

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ELIZABETH DELGADO SANTOS,
RAFAEL OCASIO BARRETO,
BETHZAIDA CRESPO VICENTE, and IRIS OTERO,
on behalf of themselves and all similarly situated individuals,
Plaintiffs,

v.

CIV. NO. 18-40111-TSH

FEDERAL EMERGENCY MANAGEMENT AGENCY,
WILLIAM BROCK LONG, THOMAS VAN ESSEN,
and ALEJANDRO DE LA CAMPA,
Defendants.

**ORDER MEMORIALIZING THE PREVIOUSLY GRANTED THIRD CONTINUATION
OF TEMPORARY RESTRAINING ORDER**
Background

The Plaintiffs are all individuals who evacuated Puerto Rico in the aftermath of Hurricane Maria, which struck the island on September 20, 2017 causing catastrophic damage. The Federal Emergency Management Agency (“FEMA”) has been providing assistance to thousands of residents of Puerto Rico displaced by Maria, including the named Plaintiffs. In May, FEMA announced that as of June 30, 2018, it would discontinue Transitional Shelter Assistance (“TSA”) for such evacuees.¹ The Plaintiffs have filed suit against the Defendants seeking to prevent the termination of benefits under the TSA program for themselves and other similarly situated persons. In their original Complaint (Docket No. 1), they asserted claims for relief for Deprivation of their Fifth Amendment Due Process Rights (Count I), and Violation of

¹ In simple terms, the TSA program provides direct funding to hotels and motels, which serve as shelters for individuals and families who are forced to evacuate their damaged or destroyed homes due to a natural disaster.

the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A), (B), 5 U.S. C. § 706(1)(Counts II-IV). Plaintiffs also seek a Declaratory Judgment (Count V). On June 30, 2018, Judge Sorokin entered a Temporary Restraining Order (“TRO”), which I thereafter continued until July 23, 2018 (allowing the Plaintiffs and the class to stay until checkout time on July 24, 2018) to give the parties an opportunity to fully brief the important and complex issues raised by Plaintiffs’ Complaint and corresponding motion for preliminary injunction. *See Continuation of Temporary Restraining Order*, dated July 3, 2018 (Docket No. 19). After reviewing the parties’ submissions, I set the matter down for hearing today, August 1, 2018 and extended the TRO until August 6, 2018 (allowing the Plaintiffs and the class to stay until checkout time on August 7, 2018). *See Second Continuation of Temporary Restraining Order*, Dated July 19, 2018 (Docket No. 38).

On July 12, 2017, Plaintiffs filed a First Amended Complaint, as of right (Docket No. 28) in which named Plaintiffs Alian Asencio, Aracelis Velez Cruz, Denise Nieves, Yaritza De Jesus Lopez, Rosa Rivera, and Angel Lauriano Muñoz De Jesus were dropped from the suit while Elizabeth Delgado Santos and Rafael Ocasio Barreto were added. Plaintiffs also asserted new claims for violation of their equal protection rights under the Fifth Amendment (Defendants’ conduct has denied and continues to deny TSA evacuees from Puerto Rico equal protection under the law)(Count VI), and Discrimination in Disaster Assistance in violation of 28 U.S.C. §5151(a) and 44 C.F.R. § 7.3 (Count No. VII).

By its terms, the TRO, as in effect and continued from time to time, addressed only the claims raised by the Plaintiffs under the original Complaint. In their response to the Government’s memorandum in opposition to continued injunctive relief and at the preliminary injunction hearing, the Plaintiffs sought to have the Court consider whether a preliminary injunction is warranted based on the totality of their claims, including those raised in the First

Amended Complaint. Rather than have the Plaintiffs file a subsequent TRO based on their new claims, I informed the parties that I would consider the new claims asserted in the First Amended Complaint. I granted the Government's request for additional time to address those claims and orally informed the parties that I was extending the TRO until August 31, 2018. I expect to issue my Order by that date. Accordingly, the TRO entered by Judge Sorokin remains in place until least midnight August 31, 2018 (*i.e.*, enabling Plaintiffs and the class to stay until checkout time on September 1, 2018).

So Ordered:

Dated: August 22, 2018

/s/ Timothy S. Hillman
TIMOTHY S. HILLMAN
DISTRICT JUDGE