substantial risk of contracting COVID-19 due to the lack of social distancing—and all class members would benefit from the same remedy—an order requiring social distancing at Yuba and Mesa Verde.” Dkt. 41 at 3. The likelihood that some people would need to be released as part of the effort to alleviate dangerous conditions at the jail (presumably by prioritizing people who have health vulnerabilities and whose records indicate they are not a danger to the community) does not change the ultimate relief the plaintiffs seek. And therefore it is not a reason to deny provisional class certification.<sup>2</sup> Nor, incidentally, is exposure to the virus a significant danger merely to people in high-risk

<sup>1</sup> See *Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010); *Padilla v. ICE*, 953 F.3d 1134, 1151 (9th Cir. 2020).

<sup>2</sup> See *Parsons v. Ryan*, 754 F.3d 657, 689 (9th Cir. 2014); *Rodriguez*, 591 F.3d at 1123; *Savino v. Souza*, 2020 WL 1703844, at \*7 (D. Mass. Apr. 8, 2020); cf. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1203-05 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018); see also *Brown v. Plata*, 563 U.S. 493 (2011).

groups; as explained in *Savino v. Souza*, it is dangerous to everyone. 2020 WL 1703844, at \*7.<sup>3</sup>

### Temporary Restraining Order

1. The Northern District of California is the proper forum for this action, as explained in *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1186–87 & n.9 (N.D. Cal. 2017), *aff'd sub nom.*

*Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018).<sup>4</sup>

2. As many courts have explained, ICE detainees in this situation have standing to sue in federal court.<sup>5</sup>

3. On this record, the plaintiffs have demonstrated an exceedingly strong likelihood that they will prevail on their claim that current conditions at the facilities violate class members' due process rights by unreasonably exposing them to a significant risk of harm.<sup>6</sup> There is no need to repeat a discussion of the “tinderbox” risk of the virus spreading in crowded detention facilities.<sup>7</sup> Nor is there need to recount the health risks posed by the virus—not just for people in high-risk categories but for healthy people as well.<sup>8</sup> In detention facilities throughout the nation, ICE has failed to take sufficient action to address the obvious health risks to detainees.<sup>9</sup> And as several

<sup>3</sup> See also Greifinger Decl., Dkt. 5-2 at ¶ 8, 24.

<sup>4</sup> See also *Rodriguez Sanchez v. Decker*, 2019 WL 3840977 (S.D.N.Y. Aug. 15, 2019); <https://www.ice.gov/detention-facility/mesa-verde-ice-processing-facility>, and <https://www.ice.gov/detentionfacility/yuba-county-jail> (identifying each facility as controlled by the “San Francisco Field Office” and specifically directing “Feedback or Complaints” to the San Francisco Field Office Director).

<sup>5</sup> See, e.g., *Franco v. Jennings*, Case No. 20-cv-02474-CRB (N.D. Cal. Apr. 24, 2020), Dkt. 16 at 3-4; *Bent v. Barr*, Case No. 19-cv-06123-DMR (N.D. Cal. Apr. 9, 2020), Dkt. 26 at 5-7; *Dawson v. Asher*, 2020 WL 1704324, at \*8 (W.D. Wash. Apr. 8, 2020).

<sup>6</sup> See *Youngberg v. Romeo*, 457 U.S. 307 (1982); *Gordon v. County of Orange*, 888 F.3d 1118 (9th Cir. 2018); *Helling v. McKinney*, 509 U.S. 25, 32 (1993).

<sup>7</sup> See Greifinger Decl. ¶¶ 16-24; Hernandez Decl. ¶¶ 19-21; *Basank v. Decker*, 2020 WL 1481503, at \*3 (S.D.N.Y. Mar. 26, 2020); *Bent*, *supra* at 11; *United States v. Daniels*, Case No. 19-cr-00709-LHK (NC), Dkt. 24 at 5–6; *Doe v. Barr*, Case No. 20-cv-02141-LB (N.D. Cal. Apr. 12, 2020) Dkt. 27 at 3.

<sup>8</sup> See Greifinger Decl. ¶ 8, 24; Hernandez Decl. ¶ 13; *Savino v. Souza*, 2020 WL 1703844, at \*7.

<sup>9</sup> *Faour Abdallah Fraihat*, et al. v. U.S. Immigrations and Customs Enforcement, et al., Case No. 5:19-cv-1546-JGB-SHK (C.D. Cal. Apr. 20, 2020), Dkt. 132 at 29-34; *Roman*, *supra*, at \*3; *Pimentel-Estrada v. Barr*, Case No. 20-cv-00495-RSM-BAT (W.D. Wa. Apr. 28, 2020), Dkt. 51 at 31; *Coronel v. Decker*, 2020 WL1487274, at \*4 (S.D.N.Y. Mar. 27, 2020); *Basank*, *supra*, at \*3; *Thakker v. Doll*, 2020 WL 1671563, at \*8 (M.D. Pa. Mar. 31, 2020); *Malam v. Adducci*, 2020 WL 1672662, at \*12 (E.D. Mich. Apr. 5, 2020), *as amended* (Apr. 6, 2020); *Gayle v. Meade*, Case No. 20-cv-21553 (S.D. Fl. Apr. 22, 2020), Dkt. 63 at 67; Greifinger Decl. ¶¶ 44-57; Rodarte Decl. Ex A.



courts in this district have already explained, the same is true of ICE’s performance at these local facilities.<sup>10</sup> Although ICE has recently begun taking modest measures, it is undisputed that the agency has not come close to achieving social distancing for most detainees—for example, people are still sleeping in barracks-style dorms within arms-reach of one another.<sup>11</sup> What’s more, at the hearing on these motions, counsel for ICE asserted that it will take a significant amount of time for the agency to prepare a list of detainees with health vulnerabilities because it is “burdensome.” The fact that ICE does not have such a list at the ready, six weeks after Governor Newsom shut down the entire state and one week after this lawsuit was filed, speaks volumes about where the safety of the people at these facilities falls on ICE’s list of priorities.<sup>12</sup>

4. For similar reasons, the plaintiffs have demonstrated a strong likelihood of irreparable harm to the class.<sup>13</sup> Although ICE notes that it has discovered no cases of Covid-19 at the two facilities, this is not especially comforting given that only two detainees have been tested.<sup>14</sup> Moreover, people are regularly being transported from facilities with COVID-19 cases to Mesa Verde or Yuba County. For example, in the past several months, the Northern District of California has seen dozens of offenders sentenced for street-level drug crimes and transported on detainers from the Santa Rita Jail in Alameda County to these ICE facilities.

5. The public interest and the balance of hardships also counsels in favor of emergency relief to initiate the process of mitigating health risks at the facilities. The conditions of confinement do not merely threaten detainees; they also threaten facility staff, not to mention the greater community whose health is put at risk by the congregation of large groups in cramped

<sup>10</sup> *Bahena Ortuno v. Jennings*, Case No. 20-cv-02064-MMC (N.D. Cal. Apr. 8, 2020), Dkt. 38 at 6-7; *Bent*, *supra*, at 10-11; *Doe*, *supra*, at 16; *see generally* Greifinger Decl.; Greifinger Supp. Decl.

<sup>11</sup> *See* Greifinger Decl. ¶¶ 34-43; Greifinger Supp. Decl. ¶ 7; Kavanagh Decl. ¶ 5; Knox Decl. ¶ 9, 16, 17; Tovar Decl. ¶ 14; Mwaura Decl. ¶ 10; Dang Decl. ¶ 13; Nunez Decl. ¶ 14; Alfaro Decl. ¶ 16; Bonnar Decl. ¶ 11(f).

<sup>12</sup> *See* Hernandez Decl. ¶¶ 13-18; Greifinger Decl. ¶¶ 14-15.

<sup>13</sup> *Helling*, 509 U.S. at 33; *Fraihat*, *supra*, at 36; *Coronel*, *supra*, at \*2; *Roman*, *supra*, at 21; *Bahena Ortuno*, *supra*, at 7-8; *Bent*, *supra*, at 12-13; *Doe*, *supra*, at 18.

<sup>14</sup> *See* Kaiser Decl. ¶ 11; Bonnar Decl. ¶ 12.

spaces.<sup>15</sup> As discussed in the next paragraph, the emergency relief ordered here—requiring ICE to provide information and access to detainees to facilitate a process of considering bail requests—will simply entail some hard work on ICE’s part. And of course, as bail requests are considered, care will be taken both to avoid releasing detainees who are a danger to the community and to minimize the possibility that released detainees will fail to appear for their removal proceedings.

6. ICE is thus hereby ordered to provide the Court and class counsel with information and records regarding each detainee at the facilities. This includes names, ages, any health vulnerabilities, and any criminal information (including rap sheets and I-213 forms). ICE is also ordered to ensure that class counsel has the ability to promptly communicate with detainees. The purpose of this order is to enable the Court to implement a system for considering individual bail applications, modeled after a system created and successfully implemented by Judge Young in the District of Massachusetts.<sup>16</sup> In extraordinary cases like this, federal judges have the authority to release detainees on bail while their habeas cases are pending.<sup>17</sup> Judge Young, after certifying a class of ICE detainees at a facility in Massachusetts, considered bail requests as a precursor to a preliminary injunction hearing. Similarly, this Court—likely with the assistance of several Magistrate Judges—will consider bail applications from class members over a roughly 14-day period. After that period, the parties and the Court will have a better understanding of the number of people who will continue to be detained during the public health crisis, which in turn could affect the relief (if any) to be ordered by way of preliminary injunction to help ensure social

<sup>15</sup> Hernandez Decl. ¶¶ 22-28; Greifinger Decl. ¶ 24; *Coronel, supra*, at \*7.

<sup>16</sup> See *Savino v. Souza*, Case No. 20-cv-10617-WGY (D. Mass. Apr. 8, 2020).

<sup>17</sup> *Mapp v. Reno*, 241 F.3d 221, 226 (2d Cir. 2001); *Savino, supra*, at 26-28; *Coronel, supra*, at \*8; *Landano v. Rafferty*, 970 F.2d 1230, 1239 (3d Cir. 1992); *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir. 1990); *Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986); *Cherek v. U.S.*, 767 F.2d 335, 337 (7th Cir. 1985); *Pfaff v. Wells*, 648 F.2d 689, 693 (10th Cir. 1981); *In re Wainwright*, 518 F.2d 173, 174 (5th Cir. 1975) (per curiam); *Woodcock v. Donnelly*, 470 F.2d 93, 94 (1st Cir. 1972); *Baker v. Sard*, 420 F.2d 1342, 1343 (D.C. Cir. 1969) (per curiam). See also *Land v. Deeds*, 878 F.2d 318, 318 (9th Cir. 1989); *In re Roe*, 257 F.3d 1077, 1080 (9th Cir. 2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1084 (9th Cir. 2006); *United States v. McCandless*, 841 F.3d 819, 822 (9th Cir. 2016) (per curiam); *Tam v. I.N.S.*, 14 F. Supp. 2d 1184, 1192 (E.D. Cal. 1998).

distancing at the facilities. All information must be provided to the Court and class counsel on a rolling basis, but by no later than Friday at noon. A case management conference will take place Thursday at 4:00 p.m. for the purpose of assessing progress in compliance with this order, scheduling a preliminary injunction hearing, and discussing the process by which the Court will consider individual bail applications.<sup>18</sup>

7. ICE, while opposing any form of emergency relief, argued in its papers and at the hearing that if the Court is inclined to grant such relief, it should take a different form. Specifically, rather than being ordered to provide information that would permit the prompt consideration of bail requests, ICE asks that the Court simply order the agency to release a set number of detainees from the facilities. ICE does not specify the number of detainees it should be told to release. It has not explained how many of the detainees would pose a danger to the community if released. And it has not specified how many detainees would actually need to be released to alleviate the health risks at the facilities. It seems, at first glance anyway, that ICE is asking the Court to strike with a blunt instrument rather than using a more cautious and methodical approach to address the constitutional problem presented by this case. But in any event, given ICE's failure thus far to respond meaningfully to the crisis despite the wave of court rulings from around the country documenting the agency's inaction, given that ICE does not even currently possess a list of detainees with health vulnerabilities, and given the lack of specificity in ICE's alternative remedy proposal, it appears likely that the approach of ordering ICE to release a random number of detainees, rather than simply ordering ICE to provide information that will facilitate consideration of individualized bail requests, would create delay rather than meaningful improvements in the conditions of confinement at the facilities.

#### Motion For A Stay Pending Related Litigation


Whether to stay a proposed class action based on the pendency of an overlapping class

<sup>18</sup> ICE has requested a 48-hour stay of this temporary restraining order so that it can consider whether to appeal. Because this order requires ICE only to provide documents and to give class counsel access to detainees, that request is denied.

action in another court is a matter of judicial discretion. A stay is not warranted here. In the nationwide class action proceeding in the Central District of California, Judge Bernal has ordered preliminary relief at too high a level of generality to protect the immediate interests of the class members in this case (or, for that matter, in Judge Young's case). *See Fraihat v. ICE*, Case No. 5:19-cv-1546-JGB-SHK (C.D. Cal. Apr. 20, 2020), Dkt. 132 at 38-39. It does not appear that Judge Bernal intended, by the general nationwide relief he ordered, to interfere with the ability of facility-specific litigation to proceed. Nor, in any event, does a nationwide class action covering specific relief at specific facilities seem manageable. Denial of this motion is without prejudice to raising the issue again if the cases develop in such a way as to create conflicting obligations for ICE.

**IT IS SO ORDERED.**

Dated: April 29, 2020

  
\_\_\_\_\_  
VINCE CHHABRIA  
United States District Judge

# **EXHIBIT C**

**U.S. District Court  
California Northern District (San Francisco)  
CIVIL DOCKET FOR CASE #: 3:20-cv-02731-VC**

Zepeda Rivas et al v. Jennings et al  
Assigned to: Judge Vince Chhabria  
Cause: 42:1981 Civil Rights

Date Filed: 04/20/2020  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: U.S. Government Defendant

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**Exhibit C**

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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Amalia Margarete Wille**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Angelica Salceda**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Emilou MacLean**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Francisco Ugarte**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Francisco Unger**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**Genna Ellis Beier**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Hayden Miles Rodarte**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Jordan Samuel Wells**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Judah Ben Lakin**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Sean Connor Riordan**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Timothy W. Cook**  
(See above for address)  
*PRO HAC VICE*  
*ATTORNEY TO BE NOTICED*

**William S. Freeman**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Coraima Yaritza Sanchez Nunez**

represented by **Martin S. Schenker**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Amalia Margarete Wille**  
(See above for address)

**Exhibit C**

ATTORNEY TO BE NOTICED

**Angelica Salceda**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Emilou MacLean**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Francisco Ugarte**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Francisco Unger**  
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(See above for address)  
ATTORNEY TO BE NOTICED

**Jordan Samuel Wells**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Judah Ben Lakin**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Sean Connor Riordan**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Timothy W. Cook**  
(See above for address)  
PRO HAC VICE  
ATTORNEY TO BE NOTICED

**William S. Freeman**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Plaintiff**

**Javier Alfaro**

represented by **Martin S. Schenker**  
(See above for address)  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Amalia Margarete Wille**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Angelica Salceda**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Emilou MacLean**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Francisco Ugarte**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Francisco Unger**  
(See above for address)  
PRO HAC VICE  
ATTORNEY TO BE NOTICED

**Genna Ellis Beier**  
(See above for address)

**Exhibit C**

ATTORNEY TO BE NOTICED

**Hayden Miles Rodarte**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Jordan Samuel Wells**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Judah Ben Lakin**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Sean Connor Riordan**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Timothy W. Cook**  
(See above for address)  
PRO HAC VICE  
ATTORNEY TO BE NOTICED

**William S. Freeman**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Plaintiff**

**Dung Tuan Dang**

represented by **Martin S. Schenker**  
(See above for address)  
LEAD ATTORNEY  
ATTORNEY TO BE NOTICED

**Amalia Margarete Wille**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Angelica Salceda**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Emilou MacLean**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Francisco Ugarte**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Francisco Unger**  
(See above for address)  
PRO HAC VICE  
ATTORNEY TO BE NOTICED

**Genna Ellis Beier**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Hayden Miles Rodarte**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Jordan Samuel Wells**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Judah Ben Lakin**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Sean Connor Riordan**  
(See above for address)  
ATTORNEY TO BE NOTICED

**Timothy W. Cook**  
(See above for address)  
PRO HAC VICE

**Exhibit C**

ATTORNEY TO BE NOTICED

**William S. Freeman**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

V.

**Defendant**

**David Jennings**  
 Acting Field Officer Director

represented by **Adrienne Zack**  
 United States Attorney's Office  
 Northern District of California  
 450 Golden Gate Avenue  
 P.O. Box 36055  
 San Francisco, CA 94102-3495  
 415-436-7031  
 Fax: 415-436-6748  
 Email: adrienne.zack@usdoj.gov  
 ATTORNEY TO BE NOTICED

**Wendy M. Garbers**  
 United States Attorney's Office  
 Northern District of California  
 450 Golden Gate Ave., 9th Floor  
 San Francisco, CA 94102  
 (415) 436-6475  
 Email: wendy.garbers@usdoj.gov  
 ATTORNEY TO BE NOTICED

**Defendant**

**Matthew T. Albence**  
 Deputy Director

represented by **Adrienne Zack**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

**Wendy M. Garbers**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

**Defendant**

**US Immigration and Customs Enforcement**

represented by **Adrienne Zack**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

**Wendy M. Garbers**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

**Defendant**

**Geo Group, Inc.**

**Defendant**

**Nathan Allen**  
 Warden

represented by **Wendy M. Garbers**  
 (See above for address)  
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
04/20/2020	<a href="#">1</a>	COMPLAINT against All Defendants ( Filing fee \$ 400, receipt number 0971-14393143.). Filed by JAVIER ALFARO, LAWRENCE KURIA MWAURA, DUNG TUAN DANG, BRENDA RUBI RUIZ TOVAR, LUCIANO GONZALO MENDOZA JERONIMO, ANGEL DE JESUS ZEPEDA RIVAS, CORAIMA YARITZA SANCHEZ NUEZ. (Attachments: # <a href="#">1</a> Civil Cover Sheet)(Freeman, William) (Filed on 4/20/2020) Modified on 4/21/2020 (mcIS, COURT STAFF). (Entered: 04/20/2020)
04/20/2020	<a href="#">2</a>	Proposed Summons. (Freeman, William) (Filed on 4/20/2020) (Entered: 04/20/2020)
04/20/2020	<a href="#">3</a>	Proposed Summons. (Freeman, William) (Filed on 4/20/2020) (Entered: 04/20/2020)
04/20/2020	<a href="#">4</a>	Proposed Summons. (Freeman, William) (Filed on 4/20/2020) (Entered: 04/20/2020)
04/20/2020	<a href="#">5</a>	First MOTION for Temporary Restraining Order filed by JAVIER ALFARO, DUNG TUAN DANG, LUCIANO GONZALO MENDOZA JERONIMO, LAWRENCE KURIA MWAURA, BRENDA RUBI RUIZ TOVAR, CORAIMA YARITZA SANCHEZ NUEZ, ANGEL DE JESUS ZEPEDA RIVAS. (Attachments: # <a href="#">1</a> *** ERRONEOUS ENTRY - SEE <a href="#">35</a> *** Declaration of Sandra Hernandez, # <a href="#">2</a> Declaration of Robert B. Greifinger, MD, # <a href="#">3</a> Declaration of Dr. Ranit Mishori (MD, MHS, FAAFP), # <a href="#">4</a> Declaration of Lisa Knox Regarding Conditions of Confinement at the Mesa Verde ICE Processing Facility, # <a href="#">5</a> Declaration of Attorney Kathleen Anne Kavanagh Regarding Conditions of Confinement at Yuba County Jail, # <a href="#">6</a> Declaration of Sean Riordan in Support of Petitioners-Plaintiffs' Motion for Temporary Restraining Order, # <a href="#">7</a> Proposed Temporary Restraining Order)(Freeman, William) (Filed on 4/20/2020) Modified on 4/27/2020 (mcIS, COURT STAFF). (Entered: 04/20/2020)

**Exhibit C**

04/20/2020	<a href="#">6</a>	First MOTION to Certify Class filed by JAVIER ALFARO, DUNG TUAN DANG, LUCIANO GONZALO MENDOZA JERONIMO, LAWRENCE KURIA MWAURA, BRENDA RUBI RUIZ TOVAR, CORAIMA YARITZA SANCHEZ NUEZ, ANGEL DE JESUS ZEPEDA RIVAS. Responses due by 4/24/2020. Replies due by 4/27/2020. (Attachments: # <a href="#">1</a> Declaration Declaration of Angel Zepeda, # <a href="#">2</a> Declaration Declaration of Brenda Rubi Ruiz Tovar, # <a href="#">3</a> Declaration Declaration of Lawrence Kuria Mwaura, # <a href="#">4</a> Declaration Declaration of Luciano Gonzalo Mendoza Joronimo, # <a href="#">5</a> Declaration Declaration of Coraima Yaritza Sanchez Nuez, # <a href="#">6</a> Declaration Declaration of Javier Alfaro, # <a href="#">7</a> Declaration Declaration Dung Tuan Dang, # <a href="#">8</a> Declaration Declaration of William S. Freeman in Support of Motion for Class Certification, # <a href="#">9</a> Declaration Declaration of Bree Bernwanger in Support of Motion for Class Certification, # <a href="#">10</a> Declaration Declaration of Martin S. Schenker in Support of Motion for Class Certification, # <a href="#">11</a> Declaration Declaration of Genna Ellis Beier in Support of Motion for Class Certification, # <a href="#">12</a> Declaration Declaration of Jordan Wells in Support of Motion for Class Certification, # <a href="#">13</a> Declaration Declaration of Judah Lakin in Support of Motion for Class Certification, # <a href="#">14</a> Proposed Order [Proposed] Order Granting Petitioners-Plaintiffs' Motion for Provisional Class Certification)(Freeman, William) (Filed on 4/20/2020) (Entered: 04/20/2020)
04/20/2020	<a href="#">7</a>	CERTIFICATE OF SERVICE by JAVIER ALFARO, DUNG TUAN DANG, LUCIANO GONZALO MENDOZA JERONIMO, LAWRENCE KURIA MWAURA, BRENDA RUBI RUIZ TOVAR, CORAIMA YARITZA SANCHEZ NUEZ, ANGEL DE JESUS ZEPEDA RIVAS re <a href="#">6</a> First MOTION to Certify Class , <a href="#">2</a> Proposed Summons, <a href="#">5</a> First MOTION for Temporary Restraining Order , <a href="#">3</a> Proposed Summons, <a href="#">4</a> Proposed Summons, <a href="#">1</a> Complaint, (Freeman, William) (Filed on 4/20/2020) (Entered: 04/20/2020)
04/21/2020	<a href="#">8</a>	Case assigned to Magistrate Judge Sallie Kim.  Counsel for plaintiff or the removing party is responsible for serving the Complaint or Notice of Removal, Summons and the assigned judge's standing orders and all other new case documents upon the opposing parties. For information, visit <i>E-Filing A New Civil Case</i> at <a href="http://cand.uscourts.gov/ecf/caseopening">http://cand.uscourts.gov/ecf/caseopening</a> .  Standing orders can be downloaded from the court's web page at <a href="http://www.cand.uscourts.gov/judges">www.cand.uscourts.gov/judges</a> . Upon receipt, the summons will be issued and returned electronically. Counsel is required to send chambers a copy of the initiating documents pursuant to L.R. 5-1(e)(7). A scheduling order will be sent by Notice of Electronic Filing (NEF) within two business days. Consent/Declination due by 5/5/2020. (ajsS, COURT STAFF) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/21/2020	<a href="#">9</a>	NOTICE of Appearance by Genna Ellis Beier (Beier, Genna) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/21/2020	<a href="#">10</a>	NOTICE of Appearance by Jordan Samuel Wells <i>FOR PETITIONERS-PLAINTIFFS</i> (Wells, Jordan) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/21/2020	<a href="#">11</a>	NOTICE of Appearance by Hayden Miles Rodarte (Rodarte, Hayden) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/21/2020	<a href="#">12</a>	<b>Initial Case Management Scheduling Order with ADR Deadlines: Case Management Statement due by 7/13/2020. Initial Case Management Conference set for 7/20/2020 01:30 PM. (mclS, COURT STAFF) (Filed on 4/21/2020) (Entered: 04/21/2020)</b>
04/21/2020	<a href="#">13</a>	Summons Issued as to Matthew T. Albence, David Jennings, US Immigration and Customs Enforcement. (mclS, COURT STAFF) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/21/2020	<a href="#">14</a>	Summons Issued as to Geo Group, Inc. (mclS, COURT STAFF) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/21/2020	<a href="#">15</a>	Summons Issued as to Nathan Allen. (mclS, COURT STAFF) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/21/2020	<a href="#">16</a>	CONSENT/DECLINATION to Proceed Before a US Magistrate Judge by Matthew T. Albence, David Jennings, US Immigration and Customs Enforcement.. (Garbers, Wendy) (Filed on 4/21/2020) (Entered: 04/21/2020)
04/22/2020	<a href="#">17</a>	CLERK'S NOTICE OF IMPENDING REASSIGNMENT TO A U.S. DISTRICT COURT JUDGE: The Clerk of this Court will now randomly reassign this case to a District Judge because either (1) a party has not consented to the jurisdiction of a Magistrate Judge, or (2) time is of the essence in deciding a pending judicial action for which the necessary consents to Magistrate Judge jurisdiction have not been secured. You will be informed by separate notice of the district judge to whom this case is reassigned.  ALL HEARING DATES PRESENTLY SCHEDULED BEFORE THE CURRENT MAGISTRATE JUDGE ARE VACATED AND SHOULD BE RE-NOTICED FOR HEARING BEFORE THE JUDGE TO WHOM THIS CASE IS REASSIGNED.  <i>This is a text only docket entry; there is no document associated with this notice.</i> (mklS, COURT STAFF) (Filed on 4/22/2020) (Entered: 04/22/2020)
04/22/2020	<a href="#">18</a>	<b>ORDER REASSIGNING CASE. Case reassigned using a proportionate, random, and blind system pursuant to General Order No. 44 to Judge Vince Chhabria for all further proceedings. Magistrate Judge Sallie Kim no longer assigned to case, Notice: The assigned judge participates in the Cameras in the Courtroom Pilot Project. See General Order No. 65 and <a href="http://cand.uscourts.gov/cameras..">http://cand.uscourts.gov/cameras..</a> Signed by Clerk on 04/22/2020. (Attachments: # <a href="#">1</a> Notice of Eligibility for Video Recording) (mbcS, COURT STAFF) (Filed on 4/22/2020) (Entered: 04/22/2020)</b>
04/22/2020	<a href="#">19</a>	NOTICE of Appearance by Judah Ben Lakin (Lakin, Judah) (Filed on 4/22/2020) (Entered: 04/22/2020)
04/22/2020	<a href="#">20</a>	*** DUPLICATE ENTRY *** NOTICE of Appearance by Judah Ben Lakin (Lakin, Judah) (Filed on 4/22/2020) Modified on 4/22/2020 (mclS, COURT STAFF). (Entered: 04/22/2020)
04/22/2020	<a href="#">21</a>	NOTICE of Appearance by Martin S. Schenker (Schenker, Martin) (Filed on 4/22/2020) (Entered: 04/22/2020)
04/22/2020	<a href="#">22</a>	NOTICE of Appearance by Adrienne Zack (Zack, Adrienne) (Filed on 4/22/2020) (Entered: 04/22/2020)
04/22/2020	<a href="#">23</a>	<b>ORDER REQUIRING RESPONSE TO TRO APPLICATION. Signed by Judge Vince Chhabria on 4/22/2020. (vclclS, COURT STAFF) (Filed on 4/22/2020) (Entered: 04/22/2020)</b>
04/22/2020	<a href="#">24</a>	NOTICE of Appearance by Sean Connor Riordan (Riordan, Sean) (Filed on 4/22/2020) (Entered: 04/22/2020)
04/22/2020	<a href="#">25</a>	NOTICE of Appearance by Angelica Salceda (Salceda, Angelica) (Filed on 4/22/2020) (Entered: 04/22/2020)
04/22/2020	<a href="#">26</a>	ADMINISTRATIVE MOTION for Additional Time to Respond to TRO re <a href="#">23</a> Order filed by Matthew T. Albence, David Jennings, US Immigration and Customs Enforcement. Responses due by 4/27/2020. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Proposed Order)(Zack, Adrienne) (Filed on 4/22/2020) (Entered: 04/22/2020)
04/22/2020	<a href="#">27</a>	<b>ORDER Requiring Response to Motion for Provisional Class Certification. Signed by Judge Vince Chhabria on 4/22/2020. (vclcl2S,</b>

Exhibit C  
25

		<b>COURT STAFF) (Filed on 4/22/2020) (Entered: 04/22/2020)</b>
04/22/2020	<a href="#">28</a>	<b>ORDER Extending Response Deadlines. Signed by Judge Vince Chhabria. (vclc2S, COURT STAFF) (Filed on 4/22/2020) (Entered: 04/22/2020)</b>
04/23/2020	<a href="#">29</a>	STIPULATION WITH PROPOSED ORDER <i>To Increase Page Limit</i> filed by Matthew T. Albence, David Jennings, US Immigration and Customs Enforcement. (Zack, Adrienne) (Filed on 4/23/2020) (Entered: 04/23/2020)
04/23/2020	<a href="#">30</a>	NOTICE of Appearance by Emilou MacLean (MacLean, Emilou) (Filed on 4/23/2020) (Entered: 04/23/2020)
04/24/2020	31	REASSIGNED CASE - NOTICE OF NEW HEARING DATE: You are notified that the Court has scheduled an Initial Case Management Conference before Judge Vince Chhabria upon reassignment. For a copy of Judge Chhabria's Standing Order and other information, please refer to the Court's website at www.cand.uscourts.gov.  Case Management Statement due by 7/15/2020. Initial Case Management Conference set for 7/22/2020 10:00 AM in San Francisco, Courtroom 04, 17th Floor.  <i>(This is a text-only entry generated by the court. There is no document associated with this entry.)</i> (knm, COURT STAFF) (Filed on 4/24/2020) (Entered: 04/24/2020)
04/24/2020	<a href="#">32</a>	<b>ORDER by Judge Vince Chhabria granting <a href="#">29</a> Stipulation to Extend Page Limits. (vclc2S, COURT STAFF) (Filed on 4/24/2020) (Entered: 04/24/2020)</b>
04/24/2020	<a href="#">33</a>	<b>ORDER re Filings. Signed by Judge Vince Chhabria on 4/24/2020. (vclc2S, COURT STAFF) (Filed on 4/24/2020) (Entered: 04/24/2020)</b>
04/24/2020	<a href="#">34</a>	NOTICE by Javier Alfaro, Dung Tuan Dang, Luciano Gonzalo Mendoza Jeronimo, Lawrence Kuria Mwaura, Brenda Rubi Ruiz Tovar, Coraima Yaritza Sanchez Nunez, Angel de Jesus Zepeda Rivas re <a href="#">5</a> First MOTION for Temporary Restraining Order <i>Notice of Withdrawal of Declaration of Dr. Ranit Mishori (ECF 5-3)</i> (Freeman, William) (Filed on 4/24/2020) (Entered: 04/24/2020)
04/25/2020	<a href="#">35</a>	Declaration of Sandra Hernandez in Support of <a href="#">5</a> First MOTION for Temporary Restraining Order <i>CORRECTION OF DOCKET # [5-1]</i> filed by Javier Alfaro, Dung Tuan Dang, Luciano Gonzalo Mendoza Jeronimo, Lawrence Kuria Mwaura, Brenda Rubi Ruiz Tovar, Coraima Yaritza Sanchez Nunez, Angel de Jesus Zepeda Rivas. (Related document(s) <a href="#">5</a> ) (Freeman, William) (Filed on 4/25/2020) (Entered: 04/25/2020)
04/25/2020	<a href="#">36</a>	NOTICE of Appearance by Francisco Ugarte (Ugarte, Francisco) (Filed on 4/25/2020) (Entered: 04/25/2020)
04/25/2020	<a href="#">37</a>	OPPOSITION/RESPONSE (re <a href="#">5</a> First MOTION for Temporary Restraining Order , <a href="#">6</a> First MOTION to Certify Class ) and <i>Memorandum in Support of Motion to Stay</i> filed by Matthew T. Albence, David Jennings, US Immigration and Customs Enforcement. (Attachments: # <a href="#">1</a> Declaration of Erik Bonnar, # <a href="#">2</a> Exhibit A, # <a href="#">3</a> Declaration of Polly Kaiser, # <a href="#">4</a> Exhibit A, # <a href="#">5</a> Declaration of Dana Fishburn, First, # <a href="#">6</a> Declaration of Alexander Pham, # <a href="#">7</a> Exhibit 1, # <a href="#">8</a> Exhibit 2, # <a href="#">9</a> Exhibit 3, # <a href="#">10</a> Exhibit 4, # <a href="#">11</a> Exhibit 5, # <a href="#">12</a> Exhibit 6, # <a href="#">13</a> Exhibit 7, # <a href="#">14</a> Declaration of Dana Fishburn, Second, # <a href="#">15</a> Exhibit 1, # <a href="#">16</a> Exhibit 2, # <a href="#">17</a> Exhibit 3, # <a href="#">18</a> Exhibit 4, # <a href="#">19</a> Exhibit 5, # <a href="#">20</a> Exhibit 6) (Zack, Adrienne) (Filed on 4/25/2020) (Entered: 04/25/2020)
04/25/2020	<a href="#">38</a>	MOTION to Stay re <a href="#">37</a> Opposition/Response to Motion,,, filed by Matthew T. Albence, David Jennings, US Immigration and Customs Enforcement. Responses due by 5/11/2020. Replies due by 5/18/2020. (Zack, Adrienne) (Filed on 4/25/2020) (Entered: 04/25/2020)
04/27/2020	<a href="#">39</a>	REPLY (re <a href="#">5</a> First MOTION for Temporary Restraining Order ) filed by Javier Alfaro, Dung Tuan Dang, Luciano Gonzalo Mendoza Jeronimo, Lawrence Kuria Mwaura, Brenda Rubi Ruiz Tovar, Coraima Yaritza Sanchez Nunez, Angel de Jesus Zepeda Rivas. (Attachments: # <a href="#">1</a> Supplemental Declaration of Greifinger, MD ISO of Motion for Temporary Restraining Order, # <a href="#">2</a> Declaration of Hayden Rodarte ISO of Motion for Temporary Restraining Order, # <a href="#">3</a> Rodarte Declaration Exh. A, # <a href="#">4</a> Rodarte Declaration Exh. B, # <a href="#">5</a> Rodarte Declaration Exh. C)(Freeman, William) (Filed on 4/27/2020) Modified on 4/27/2020 (mclS, COURT STAFF). (Entered: 04/27/2020)
04/27/2020	<a href="#">40</a>	OPPOSITION/RESPONSE (re <a href="#">38</a> MOTION to Stay re <a href="#">37</a> Opposition/Response to Motion,,, ) filed by Javier Alfaro, Dung Tuan Dang, Luciano Gonzalo Mendoza Jeronimo, Lawrence Kuria Mwaura, Brenda Rubi Ruiz Tovar, Coraima Yaritza Sanchez Nunez, Angel de Jesus Zepeda Rivas. (Freeman, William) (Filed on 4/27/2020) (Entered: 04/27/2020)
04/27/2020	<a href="#">41</a>	REPLY (re <a href="#">6</a> First MOTION to Certify Class ) filed by Javier Alfaro, Dung Tuan Dang, Luciano Gonzalo Mendoza Jeronimo, Lawrence Kuria Mwaura, Brenda Rubi Ruiz Tovar, Coraima Yaritza Sanchez Nunez, Angel de Jesus Zepeda Rivas. (Freeman, William) (Filed on 4/27/2020) (Entered: 04/27/2020)
04/27/2020	<a href="#">42</a>	CERTIFICATE OF SERVICE by Angel de Jesus Zepeda Rivas re <a href="#">39</a> Reply to Opposition/Response,, <a href="#">40</a> Opposition/Response to Motion, <a href="#">41</a> Reply to Opposition/Response, (Freeman, William) (Filed on 4/27/2020) (Entered: 04/27/2020)
04/27/2020	<a href="#">43</a>	MOTION for leave to appear in Pro Hac Vice <i>Timothy W. Cook</i> ( Filing fee \$ 310, receipt number 0971-14412537.) filed by Javier Alfaro, Dung Tuan Dang, Luciano Gonzalo Mendoza Jeronimo, Lawrence Kuria Mwaura, Brenda Rubi Ruiz Tovar, Coraima Yaritza Sanchez Nunez, Angel de Jesus Zepeda Rivas. (Cook, Timothy) (Filed on 4/27/2020) (Entered: 04/27/2020)
04/27/2020	<a href="#">44</a>	MOTION for leave to appear in Pro Hac Vice ( Filing fee \$ 310, receipt number 0971-14412259.) filed by Javier Alfaro, Dung Tuan Dang, Luciano Gonzalo Mendoza Jeronimo, Lawrence Kuria Mwaura, Brenda Rubi Ruiz Tovar, Coraima Yaritza Sanchez Nunez, Angel de Jesus Zepeda Rivas. (Attachments: # <a href="#">1</a> Certificate of Good Standing)(Unger, Francisco) (Filed on 4/27/2020) Modified on 4/27/2020 (mclS, COURT STAFF). (Entered: 04/27/2020)
04/27/2020	<a href="#">45</a>	NOTICE of Appearance by Amalia Margarete Wille (Wille, Amalia) (Filed on 4/27/2020) (Entered: 04/27/2020)
04/27/2020	<a href="#">46</a>	<b>ORDER re Hearing. Signed by Judge Vince Chhabria on 4/27/2020. (vclc2S, COURT STAFF) (Filed on 4/27/2020) (Entered: 04/27/2020)</b>
04/27/2020	47	CLERK'S NOTICE REGARDING THE ZOOM WEBINAR HEARING ON 4/28/2020; REGISTRATION OF COUNSEL IN ADVANCE REQUIRED, SEE BELOW.  Pre-registration by counsel with the clerk in advance of the hearings must be done by emailing a list of names of counsel who will be participating in the hearing to vccrd@cand.uscourts.gov by <b>no later than Tuesday, April 28, 2020, at 10:00 AM PST.</b>  All counsel, public, and press will join the webinar as attendees and be able to see and hear what is going on throughout all of the

**Exhibit C**

proceedings, but will not be able to actually participate in the proceedings until the Court switches them over to a participant. Before each case is called, counsel who have *pre-registered* with the clerk in advance of the hearing will be converted from attendee to participant. Once the hearing ends for their case, they will be switched back to attendee.

The links below are for all counsel, members of the public and press to use for accessing the hearing on Tuesday, April 28, 2020, at 2:00 PM PST.

Please click the link below to join the webinar:  
<https://us02web.zoom.us/j/81447675132?pwd=K21iUjhjR1FWa2t6cG93cTgrelc5Zz09>  
 Password: 271367  
 Or iPhone one-tap :  
 US: +12532158782,,81447675132# or +13017158592,,81447675132#  
 Or Telephone:  
 Dial(for higher quality, dial a number based on your current location):  
 US: +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 346 248 7799 or +1 669 900 6833 or +1 929 205 6099  
 Webinar ID: 814 4767 5132  
 Password: 271367  
 International numbers available: <https://us02web.zoom.us/j/81447675132?pwd=K21iUjhjR1FWa2t6cG93cTgrelc5Zz09>

Or an H.323/SIP room system:  
 H.323: 162.255.37.11 (US West) or 162.255.36.11 (US East)  
 Meeting ID: 814 4767 5132  
 Password: 271367  
 SIP: 81447675132@zoomrc.com  
 Password: 271367

*(This is a text-only entry generated by the court. There is no document associated with this entry.)* (vclc1S, COURT STAFF) (Filed on 4/27/2020) (Entered: 04/27/2020)

04/27/2020	<a href="#">48</a>	<b>Order by Judge Vince Chhabria granting <a href="#">43</a> Motion for Pro Hac Vice - Cook.(knm, COURT STAFF) (Filed on 4/27/2020) (Entered: 04/27/2020)</b>
04/27/2020	<a href="#">49</a>	<b>Order by Judge Vince Chhabria granting <a href="#">44</a> Motion for Pro Hac Vice - Unger.(knm, COURT STAFF) (Filed on 4/27/2020) (Entered: 04/27/2020)</b>
04/27/2020	<a href="#">50</a>	REPLY (re <a href="#">38</a> MOTION to Stay re <a href="#">37</a> Opposition/Response to Motion,,,) filed byMatthew T. Albence, David Jennings, US Immigration and Customs Enforcement. (Zack, Adrienne) (Filed on 4/27/2020) (Entered: 04/27/2020)
04/27/2020		Set Hearing as to <a href="#">6</a> First MOTION to Certify Class , <a href="#">38</a> MOTION to Stay re <a href="#">37</a> Opposition/Response to Motion , <a href="#">5</a> First MOTION for Temporary Restraining Order . Motion Hearing set for 4/28/2020 02:00 PM in San Francisco, Chambers before Judge Vince Chhabria. (knm, COURT STAFF) (Filed on 4/27/2020) (Entered: 04/27/2020)
04/28/2020	<a href="#">51</a>	STATEMENT OF RECENT DECISION pursuant to Civil Local Rule 7-3.d filed byMatthew T. Albence, Nathan Allen, David Jennings, US Immigration and Customs Enforcement. (Garbers, Wendy) (Filed on 4/28/2020) (Entered: 04/28/2020)
04/29/2020	<a href="#">52</a>	STIPULATION WITH PROPOSED ORDER <i>for Protective Order</i> filed by Matthew T. Albence, David Jennings, US Immigration and Customs Enforcement. (Attachments: # <a href="#">1</a> Proposed Protective Order)(Zack, Adrienne) (Filed on 4/29/2020) (Entered: 04/29/2020)
04/29/2020	<a href="#">53</a>	<b>ORDER by Judge Vince Chhabria denying <a href="#">38</a> Motion to Stay; granting <a href="#">5</a> Motion for TRO; granting <a href="#">6</a> Motion to Certify Class. (vclc2S, COURT STAFF) (Filed on 4/29/2020) (Entered: 04/29/2020)</b>
04/29/2020	<a href="#">54</a>	<b>ORDER by Judge Vince Chhabria granting <a href="#">52</a> Stipulated Protective Order. (vclc2S, COURT STAFF) (Filed on 4/29/2020) (Entered: 04/29/2020)</b>

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**Exhibit C**