

Exhibit 2

EXHIBITS, DEFENDANTS' RESPONSE IN OPPOSITION TO
PLAINTIFFS; MOTION FOR EXPEDITED DISCOVERY
CASE NO. 2:18-CV-00939-MJP
State of Washington, et al. v. United States, et al.,

U.S. DEPARTMENT OF JUSTICE
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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.,)
)
 Plaintiffs,)
)
 v.)
)
 THE UNITED STATES OF AMERICA;)
 DONALD TRUMP, in his official capacity)
 as President of the United States of)
 America, et al.,)
)
 Defendants.)
 _____)

Case No.: 2:18-cv-00939-MJP

DECLARATION OF DAVID W. JENNINGS

I, David W. Jennings, for my declaration pursuant to 28 U.S.C. § 1746, hereby state and depose as follows, based on my personal knowledge and information provided to me in the course of my official duties:

1. I am currently serving as the Acting Assistant Director (AD), Field Operations, Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), a position I have held since April 2018. In this capacity, I oversee, direct, and coordinate field operations in 24 ERO field offices.
2. Previously, I was the Acting Deputy Assistant Director (DAD), Western Operations for ERO, a position I held from October 2017 to March 2018.
3. In June 2016, I was named Field Office Director for the San Francisco Field Office. I served as the Field Office Director for the Los Angeles Field Office from June 2014 until June 2016 and as the Houston Field Office Director from May 2012 to June 2014.

4. In my current role as Acting AD, I have been involved directly in ICE's efforts to implement Executive Order (EO) 13841 ("Affording Congress an Opportunity to Address Family Separation") and comply with the orders in *Ms. L v. I.C.E.*, ---F. Supp. 3d---, 2018 WL 3129486 (S.D. Cal. June 26, 2018) ("*Ms. L* order" or "order").
5. In order to effectuate the reunification of class members and their minor children, pursuant to the requirements of the preliminary injunction, ICE is working closely with U.S. Customs and Border Protection (CBP) and the U.S. Department of Health and Human Services (HHS), Office of Refugee Resettlement (ORR).
6. Immediately after the *Ms. L* order was issued, ICE's senior leadership met internally and with leadership from across the federal government to determine the various ways in which implementation could be achieved. For ICE, implementation requires several labor intensive steps, such as, but not limited to providing guidance to ERO's field offices, gathering data from other agencies within and outside DHS, conducting case-by-case reviews of all potential class members, transferring class members of children four years of age and younger to detention facilities near their children, developing a reunification plan for class members with children five years of age and over, facilitating access of HHS employees to detention facilities to conduct DNA testing, facilitating communication between class members and their children, communicating with HHS about each case, and providing details about criminal history and location of detention or location of class members who had been released from ICE custody.
7. The first step toward reunifying separated families was the difficult and time-consuming task of identifying potential class members. The data necessary to determine class membership is not maintained as part of ICE's regular business practice. Rather, ICE had

to create a new dataset using information collected from CBP and HHS. To create an initial dataset for consideration, ICE had to reconcile CBP data against HHS data manually and new methodologies were developed by ICE to identify separated parents. This data was then sent to the relevant ERO field offices so immigration officers could review available information for each case in order to determine whether the particular alien qualifies as a class member.

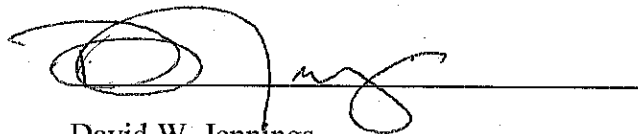
8. 19 of ERO's 24 field offices have been affected by this order. Field Office Directors (FODs) around the country have reassigned officers from other duties, such as fugitive operations and case management, to review cases of each potential class member, which includes reviewing available DHS databases, the alien file, and the National Crime Information Center database. As class members are identified, FODs have also had to reassign officers to track these cases, arrange transfers from detention facilities across the United States, share information with HHS, and facilitate communication between separated alien parents and their children.
9. Employees within ERO's Custody Management Division have also committed significant resources to ensuring compliance with the order. They have deployed two deportation officers and six other ERO staff to three detention facilities in which a significant percentage of separated parents are detained to provide surge support related to identification of family units, identification of the location of separated parents and their respective children, responding to detainee inquiries, and facilitating telephone calls between parents and their children. ERO also deployed three dedicated policy/data analysts to HHS's Special Operations Center, which was established to address the operational challenges of coordinating family reunification across different departments.

10. As of July 6, 2018, our information indicates that potential class members with children under five years of age were detained in 23 facilities across 13 states.
11. For those individuals detained in ICE custody for whom it is determined that a minor child has been separated and is in HHS custody, ICE has directed its field offices to review and prepare summaries of the adult alien's criminal and immigration histories, as well as indicators of gang membership. These summaries are sent to HHS. To date, ICE has completed approximately 300 such summaries. Based upon currently available information, ICE has approximately 1400 more summaries to complete for potential class members.
12. ICE will need to complete the same criminal and immigration history reviews for the remaining individuals. ICE and HHS will also need to facilitate reunification for the class members.
13. Based upon this information, ICE and/or HHS, depending upon the circumstances, must also determine whether the separated alien parent is excluded from the class due to criminal history.
14. In order to facilitate the reunification process, ICE has taken steps to move the detained parents of children four years of age or under to a detention facility in the area of responsibility (AOR) close to the location of the minor child in HHS custody. ICE has moved approximately 23 detained aliens from across the country on commercial airlines, which requires officer escorts. Some class members who were more recently identified have not been transferred at the request of HHS, so that HHS can more efficiently take DNA samples of the parents.

15. ICE must carry out a similar process to reunify detained parents of children five years of age or over. For these class members, ICE is considering using a few dedicated staging facilities for reunification purposes.
16. Upon HHS's completion of vetting and a determination of suitability for reunification in accordance with law and the injunction, in many cases, ICE may release the parent on Alternatives to Detention (ATD) to enable reunification to be completed. Because ICE does not have authority to transport the parent once released from its custody, reunification will generally occur at the detention facility or an ERO Field Office concurrent with the parent's release.
17. Given all of the resources being expended by ICE to accomplish reunification and the time sensitive nature of the Court order, any expedited request for discovery of the same or similar information will only serve to interfere with this process. For example, any request seeking the A-files of affected individuals may hold up the transfer process. Likewise, any additional requests for data will slow down the identification of affected class members who must be transferred soon. Also, the same staff handling implementation of the *Ms. L* order, would also be required to respond to expedited discovery, which would hamper reunification efforts.
18. Consequently, any expedited request for documents and data relating to a similar or same set of individuals will substantially interfere with ICE's ability to reunify these parents to their minor children.

I declare under penalty of perjury that the foregoing is true and correct. Executed on

July 9, 2018.

A handwritten signature in black ink, appearing to read 'D. Jennings', is written over a solid horizontal line.

David W. Jennings
Acting Assistant Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement