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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

MONY PREAP, EDUARDO VEGA  
PADILLA, and JUAN LOZANO  
MAGDALENO,

Plaintiffs-Petitioners,

v.

JEH JOHNSON, Secretary, United States  
Department of Homeland Security; ERIC H.  
HOLDER, JR., United States Attorney  
General; TIMOTHY S. AITKEN, Field  
Office Director, San Francisco Field Office,  
United States Bureau of Immigration and  
Customs Enforcement; GREGORY J.  
ARCHAMBEAULT, Field Office Director,  
San Diego Field Office, United States  
Bureau of Immigration and Customs  
Enforcement; DAVID MARIN, Field Office  
Director, Los Angeles Field Office, United  
States Bureau of Immigration and Customs  
Enforcement,

Defendants-Respondents.

Case No. 4:13-cv-05754-YGR

**[PROPOSED] ORDER AND  
PRELIMINARY INJUNCTION**

On May 15, 2014, the Court granted Plaintiffs-Petitioners' Motion for Preliminary Injunction and Motion for Class Certification and denied Defendants' Motion to Dismiss. (Dkt. 48) ("Order"). Following issuance of the Order, Defendants moved for clarification of the injunction and for a stay pending resolution of their motion for clarification. (Dkt. 51). On June 24, 2014, the Court granted Defendants' request for a stay pending resolution of their motion for clarification. (Dkt. 57).

1 On July 11, 2014, the Court held a hearing regarding Defendants’ Motion for Clarification  
2 and, for reasons stated on the record, denied it. (Dkt. 59). Regarding implementation of the  
3 preliminary injunction, the Court further ordered as follows:

- 4 1. Defendants shall cease and desist subjecting class members<sup>1</sup> to mandatory detention under  
5 8 U.S.C. § 1226(c). Detention authority over class members arises under 8 U.S.C.  
6 § 1226(a).
- 7 2. By July 31, 2014, Defendants shall submit to the Court the names, A numbers, and  
8 detention-facility location of class members.
- 9 3. By September 24, 2014, which is 75 days following the Court’s hearing of July 11, 2014,  
10 DHS shall complete the process of (a) reevaluating custody determinations for class  
11 members and (b) providing a copy of the Form I-286 with the results of the re-evaluation  
12 as well as the Notice of Class Action Certification and Redetermination of Custody  
13 (“Redetermination Notice”) to class members.<sup>2</sup> The Form I-286 will be read to the class  
14 member in his or her native language. The Redetermination Notice will be provided in  
15 English or Spanish, depending on the class member’s native language. If the class  
16 member does not read English or Spanish, the Redetermination Notice will be read to the  
17 class member in his or her native language. The English version of the Redetermination  
18 Notice is attached to this Order as Exhibit A.
- 19 4. For class members who elect to have a bond hearing or who do not affirmatively elect or  
20 decline a bond hearing, the Executive Office of Immigration Review (EOIR) shall  
21 schedule bond hearings for class members no later than 14 days after receipt of the class  
22 member’s I-286 Form, which DHS will transmit to EOIR on a rolling basis in the regular

23 <sup>1</sup> The certified class is defined as follows:

24 Individuals in the state of California who are or will be subjected to mandatory  
25 detention under 8 U.S.C. [§] 1226(c) and who were not or will not have been  
26 taken into custody by the Government immediately upon their release from  
27 criminal custody for a Section 1226(c)(1) offense.

28 *See* Order at 25.

<sup>2</sup> For future class members who are transferred to California detention facilities by Defendants from outside of the state of California, DHS shall conduct custody redeterminations and provide Redetermination Notices within 14 days after the class member’s transfer to a California detention facility.

1 course after completing custody re-evaluations.

2 5. Defendants shall submit monthly compliance reports to the Court, including the following  
3 information: the name of the class member, the class member's A number, the facility in  
4 which the class member is held, and the date of last conviction for a Section  
5 1226(c)(1)(A)-(D) offense (if applicable), and the date the custody redetermination was  
6 conducted and Redetermination Notice was provided to the class member. These monthly  
7 compliance reports will be filed with the Court as follows:

- 8 • August 11, 2014 for the period ending July 31, 2014;
- 9 • September 10, 2014 for the period ending August 31, 2014;
- 10 • October 10, 2014 for the period ending September 30, 2014; and
- 11 • November 10, 2014 for the period ending October 31, 2014 (if necessary under  
12 paragraph 7).

13 6. With the report due October 10, 2014, Defendants will submit to the Court and class  
14 counsel a report on: (i) the process by which class members were identified; (ii) the dates  
15 on which bond hearings for class members were scheduled and held (except where class  
16 members request continuances); and (iii) a list of any class members that Defendants  
17 released on the class member's own recognizance or on bond, and/or who did not seek a  
18 custody redetermination.

19 7. If, for any reason, Defendants are not in full compliance with the Order by September 24,  
20 2014, Defendants will submit an end of month report to the Court and class counsel by the  
21 10th of the next month for each month that Defendants are not in full compliance, with  
22 updated information as described in paragraphs 5 and 6, *supra*.

23 IT IS SO ORDERED.

24 Date: July 21, 2014

25   
26 YVONNE GONZALEZ ROGERS  
27 United States District Judge  
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