

Exhibit Q

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L.; et al.,
Petitioners-Plaintiffs,
v.
U.S Immigration and Customs
Enforcement (“ICE”); et al.,
Respondents-Defendants.

Case No.: 18cv0428 DMS (MDD)

**ORDER GRANTING PLAINTIFFS’
MOTION FOR CLASSWIDE
PRELIMINARY INJUNCTION**

Eleven weeks ago, Plaintiffs leveled the serious accusation that our Government was engaged in a widespread practice of separating migrant families, and placing minor children who were separated from their parents in government facilities for “unaccompanied minors.” According to Plaintiffs, the practice was applied indiscriminately, and separated even those families with small children and infants—many of whom were seeking asylum. Plaintiffs noted reports that the practice would become national policy. Recent events confirm these allegations. Extraordinary relief is requested, and is warranted under the circumstances.

On May 7, 2018, the Attorney General of the United States announced a “zero tolerance policy,” under which all adults entering the United States illegally would be subject to criminal prosecution, and if accompanied by a minor child, the child would be

1 separated from the parent.¹ Over the ensuing weeks, hundreds of migrant children were
2 separated from their parents, sparking international condemnation of the practice. Six days
3 ago on June 20, 2018, the President of the United States signed an Executive Order (“EO”)
4 to address the situation and to require preservation of the “family unit” by keeping migrant
5 families together during criminal and immigration proceedings to the extent permitted by
6 law, while also maintaining “rigorous[.]” enforcement of immigration laws. *See* Executive
7 Order, *Affording Congress an Opportunity to Address Family Separation* § 1, 2018 WL
8 3046068 (June 20, 2018). The EO did not address reunification of the burgeoning
9 population of over 2,000 children separated from their parents. Public outrage remained
10 at a fever pitch. Three days ago on Saturday, June 23, 2018, the Department of Homeland
11 Security (“DHS”) issued a “Fact Sheet” outlining the government’s efforts to “ensure that
12 those adults who are subject to removal are reunited with their children for the purposes of
13 removal.”²

14 Plaintiffs assert the EO does not eliminate the need for the requested injunction, and
15 the Fact Sheet does not address the circumstances of this case. Defendants disagree with
16 those assertions, but there is no genuine dispute that the Government was not prepared to
17 accommodate the mass influx of separated children. Measures were not in place to provide
18 for communication between governmental agencies responsible for detaining parents and
19 those responsible for housing children, or to provide for ready communication between
20 separated parents and children. There was no reunification plan in place, and families have
21 been separated for months. Some parents were deported at separate times and from
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24 ¹ *See* U.S. Att’y. Gen., *Attorney General Sessions Delivers Remarks Discussing the*
25 *Immigration Enforcement Actions of the Trump Administration* (May 7, 2018),
26 [https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions)
27 [discussing-immigration-enforcement-actions.](https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-discussing-immigration-enforcement-actions)

28 ² *See* U.S. Dep’t of Homeland Sec., *Fact Sheet: Federal Regulations Protecting the*
29 *Confidentiality of Asylum Applicants* (June 23, 2018),
30 [https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-](https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification)
31 [reunification.](https://www.dhs.gov/news/2018/06/23/fact-sheet-zero-tolerance-prosecution-and-family-reunification)

1 different locations than their children. Migrant families that lawfully entered the United
2 States at a port of entry seeking asylum were separated. And families that were separated
3 due to entering the United States illegally between ports of entry have not been reunited
4 following the parent's completion of criminal proceedings and return to immigration
5 detention.

6 This Court previously entered an order finding Plaintiffs had stated a legally
7 cognizable claim for violation of their substantive due process rights to family integrity
8 under the Fifth Amendment to the United States Constitution based on their allegations the
9 Government had separated Plaintiffs from their minor children while Plaintiffs were held
10 in immigration detention and without a showing that they were unfit parents or otherwise
11 presented a danger to their children. *See Ms. L. v. U.S. Immigration & Customs Enf't*, 302
12 F. Supp. 3d 1149, 2018 WL 2725736, at *7-12 (S.D. Cal. June 6, 2018). A class action
13 has been certified to include similarly situated migrant parents. Plaintiffs now request
14 classwide injunctive relief to prohibit separation of class members from their children in
15 the future absent a finding the parent is unfit or presents a danger to the child, and to require
16 reunification of these families once the parent is returned to immigration custody unless
17 the parent is determined to be unfit or presents a danger to the child.

18 Plaintiffs have demonstrated a likelihood of success on the merits, irreparable harm,
19 and that the balance of equities and the public interest weigh in their favor, thus warranting
20 issuance of a preliminary injunction. This Order does not implicate the Government's
21 discretionary authority to enforce immigration or other criminal laws, including its
22 decisions to release or detain class members. Rather, the Order addresses only the
23 circumstances under which the Government may separate class members from their
24 children, as well as the reunification of class members who are returned to immigration
25 custody upon completion of any criminal proceedings.

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I.**BACKGROUND**

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3 This case started with the filing of a Complaint by Ms. L., a Catholic citizen of the
4 Democratic Republic of the Congo fleeing persecution from her home country because of
5 her religious beliefs. The specific facts of Ms. L.’s case are set out in the Complaint and
6 this Court’s June 6, 2018 Order on Defendants’ motion to dismiss. *See Ms. L.*, 2018 WL
7 2725736, at *1-3. In brief, Ms. L. and her then-six-year-old daughter S.S., lawfully
8 presented themselves at the San Ysidro Port of Entry seeking asylum based on religious
9 persecution. They were initially detained together, but after a few days S.S. was “forcibly
10 separated” from her mother. When S.S. was taken away from her mother, “she was
11 screaming and crying, pleading with guards not to take her away from her mother.” (Am.
12 Compl. ¶ 43.) Immigration officials claimed they had concerns whether Ms. L. was S.S.’s
13 mother, despite Ms. L.’s protestations to the contrary and S.S.’s behavior. So Ms. L. was
14 placed in immigration custody and scheduled for expedited removal, thus rendering S.S.
15 an “unaccompanied minor” under the Trafficking Victims Protection and Reauthorization
16 Act (“TVPRA”), Pub. L. No. 110-457 (Dec. 23, 2008), and subjecting her to the “care and
17 custody” of the Office of Refugee Resettlement (“ORR”).³ S.S. was placed in a facility in
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20 ³ The TVPRA provides that “the care and custody of all unaccompanied alien children,
21 including responsibility for their detention, where appropriate, shall be the responsibility
22 of” HHS and its sub-agency, ORR. 8 U.S.C. § 1232(b)(1). An “unaccompanied alien
23 child” (“UAC”) is a child under 18 years of age with no lawful immigration status in the
24 United States who has neither a parent nor legal guardian in the United States nor a parent
25 nor legal guardian in the United States “available” to care for them. 6 U.S.C § 279(g)(2).
26 According to the TVPRA, a UAC “may not be placed with a person or entity unless the
27 Secretary of Health and Human Services makes a determination that the proposed
28 custodian is capable of providing for the child’s physical and mental well-being. Such
determination shall, at a minimum, include verification of the custodian’s identity and
relationship to the child, if any, as well as an independent finding that the individual has
not engaged in any activity that would indicate a potential risk to the child.” 8 U.S.C. §
1232(c)(3)(A).

1 Chicago over a thousand miles away from her mother. Immigration officials later
2 determined Ms. L. had a credible fear of persecution and placed her in removal
3 proceedings, where she could pursue her asylum claim. During this period, Ms. L. was
4 able to speak with her daughter only “approximately 6 times by phone, never by video.”
5 (Am. Compl. ¶ 45.) Each time they spoke, S.S. “was crying and scared.” (*Id.* ¶ 43.) Ms.
6 L. was “terrified that she would never see her daughter again.” (*Id.* ¶ 45.) After the present
7 lawsuit was filed, Ms. L. was released from ICE detention into the community. The Court
8 ordered the Government to take a DNA saliva sample (or swab), which confirmed that Ms.
9 L. was the mother of S.S. Four days later, Ms. L. and S.S. were reunited after being
10 separated for nearly five months.

11 In an Amended Complaint filed on March 9, 2018, this case was expanded to include
12 another Plaintiff, Ms. C. She is a citizen of Brazil, and unlike Ms. L., she did not present
13 at a port of entry. Instead, she and her 14-year-old son J. crossed into the United States
14 “between ports of entry,” after which they were apprehended by U.S. Border Patrol. Ms.
15 C. explained to the agent that she and her son were seeking asylum, but the Government,
16 as was its right under federal law, charged Ms. C. with entering the country illegally and
17 placed her in criminal custody. This rendered J. an “unaccompanied minor” and he, like
18 S.S., was transferred to the custody of ORR, where he, too, was housed in a facility in
19 Chicago several hundred miles away from his mother. Ms. C. was thereafter convicted of
20 misdemeanor illegal entry and served 25 days in criminal custody. After completing that
21 sentence, Ms. C. was transferred to immigration detention for removal proceedings and
22 consideration of her asylum claim, as she too had passed a credible fear screening. Despite
23 being returned to immigration custody, Ms. C. was not reunited with J. During the five
24 months she was detained, Ms. C. did not see her son, and they spoke on the phone only “a
25 handful of times[.]” (*Id.* ¶ 58.) Ms. C. was “desperate” to be reunited with her son, worried
26 about him constantly and did not know when she would be able to see him. (*Id.*) J. had a
27 difficult time emotionally during the period of separation from his mother. (*Id.* ¶ 59.) Ms.
28 C. was eventually released from immigration detention on bond, and only recently reunited

1 with J. Their separation lasted more than eight months despite the lack of any allegations
2 or evidence that Ms. C. was unfit or otherwise presented a danger to her son.⁴

3 Ms. L. and Ms. C. are not the only migrant parents who have been separated from
4 their children at the border. Hundreds of others, who have both lawfully presented at ports
5 of entry (like Ms. L.) and unlawfully crossed into the country (like Ms. C.), have also been
6 separated. Because this practice is affecting large numbers of people, Plaintiffs sought
7 certification of a class consisting of similarly situated individuals. The Court certified that
8 class with minor modifications,⁵ and now turns to the important question of whether
9 Plaintiffs are entitled to a classwide preliminary injunction that (1) halts the separation of
10 class members from their children absent a determination that the parent is unfit or presents
11 a danger to the child, and (2) reunites class members who are returned to immigration
12 custody upon completion of any criminal proceedings absent a determination that the
13 parent is unfit or presents a danger to the child.

14 Since the present motion was filed, several important developments occurred, as
15 previously noted. First, on May 7, 2018, the Government announced its zero tolerance
16 policy for all adult persons crossing the border illegally, which resulted in the separation
17 of hundreds of children who had crossed with their parents. This is what happened with
18 Ms. C., though she crossed prior to the public announcement of the zero tolerance policy.
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21 ⁴ As stated in the Court's Order on Defendants' motion to dismiss, Plaintiffs do not
22 challenge Ms. C.'s initial separation from J. as a result of the criminal charge filed against
23 her. Plaintiffs' only complaint with regard to Ms. C. concerns the Government's failure to
reunite her with J. after she was returned to immigration custody.

24 ⁵ The class is defined to include: "All adult parents who enter the United States at or
25 between designated ports of entry who (1) have been, are, or will be detained in
immigration custody by the [DHS], and (2) have a minor child who is or will be separated
26 from them by DHS and detained in ORR custody, ORR foster care, or DHS custody absent
a determination that the parent is unfit or presents a danger to the child." (*See Order*
27 *Granting in Part Mot. for Class Cert.* at 17.) The class does not include parents with
28 criminal history or communicable disease, or those apprehended in the interior of the
country or subject to the EO. (*See id.* at 4 n.5.)

1 She is not alone. There are hundreds of similarly situated parents, and there are more than
2 2,000 children that have now been separated from their parents.

3 When a parent is charged with a criminal offense, the law ordinarily requires
4 separation of the family. This separation generally occurs regardless of whether the parent
5 is charged with a state or federal offense. The repercussions on the children, however, can
6 vary greatly depending on status. For citizens, there is an established system of social
7 service agencies ready to provide for the care and well-being of the children, if necessary,
8 including child protective services and the foster care system. This is in addition to any
9 family members that may be available to provide shelter for these minor children.
10 Grandparents and siblings are frequently called upon. Non-citizens may not have this kind
11 of support system, such as other family members who can provide shelter for their children
12 in the event the parent is detained at the border. This results in immigrant children going
13 into the custody of the federal government, which is presently not well equipped to handle
14 that important task.

15 For children placed in federal custody, there are two options. One of those options
16 is ORR, but it was established to address a different problem, namely minor children who
17 were apprehended at the border without their parents, *i.e.*, true “unaccompanied alien
18 children.” It was not initially designed to address the problem of migrant children detained
19 with their parents at the border and who were thereafter separated from their parents. The
20 second option is family detention facilities, but the options there are limited. Indeed, at the
21 time of oral argument on this motion, Government counsel represented to the Court that
22 the “total capacity in [family] residential centers” was “less than 2,700.” (Rep. Tr. at 9,
23 May 9, 2018, ECF No. 70.) For male heads of households, *i.e.*, fathers traveling with their
24 children, there was only one facility with “86 beds.” (*Id.* at 43.)

25 The recently issued EO confirms the government is inundated by the influx of
26 children essentially orphaned as a result of family separation. The EO now directs “[h]eads
27 of executive departments and agencies” to make available “any facilities ... appropriate”
28 for the housing and care of alien families. EO § 3(d). The EO also calls upon the *military*

1 by directing the Secretary of Defense to make available “any existing” facility and to
2 “construct such facilities[,]” if necessary, *id.* § 3(c), which is an extraordinary measure.
3 Meanwhile, “tent cities” and other make-shift facilities are springing up. That was the
4 situation into which Plaintiffs, and hundreds of other families that were separated at the
5 border in the past several months, were placed.

6 This situation has reached a crisis level. The news media is saturated with stories of
7 immigrant families being separated at the border. People are protesting. Elected officials
8 are weighing in. Congress is threatening action. Seventeen states have now filed a
9 complaint against the Federal Government challenging the family separation practice. *See*
10 *State of Washington v. United States*, Case No. 18cv0939, United States District Court for
11 the Western District of Washington. And the President has taken action.

12 Specifically, on June 20, 2018, the President signed the EO referenced above. The
13 EO states it is the Administration’s policy “to maintain family unity, including by detaining
14 alien families together where appropriate and consistent with law and available resources.”
15 *Id.* § 1.⁶ In furtherance of that policy, the EO indicates that parents and children who are
16 apprehended together at the border will be detained together “during the pendency of any
17 criminal improper entry or immigration proceedings” to the extent permitted by law. *Id.* §
18 3. The language of the EO is not absolute, however, as it states that family unity shall be
19 maintained “where appropriate and consistent with law and available resources[,]” *id.* § 1,
20 and “to the extent permitted by law and subject to the availability of appropriations[.]” *Id.*
21 § 3. The EO also indicates rigorous enforcement of illegal border crossers will continue.
22 *Id.* § 1 (“It is the policy of this Administration to rigorously enforce our immigration
23 laws.”). And finally, although the Order speaks to a policy of “maintain[ing] family unity,”
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26 ⁶ The Order defines “alien family” as “any person not a citizen or national of the United
27 States who has not been admitted into, or is not authorized to enter or remain in, the United
28 States, who entered this country with an alien child or alien children at or between
designated ports of entry and who was detained[.]” *Id.* § 2(a)(i).

1 it is silent on the issue of reuniting families that have already been separated or will be
2 separated in the future.” *Id.*

3 In light of these recent developments, and in particular the EO, the Court held a
4 telephonic status conference with counsel on June 22, 2018. During that conference, the
5 Court inquired about communication between ORR and DHS, and ORR and the
6 Department of Justice (“DOJ”), including the Bureau of Prisons (“BOP”), as it relates to
7 these separated families. Reunification procedures were also discussed, specifically
8 whether there was any affirmative reunification procedure for parents and children after
9 parents were returned to immigration detention following completion of criminal
10 proceedings. Government counsel explained the communication procedures that were in
11 place, and represented, consistent with her earlier representation to the Court, that there
12 was no procedure in place for the reunification of these families.⁷

13 The day after the status conference, Saturday, June 23, DHS issued the Fact Sheet
14 referenced above. This document focuses on several issues addressed during the status
15 conference, *e.g.*, processes for enhanced communication between separated parents and
16 children, but only “for the purposes of removal.” It also addresses coordination between
17 and among three agencies, CBP, ICE, and HHS agency ORR, but again for the purpose of
18 removal. The Fact Sheet does not address reunification for other purposes, such as
19 immigration or asylum proceedings, which can take months. It also does not mention other
20 vital agencies frequently involved during criminal proceedings: DOJ and BOP.

21 At the conclusion of the recent status conference, the Court requested supplemental
22 briefing from the parties. Those briefs have now been submitted. After thoroughly
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25 ⁷ The Court: “Is there currently any affirmative reunification process that the government
26 has in place once parent and child are separated? Government counsel: I would say ...
27 when a parent is released from criminal custody and taken into ICE custody is the practice
28 to reunite them in family detention[?] And at that [previous hearing] I said no, that that
was not the practice. I think my answer on that narrow question would be the same.” (Rep.
Tr. at 29-30, June 22, 2018, ECF No. 77.)

1 considering all of the parties’ briefs and the record in this case, and after hearing argument
2 from counsel on these important issues, the Court grants Plaintiffs’ motion for a classwide
3 preliminary injunction.

4 **II.**
5 **DISCUSSION**

6 Plaintiffs seek classwide preliminary relief that (1) enjoins Defendants’ practice of
7 separating class members from their children absent a determination that the parent is unfit
8 or presents a danger to their child, and (2) orders the government to reunite class members
9 with their children when the parent is returned to immigration custody after their criminal
10 proceedings conclude, absent a determination that the parent is unfit or presents a danger
11 to the child. Injunctive relief is “an extraordinary remedy that may only be awarded upon
12 a clear showing that the plaintiff is entitled to such relief.” *Winter v. Natural Res. Def.*
13 *Council, Inc.*, 555 U.S. 7, 22 (2008). To meet that showing, Plaintiffs must demonstrate
14 “[they are] likely to succeed on the merits, that [they are] likely to suffer irreparable harm
15 in the absence of preliminary relief, that the balance of equities tips in [their] favor, and
16 that an injunction is in the public interest.” *Am. Trucking Ass’ns v. City of Los Angeles*,
17 559 F.3d 1046, 1052 (9th Cir. 2009) (quoting *Winter*, 555 U.S. at 20).⁸

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20 ⁸ The Ninth Circuit applies separate standards for injunctions depending on whether they
21 are prohibitory, *i.e.*, whether they prevent future conduct, or mandatory, *i.e.*, “they go
22 beyond ‘maintaining the status quo[.]’” *Hernandez v. Sessions*, 872 F.3d 976, 997 (9th
23 Cir. 2017). The standard set out above applies to prohibitory injunctions, which is what
24 Plaintiffs seek here. To the extent Plaintiffs are also requesting mandatory relief, that
25 request is “subject to a higher standard than prohibitory injunctions,” namely that relief
26 will issue only “when ‘extreme or very serious damage will result’ that is not capable of
27 compensation in damages,” and the merits of the case are not ‘doubtful.’” *Id.* at 999
28 (quoting *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879
(9th Cir. 2009)). The Ninth Circuit recognizes that application of these different standards
“is controversial[.]” and that other Circuits have questioned this approach. *Id.* at 997-98.
This Court need not, and does not, address that discrepancy here. Suffice it to say that to
the extent some portion of Plaintiffs’ requested relief is subject to a standard higher than

1 Before turning to these factors, the Court addresses directly Defendants’ argument
2 that an injunction is not necessary here in light of the EO and the recently released Fact
3 Sheet. Although these documents reflect some attempts by the Government to address
4 some of the issues in this case, neither obviates the need for injunctive relief here. As
5 indicated throughout this Order, the EO is subject to various qualifications. For instance,
6 Plaintiffs correctly assert the EO allows the government to separate a migrant parent from
7 his or her child “where there is a *concern* that detention of an alien child with the child’s
8 alien parent would pose a risk to the child’s welfare.” EO § 3(b) (emphasis added).
9 Objective standards are necessary, not subjective ones, particularly in light of the history
10 of this case. Furthermore, the Fact Sheet focuses on reunification “at time of removal[,]”
11 U.S. Dep’t of Homeland Sec., *supra*, note 2, stating that the parent slated for removal will
12 be matched up with their child at a location in Texas and then removed. It says nothing
13 about reunification during the intervening time between return from criminal proceedings
14 to ICE detention or the time in ICE detention prior to actual removal, which can take
15 months. Indeed, it is undisputed “ICE has no plans or procedures in place to reunify the
16 parent with the child other than arranging for them to be deported together after the parent’s
17 immigration case is concluded.” (Pls.’ Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex.
18 31 ¶ 11.) Thus, neither of these directives eliminates the need for an injunction in this case.
19 With this finding, the Court now turns to the *Winter* factors.

20 **A. Likelihood of Success**

21 “The first factor under *Winter* is the most important—likely success on the merits.”
22 *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). While Plaintiffs carry the burden
23 of demonstrating likelihood of success, they are not required to prove their case in full at
24 the preliminary injunction stage but only such portions that enable them to obtain the
25 injunctive relief they seek. *See Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981).

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28 the traditional standard for injunctive relief, Plaintiffs have met their burden for the reasons
set out below.

1 Here, the only claim currently at issue is Plaintiffs’ due process claim.⁹ Specifically,
2 Plaintiffs contend the Government’s practice of separating class members from their
3 children, and failing to reunite those parents who have been separated, without a
4 determination that the parent is unfit or presents a danger to the child violates the parents’
5 substantive due process rights to family integrity under the Fifth Amendment to the United
6 States Constitution. To prevail on this claim, Plaintiffs must show that the Government
7 practice “shocks the conscience.” In the Order on Defendants’ motion to dismiss, the Court
8 found Plaintiffs had set forth sufficient facts to support that claim. *Ms. L.*, 2018 WL
9 2725736, at *7-12. The evidence submitted since that time supports that finding, and
10 demonstrates Plaintiffs are likely to succeed on this claim.

11 As explained in the Court’s Order on Defendants’ motion to dismiss, the “shocks the
12 conscience” standard is not subject to a rigid list of established elements. *See County of*
13 *Sacramento v. Lewis*, 523 U.S. 833, 850 (1998) (stating “[r]ules of due process are not ...
14 subject to mechanical application in unfamiliar territory.”) On the contrary, “an
15 investigation into substantive due process involves an appraisal of the totality of the
16 circumstances rather than a formalistic examination of fixed elements[.]” *Armstrong v.*
17 *Squadrito*, 152 F.3d 564, 570 (7th Cir. 1998).

18 Here, each Plaintiff presents different circumstances, but both were subjected to the
19 same government practice of family separation without a determination that the parent was
20 unfit or presented a danger to the child. *Ms. L.* was separated from her child without a
21 determination she was unfit or presented a danger to her child, and *Ms. C.* was not reunited
22 with her child despite the absence of any finding that she was unfit or presented a danger
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25 ⁹ In their supplemental brief, Defendants assert Plaintiffs are raising new claims based on
26 events that transpired after the Complaints were filed, *e.g.*, the announcement of the zero
27 tolerance policy and the EO. The Court disagrees. Plaintiffs’ claims are not based on these
28 events, but are based on the practice of separating class members from their children. The
subsequent events are relevant to Plaintiffs’ claim, but they have not changed the claim
itself, which remains focused on the practice of separation.

1 to her child. Outside of the context of this case, namely an international border, Plaintiffs
2 would have a high likelihood of success on a claim premised on such a practice. *See D.B.*
3 *v. Cardall*, 826 F.3d 721, 741 (4th Cir. 2016) (citing cases finding due process violation
4 where state action interfered with rights of fit parents); *Heartland Academy Community*
5 *Church v. Waddle*, 595 F.3d 798, 808-811 (8th Cir. 2010) (finding removal of children
6 from religious school absent evidence the students were “at immediate risk of child abuse
7 or neglect” was violation of clearly established constitutional right); *Brokaw v. Mercer*
8 *County*, 235 F.3d 1000, 1019 (7th Cir. 2000) (citing *Croft v. Westmoreland County*
9 *Children and Youth Services*, 103 F.3d 1123, 1126 (3d Cir. 1997) (“courts have recognized
10 that a state has no interest in protecting children from their parents unless it has some
11 definite and articulable evidence giving rise to a reasonable suspicion that a child has been
12 abused or is in imminent danger of abuse.”))

13 The context of this case is different. The Executive Branch, which is tasked with
14 enforcement of the country’s criminal and immigration laws, is acting within its powers to
15 detain individuals lawfully entering the United States and to apprehend individuals illegally
16 entering the country. However, as the Court explained in its Order on Defendants’ motion
17 to dismiss, the right to family integrity still applies here. The context of the family
18 separation practice at issue here, namely an international border, does not render the
19 practice constitutional, nor does it shield the practice from judicial review.

20 On the contrary, the context and circumstances in which this practice of family
21 separation were being implemented support a finding that Plaintiffs have a likelihood of
22 success on their due process claim. First, although parents and children may lawfully be
23 separated when the parent is placed in criminal custody, the same general rule does not
24 apply when a parent and child present together lawfully at a port of entry seeking asylum.
25 In that situation, the parent has committed no crime, and absent a finding the parent is unfit
26 or presents a danger to the child, it is unclear why separation of Ms. L. or similarly situated
27 class members would be necessary. Here, many of the family separations have been the
28 result of the Executive Branch’s zero tolerance policy, but the record also reflects that the

1 practice of family separation was occurring before the zero tolerance policy was
2 announced, and that practice has resulted in the casual, if not deliberate, separation of
3 families that lawfully present at the port of entry, not just those who cross into the country
4 illegally. Ms. L. is an example of this family separation practice expanding beyond its
5 lawful reach, and she is not alone. (*See, e.g.*, Pls.’ Reply Br. in Supp. of Mot. for Class
6 Cert., Exs. 22-23, 25-26) (declarations from parents attesting to separation at border after
7 lawfully presenting at port of entry and requesting asylum); Pls.’ Supp. Mem. in Supp. of
8 Classwide Prelim. Inj., Ex. 32 ¶¶ 9, 10b, 11a (listing parents who were separated from
9 children after presenting at ports of entry)).

10 As set out in the Court’s prior Order, asylum seekers like Ms. L. and many other
11 class members may be fleeing persecution and are entitled to careful consideration by
12 government officials. Particularly so if they have a credible fear of persecution. We are a
13 country of laws, and of compassion. We have plainly stated our intent to treat refugees
14 with an ordered process, and benevolence, by codifying principles of asylum. *See, e.g.*,
15 The Refugee Act, PL 96-212, 94 Stat. 102 (1980). The Government’s treatment of Ms. L.
16 and other similarly situated class members does not meet this standard, and it is unlikely
17 to pass constitutional muster.

18 Second, the practice of separating these families was implemented without any
19 effective system or procedure for (1) tracking the children after they were separated from
20 their parents, (2) enabling communication between the parents and their children after
21 separation, and (3) reuniting the parents and children after the parents are returned to
22 immigration custody following completion of their criminal sentence. This is a startling
23 reality. The government readily keeps track of personal property of detainees in criminal
24 and immigration proceedings. Money, important documents, and automobiles, to name a
25 few, are routinely catalogued, stored, tracked and produced upon a detainees’ release, at
26 all levels—state and federal, citizen and alien. Yet, the government has no system in place
27 to keep track of, provide effective communication with, and promptly produce alien
28 children. The unfortunate reality is that under the present system migrant children are not

1 accounted for with the same efficiency and accuracy as *property*. Certainly, that cannot
2 satisfy the requirements of due process. *See Santosky v. Kramer*, 455 U.S. 745, 758-59
3 (1982) (quoting *Lassiter v. Dept. of Soc. Services of Durham County, N.C.*, 452 U.S. 18,
4 (1981)) (stating it is “‘plain beyond the need for multiple citation’ that a natural parent’s
5 ‘desire for and right to the companionship, care, custody, and management of his or her
6 children’ is an interest far more precious than any property right.”) (internal quotation
7 marks omitted).

8 The lack of effective methods for communication between parents and children who
9 have been separated has also had a profoundly negative effect on the parents’ criminal and
10 immigration proceedings, as well as the childrens’ immigration proceedings. *See United*
11 *States v. Dominguez-Portillo*, No:EP-17-MJ-4409-MAT, 2018 WL 315759, at *1-2 (W.D.
12 Tex. Jan. 5, 2018) (explaining that criminally charged defendants “‘had not received any
13 paperwork or information concerning the whereabouts or well-being of” their children). In
14 effect, these parents have been left “‘in a vacuum, without knowledge of the well-being and
15 location of their children, to say nothing of the immigration proceedings in which those
16 minor children find themselves.” *Id.* at *14. This situation may result in a number of
17 different scenarios, all of which are negative – some profoundly so. For example, “[i]f
18 parent and child are asserting or intending to assert an asylum claim, that child may be
19 navigating those legal waters without the benefit of communication with and assistance
20 from her parent; that defendant, too, must make a decision on his criminal case with total
21 uncertainty about this issue.” *Id.* Furthermore, “ a defendant facing certain deportation
22 would be unlikely to know whether he might be deported before, simultaneous to, or after
23 their child, or whether they would have the opportunity to even discuss their
24 deportations[.]” *Id.* Indeed, some parents have already been deported without their
25 children, who remain in government facilities in the United States.¹⁰

26
27
28 ¹⁰ *See, e.g.,* Pls.’ Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex. 32 ¶ 16k, Ex. 36 ¶ 7a;
Nelson Renteria, *El Salvador demands U.S. return child taken from deported father*,

1 The absence of established procedures for dealing with families that have been
2 separated at the border, and the effects of that void on the families involved, is borne out
3 in the cases of Plaintiffs here. Ms. L. was separated from her child when immigration
4 officials claimed they could not verify she was S.S.'s mother, and detained her for
5 expedited removal proceedings. That rendered S.S. "unaccompanied" under the TVPRA
6 and subject to immediate transfer to ORR, which accepted responsibility for S.S. There
7 was no further communication between the agencies, ICE and ORR. The filing of the
8 present lawsuit prompted release and reunification of Ms. L. and her daughter, a process
9 that took close to five months and court involvement. Ms. C. completed her criminal
10 sentence in 25 days, but it took nearly eight months to be reunited with her son. She, too,
11 had to file suit to regain custody of her son from ORR.

12 These situations confirm what the Government has already stated: it is not
13 affirmatively reuniting parents like Plaintiffs and their fellow class members for purposes
14 other than removal. Outside of deportation, the onus is on the parents, who, for the most
15 part, are themselves in either criminal or immigration proceedings, to contact ORR or
16 otherwise search for their children and make application for reunification under the
17 TVPRA. However, this reunification procedure was not designed to deal with the present
18 circumstances. (*See* Pls.' Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex. 33 ¶¶ 6-9.)
19 Rather, "ORR's reunification process was designed to address the situation of children who
20 come to the border or are apprehended outside the company of a parent or legal guardian."
21 (*Id.* ¶ 6.) Placing the burden on the parents to find and request reunification with their
22 children under the circumstances presented here is backwards. When children are
23

24
25
26 REUTERS (June 21, 2018, 4:03 PM), [https://www.reuters.com/article/us-usa-immigration-el-salvador/el-salvador-demands-us-return-child-taken-from-deported-father-](https://www.reuters.com/article/us-usa-immigration-el-salvador/el-salvador-demands-us-return-child-taken-from-deported-father-idUSKBN1JH3ER)
27 [idUSKBN1JH3ER](https://www.reuters.com/article/us-usa-immigration-el-salvador/el-salvador-demands-us-return-child-taken-from-deported-father-idUSKBN1JH3ER); Miriam Jordan, *'I Can't Go Without My Son': A Deported Mother's*
28 *Plea*, N.Y. TIMES (June 17, 2018), [https://www.nytimes.com/2018/06/17/us/immigration-](https://www.nytimes.com/2018/06/17/us/immigration-deported-parents.html)
[deported-parents.html](https://www.nytimes.com/2018/06/17/us/immigration-deported-parents.html).

1 separated from their parents under these circumstances, the Government has an affirmative
2 obligation to track and promptly reunify these family members.

3 This practice of separating class members from their minor children, and failing to
4 reunify class members with those children, without any showing the parent is unfit or
5 presents a danger to the child is sufficient to find Plaintiffs have a likelihood of success on
6 their due process claim. When combined with the manner in which that practice is being
7 implemented, *e.g.*, the lack of any effective procedures or protocols for notifying the
8 parents about their childrens' whereabouts or ensuring communication between the parents
9 and children, and the use of the children as tools in the parents' criminal and immigration
10 proceedings, (*see* Pls.' Supp. Mem. in Supp. of Classwide Prelim. Inj., Ex. 29 ¶¶ 8, 14), a
11 finding of likelihood of success is assured. A practice of this sort implemented in this way
12 is likely to be "so egregious, so outrageous, that it may fairly be said to shock the
13 contemporary conscience," *Lewis*, 523 U.S. at 847 n.8, interferes with rights "implicit in
14 the concept of ordered liberty[,]" *Rochin v. Cal.*, 342 U.S. 165, 169 (1952) (quoting *Palko*
15 *v. State of Conn.*, 302 U.S. 319, 325 (1937)), and is so "brutal' and 'offensive' that it
16 [does] not comport with traditional ideas of fair play and decency." *Breithaupt v. Abram*,
17 352 U.S. 432, 435 (1957).

18 For all of these reasons, the Court finds there is a likelihood of success on Plaintiffs'
19 due process claim.

20 **B. Irreparable Injury**

21 Turning to the next factor, Plaintiffs must show they are "likely to suffer irreparable
22 harm in the absence of preliminary relief." *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th
23 Cir. 2017) (quoting *Winter*, 555 U.S. at 20). "It is well established that the deprivation of
24 constitutional rights unquestionably constitutes irreparable injury." *Id.* (quoting
25 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (internal quotation marks
26 omitted). As explained, Plaintiffs have demonstrated the likelihood of a deprivation of
27 their constitutional rights, and thus they have satisfied this factor.

28

1 The injury in this case, however, deserves special mention. That injury is the
2 separation of a parent from his or her child, which the Ninth Circuit has repeatedly found
3 constitutes irreparable harm. *See Leiva–Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir.
4 2011); *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (identifying “separated
5 families” as an irreparable harm).

6 Furthermore, the record in this case reflects that the separations at issue have been
7 agonizing for the parents who have endured them. One of those parents, Mr. U., an asylum
8 seeker from Kyrgyzstan, submitted a declaration in this case in which he stated that after
9 he was told he was going to be separated from his son he “felt as though [he] was having
10 a heart attack.” (Reply in Supp. of Mot. for Class Cert., Ex. 21 ¶ 4.) Another asylum-
11 seeking parent from El Salvador who was separated from her two sons writes,

12 The separation from my sons has been incredibly hard, because I have never
13 been away from them before. I do not want my children to think that I
14 abandoned them. [My children] are so attached to me. [One of my children]
15 used to sleep in bed with me every night while [my other child] slept in his
16 own bed in the same room.... It hurts me to think how anxious and distressed
17 they must be without me.

18 (Reply in Supp. of Mot. for Class Cert., Ex. 24 ¶ 9.) And another asylum-seeking parent
19 from Honduras described having to place her crying 18-month old son in a car seat in a
20 government vehicle, not being able to comfort him, and her crying as the officers “took
21 [her] son away.” (Reply in Supp. of Mot. for Class Cert., Ex. 25 ¶ 7.) There has even been
22 a report that one father committed suicide in custody after being separated from his wife
23 and three-year-old child. *See Molly Hennessy-Fiske, Honduran Migrant Who Was*
24 *Separated From Family is Found Dead in Texas Jail in an Apparent Suicide*, L.A. TIMES
25 (June 9, 2018, 5:35 PM), <http://www.latimes.com/nation/la-na-border-patrol-suicide-20180609-story.html>.

26 The parents, however, are not the only ones suffering from the separations. One of
27 the *amici* in this case, Children’s Defense Fund, states,
28

1 there is ample evidence that separating children from their mothers or fathers
2 leads to serious, negative consequences to children’s health and development.
3 Forced separation disrupts the parent-child relationship and puts children at
4 increased risk for both physical and mental illness.... And the psychological
5 distress, anxiety, and depression associated with separation from a parent
6 would follow the children well after the immediate period of separation—
7 even after eventual reunification with a parent or other family.

8 (ECF No. 17-11 at 3.) Other evidence before the Court reflects that “separating children
9 from parents is a highly destabilizing, traumatic experience that has long term
10 consequences on child well-being, safety, and development.” (ECF No. 17-13 at 2.) That
11 evidence reflects:

12 Separation from family leaves children more vulnerable to exploitation and
13 abuse, no matter what the care setting. In addition, traumatic separation from
14 parents creates toxic stress in children and adolescents that can profoundly
15 impact their development. Strong scientific evidence shows that toxic stress
16 disrupts the development of brain architecture and other organ systems, and
17 increases the risk for stress-related disease and cognitive impairment well into
18 adult years. Studies have shown that children who experience such traumatic
19 events can suffer from symptoms of anxiety and post-traumatic stress
20 disorder, have poorer behavioral and educational outcomes, and experience
21 higher rates of poverty and food insecurity.

22 (ECF No. 17-13 at 2.) And Martin Guggenheim, the Fiorello LaGuardia Professor of
23 Clinical Law at New York University School of Law and Founding Member of the Center
24 for Family Representation, states:

25 Children are at risk of suffering great emotional harm when they are removed
26 from their loved ones. And children who have traveled from afar and made
27 their way to this country to seek asylum are especially at risk of suffering
28 irreversible psychological harm when wrested from the custody of the parent
or caregiver with whom they traveled to the United States.

(Mem. in Supp. of Classwide Prelim. Inj., Ex. 17 ¶ 16.) All of this evidence, combined
with the constitutional violation alleged here, conclusively shows that Plaintiffs and the

1 class members are likely to suffer irreparable injury if a preliminary injunction does not
2 issue.

3 **C. Balance of Equities**

4 Turning to the next factor, “[t]o obtain a preliminary injunction, a plaintiff must also
5 demonstrate that ‘the balance of equities tips in his favor.’” *Hernandez*, 872 F.3d at 995
6 (quoting *Winter*, 555 U.S. at 20). As with irreparable injury, when a plaintiff establishes
7 “a likelihood that Defendants’ policy violates the U.S. Constitution, Plaintiffs have also
8 established that both the public interest and the balance of the equities favor a preliminary
9 injunction.” *Arizona Dream Act Coalition v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014).

10 Plaintiffs here assert the balance of equities weighs in favor of an injunction in this
11 case. Specifically, Plaintiffs argue Defendants would not suffer any hardship if the
12 preliminary injunction is issued because the Government “cannot suffer harm from an
13 injunction that merely ends an unlawful practice[.]” *Rodriguez v. Robbins*, 715 F.3d 1127,
14 1145 (9th Cir. 2013); *see also Arizona Dream Act Coalition*, 757 F.3d at 1069 (quoting
15 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012)) (stating balance of equities favors
16 “‘prevent[ing] the violation of a party’s constitutional rights.’”). When the absence of harm
17 to the Government is weighed against the harms to Plaintiffs set out above, Plaintiffs argue
18 this factor weighs in their favor. The Court agrees.

19 The primary harm Defendants assert here is the possibility that an injunction would
20 have a negative impact on their ability to enforce the criminal and immigration laws.
21 However, the injunction here—preventing the separation of parents from their children and
22 ordering the reunification of parents and children that have been separated—would do
23 nothing of the sort. The Government would remain free to enforce its criminal and
24 immigration laws, and to exercise its discretion in matters of release and detention
25 consistent with law. *See* EO §§ 1, 3(a) & (e) (discussing *Flores v. Sessions*, CV 85-4544);
26 *see also Comm. of Cent. Am. Refugees v. I.N.S.*, 795 F.2d 1434, 1439-40 (9th Cir. 1986)
27 (stating “prudential considerations preclude[] interference with the Attorney General’s
28 [exercise of] discretion” in selecting the detention facilities where aliens are to be

1 detained). It would just have to do so in a way that preserves the class members’
2 constitutional rights to family association and integrity. *See Rodriguez*, 715 F.3d at 1146
3 (“While ICE is entitled to carry out its duty to enforce the mandates of Congress, it must
4 do so in a manner consistent with our constitutional values.”) Thus, this factor also weighs
5 in favor of issuing the injunction.

6 **D. Public Interest**

7 The final factor for consideration is the public interest. *See Hernandez*, 872 F.3d at
8 996 (quoting *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1139 (9th Cir. 2009)) (“When, as
9 here, ‘the impact of an injunction reaches beyond the parties, carrying with it a potential
10 for public consequences, the public interest will be relevant to whether the district court
11 grants the preliminary injunction.”) To obtain the requested relief, “Plaintiffs must
12 demonstrate that the public interest favors granting the injunction ‘in light of [its] likely
13 consequences,’ i.e., ‘consequences [that are not] too remote, insubstantial, or speculative
14 and [are] supported by evidence.’” *Id.* (quoting *Stormans*, 586 F.3d at 1139). “Generally,
15 public interest concerns are implicated when a constitutional right has been violated,
16 because all citizens have a stake in upholding the Constitution.” *Id.* (quoting *Preminger*
17 *v. Principi*, 422 F.3d 815, 826 (9th Cir. 2005)).

18 This case involves two important public interests: the interest in enforcing the
19 country’s criminal and immigration laws and the constitutional liberty interest “of parents
20 in the care, custody, and control of their children[,]” which “is perhaps the oldest of the
21 fundamental liberty interests recognized by” the Supreme Court. *Troxel v. Granville*, 530
22 U.S. 57, 65 (2000). Both of these interests are valid and important, and both can be served
23 by the issuance of an injunction in this case.

24 As stated, the public’s interest in enforcing the criminal and immigration laws of this
25 country would be unaffected by issuance of the requested injunction. The Executive
26 Branch is free to prosecute illegal border crossers and institute immigration proceedings
27 against aliens, and would remain free to do so if an injunction were issued. Plaintiffs do
28 not seek to enjoin the Executive Branch from carrying out its duties in that regard.

1 child, unless the parent affirmatively, knowingly, and voluntarily declines to be
2 reunited with the child in DHS custody.¹¹

3 (2) If Defendants choose to release Class Members from DHS custody, Defendants, and
4 their officers, agents, servants, employees and attorneys, and all those who are in
5 active concert or participation with them, are preliminary enjoined from continuing
6 to detain the minor children of the Class Members and must release the minor child
7 to the custody of the Class Member, unless there is a determination that the parent
8 is unfit or presents a danger to the child, or the parent affirmatively, knowingly, and
9 voluntarily declines to be reunited with the child.

10 (3) Unless there is a determination that the parent is unfit or presents a danger to the
11 child, or the parent affirmatively, knowingly, and voluntarily declines to be reunited
12 with the child:

13 (a) Defendants must reunify all Class Members with their minor children who are
14 under the age of five (5) within fourteen (14) days of the entry of this Order; and

15 (b) Defendants must reunify all Class Members with their minor children age five
16 (5) and over within thirty (30) days of the entry of this Order.

17 (4) Defendants must immediately take all steps necessary to facilitate regular
18 communication between Class Members and their children who remain in ORR
19 custody, ORR foster care, or DHS custody. Within ten (10) days, Defendants must
20 provide parents telephonic contact with their children if the parent is not already in
21 contact with his or her child.

22
23
24
25 ¹¹ “Fitness” is an important factor in determining whether to separate parent from child. In
26 the context of this case, and enforcement of criminal and immigration laws at the border,
27 “fitness” could include a class member’s mental health, or potential criminal involvement
28 in matters other than “improper entry” under 8 U.S.C. § 1325(a), (*see* EO § 1), among other
matters. Fitness factors ordinarily would be objective and clinical, and would allow for the
proper exercise of discretion by government officials.

- 1 (5) Defendants must immediately take all steps necessary to facilitate regular
2 communication between and among all executive agencies responsible for the
3 custody, detention or shelter of Class Members and the custody and care of their
4 children, including at least ICE, CBP, BOP, and ORR, regarding the location and
5 well-being of the Class Members' children.
- 6 (6) Defendants, and their officers, agents, servants, employees, attorneys, and all those
7 who are in active concert or participation with them, are preliminarily enjoined from
8 removing any Class Members without their child, unless the Class Member
9 affirmatively, knowingly, and voluntarily declines to be reunited with the child prior
10 to the Class Member's deportation, or there is a determination that the parent is unfit
11 or presents a danger to the child.
- 12 (7) This Court retains jurisdiction to entertain such further proceedings and to enter such
13 further orders as may be necessary or appropriate to implement and enforce the
14 provisions of this Order and Preliminary Injunction.

15 A status conference will be held on **July 6, 2018**, at **12:00 noon**, to discuss all
16 necessary matters. A notice of teleconference information sheet will be provided in a
17 separate order.

18 **IT IS SO ORDERED.**

19 Dated: June 26, 2018

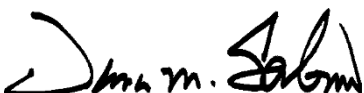
20 
21 Hon. Dana M. Sabraw
22 United States District Judge
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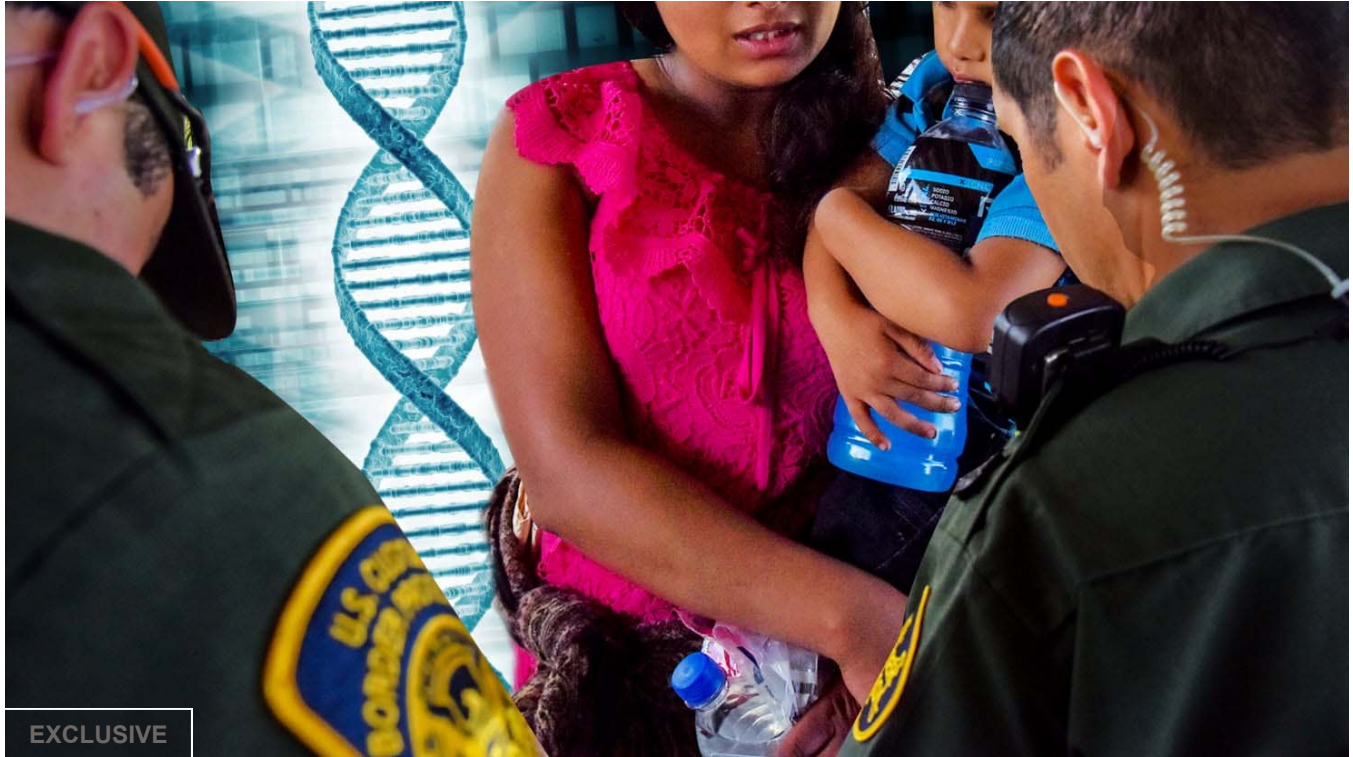
Exhibit R

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WE BROKE IT, YOU BUY IT

Government Told Immigrant Parents to Pay for DNA Tests to Get Kids Back, Advocate Says

Authorities separated families and took their documents, leaving genetic tests as the only way to verify who they are. And a secret contractor is doing the work.

JUSTIN GLAWE, ADAM RAWNSLEY 07.10.18 8:00 PM ET





PHOTO ILLUSTRATION BY THE DAILY BEAST

DALLAS—U.S. government officials recently told four immigrant women that they must pay for DNA tests in order to be reunited with their children, according to the shelter that housed the women.

The tests are the latest ad hoc effort by the [Trump administration to reunite families it had separated](#)—in some cases because authorities took documents from adults proving they are related to their children. The tests are being administered by a private contractor on behalf of the Department of Health and Human Services' Office of Refugee Resettlement, which oversees the care and housing of children. HHS has refused to name the contractor, which may be a violation of federal law.

“None of them have the money [for the tests], so it’s going to fall back on us to push back on that,” said Ruben Garcia, the director of Annunciation House, an immigrant shelter in El Paso where the women are staying.

Three of the women are mothers of the children, Garcia said, and the fourth is attempting to reunite with her brother, a three and half-year-old boy.

Garcia said that the tests likely cost money that many immigrants entering the country with little more than the clothes on their backs don’t have. Iliana Holguin, an immigration attorney in [El Paso](#) who works with Annunciation House, said the government made some of her clients pay between \$700 to \$800 to prove their relationship to a relative as part of their citizenship cases.

“The government wants the parents to foot the bill for the DNA testing when they’re the ones that caused the need for DNA testing,” Holguin said. “It’s incredible.”

The Office of Refugee Resettlement, responsible for the DNA testing, told The Daily Beast it “provides DNA testing at no cost to verify parentage.”

Solution for Self-Imposed Problem

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Trump’s Order Does Nothing for Families He Broke Up



Nearly 3,000 Separated Migrant Kids Remain in U.S. Custody



Contractor Won’t Say How Many Kids It’s Transporting

ORR requires DNA testing in some cases to verify adult immigrants are related to children in ORR’s custody, before the children can be released to the adults who have either been paroled or are to be deported. The tests are often required, according Garcia, when parents’ have had their paperwork regarding their children taken by Customs and Border Patrol or Immigration and Customs Enforcement. (CBP and ICE did not immediately respond to requests for comment.)

“When these families come in, Customs and Border Protection takes away the documents from parents and puts them in their file,” Garcia said. “In the cases where they’ve been separated from their children, ORR then says, ‘You’re going to need to provide the documents that CBP took.’”

And when the immigrants can’t, Garcia said, ORR tells parents they must take a DNA test.

It’s unclear how many immigrants have been told they’d have to pay for DNA tests. Other immigration attorneys reached by The Daily Beast said their clients had not been asked to pay for DNA tests.

Greg Chen of the American Immigration Lawyers Association called the tests a “delay tactic” by a government that is “primarily interested in detaining the children and parents to put pressure on them to accept deportation before they have the opportunity to get a fair hearing on their asylum claims and other claims for relief.”

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“In a specific case when there’s evidence of fraud DNA testing may be warranted, but it should not be done across the board especially when proof of familial relationship can be demonstrated in other ways,” Chen said.

Those other ways include the government documents that are taken from immigrants once they’re caught for crossing the border, verification that a simple phone call from ORR to CBP or ICE could achieve, Garcia said.

“But when I go to ORR, they say, ‘We don’t talk to immigration [authorities],’ he said.

Government Keeps Contractor Secret

HHS has refused to reveal the identity of the contractor who is performing the DNA tests. A search of federal contract databases showed no recent contracts for DNA work with the HHS office which oversees ORR.

“DNA contract information is not available in a readily reportable format,” HHS’ Administration of Children and Families office told The Daily Beast in a statement. A day earlier, that same office said on its [website](#) it had “not consulted with the contractor” to get permission to release the contract.”

Under federal law, government agencies [have 30 days](#) from the date of award to release certain basic contract information to a federal database online.

“Agencies don’t need permission from contractors to publicize info on the contract. This is the public’s business and taxpayers dollars are being used,” Nick Schwellenbach of the Project on Government Oversight told The Daily Beast. “Agencies often make this information available immediately.”

Meanwhile, the American Civil Liberties Union and the government agreed in a court filing on Monday “the federal government will not use the DNA samples or test results for any purpose besides verifying parentage, and will ensure that the DNA samples and test results are destroyed afterwards.” In a [posting](#) on its website, HHS pledged to destroy DNA swabs and test results after parental relationships had been confirmed.

Roots in the Obama Administration

The Trump administration isn’t the first to use DNA tests to verify relationships between immigrants or refugees. Under the Obama administration, the Department of Homeland Security and State Department initiated a DNA testing [pilot program](#) for refugees from certain African countries in the “Priority Three” program that reunited refugees already inside the U.S. with relatives still abroad. Reports of [widespread fraud](#) in the Priority Three program (preliminary testing showed only 20 percent of tested immigrants had a biological relationship with claimed relatives abroad) prompted the closure of the program in 2008 before it was reopened in 2012.

A 2010 public notice [warned](#) that applicants to the Priority Three program would be responsible for the cost of DNA testing, but “successful applicants may be eligible for reimbursement of DNA test costs.”

Garcia said he has heard that test fees can be waived, but has yet to hear specifically from ORR how to apply for those waivers.

"I don't know if it's a situation where if you don't ask about the waivers they don't tell you," he said.

DNA tests continued in 2014, when a wave of unaccompanied children began fleeing from gang violence in Central and South America and arriving at the southern border. Then, the Obama administration instituted another initiative similar to Priority Three called the Central American Minors (CAM) program. Many refugee children arrived looking to reunite with parents or relatives already inside the U.S. The CAM program sought to provide a safer alternative to the often dangerous journey unaccompanied children took through Central America and to the border by allowing family members to apply for reunification legally.

The program required DNA testing to prove a biological relationship with migrant children. As an HHS fact sheet noted, parents inside the U.S. would pay for the cost of testing up front and would "be reimbursed for testing costs ONLY if ALL claimed and tested biological relationships are confirmed by DNA test results."

The Trump administration ended the program in 2017.

For now, the tests being performed on immigrants caught up in Trump's "zero tolerance" policy are just another obstacle for mothers and fathers who have already faced plenty of them in order to be reunited with their children, Garcia said.

"Here's what I want from ORR: it's my understanding that DNA test results can be quick or slow, depending on whichever you want. So why don't you take the responsibility, ORR, and get this done quickly and get these kids back with their parents. Don't give me this, 'There's too many to do and it's going to take a while,' or 'There's a big long line,' because you're the one who took the kids away in the first place, so fix it."

Justin Glawe  @JustinGlawe

Adam Rawnsley  adam.rawnsley@thedailybeast.com

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Exhibit S

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. **CV 85-4544-DMG (AGRx)** Date July 9, 2018

Title ***Jenny L. Flores, et al. v. Jefferson B. Sessions, III, et al.*** Page 1 of 7

Present: The Honorable **DOLLY M. GEE, UNITED STATES DISTRICT JUDGE**

KANE TIEN

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)
None Present

Attorneys Present for Defendant(s)
None Present

Proceedings: IN CHAMBERS - ORDER DENYING DEFENDANTS' "EX PARTE APPLICATION FOR LIMITED RELIEF FROM SETTLEMENT AGREEMENT" [435]

On June 20, 2018, President Donald J. Trump issued an Executive Order requiring “[t]he Attorney General [to] promptly file a request with [this Court] to modify the [*Flores* Agreement], in a manner that would permit the Secretary [of Homeland Security], under present resource constraints, to detain alien families together throughout the pendency of criminal proceedings for improper entry or any removal or other immigration proceedings.” *See* Affording Congress an Opportunity to Address Family Separation, Exec. Order No. 13841, 83 Fed. Reg. 29435, 29435 (June 20, 2018) [hereinafter Exec. Order No. 13841]. On June 21, 2018, Defendants filed an *Ex Parte* Application seeking the following “limited” relief: (1) an exemption from the *Flores* Agreement’s release provisions so that Immigration and Customs Enforcement (“ICE”) may detain alien minors who have arrived with their parent or legal guardian together in ICE family residential facilities, and (2) an exemption from the *Flores* Agreement’s state licensure requirement. [Doc. # 435.] Defendants claim that such relief is warranted under Federal Rules of Civil Procedure 60(b)(5) and 60(b)(6). *See Ex Parte* Appl. at 10 [Doc. # 435-1].¹

Although Defendants did not notice their *Ex Parte* Application for a hearing, they seek “a prompt hearing on [their] request for immediate relief, together with any additional proceedings the Court believes appropriate.” *See id.* at 21. Plaintiffs filed an opposition to the *Ex Parte* Application [Doc. # 450], as did the American Civil Liberties Union (“ACLU”) [Doc. # 451] and the City of Los Angeles, the City of Chicago, the City of New York, and the City & County of San Francisco (“The Cities”) [Doc. # 453] as *amici curiae*.

Defendants’ *Ex Parte* Application is a thinly veiled motion for reconsideration without any meaningful effort to comply with the requirements of Local Rule 7-18. On July 24, 2015,

¹ All page references herein are to page numbers inserted by the CM/ECF system.

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CIVIL MINUTES—GENERAL

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the Court denied Defendants’ motion seeking to modify the *Flores* Agreement on the same grounds now raised anew in Defendants’ *Ex Parte* Application. See Defs.’ Motion to Amend at 13, 17–21, 27–28, 30–33 [Doc. # 120]; July 24, 2015 Order at 19–25 [Doc. # 177]; *Ex Parte* Appl. at 15–16 [Doc. # 435-1] (repeating Defendants’ position that detaining family units in unlicensed family residential facilities deters others from unlawfully entering the country). In short, Defendants have run afoul of Local Rule 7-18 because the *Ex Parte* Application “repeat[s] . . . oral or written argument made in support of” the earlier Motion to Amend. C.D. Cal. L.R. 7-18.

Even if Local Rule 7-18 did not bar Defendants’ *Ex Parte* Application, it would still fail under a Rule 60(b) analysis. The Court’s July 24, 2015 Order analyzed in great detail the relevant *Flores* Agreement language and applicable legal authorities, responding to the same issues raised in Defendants’ current *Ex Parte* Application. In the absence of a showing of changed circumstances that the parties could not have foreseen at the time of their Agreement, it is unnecessary to replot the same familiar territory. See *Rufo v. Inmates of Suffolk Cty. Jail*, 502 U.S. 367, 383 (1992) (“Ordinarily, . . . modification should not be granted where a party relies upon events that actually were anticipated at the time it entered into a decree. . . . [A] party seeking modification of a consent decree [under Rule 60(b)(5)] bears the burden of establishing that a significant change in circumstances warrants revision of the decree.”); *United States v. Alpine Land & Reservoir Co.*, 984 F.2d 1047, 1049 (9th Cir. 1993) (“[Rule 60(b)(6)] is to be utilized only where extraordinary circumstances prevented a party from taking timely action to prevent or correct an erroneous judgment.”).

At bottom, Defendants’ arguments rest in part on the premise that the July 24, 2015 Order resulted in a “3 to 5-fold increase in the number of illegal family border crossings” because it led arriving families to believe that Defendants would rather release them than separate the children from their families. See, e.g., *Ex Parte* Appl. at 3 [Doc. # 435-1]. Assuming *arguendo* that Defendants’ representations regarding the increase in border crossings are correct (i.e., 68,445 apprehensions in 2014; 39,838 in 2015; 77,674 in 2016; and 75,622 in 2017), they do not establish that the Court’s July 24, 2015 Order in any way caused this “surge.” See *id.* at 3, 9. Defendants’ reasoning suffers from the “logical fallacy of *post hoc, ergo propter hoc*’ . . . literally, ‘after this, therefore because of this[.]’” See *Kozulin v. INS*, 218 F.3d 1112, 1117 (9th Cir. 2000) (quoting *Huskey v. City of San Jose*, 204 F.3d 893, 899 (9th Cir. 2000)). Any number of other factors could have caused the increase in illegal border crossings, including civil strife, economic degradation, and fear of death in the migrants’ home countries. See, e.g., Govindaiah Decl. at ¶¶ 1–3 (between July 1, 2017 and June 16, 2018, RAICES provided legal assistance to 5,177 family units detained at Karnes County Residential Center; approximately 5,000 of those family units received positive credible fear determinations from an asylum officer

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or an immigration judge) [Doc. # 451-1]; Adam Cox & Ryan Goodman, *Detention of Migrant Families as “Deterrence”: Ethical Flaws & Empirical Doubts*, justsecurity.org (June 22, 2018), <https://www.justsecurity.org/58354/detention-migrant-families-deterrence-ethical-flaws-empirical-doubts/> (concluding that “there’s not even a correlational relationship between [the July 24, 2015 Order] and family migration,” and pointing out that the apprehension patterns for accompanied and unaccompanied minors after the decision did not differ from one another). As it did before, the Court finds Defendants’ logic “dubious” and unconvincing.² See July 24, 2015 Order at 11 [Doc. # 177].

Moreover, the *Flores* Agreement has required accompanied minors to be placed in licensed facilities since 1997. See *Flores* Agreement at ¶ 19 [Doc. # 101]. Defendants did not request an alteration of their legal obligations until many years later in 2015 and again now. The Court’s July 24, 2015 Order merely reaffirmed Defendants’ pre-existing obligations under the Agreement, and could not have caused the surge in border crossings any more than the implementation of the *Flores* Agreement itself caused the numerous surges that occurred after 1997. See *Ex Parte* Appl. at 3 [Doc. # 435-1].

Additionally, the relief Defendants seek is improper because their proposed modifications are not “*suitably* tailored to the changed circumstance[.]” if any. *Rufo*, 502 U.S. at 391 (emphasis added). Instead, Defendants seek to light a match to the *Flores* Agreement and ask this Court to upend the parties’ agreement by judicial fiat.

The *Flores* Agreement allows Defendants up to **five days** to place minors in licensed programs if they are apprehended in districts that do not have those programs, or “as expeditiously as possible” if there is an “influx of minors into the United States[.]” See *Flores* Agreement at ¶ 12.A. In 2015, the Court found that the *Flores* Agreement could accommodate Defendants’ request for a 20-day deadline during an influx.³ Yet, Defendants now seek to hold

² Because Defendants fail to show that the *Flores* Agreement and the July 24, 2015 Order are responsible for the so-called “surge” in illegal family border crossings, the Court need not address Plaintiffs’ and the ACLU’s argument that general deterrence is not a permissible purpose of civil detention. See Pls.’ Opp’n at 11 [Doc. # 450]; ACLU’s Opp’n at 8–11 [Doc. # 451]; see also July 24, 2015 Order at 24 n.11 (declining to address this issue because Defendants failed to show that detaining families would deter future illegal border crossings) [Doc. # 177].

³ Paragraph 12.A provides in pertinent part that “[t]he INS will transfer a minor . . . to a [licensed program] . . . within five (5) days [if the minor is apprehended in a district that does not have a licensed program with space available], except . . . in the event of an emergency or influx of minors into the United States, in which case the INS shall place all minors [into licensed placements] as expeditiously as possible[.]” The Court previously observed that, during an influx, a 20-day delay in placement may comply with Paragraph 12.A if that is “as fast as Defendants, in good faith and in the exercise of due diligence, can possibly go in screening family members for

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minors in *indefinite* detention in unlicensed facilities, which would constitute a fundamental and material breach of the parties' Agreement. *Cf. Flores v. Lynch*, 828 F.3d 898, 910 (9th Cir. 2016) (holding that exempting accompanied minors from the *Flores* Agreement was not a suitably tailored response to the influx in family units crossing the border).

Defendants also assert that “families frequently fail to appear at the required proceedings” if they are released from custody. *See Ex Parte* Appl. at 2–3 (citing Homan Decl. at ¶ 30 (attesting that from July 2014 to July 2015, there were 41,297 cases involving family apprehensions and 11,976 removal orders issued *in absentia*) [Doc. # 184-1]) [Doc. # 435-1]. *But see* Ingrid Eagly, *et al.*, *Detaining Families: A Study of Asylum Adjudication in Family Detention*, 106 Calif. L. Rev. 785, 847–48 (2018), *available at* http://www.californialawreview.org/wp-content/uploads/2018/06/4-Eagly_Shafer_Whalley.pdf (Executive Office of Immigration Review data shows that between 2001 and 2016, 86% of family detainees attended all of their court hearings). The evidentiary record is unclear as to the accuracy of Defendants' assertion. Even assuming Defendants are correct, however, this risk was plainly contemplated by the parties when they executed the *Flores* Agreement in 1997. *See, e.g., Flores* Agreement at ¶ 24.A (providing that a minor in deportation proceedings shall be afforded a bond redetermination hearing). It does not support a blanket non-release policy or warrant the Agreement's modification or abrogation.

After submitting their *Ex Parte* Application, Defendants filed a “Notice of Compliance[,]” wherein they contend that a preliminary injunction recently entered in *Ms. L v. U.S. Immigration & Customs Enforcement*, No. CV 18-0428 DMS (MDD), 2018 WL 3129486 (S.D. Cal. June 26, 2018), allows them to nullify the release and state licensure provisions of the *Flores* Agreement. *See* Notice of Compl. at 5–8 [Doc. # 447]. *Ms. L* concluded that a class of certain parents would likely succeed on the merits of their due process challenge to the “practice of separating [certain parents] from their minor children, and failing to reunify [parents] with those children, without any showing the parent is unfit or presents a danger to the child[.]” *See Ms. L*, 2018 WL 3129486, at *7. The District Court ordered ICE and other governmental officers and agencies to reunite these parents with their children (the former of whom were in Department of Homeland Security (“DHS”) custody) within 14 to 30 days of that Order, unless (*inter alia*) “the parent affirmatively, knowingly, and voluntarily declines to be reunited with the child in DHS custody.” *See id.* at *11–12.

reasonable or credible fear[.]” *See* Order re Resp. to Order to Show Cause at 10 [Doc. # 189]. The 20-day deadline arose from Defendants' *own* request for that additional time to comply with their contractual obligations during an influx. *See* Def.'s Resp. to Order to Show Cause at 14, 23–24, 34 n.33 [Doc. # 184].

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Defendants advance a tortured interpretation of the *Flores* Agreement in an attempt to show that the *Ms. L* preliminary injunction permits them to suspend the *Flores* release and licensure provisions. They claim that detaining *Flores* Class Members with their parents complies with Paragraph 14’s command that Class Members be “release[d] from . . . custody *without unnecessary delay*” because separating a Class Member from a parent would violate the *Ms. L* Order. See Notice of Compl. at 6 (emphasis in original) (quoting *Flores* Agreement at ¶ 14 [Doc. # 101]) [Doc. # 447]. Similarly, Defendants contend that indefinite detention in ICE unlicensed family residential facilities is consistent with: (1) their obligation to transfer minors to licensed placements “as expeditiously as possible” if there is an influx of minors, and (2) Paragraph 12.A’s proviso that such transfer is unnecessary when “any court decree or court-approved settlement” provides otherwise. See *id.* at 7 n.1 (quoting *Flores* Agreement at ¶ 12.A.2–3 [Doc. # 101]). The Court rejects this strained construction of the *Flores* Agreement it renders meaningless paragraph 12.A (deadlines for transfers to licensed placements), paragraph 14 (persons to whom Class Members may be released), paragraph 18 (efforts toward release and reunification), and paragraph 19 (placement of Class Members in licensed programs).⁴ See *Pinel v. Aurora Loan Servs., LLC*, 814 F. Supp. 2d 930, 943 (N.D. Cal. 2011) (“Courts must interpret contractual language in a manner [that] gives force and effect to every provision, and not in a way [that] renders some clauses nugatory, inoperative or meaningless.” (alteration in original) (quoting *City of Atascadero v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 68 Cal. App. 4th 445, 473 (1998))); *O’Neil v. Bunge Corp.*, 365 F.3d 820, 822 (9th Cir. 2004) (“[T]he construction and enforcement of settlement agreements are governed by principles of local law which apply to interpretation of contracts generally.” (internal quotation marks omitted) (quoting *United Commercial Ins. Serv., Inc. v. Paymaster Corp.*, 962 F.2d 853, 856 (9th Cir. 1992))).

To the extent Defendants claim that the *Ms. L* Order supports their request for modification, their argument fares no better because they have not shown that *Ms. L* required Defendants to violate the *Flores* Agreement or that compliance with the *Ms. L* Order would “directly conflict” with the *Flores* Agreement’s release and state licensure provisions. See *Flores v. Sessions*, 862 F.3d 863, 874 (9th Cir. 2017) (noting that this is the standard for modifying a decree on change of law grounds). Absolutely nothing prevents Defendants from reconsidering their current blanket policy of family detention and reinstating prosecutorial discretion. See Exec. Order No. 13841, 83 Fed. Reg. at 29435; see also 8 U.S.C. § 1226(a)(2)(A) (providing that the Attorney General has the discretion to release certain aliens

⁴ There is yet another flaw in Defendants’ reasoning—*i.e.*, they seek to indefinitely detain *all* migrant children who have arrived with their parents or legal guardians, see *Ex Parte* Appl. at 21 [Doc. # 435-1], even though the *Ms. L* preliminary injunction by its terms excludes a number of family units from its scope, including those who are subject to Executive Order 13841, see *Ms. L*, 2018 WL 3129486, at *3 n.5.

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on a bond of at least \$1,500); 8 U.S.C. § 1182(d)(5)(A) (providing that the Attorney General has the discretion to parole certain aliens).

Further, detained parents who are entitled to reunification under the *Ms. L* Order may “affirmatively, knowingly, and voluntarily decline[] to be reunited” with their children, *see Ms. L.*, 2018 WL 3129486, at *11, and all parties admit that these parents may also affirmatively waive their children’s rights to prompt release and placement in state-licensed facilities, *see* Notice of Compl. at 9 (“[P]laintiffs in this case have always *agreed* that detention of the family together is permissible if the parent consents.” (emphasis added)) [Doc. # 447]; Pls.’ Opp’n to *Ex Parte* Appl. at 7 (asserting that Class Members’ have the right—“*subject to opt out by a parent—to be released or placed under the terms of the Agreement*” (emphasis added)) [Doc. # 450]; *see also Fields v. Palmdale Sch. Dist.*, 427 F.3d 1197, 1204 (9th Cir. 2005) (“[T]he right of parents to make decisions concerning the care, custody, and control of their children is a fundamental liberty interest protected by the Due Process Clause.”); *Wylar Summit P’ship v. Turner Broad. Sys.*, 135 F.3d 658, 662 (9th Cir. 1998) (“It is a well settled maxim that a party may waive the benefit of any condition or provision made in his behalf, no matter to what manner it may have been made or secured.” (emphasis omitted) (quoting *Knarston v. Manhattan Life Ins. Co.*, 140 Cal. 57, 63 (1903))); *Jeffrey Kavim, Inc. v. Frye*, 264 Cal. App. 4th 35, 45 (2012) (“It is well settled a contracting party may waive conditions placed in a contract solely for that party’s benefit.” (quoting *Sabo v. Fasano*, 154 Cal. App. 3d 502, 505 (1984)) (internal quotation marks omitted)). Given the situation arising from Defendants’ earlier family separation policy, detained parents may choose to exercise their *Ms. L* right to reunification or to stand on their children’s *Flores* Agreement rights. Defendants may not make this choice for them.⁵

Lastly, Defendants have known for *years* that there is “no state licensing readily available for facilities that house both adults and children.” *See* Defs.’ Motion to Amend at 32 (filed on Feb. 27, 2015) [Doc. # 120]. Yet, Defendants have not shown that they made any efforts to resolve this issue since July 2015, let alone 1997, nor have they demonstrated that any such attempt would be futile. To the contrary, certain local governments charged with enforcing state child welfare laws have indicated their “strong interest . . . in the continued licensed regulation of Defendants’ child welfare programs.” *See* The Cities’ Opp’n at 13 [Doc. # 453]. Given that the *Flores* Agreement has “unambiguously applie[d] both to accompanied and unaccompanied minors” for over 20 years, *see Flores*, 828 F.3d at 901, Defendants cannot now complain that the

⁵ The Court also observes that there is no inconsistency between the *Flores* Agreement and Executive Order No. 13841. *See* Exec. Order No. 13841, 83 Fed. Reg. at 29435 (“The Secretary of Homeland Security . . . shall, *to the extent permitted by law* . . . maintain custody of alien families during the pendency of any criminal improper entry or immigration proceedings involving their members.” (emphasis added)).

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Agreement leaves them no choice but to separate parents from their children and violate the *Ms. L* Order.

It is apparent that Defendants' Application is a cynical attempt, on an *ex parte* basis, to shift responsibility to the Judiciary for over 20 years of Congressional inaction and ill-considered Executive action that have led to the current stalemate. The parties voluntarily agreed to the terms of the *Flores* Agreement more than two decades ago. The Court did not force the parties into the agreement nor did it draft the contractual language. Its role is merely to interpret and enforce the clear and unambiguous language to which the parties agreed, applying well-established principles of law. Regardless, what is certain is that the children who are the beneficiaries of the *Flores* Agreement's protections and who are now in Defendants' custody are blameless. They are subject to the decisions made by adults over whom they have no control. In implementing the Agreement, their best interests should be paramount.

In sum, Defendants have not shown that applying the *Flores* Agreement "prospectively is no longer equitable[,]” *see* Fed. R. Civ. P. 60(b)(5), or that “manifest injustice” will result if the Agreement is not modified, *see United States v. Alpine Land & Reservoir Co.*, 984 F.2d 1047, 1049 (9th Cir. 1993). Of course, the parties are always free to meet and confer regarding any contractual amendments on which they can mutually agree. This is basic contract law.

In light of the foregoing, the Court **DENIES** the *Ex Parte* Application because it is procedurally improper and wholly without merit.

IT IS SO ORDERED.

Exhibit T



The Situation Room ✓

@CNNSitRoom

Follow

"We have nothing to hide about how we operate these facilities ... it is one of the great acts of American generosity and charity, what we are doing for these unaccompanied kids" HHS Secretary Alex Azar says cnn.it/2zrmoNL



4:01 PM - 10 Jul 2018

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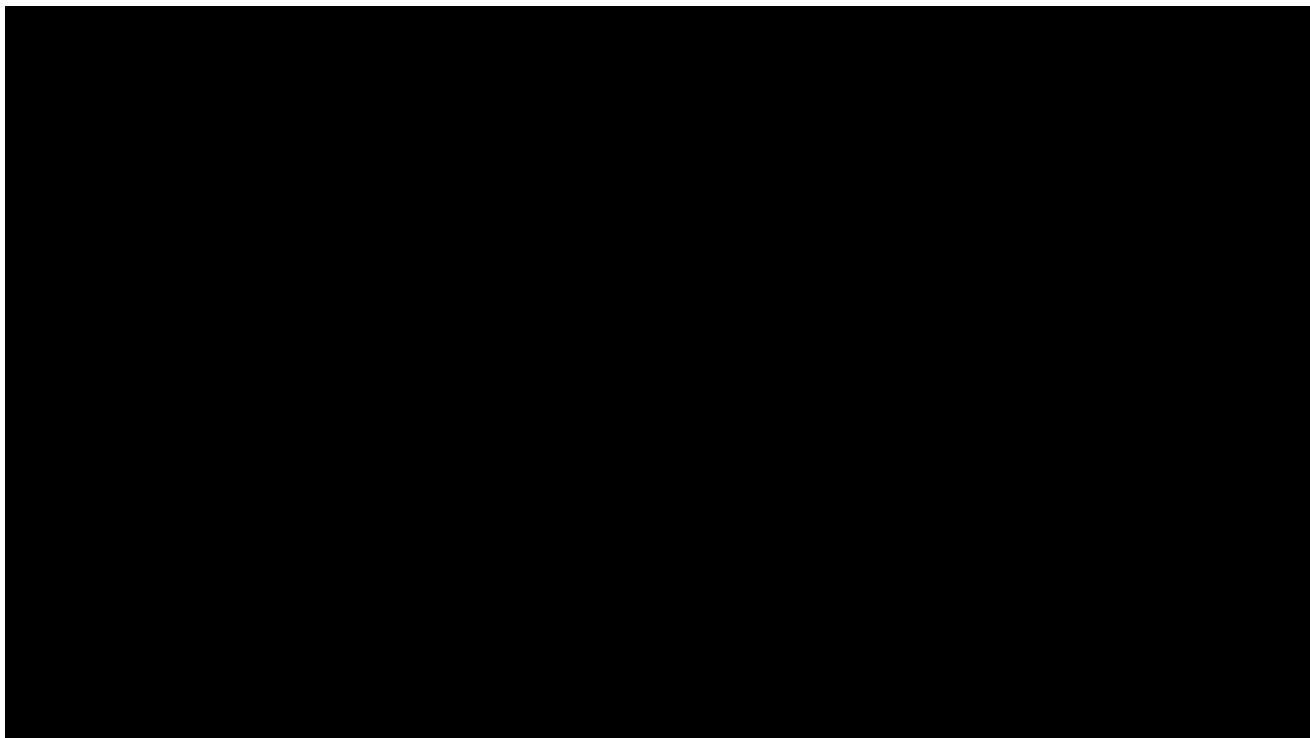
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Joined April 2

Exhibit U

POLITICO

POLITICO



Trump's solution for reunifying migrant families: 'Don't come to our country illegally'

By LOUIS NELSON | 07/10/2018 09:23 AM EDT

President Donald Trump said Tuesday that the solution to the government's failure to meet a deadline for reunifying separated undocumented parents with their children is for such migrants to stop entering the U.S. illegally in the first place.

"Well, I have a solution. Tell people not to come to our country illegally. That's the solution. Don't come to our country illegally. Come like other people do. Come legally," he told reporters on the White House's south lawn Tuesday morning as he departed for his

weeklong trip to Europe. “I'm saying this very simply: We have laws. We have borders. Don't come to our country illegally. It's not a good thing.”

The president and his administration have come under heavy bipartisan criticism in recent weeks over their policy of referring for criminal prosecution all people crossing the border illegally, a practice that led to the separation of thousands of children from their parents. After initially defending the practice and falsely insisting that only Congress could end it, the president bowed to public pressure and signed an executive order mandating that families be kept together.

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Despite the president’s order, the status of the already separated families remains unclear, and the Trump administration on Monday missed a court-mandated deadline for reunifying roughly 100 children under the age of 5 with their parents. Sen. Ron Johnson (R-Wis.), who chairs the Senate Homeland Security Committee, told CNN on Monday that the lack of progress on reunifying families “boggles my mind.”

The family separations have prompted calls from some Democrats to abolish U.S. Immigration and Customs Enforcement, the agency whose charges include deportations. Trump, in his Tuesday morning remarks to reporters, slammed calls to do away with ICE.

“The people that are fighting ICE, it's a disgrace. These people go into harm's way. There is nobody under greater danger than the people from ICE,” he said. “We ought to support ICE, not do what the Democrats are doing. Democrats want open borders, and they don't mind crime. We want no crime, and we want borders where borders mean something, all right?”

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Exhibit V

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BEFORE HONORABLE DANA M. SABRAW, JUDGE PRESIDING

_____)
MS. L. AND MS. C.,)
)
) PETITIONERS-PLAINTIFFS,)
)
)
VS.)
)
) SAN DIEGO, CALIFORNIA
U.S. IMMIGRATION AND CUSTOMS)
ENFORCEMENT ("ICE"); U.S. DEPARTMENT)
OF HOMELAND SECURITY ("DHS"); U.S.)
CUSTOMS AND BORDER PROTECTION ("CBP");)
U.S. CITIZENSHIP AND IMMIGRATION)
SERVICES ("USCIS"); U.S. DEPARTMENT)
OF HEALTH AND HUMAN SERVICES ("HHS");)
OFFICE OF REFUGEE RESETTLEMENT ("ORR");)
THOMAS HOMAN, ACTING DIRECTOR OF ICE;)
GREG ARCHAMBEAULT, SAN DIEGO FIELD)
OFFICE DIRECTOR, ICE; ADRIAN P. MACIAS,)
EL PASO FIELD DIRECTOR, ICE; FRANCES M.)
JACKSON, EL PASO ASSISTANT FIELD)
OFFICE DIRECTOR, ICE; KIRSTJEN NIELSEN,)
SECRETARY OF DHS; JEFFERSON BEAUREGARD)
SESSIONS III, ATTORNEY GENERAL OF THE)
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CBP; PETE FLORES, SAN DIEGO FIELD)
DIRECTOR, CBP; HECTOR A. MANCHA JR.,)
EL PASO FIELD DIRECTOR, CBP;)
ALEX AZAR, SECRETARY OF THE)
DEPARTMENT OF HEALTH AND HUMAN)
SERVICES; SCOTT LLOYD, DIRECTOR)
OF THE OFFICE OF REFUGEE RESETTLEMENT,)
)
)
) RESPONDENTS-DEFENDANTS.)
-----)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
STATUS CONFERENCE

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LEE ANN PENCE,
OFFICIAL COURT REPORTER
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333 WEST BROADWAY, ROOM 1393
SAN DIEGO, CALIFORNIA 92101

1 SAN DIEGO, CALIFORNIA - TUESDAY, JULY 10, 2018 - 11:07 A.M.

2 * * *

3 **THE CLERK:** NO. 1 ON CALENDAR, CASE NO.18CV0428,
4 MS. L. VERSUS U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; ON FOR
5 STATUS CONFERENCE.

6 **THE COURT:** GOOD MORNING.

7 MAY I HAVE APPEARANCES, PLEASE?

8 **MR. GELERT:** GOOD MORNING, YOUR HONOR. LEE
9 GELERT, FROM THE ACLU, FOR PLAINTIFFS.

10 **MR. KANG:** STEPHAN KANG, YOUR HONOR, FOR PLAINTIFFS.

11 **MR. BALAKRISHNAN:** GOOD MORNING, YOUR HONOR. ANAND
12 BALAKRISHNAN FOR PLAINTIFFS.

13 **THE COURT:** THANK YOU.

14 **MR. VAKILI:** GOOD MORNING, YOUR HONOR. BARDIS
15 VAKILI FOR PLAINTIFFS.

16 **MS. FABIAN:** GOOD MORNING, YOUR HONOR. SARAH
17 FABIAN, WITH THE DEPARTMENT OF JUSTICE, FOR DEFENDANTS.

18 **MR. STEWART:** GOOD MORNING, YOUR HONOR. SCOTT
19 STEWART FOR THE DEPARTMENT OF JUSTICE.

20 **THE COURT:** THANK YOU. AND GOOD MORNING.

21 I HAVE READ ALL OF THE BRIEFING THAT WAS SUBMITTED,
22 WHICH I APPRECIATE.

23 WHAT I WOULD LIKE TO DO IS PROVIDE A NUMBER OF
24 RULINGS FROM THE BENCH SO THAT THE PARTIES HAVE THE BENEFIT OF
25 THE COURT'S DETERMINATIONS AND CAN PROCEED ACCORDINGLY. AND

JULY 10, 2018

1 THEN I WILL ISSUE A SHORT WRITTEN ORDER LATER TODAY SETTING
2 OUT THE DETERMINATIONS THAT I AM GOING TO MAKE IN A MOMENT.

3 ON THE CLASS NOTICE ISSUE, I AM GOING TO ADOPT THE
4 PLAINTIFFS' VERSION, SO THAT NOTICE MAY ISSUE IN ACCORDANCE
5 WITH THE PLAINTIFFS' PROPOSAL.

6 ON THE BALANCE OF THE ISSUES, I INTEND TO STAND ON
7 THE DEADLINE ON MOST OF THE INDIVIDUALS WHO HAVE BEEN
8 IDENTIFIED OF THE UNDER-FIVE GROUP, AND WOULD BE ADOPTING IN
9 SIGNIFICANT PART A STREAMLINED APPROACH.

10 AND THE REASONS FOR THAT IS, WHEN ONE LOOKS TO THE
11 MANNER IN WHICH ICE MAKES THESE CONSIDERATIONS, SO IF WE STEP
12 BACK IN TIME AND WE LOOK AT THE CASES OF MS. L. AND MS. C.
13 SPECIFICALLY, THESE INDIVIDUALS GO INTO ICE DETENTION. THEY
14 ARRIVE AS A FAMILY UNIT, AND ICE MAKES DETERMINATIONS AS TO
15 WHETHER TO KEEP THE FAMILY TOGETHER OR TO SEPARATE THEM.

16 AND WHEN THIS CASE WAS INITIATED, MR. ORTIZ, MARIO
17 ORTIZ, FILED A DECLARATION WITH THE COURT ON MARCH 15, 2018.
18 AND MR. ORTIZ IS A DETENTION OFFICER FOR THE SAN DIEGO
19 DISTRICT OF ICE, THE ENFORCEMENT AND REMOVAL OPERATIONS
20 DIVISION, SINCE 1996. HE SET OUT IN HIS DECLARATION THE
21 PROCEDURES THAT ERO SAN DIEGO FAMILY UNIT CURRENTLY FOLLOWS.
22 AND THAT FAMILY UNIT ENDEAVORS TO DO PRECISELY WHAT WE ARE
23 TRYING TO DO IN A CONTEXT THAT IS IMPORTANT BECAUSE THE
24 CONTEXT, AGAIN, IS THE APPREHENSION OF FAMILY UNITS, AND THEN
25 A DETERMINATION AT THAT TIME WITH THE INFORMATION THAT IS

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1 AVAILABLE AT THAT TIME WHETHER TO SEPARATE OR NOT.

2 AND WHAT HE SAYS IS THE FOLLOWING, AND I AM GOING TO
3 QUOTE FROM HIS DECLARATION IN PERTINENT PARTS: WHEN ALIENS
4 WHO ENTER ICE CUSTODY CLAIM TO BE PARENT AND CHILD, THEY ARE
5 REFERRED TO THE FAMILY UNIT. THE MISSION OF THE FAMILY UNIT
6 IS TO MAKE APPROPRIATE PLACEMENT DECISIONS FOR ALIENS
7 TRAVELING WITH CHILDREN WHO CLAIM FAMILY RELATIONSHIPS. WHEN
8 ALIENS CLAIMING A PARENT-CHILD RELATIONSHIP ARE ENCOUNTERED,
9 MY UNIT'S PRIMARY CONSIDERATIONS ARE, FIRST, WHETHER THERE IS
10 ANY DOUBT ABOUT WHETHER THEY ARE PARENT AND CHILD AND, SECOND,
11 WHETHER THERE IS INFORMATION THAT CAUSES A CONCERN ABOUT THE
12 WELFARE OF THE CHILD SUCH AS THE ADULT HAVING A SIGNIFICANT
13 CRIMINAL HISTORY. BASED ON THE INFORMATION AVAILABLE IN A
14 SPECIFIC CASE, IF THERE ARE NOT CONCERNS ABOUT THE FAMILY
15 RELATIONSHIP OR WELFARE OF THE CHILD, THE ALIENS MAY BE
16 DETAINED IN A FAMILY RESIDENTIAL CENTER OR, IF APPROPRIATE,
17 RELEASED TO A SPONSOR OR NONGOVERNMENT ORGANIZATION. IF THERE
18 ARE CONCERNS, THE CHILD MAY BE TRANSFERRED TO O.R.R.

19 AND I THINK, GIVEN THE EVIDENCE BEFORE THE COURT,
20 THERE IS NO INDICATION THAT THIS PRACTICE THAT ICE HAS USED
21 FOR MANY YEARS HAS NOT WORKED SUCCESSFULLY. THEY HAVE BEEN
22 MAKING THESE KINDS OF DETERMINATIONS FOR YEARS. THEY HAVE NOT
23 BEEN SUBJECT TO THE TVPRA, WHICH IS AN ENTIRELY DIFFERENT
24 STATUTORY CONSTRUCT THAT IS DESIGNED FOR A DIFFERENT
25 SITUATION.

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1 THE TVPRA, AS WE HAVE DISCUSSED THROUGHOUT THIS
2 LITIGATION, IT WAS PRINCIPALLY PROMULGATED TO DEAL WITH
3 UNACCOMPANIED CHILDREN WHO CROSSED ON THEIR OWN, WERE
4 APPREHENDED, AND THEN THE GOVERNMENT HAD TO TAKE CUSTODY AND
5 CARE OF THOSE CHILDREN.

6 AND IN FULFILLING THAT OBLIGATION IT WAS FUNCTIONING
7 MUCH LIKE FOSTER CARE FACILITIES DO OR STATE AND COUNTY
8 GOVERNMENTAL AGENCIES THAT ARE LOOKING AFTER THE WELFARE OF A
9 CHILD, IT WAS FUNCTIONING AS A CHILD WELFARE AGENCY. AND IN
10 MAKING PLACEMENTS OFTENTIMES THERE ARE NOT PARENTS AVAILABLE
11 BECAUSE THESE ARE CHILDREN WHO CAME OVER ON THEIR OWN, SO THEY
12 ARE LOOKING TO PLACE CHILDREN OFTENTIMES WITH NONPARENT
13 CUSTODIANS. AND IT ONLY MAKES SENSE THAT THEY WOULD NEED TO
14 FULFILL THOSE OBLIGATIONS CAREFULLY, THROUGH A RELATIVELY
15 TIME-INTENSIVE PROCESS OF INTERVIEWING SPONSORS, LOOKING INTO
16 THE FAMILY SITUATION, RUNNING BACKGROUND CHECKS; ALL OF THOSE
17 THINGS THAT YOU WOULD EXPECT WHEN YOU PLACE A CHILD IN LIKE A
18 FOSTER HOME TYPE ENVIRONMENT. THAT'S NOT THE CONTEXT HERE.

19 WHAT'S IMPORTANT TO RECOGNIZE IS THE CONTEXT IN
20 WHICH THE SEPARATIONS OCCURRED, AND THAT IS GOING BACK TO THE
21 CLASS DEFINITION THAT THESE ARE CHILDREN WHO ARRIVED WITH A
22 PARENT.

23 AND SO, NECESSARILY, THE DETERMINATION OUGHT TO BE,
24 AND IN PARTICULAR IN LIGHT OF THE CLAIMS IN THIS CASE THAT
25 THESE FAMILIES WERE IMPROPERLY SEPARATED, THE DETERMINATION

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1 OUGHT TO BE WHETHER THERE IS ANYTHING ABOUT THE PARENT THAT
2 RENDERS THAT PARENT UNFIT OR A DANGER. THIS, OF COURSE,
3 ASSUMES THEY ARE THE PARENT. AND THOSE CONSIDERATIONS CAN BE
4 MADE CONSISTENT WITH WHAT ICE HAS BEEN DOING ALL ALONG.

5 IT IS NOT NECESSARY TO ADOPT WHOLESAL THE TVPRA AND
6 PLUG IT INTO THIS CONTEXT, WHICH IS COMPLETELY DISSIMILAR TO
7 THE UNACCOMPANIED MINOR SITUATION.

8 THE GOVERNMENT, BECAUSE OF THE MANNER IN WHICH THE
9 FAMILIES WERE SEPARATED, HAS AN AFFIRMATIVE OBLIGATION TO
10 REUNIFY, TO DO IT EFFICIENTLY AND TO DO IT SAFELY. THE
11 CHILD'S INTEREST IS PARAMOUNT. BUT IT CAN BE DONE WITHOUT A
12 WHOLESAL ADOPTION OF THE TVPRA PROCEDURES.

13 AND I AM MAKING THESE ASSUMPTIONS, GIVEN THE BENEFIT
14 OF THE BRIEFING, THAT WHAT IS AT ISSUE ARE A NUMBER OF POLICY
15 CONSIDERATIONS. IT IS NOT THE STATUTE ITSELF, IT IS NOT
16 RULE-MAKING AUTHORITY. SO THE COURT IS NOT INTERVENING IN ANY
17 WAY WITH A FEDERAL STATUTE OR RULES THAT HAVE BEEN PROMULGATED
18 THROUGH THE APA AND OTHER FORMALIZED PROCEDURES. THESE ARE
19 POLICIES THAT THE HHS HAS ADOPTED, IS THE UNDERSTANDING I HAVE
20 FROM THE BRIEFING, TO FULFILL ITS MISSION UNDER THE TVPRA FOR
21 UNACCOMPANIED MINOR CHILDREN.

22 THAT'S THE ESSENTIAL BACKGROUND.

23 HERE THE PARTIES HAVE INDICATED THAT THERE IS ONLY
24 ONE STATUTORY PROVISION WHICH WOULD APPLY, AND THAT IS WHERE
25 THE TVPRA REQUIRES HOME STUDIES WHERE THERE ARE INDICATIONS OF

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1 TRAFFICKING OR ABUSE UNDER 8, USC, SECTION 1232(C)(3)(B), AND
2 THAT WOULD BE LEFT UNINTERRUPTED BY TODAY'S PROCEEDINGS AND
3 THE INJUNCTION THAT IS IN PLACE. AND IN ADDITION THOSE
4 CONSIDERATIONS, IF THERE IS EVIDENCE OF TRAFFICKING OR ABUSE,
5 THOSE PARENTS ARE NOT GOING TO BE IN THIS CLASS, IN ANY EVENT.

6 SO I THINK WHAT'S IN PLACE WITH THE CLASS DEFINITION
7 AND THE PROPOSALS THAT THE PLAINTIFFS HAVE SET OUT, BY AND
8 LARGE, AND THAT ICE HAS USED FOR MANY YEARS, IS COMPLETELY
9 CONSISTENT WITH THE GOALS OF THE TVPRA; BUT IS MUCH MORE
10 SUITABLE FOR THE SPECIFIC CONTEXT OF THIS CASE, AND THAT IS
11 FAMILY SEPARATION AT THE BORDER, FAMILY UNITS ARRIVING
12 TOGETHER.

13 WITH THAT BACKGROUND, LET ME RUN THROUGH THE AREAS
14 OF DISPUTE. AND WITH AN INDICATION THAT THERE IS STILL MUCH
15 TIME LEFT TODAY, THAT THESE REUNIFICATIONS OCCUR. THAT THESE
16 ARE FIRM DEADLINES, THEY ARE NOT ASPIRATIONAL GOALS. AND AS
17 WE GO THROUGH I CAN BE MORE SPECIFIC AS TO WHO IS IN THE CLASS
18 AND WHO IS NOT, AND WHICH PARENTS AND CHILDREN WE WOULD BE
19 FOCUSING ON FOR PURPOSES OF REUNIFICATION TODAY.

20 THE FIRST AREA OF DISPUTE RELATES TO DNA. THE
21 GOVERNMENT IS INDICATING THAT IT WOULD LIKE TO TAKE DNA CHEEK
22 SWABS FROM EVERYONE.

23 AND HERE THAT RELATES -- ACCORDING TO THE PRESENT
24 NUMBERS, 34 FAMILIES ARE READY TO BE REUNITED TODAY. 17
25 OTHERS ARE LIKELY TO BE REUNITED. 16 ARE PENDING CONFIRMATION

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1 OF PARENTAGE, AND SO THAT MAY BE THE GROUP THAT THIS DNA
2 TESTING RELATES TO.

3 BUT AS TO THAT AREA OF DISPUTE, I WOULD PERMIT DNA
4 TESTING, WHEN NECESSARY, WHEN THERE IS A LEGITIMATE, GOOD
5 FAITH CONCERN ABOUT PARENTAGE, OR IF THERE IS A LEGITIMATE
6 CONCERN THAT THE GOVERNMENT WILL NOT MEET THE REUNIFICATION
7 DEADLINE, AND THAT MAY BE THE SITUATION WE ARE HERE IN TODAY.
8 THEN THE GOVERNMENT, WITH THE CONSENT OF THE PARENT, CAN TAKE
9 A DNA SAMPLE, SUBJECT TO THE PROTECTIVE ORDER THAT IS PROPOSED
10 BY THE PARTIES.

11 I THINK THE PROTECTIVE ORDER COMPLETELY PROVIDES THE
12 NECESSARY PROTECTION WITH RESPECT TO HOW DNA SAMPLING MAY BE
13 USED. THERE HAS TO BE CONSENT BY THE PARENT, AND THEN THE
14 SAMPLING IS DESTROYED WITHIN SEVEN DAYS AND IT IS NOT USED FOR
15 ANY OTHER PURPOSE.

16 SO WITH THAT, IT SEEMS TO ME THAT IF THE GOVERNMENT
17 IS USING THE DNA TESTING ONLY WHEN NECESSARY AND/OR WHEN
18 NECESSARY TO MEET COURT-IMPOSED DEADLINES, THAT IT MAY BE
19 DONE, SUBJECT TO THE PROTECTIVE ORDER.

20 **MS. FABIAN:** CAN I ASK A POINT OF CLARIFICATION?

21 **THE COURT:** LET ME RUN THROUGH THESE, AND THEN WE
22 CAN GO BACK AND CLARIFY AS NECESSARY.

23 THE SECOND AREA RELATES TO RESTRICTIONS ON HHS
24 INFORMATION-GATHERING ABOUT CHILD WELFARE.

25 HERE, I WOULD ADOPT A STREAMLINE APPROACH, NOT THE

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1 TVPRA STANDARD. THAT, IN THIS CONTEXT, IS BACKWARDS, BECAUSE
2 THE TVPRA, FROM ITS INCEPTION, IS ALL ABOUT A CUSTODIAN
3 APPLYING AND SEEKING APPROVAL TO BE A SPONSOR OR A RECOGNIZED
4 CUSTODIAN; THIS IS NOT THAT SITUATION.

5 THE GOVERNMENT HAS AN OBLIGATION TO REUNIFY CHILD
6 WITH PARENT. THE IDEA OF AN APPLICATION PROCESS DOESN'T FIT
7 IN THIS CONTEXT. THE PARENT HAS A RIGHT TO BE REUNIFIED AND
8 IT IS THE GOVERNMENT'S OBLIGATION TO MAKE IT SO, UNLESS THERE
9 ARE ISSUES OF FITNESS OR DANGER.

10 SO ON ADDITIONAL INFORMATION-GATHERING, THAT WOULD
11 NOT BE NECESSARY IN THE UNIQUE CONTEXT OF THIS CASE. THIS IS
12 NOT THE ORDINARY TVPRA TYPE OF CASE.

13 IN ADDITION, IF THE GOVERNMENT IS AWARE OF
14 INFORMATION BEFORE THE COURT-IMPOSED DEADLINE THAT RAISES
15 ISSUES OF FITNESS OR DANGER -- AND THERE ARE MANY EXAMPLES
16 THAT HAVE BEEN SET OUT IN THE PARTIES' FILINGS TODAY OF
17 PARENTS THAT PRESENT ISSUES OF FITNESS OR DANGER --
18 REUNIFICATION DOES NOT HAVE TO OCCUR TODAY. THE GOVERNMENT
19 CAN WITHHOLD REUNIFICATION, AGAIN ASSUMING ABSOLUTE GOOD FAITH
20 AND ARTICULABLE REASONS FOR IT. AND THAT INFORMATION IS
21 THEN -- WILL THEN BE IMMEDIATELY PROVIDED TO PLAINTIFFS'
22 COUNSEL SO THAT THEY HAVE AN OPPORTUNITY TO CONTEST THE
23 GOVERNMENT'S DETERMINATION.

24 AND I WILL COME TO THE PROCESS BY WHICH WE WILL
25 RESOLVE ANY OF THESE DISPUTES, BUT I AM OPTIMISTIC THAT MOST

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1 ALL WILL RESOLVE THROUGH THE MEET-AND-CONFER PROCESS.

2 THE THIRD AREA RELATES TO BACKGROUND CHECKS ON OTHER
3 ADULTS IN THE HOUSEHOLD. THIS GOES TO THIS IDEA OF IF WE ARE
4 GOING TO PLACE AN UNACCOMPANIED MINOR WHO SHOWED UP ON HIS OWN
5 AND WAS APPREHENDED, WE ARE NOT GOING TO PUT HIM OR HER IN A
6 HOME UNLESS WE KNOW ABOUT EVERYONE IN THE HOME.

7 THAT IS VERY DIFFERENT FROM THE GOVERNMENT NEEDING
8 TO RETURN A CHILD TO HIS OR HER PARENT, ASSUMING THE PARENT IS
9 FIT AND NOT A DANGER. THESE PARENTS ARE RESPONSIBLE FOR THEIR
10 OWN CHILDREN, AND MANY OF THESE DETERMINATIONS, WE MUST
11 ASSUME, ARE SUBJECT TO THE PARENTS' JUDGMENT AND
12 CONSIDERATION.

13 SO I WOULD ADOPT A STREAMLINE APPROACH HERE.

14 AND THERE MAY BE INDIVIDUALS -- THE GOVERNMENT HAS
15 IDENTIFIED SEVERAL PUTATIVE CLASS MEMBERS WHO HAVE CRIMINAL
16 HISTORY: ONE IS ALIEN SMUGGLING, ANOTHER IS CHILD
17 ENDANGERMENT, ANOTHER IS NARCOTICS TRAFFICKING, ANOTHER HAS A
18 PENDING OR AN ALLEGED HOMICIDE. THESE INDIVIDUALS FALL
19 OUTSIDE OF THE CLASS. SO THE CLASS DEFINITION WILL
20 NECESSARILY ADDRESS MANY OF THE GOVERNMENT'S LEGITIMATE
21 CONCERNS ABOUT PROTECTING THE WELFARE OF CHILDREN.

22 AND IF THE GOVERNMENT HAS SPECIFIC INFORMATION THERE
23 IS -- FOR EXAMPLE, THERE IS AN IDENTIFICATION OF A PARENT, A
24 SITUATION WHERE AN INDIVIDUAL IN ONE OF THE HOUSEHOLDS HAS AN
25 OUTSTANDING WARRANT FOR AGGRAVATED CRIMINAL SEXUAL ABUSE. THE

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1 GOVERNMENT HAS A LOT OF INFORMATION, A LOT OF RESOURCES
2 AVAILABLE. WHEN THAT KIND OF INFORMATION COMES FORWARD THERE
3 IS NOT A NEED TO REUNIFY. THAT WOULD BE AN EXAMPLE OF THE
4 GOVERNMENT PROPERLY WITHHOLDING REUNIFICATION, ADDRESSING IT
5 WITH PLAINTIFFS' COUNSEL. AND THEN, IF NECESSARY, IF IT
6 CANNOT BE RESOLVED BETWEEN THE PARTIES, BRINGING IT TO THE
7 ATTENTION OF THE COURT FOR RESOLUTION.

8 BUT THE TVPRA PROCESS OF THE FULL BACKGROUND CHECK
9 OF EVERYONE IN THE HOUSEHOLD IS NOT NECESSARY UNDER THESE
10 UNIQUE CIRCUMSTANCES.

11 NUMBER FOUR IS PROOF OF ADDRESS, SPONSOR CARE PLANS,
12 AND ALTERNATE CAREGIVERS. THERE IS NO OBJECTION. MANY OF
13 THESE AREAS ARE NOT OBJECTED TO IN PART. HERE THERE IS NO
14 OBJECTION TO PROVIDING PROOF OF ADDRESS BUT THERE IS OBJECTION
15 TO A SPONSOR CARE PLAN. AND I WOULD AGREE OR SUSTAIN THAT
16 OBJECTION.

17 HERE AGAIN, THE PARENTS ARE NOT APPLYING FOR -- THEY
18 DON'T HAVE TO PROVE THAT THEY ARE GOING TO BE A GOOD SPONSOR.
19 WHAT THE GOVERNMENT HAS TO LOOK TO IS WHETHER THE PARENT IS
20 UNFIT OR A DANGER, SO IT IS GOING ABOUT IT A DIFFERENT WAY.

21 THE TVPRA, WITH RESPECT TO THESE INDIVIDUAL CLASS
22 MEMBERS, IS BACKWARDS. AND FOR THOSE REASONS I WOULD AGREE
23 WITH PLAINTIFFS ON A STREAMLINED APPROACH.

24 AND HERE AGAIN, IF THERE IS ANY INFORMATION THAT THE
25 GOVERNMENT HAS THAT GIVES CONCERNS, IT CAN BE PROPERLY BROUGHT

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1 TO THE ATTENTION OF PLAINTIFFS' COUNSEL AND THE COURT AT A
2 LATER TIME.

3 THE FIFTH AREA RELATES TO LEGAL ORIENTATION AND
4 SPONSOR CARE AGREEMENT. THERE IS NO OBJECTION TO ATTENDING
5 LEGAL ORIENTATION PROGRAMS AND/OR SIGNING A SPONSOR CARE
6 AGREEMENT SO LONG AS IT DOES NOT DELAY REUNIFICATION. AND I
7 AGREE WITH THAT.

8 SO REUNIFICATION WOULD BE PRIMARY, AND THEN SIGNING
9 ON TO LEGAL ORIENTATION AND SPONSOR CARE AGREEMENTS CAN BE
10 DONE AT A LATER TIME, AFTER REUNIFICATION.

11 THE FINAL AREA IS WHERE A CHILD MAY PRESENT A DANGER
12 TO HIM OR HERSELF OR TO OTHERS.

13 THIS IS NOT A CONCERN FOR CHILDREN UNDER AGE FIVE,
14 IT IS A CONCERN FOR CHILDREN OVER AGE FIVE. AND PROBABLY THE
15 TARGET GROUP HERE WOULD BE CHILDREN OVER AGE 12. BUT I WOULD
16 INVITE THE PARTIES TO MEET AND CONFER ON THAT.

17 HERE AGAIN, IF THE GOVERNMENT HAS ARTICULABLE
18 REASONS OF A CHILD -- AND WHAT COMES TO MIND WOULD BE A
19 TEENAGER WHO PRESENTS A DANGER TO HIMSELF OR OTHERS. THE
20 GOVERNMENT OUGHT TO BE FREE TO MAKE THOSE DETERMINATIONS,
21 PROPERLY SO, AND TO KEEP THAT CHILD IN SECURE CUSTODY, NOT BE
22 REUNIFIED.

23 BUT HERE AGAIN WHAT I WOULD EXPECT IS THE PARTIES
24 MEET AND CONFER. THERE WOULD LIKELY BE AGREEMENT. IF NOT,
25 THE PARTIES CAN BRING THE MATTER TO THE COURT'S ATTENTION.

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1 AND AS FAR AS THE PROCESS, I WOULD LIKE THE PROCESS TO
2 CONTINUE, OF COURSE, AS EXPEDITIOUSLY AS IT HAS BEEN. AND OF
3 COURSE WITH A PARAMOUNT FOCUS BEING ON THE CHILDREN'S WELFARE.
4 BUT THAT CAN BE DONE IN THE MANNER WHICH THE COURT HAS
5 ADDRESSED THESE ISSUES.

6 IT IS IMPORTANT THAT COUNSEL BE AVAILABLE FROM HERE
7 THROUGH THE REUNIFICATION PROCESS. THE COURT WILL BE
8 AVAILABLE. I WOULD LIKE TO CONTINUE TO HAVE REGULAR STATUS
9 REPORTS AND STATUS CONFERENCES. AND I WOULD LIKE TO DO THAT
10 IN OPEN COURT.

11 IT DOESN'T HAVE TO BE YOU, MS. FABIAN, OR YOU, MR.
12 GELERNT, IT COULD BE SOME OF THESE ABLE BODIES NEXT TO YOU.
13 BUT I WOULD LIKE A PERSON IN COURT WHO CAN STAND UP AND MAKE
14 REPRESENTATIONS, AND OTHERS CAN PARTICIPATE TELEPHONICALLY.
15 BUT I WOULD LIKE TO DO THAT ON A REGULAR BASIS.

16 THERE IS A LOT OF WORK TO DO WITH RESPECT TO THE
17 OVER-FIVE GROUP. AND I AM ANTICIPATING THAT A LOT OF THAT
18 WORK IS WELL UNDERWAY, AND IT WILL CONTINUE ALONG THE LINES
19 THAT WE HAVE SET OUT HERE WITH THE UNDER-FIVE GROUP.

20 WHAT I AM CONTEMPLATING IS THAT AS WE GO THROUGH
21 THIS PROCESS -- AND IT WOULD START WITH BOTH THE UNDER-FIVE
22 AND THEN THE OVER-FIVE GROUP -- IS WHERE THE PARTIES MEET AND
23 CONFER. IF THERE IS SOME DISPUTE, YOU CAN SUBMIT BRIEFING UP
24 TO FIVE PAGES. IT DOESN'T HAVE TO BE FANCY, IT CAN BE A
25 LETTER BRIEF. IT CAN JUST GET RIGHT TO THE ISSUES SETTING OUT

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1 THE PARTIES' BASIC POSITIONS. I WOULD REQUEST A JOINT FILING
2 ON ANY DISPUTE, SO UP TO TEN PAGES TOTAL, FIVE AND FIVE.

3 AND THE COURT WOULD EITHER CONVENE A STATUS
4 CONFERENCE TELEPHONICALLY OR I WOULD SIMPLY RULE ON THE BRIEF
5 THAT IS SUBMITTED, AND WE CAN GO CASE BY CASE.

6 BUT I AM VERY OPTIMISTIC THAT THAT WILL BE SELDOMLY
7 USED. THAT WOULD BE MY EXPECTATION. EVERYONE IS ROWING IN
8 THE SAME DIRECTION HERE, AND IT IS JUST A MATTER OF, I THINK,
9 STREAMLINING THE PROCESS AND PROVIDING CLEAR DIRECTION AS TO
10 HOW THE GOVERNMENT WILL PROCEED.

11 I HAVE JUST A FEW FINAL COMMENTS, AND THEN WE CAN
12 ANSWER ANY QUESTIONS OR NEED FOR CLARIFICATION.

13 THERE ARE, DEPENDING ON HOW ONE COUNTS, EITHER 101
14 OR 102 IN THIS UNDER-FIVE GROUP. BY MY COUNT, BASED ON
15 TODAY'S SUBMISSION, 75 OF THIS GROUP ARE ELIGIBLE FOR
16 REUNIFICATION. 63 ARE ELIGIBLE FOR REUNIFICATION TODAY.

17 14 PARENTS ARE NOT IN THE CLASS. EIGHT HAVE
18 CRIMINAL HISTORY THAT PRECLUDES THEM, FIVE ARE NOT THE
19 PARENTS, AND ONE THE GOVERNMENT CLAIMS IT HAS CREDIBLE
20 EVIDENCE OF CHILD ABUSE AND IS THEREFORE A DANGER OR UNFIT AND
21 WOULD FALL OUTSIDE OF THE CLASS. THAT'S 14.

22 THERE ARE 12 OTHERS THAT FALL -- WELL, THERE ARE TWO
23 OTHERS THAT PRESENTLY FALL OUT OF THE CLASS. ONE IS
24 CHARACTERIZED AS PRESENTING A DANGER, ONE AS HAVING A
25 COMMUNICABLE DISEASE. THE ONE WITH THE COMMUNICABLE DISEASE,

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1 THE PARTIES RECOGNIZE WHEN THAT MATTER IS ADDRESSED, HOPEFULLY
2 SUCCESSFULLY FROM A MEDICAL STANDPOINT, THEN REUNIFICATION CAN
3 OCCUR AT AN APPROPRIATE TIME.

4 TEN MEMBERS OF THE CLASS ARE IN CRIMINAL CUSTODY,
5 STATE OR FEDERAL. THEY ARE NOT ELIGIBLE FOR REUNIFICATION AT
6 THIS POINT IN TIME, BUT THEY WOULD BE ONCE THEY ARE RELEASED
7 TO ICE DETENTION. SO THEY WOULD HAVE TO WAIT.

8 THERE ARE 12 THAT HAVE BEEN REMOVED. THEY ARE PART
9 OF THE CLASS, THEY WOULD BE SUBJECT TO REUNIFICATION, BUT AT A
10 LATER TIME. THAT REQUIRES A SEPARATE DISCUSSION, AND THERE
11 ARE MORE COMPLICATING ISSUES THAT HAVE TO BE ADDRESSED WITH
12 THOSE 12. BUT THEY ARE PART OF THE CLASS AND THEY DO DESERVE
13 TO BE REUNITED, ABSENT THEIR CONSENT OTHERWISE.

14 SO THAT LEAVES 63.

15 THE GOVERNMENT HAS INDICATED -- AND TO RESTATE THIS.
16 OF THE GROUP OF 101 OR 102, 75 ARE SUBJECT TO BEING REUNITED.
17 12 OF THOSE ARE REMOVED AND WILL TAKE SOME TIME.

18 THERE ARE 63 THAT I WOULD LIKE TO FOCUS ON TODAY.

19 THE GOVERNMENT HAS INDICATED THAT 34 ARE READY, AND
20 THEY WILL BE REUNITED TODAY.

21 THERE ARE 17 OTHERS THAT ARE IN ICE DETENTION. 16
22 NEED CONFIRMATION OF PARENTAGE, AND ONE HAS CRIMINAL HISTORY
23 PENDING.

24 AND IT SEEMS TO ME WITH THE PROCEDURES SET OUT TODAY
25 THAT THOSE 17 CAN BE ADDRESSED AND REUNITED TODAY, OR WITHIN

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1 THE IMMEDIATE PROXIMITY OF TODAY.

2 THERE ARE EIGHT THAT HAVE BEEN RELEASED FROM ICE,
3 AND IT SEEMS TO ME THAT THEY CAN BE REUNITED TODAY, AS WELL.

4 AND SO IN THAT REGARD WHAT I WOULD LIKE TO DO IS
5 MEET AGAIN THIS FRIDAY AT 1:00 O'CLOCK, WITH THE PARTIES TO
6 SUBMIT A STATUS REPORT THURSDAY BY 3:00 P.M., PACIFIC TIME,
7 GIVING AN UPDATE ON COMPLIANCE WITH THE UNDER-FIVE GROUP AND
8 GIVING A STATUS ON THE OVER-FIVE GROUP, WHICH IS -- THAT'S
9 GOING TO BE A SIGNIFICANT UNDERTAKING. AND WE NEED TO HAVE
10 CONCRETE INFORMATION BY THURSDAY SO THAT MR. GELERNT AND
11 OTHERS CAN MAKE INTELLIGENT AND INFORMED DECISIONS AS TO
12 WHETHER THERE IS COMPLIANCE AND WHAT NEEDS TO BE DONE TO MAKE
13 REUNIFICATION HAPPEN.

14 WE NEED ANOTHER LIST OF THE OVER-FIVE GROUP. THAT'S
15 GOING TO BE A SIGNIFICANT UNDERTAKING. IT MAY BE AN
16 INDIVIDUAL LIST, IT MAY BE BY CATEGORY. I WILL JUST SIMPLY
17 HAVE THE PARTIES MEET AND CONFER IN THAT REGARD.

18 IF THERE IS A FAILURE TO COMPLY WITH THE UNDER-FIVE
19 GROUP THEN, MR. GELERNT, WHAT I ASK THAT YOU DO IS PUT THAT IN
20 THE THURSDAY SUBMISSION AND WE CAN ADDRESS IT ON FRIDAY. AND
21 IF YOU BELIEVE THERE IS A FAILURE TO COMPLY -- AND HERE I AM
22 REALLY FOCUSING ON THE 63.

23 **MR. GELERNT:** RIGHT.

24 **THE COURT:** IF THERE IS A FAILURE TO COMPLY I WOULD
25 LIKE TO KNOW WHAT IT IS AND WHAT YOU ARE SEEKING BY WAY OF

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1 REMEDY.

2 AND WITH THAT, MR. GELERNT, DO YOU HAVE ANY
3 QUESTIONS?

4 **MR. GELERNT:** I THINK THE GOVERNMENT MAY HAVE MORE
5 QUESTIONS, YOUR HONOR. THAT ALL SEEMS FINE TO US. I THINK I
6 HAD A COUPLE OF JUST CLARIFYING QUESTIONS.

7 WHEN YOU WERE SAYING 101 OR 102 WAS THAT BECAUSE OF
8 THE ONE CHILD WHO THEY HAVEN'T IDENTIFIED?

9 **THE COURT:** YES. THANK YOU FOR MENTIONING THAT.

10 DO WE HAVE ANY -- THE INFORMATION YOU HAVE IS WHAT
11 THE GOVERNMENT PUT IN ITS LAST BRIEFING?

12 **MR. GELERNT:** RIGHT. AND WE ARE TRYING TO MOBILIZE
13 EVERYONE WE CAN JUST TO FIGURE IT OUT.

14 I DON'T KNOW IF THE GOVERNMENT HAS MORE INFORMATION
15 ABOUT THAT ONE CHILD THAT THEY GOT THIS MORNING THAT WE ARE
16 NOT AWARE OF.

17 **THE COURT:** THERE WAS INFORMATION THAT THAT CHILD
18 MAY BE A U.S. CITIZEN. IS THERE ANY ADDITIONAL INFORMATION?

19 **MS. FABIAN:** MY UNDERSTANDING IS THE PARENT MAY BE A
20 U.S. CITIZEN AND THERE WAS A CRIMINAL HISTORY WITH THE PARENT.
21 BUT THAT -- BASED ON THAT IT MAY BE THAT THE CHILD IS ALSO A
22 U.S. CITIZEN. SO THAT IS -- I THINK THE CLIENTS ARE LOOKING
23 INTO THAT.

24 SO IT MAY BE THAT THE PARENT IS NOT A CLASS MEMBER,
25 BUT IN ANY EVENT THEY ARE LOOKING INTO THE SITUATION WITH THE

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1 CHILD TO RESOLVE IT, EVEN OUTSIDE OF THIS LITIGATION.

2 **THE COURT:** IS THERE A LINK-UP; SO, IN OTHER WORDS,
3 DO YOU KNOW WHO THE PARENT IS?

4 **MS. FABIAN:** YEAH. I BELIEVE SO. THAT THEY HAVE
5 NOW IDENTIFIED THE PERSON THEY BELIEVE IS THE PARENT, AND THAT
6 IS SORT OF -- THAT'S WHY WE WERE ABLE TO GIVE THE ADDITIONAL
7 INFORMATION IN TODAY'S FILING.

8 **THE COURT:** SO ON THAT CHILD I WILL SIMPLY WAIT AND
9 WE WILL ADDRESS IT ON FRIDAY.

10 **MR. GELERT:** THAT'S FINE, YOUR HONOR.

11 WE WOULD JUST ASK THAT YOU GIVE US AND LATEST
12 INFORMATION ON THAT, WHENEVER YOU HAVE IT. OBVIOUSLY IF IT IS
13 A U.S. CITIZEN THEY SHOULD BE -- RIGHT.

14 **MS. FABIAN:** SURE. WE ARE LOOKING INTO THAT
15 SITUATION. IT MAY NOT THEN BE INVOLVED IN THIS LITIGATION,
16 BUT BECAUSE WE ARE AWARE OF IT, OF COURSE WE WILL TRY TO
17 RESOLVE IT IN THE CORRECT WAY.

18 **THE COURT:** YES.

19 **MS. FABIAN:** AND IF THE CHILD IS A U.S. CITIZEN THEY
20 ARE NOT ELIGIBLE TO STAY IN O.R.R. CUSTODY SO THEY -- WE WOULD
21 DO THE PROPER PROCEDURE FOR A RELEASE.

22 **THE COURT:** MS. FABIAN, ANY QUESTIONS ABOUT WHAT WE
23 HAVE COVERED?

24 **MS. FABIAN:** I HAVE A COUPLE OF QUESTIONS.

25 **THE COURT:** YES.

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1 **MS. FABIAN:** AND THEN MR. STEWART DOES -- WE HAVE
2 ONE ISSUE THAT WE WANTED TO RAISE TO THE COURT TODAY THAT HAS
3 COME UP IN LIGHT OF JUDGE GEE'S RULING IN THE FLORES CASE, SO
4 MR. STEWART WILL SPEAK TO THAT.

5 **THE COURT:** YES.

6 **MS. FABIAN:** BUT I WANTED TO RAISE A COUPLE OF
7 ISSUES JUST TO MAKE SURE THAT I AM UNDERSTANDING THE COURT'S
8 RULING.

9 THE DNA, YOUR HONOR HAD NOTED THAT IT SHOULD BE
10 CONDUCTED WHEN NECESSARY. BASED ON THE DEADLINE OF TODAY, YOU
11 HAD ALSO EXPRESSED THAT IT COULD BE -- IT WOULD BE PERMISSIBLE
12 WHEN NECESSARY TO MEET THE DEADLINE.

13 FOR THE 16 WHO ARE STILL PENDING DNA THEY HAVE -- IT
14 IS MY UNDERSTANDING THAT THEY HAVE IN FACT BEEN TESTED BUT THE
15 TEST RESULTS HAVE NOT BEEN RECEIVED.

16 SO THE QUESTION -- I WANT TO CLARIFY THAT I
17 EXPECT -- SOME OF THOSE HAVE COME IN OVER THE COURSE OF THE
18 MORNING AND FOLKS HAVE MOVED INTO THE RELEASE-TODAY GROUP. MY
19 EXPECTATION WOULD BE THAT WE WOULD CONTINUE TO DO THAT AS
20 THOSE RESULTS COME IN. ASSUMING THAT THEY ARE POSITIVE, THAT
21 THEY WOULD MOVE INTO THAT GROUP. THAT MIGHT BE TODAY, IT
22 MIGHT BE TOMORROW. I WANTED TO CONFIRM THAT THAT IS
23 CONSISTENT WITH YOUR HONOR'S RULING TODAY.

24 **THE COURT:** I AM ASSUMING THOSE ARE RELATIVELY
25 STRAIGHTFORWARD, SIMPLE TESTS, THAT THEY CAN BE PROVIDED OVER

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1 TO THE GOVERNMENT AND DETERMINATIONS CAN BE MADE TODAY. IF
2 THEY ARE PARENTS AND ALL OF THE OTHER CRITERIA ARE MET, THEN I
3 WOULD EXPECT REUNIFICATION TODAY.

4 IF THERE IS A FAILURE, THEN IT WOULD NEED TO BE
5 ADDRESSED IN THE THURSDAY STATUS REPORT. AND, OF COURSE, WHAT
6 I AM LOOKING FOR IS GOOD FAITH, LEGITIMATE, ARTICULABLE
7 REASONS FOR ANY FAILURE TO COMPLY. AND SO THAT'S WHAT I WOULD
8 BE SEEKING.

9 **MS. FABIAN:** AND IT IS MY UNDERSTANDING THERE IS
10 JUST SORT OF A TIME PERIOD BETWEEN WHEN THE SWABS ARE TAKEN
11 AND THEY ARE SENT TO THE COMPANY DOING THE TESTS.

12 **THE COURT:** YES.

13 **MS. FABIAN:** AND RECEIVING THE RESULTS. SO WE HAVE
14 NOT RECEIVED RESULTS FOR THOSE 16.

15 **THE COURT:** THEY NEED TO RESPOND. SO THIS IS NOT AN
16 INVITATION FOR THEM TO TAKE TIME DOING THE SWAB, THEY CAN DO
17 IT, THEY CAN DO IT QUICKLY.

18 SO THEY NEED TO BE -- AND I AM SURE THEY ARE AWARE
19 OF THE DEADLINE. SO I WOULD EXPECT THAT THESE TESTS WILL BE
20 PROVIDED TODAY; AND, IF NOT, THEN OF COURSE I WILL KEEP AN
21 OPEN MIND AS TO WHAT THE EXPLANATION IS.

22 **MS. FABIAN:** OKAY. I WILL FIND OUT WHAT THE DELAY
23 IS.

24 I GUESS THE CORE QUESTION IS, IF THEY ARE NOT
25 RECEIVED TODAY IS YOUR HONOR ORDERING THAT THOSE CHILDREN BE

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1 RELEASED, REGARDLESS OF RECEIVING THOSE RESULTS TODAY, OR
2 WOULD YOU PREFER WAIT PENDING RESULTS BUT GIVE YOU AN
3 EXPLANATION FOR THAT DELAY?

4 **THE COURT:** YES. BECAUSE THE IMPORTANT THING IS NOT
5 TO LOSE SIGHT OF THE CRITERIA, AND I THINK THE CRITERIA ARE
6 VERY CLEAR, THEY ARE OBJECTIVE, AND THEY HAVE BEEN IN PLACE
7 SINCE THE INJUNCTION WAS ISSUED, ABOUT PARENTAGE, FITNESS,
8 DANGER. THOSE CATEGORIES I THINK ARE CLEAR.

9 **MS. FABIAN:** UNDERSTOOD, YOUR HONOR.

10 **MR. GELERT:** YOUR HONOR, COULD I JUST ADDRESS THAT?

11 **THE COURT:** YES.

12 **MR. GELERT:** THE ONE THING WE WOULD ASK IS IT
13 SOUNDS -- I AM NOT SURE BUT COUNSEL FOR GOVERNMENT MAY BE
14 SUGGESTING THAT THEY ARE NOT GOING TO GET ALL OF THE DNA TESTS
15 TODAY AND I DON'T -- OR AT LEAST IS NOT ABLE TO PROMISE THAT
16 HERE NOW.

17 THE ONE THING I WOULD SAY IS, YOUR HONOR HAS MADE
18 CLEAR THAT DNA TESTING DOESN'T NEED TO BE DONE IN EVERY CASE,
19 IT SHOULD BE DONE WHEN NECESSARY. SO IF THOSE 16 KIDS, THOSE
20 PARENTS HAD SUBMITTED BIRTH CERTIFICATES AND OTHER
21 DOCUMENTATION, THEN I WOULD SUGGEST THAT THOSE KIDS CAN BE
22 RELEASED. BECAUSE THE GOVERNMENT IS DOING THE DNA TEST, NOW
23 THE COURT HAS SAID THOSE AREN'T NECESSARY IN EVERY CASE. IF
24 YOU HAVE DOCUMENTATION THAT THE PARENT IS THE PARENT AND THERE
25 IS ALSO -- THE CASE MANAGER WITH THE KID WILL LIKELY HAVE SOME

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1 SENSE OF IT, AS WELL.

2 WE WOULD ASK THAT IT NOT BE DELAYED IF THE 16 DNA
3 VERIFICATIONS DON'T COME IN TODAY IF YOU HAVE OTHER WAYS OF
4 VERIFYING THE PARENTAGE.

5 **THE COURT:** I AGREE.

6 **MS. FABIAN:** I AGREE WITH THAT AS WELL, YOUR HONOR.
7 AND I SHOULD HAVE SAID THAT. I BELIEVE THAT THAT IS ANOTHER
8 PROCESS THAT IS ONGOING TODAY.

9 SO WHAT I UNDERSTAND IS, IF THERE IS NOT OTHER
10 DOCUMENTATION AND NO RECEIPT OF DNA, THAT WE SHOULD WAIT UNTIL
11 COMPLETION OF THAT PROCESS EVEN IF THAT BRINGS US TO TOMORROW,
12 BUT PROVIDE A DETAILED EXPLANATION TO THE COURT AND TO
13 PLAINTIFFS AS TO WHY THAT WAS.

14 **MR. GELERT:** I WAS JUST GOING TO SAY I DON'T --
15 THIS MAY BE JUST MORE OF A QUESTION FOR THE GOVERNMENT.

16 IS THE GOVERNMENT USING ONE DNA SERVICE? BECAUSE I
17 KNOW THAT THERE ARE A LOT OF DNA SERVICES WHO ARE REACHING OUT
18 AND SAYING THEY WILL DO THIS, THEY WILL DO IT PRO BONO.

19 IF THINGS ARE GETTING BOTTLED-NECKED BECAUSE THERE
20 IS ONLY ONE DNA SERVICE THE GOVERNMENT IS USING, THAT WOULD
21 ALSO BE SOMETHING I WOULD LIKE TO RAISE.

22 IT MAY BE NOT AN ISSUE GOING FORWARD BECAUSE THE
23 COURT HAS SAID ONLY USE DNA WHEN NECESSARY IF THERE IS NO
24 OTHER VERIFICATION PROCESS THAT CAN BE -- THAT CAN BE USED.
25 BUT EVEN IF FOR NOW, I JUST DON'T KNOW WHETHER THERE IS A

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1 BOTTLE-NECK OF ONE.

2 THAT IS MORE A QUESTION OF GOVERNMENT COUNSEL.

3 **THE COURT:** ON THAT ISSUE, I WILL LET YOU MEET AND
4 CONFER.

5 **MR. GELERNT:** OKAY.

6 **THE COURT:** WE ARE DEEP IN THE WEEDS, BUT I DON'T
7 WANT TO GO THAT DEEP. SO YOU CAN WORK A LOT OF THOSE ISSUES
8 OUT WITH COUNSEL.

9 **MS. FABIAN:** I AGREE, YOUR HONOR.

10 THE ONE OTHER CLARIFICATION POINT I WANTED TO MAKE,
11 AND I THINK I KNOW THE ANSWER BUT I WANT TO BE SURE.

12 THERE WAS -- YOUR HONOR HAD SAID THAT THE PROCESS OF
13 REVIEW OF HOUSEHOLD MEMBERS IS A PROCESS THAT YOUR HONOR FEELS
14 IS NOT NECESSARY UNDER THE REQUIREMENTS OF THE ORDER.

15 ONE OF THE INDIVIDUALS THAT WE HAD IDENTIFIED,
16 BECAUSE THEY WERE ALREADY IN THE REUNIFICATION PROCESS, THE
17 HOUSEHOLD MEMBER WAS DETERMINED TO HAVE A BACKGROUND OF
18 SERIOUS SEXUAL ABUSE. AND I THINK YOU WILL SEE THAT THAT
19 PERSON IS NOW ON THE LIST AS NOT ELIGIBLE FOR REUNIFICATION
20 BECAUSE THAT WAS AN IDENTIFIED DANGER.

21 DOES YOUR HONOR -- SHOULD WE MOVE THAT PERSON INTO
22 THE CATEGORY FOR RELEASE BECAUSE THAT WAS IDENTIFIED THROUGH
23 THE PROCEDURE THAT IS BEING REMOVED, OR IS IT ACCEPTABLE TO
24 LEAVE THEM IN THIS CATEGORY SINCE WE HAVE AT THIS TIME
25 IDENTIFIED THAT AS A POTENTIAL DANGER?

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1 **THE COURT:** I THINK BECAUSE IT HAS BEEN IDENTIFIED
2 AS A POTENTIAL DANGER THAT THAT PERSON WOULD -- THE
3 REUNIFICATION WOULD NOT GO FORWARD ABSENT A DIFFERENT
4 PLACEMENT.

5 BUT THAT WOULD BE AN ISSUE -- THAT IS THE KIND OF
6 ISSUE THAT I WOULD LIKE THE PARTIES TO MEET AND CONFER, AND
7 THEN IF THERE IS DISAGREEMENT TO RAISE IT WITH THE COURT.

8 BUT FOR PURPOSES OF THE DEADLINE TODAY, THAT PERSON
9 WOULD NOT FALL WITHIN THE REUNIFICATION GROUP BECAUSE THE
10 GOVERNMENT HAS MADE A PROFFER THAT THERE IS A DANGER TO THE
11 CHILD, AND SO IT WOULD NOT FALL WITHIN THE REUNIFICATION
12 CATEGORY.

13 **MR. GELERNT:** YOUR HONOR, I THINK THAT IS SOMETHING
14 WHERE WE CAN MEET AND CONFER BECAUSE IF THE INFORMATION IS
15 WRONG ABOUT THE HOUSEHOLD MEMBER WE WOULD WANT TO TELL YOU.
16 IF THE INFORMATION IS CORRECT, WE WOULD WANT TO TAKE STEPS TO
17 GET THAT MOTHER AND CHILD OUT.

18 **THE COURT:** RIGHT.

19 **MR. GELERNT:** SO THAT IS SOMETHING I HOPE THAT WE
20 CAN CONFER ABOUT TODAY AND TRY AND CLEAR THAT UP. AND IF IT
21 TURNS OUT THE INFORMATION IS CORRECT WE WILL TAKE STEPS TO GET
22 THAT MOTHER AND CHILD OUT.

23 **THE COURT:** BETWEEN THE TWO, THERE IS ENORMOUS
24 RESOURCES, WITH THE GOVERNMENT, AND MR. GELERNT HAS MARSHALED
25 AN ARMY OF NGO'S, FAITH-BASED GROUPS, CITIZENS ALL OVER THE

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1 COUNTRY WHO WANT TO HELP OUT. AND SO MUCH OF THIS CAN BE
2 WORKED OUT THROUGH A MEET-AND-CONFER PROCESS.

3 THE GOAL, OF COURSE, IS TIMELY AND SAFE
4 REUNIFICATION. AND BETWEEN THE TWO PARTIES IT SEEMS TO ME
5 THAT THAT CAN HAPPEN, ON TIME AND IN THE SPIRIT OF THE COURT'S
6 ORDER.

7 **MR. GELERNT:** YES, YOUR HONOR.

8 **MS. FABIAN:** I DON'T HAVE ANY OTHER REQUESTS FOR
9 CLARIFICATION, EXCEPT THAT I NOTE THAT THE PARTIES DID HAVE A
10 QUESTION ABOUT THE TIME FRAMES FOR REMOVED PARENTS. I DON'T
11 -- THAT MAY NOT BE AN ISSUE TODAY SO MAYBE IT IS ONE THAT WE
12 ADDRESS IN FUTURE STATUS CONFERENCES WHEN WE HAVE REAL
13 EXAMPLES.

14 **THE COURT:** YES. THAT IS AN ISSUE THAT HAS SOME
15 COMPLEXITY TO IT, AND I THINK BOTH SIDES INDICATED YOU WOULD
16 LIKE ADDITIONAL TIME TO CONSIDER IT. I WOULD ALSO, WITH THE
17 BENEFIT OF MORE INFORMATION, BRIEFING ON THAT.

18 **MR. GELERNT:** IS THAT SOMETHING WE COULD PUT IN THE
19 THURSDAY SUBMISSION?

20 **THE COURT:** YES.

21 **MR. GELERNT:** SO WE COULD CONFER ABOUT THAT. I
22 THINK WE ARE -- I THINK NEED TO FIGURE OUT HOW MUCH TIME THE
23 GOVERNMENT NEEDS ONCE THE PERSON IS FOUND. WE OBVIOUSLY CAN'T
24 PUT A DEADLINE ON FINDING THE PERSON WHO HAS BEEN REMOVED, BUT
25 WE MIGHT BE ABLE TO TRY TO PUT A DEADLINE ON ONCE THE PARENT

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1 IS FOUND THEN HOW MUCH TIME SHOULD THERE BE TO REUNIFY.

2 **THE COURT:** YES.

3 **MR. GELERNT:** SO THAT IS WHAT WE WOULD TRY AND DO.

4 **THE COURT:** THIS IS GOING TO BE A BIG ISSUE, IT
5 APPEARS, BECAUSE IF WE HAVE 12 OUT OF 101 OR 102, WHEN WE LOOK
6 AT THE NEXT 28, 2900 INDIVIDUALS I AM ASSUMING THERE IS GOING
7 TO BE A COMMENSURATE NUMBER OF PARENTS WHO HAVE BEEN REMOVED.

8 **MR. GELERNT:** RIGHT.

9 **THE COURT:** SO IT IS ONE THAT I WOULD LIKE THE
10 PARTIES TO CONSIDER CAREFULLY.

11 **MR. GELERNT:** RIGHT.

12 **THE COURT:** AND WE CAN ADDRESS THAT AT THE NEXT
13 STATUS CONFERENCE.

14 **MS. FABIAN:** I THINK AN IMPORTANT ISSUE ON THAT WILL
15 BE THAT THE CHILDREN MAY BE IN THEIR OWN PROCEEDINGS AT THAT
16 TIME, AND THERE WOULD BE ADDITIONAL WAIVERS OF THE PARENTS TO
17 REMOVE THEM FROM THOSE PROCEEDINGS AND HAVE THOSE CLOSED.

18 AND SOME OF THEM MAY EVEN HAVE -- BECAUSE SOME OF
19 THESE REMOVALS MAY BE ONES THAT OCCURRED ACTUALLY SOME LENGTH
20 OF TIME AGO, AND SO SOME OF THOSE PARENTS -- OR SOME OF THOSE
21 CHILDREN MAY HAVE OBTAINED STATUS. AND IT WOULD BE OUTSIDE OF
22 THE GOVERNMENT'S ABILITY TO THEN REMOVE THEM FROM THE UNITED
23 STATES.

24 THERE ARE ISSUES LIKE THOSE. BUT I THINK IT IS
25 IMPORTANT -- I THINK IF WE CAN IDENTIFY SOME OF THOSE WITH

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1 REGARD TO REAL SITUATIONS WE CAN BETTER TEE THEM UP FOR THE
2 JUDGE -- FOR THE COURT TO DECIDE.

3 **MR. GELERT:** THAT SEEMS RIGHT TO ME, YOUR HONOR.

4 I KNOW THAT YOUR CO-COUNSEL WANTS TO RAISE SOMETHING
5 ABOUT THE FLORES ISSUE.

6 BUT I WAS GOING TO RAISE TWO OTHER QUICK POINTS IF
7 THAT IS OKAY, YOUR HONOR.

8 **THE COURT:** YES.

9 **MR. GELERT:** ONE IS WE WERE SEEKING CLARIFICATION
10 FROM THE GOVERNMENT, I THINK, ON WHETHER A PARENT ONLY MEANS
11 BIOLOGICAL PARENT. I MEAN, SOMETIMES A PARENT MAY NOT EVEN
12 KNOW THEY ARE NOT THE BIOLOGICAL PARENT, BUT OTHER TIMES IT
13 MAY BE THAT THEY HAVE BEEN RAISING THE PARENT -- THE CHILD
14 SINCE THEY ARE TWO MONTHS THROUGH ADOPTION OR SOMETHING.

15 AND SO I -- WHEN THE GOVERNMENT SAYS THEY ARE NOT
16 THE PARENT DOES THAT MEAN THEY ARE NOT THE BIOLOGICAL PARENT
17 OR THEY DON'T -- THEY ARE NOT EVEN A PARENT STATUS?

18 **MS. FABIAN:** THIS IS THE FIRST I AM HEARING THIS
19 QUESTION SO I WILL ANSWER FROM WHAT I KNOW, AND CAN LOOK INTO
20 IT MORE.

21 IN THE SITUATIONS THAT I IDENTIFIED YESTERDAY, I
22 BELIEVE AT LEAST ONE, IT TURNED OUT, WAS THE GRANDMOTHER. AND
23 ANOTHER -- THE INDIVIDUAL ADMITTED PRIOR TO DNA TESTING THAT
24 HE WAS NOT THE PARENT.

25 SO IT IS NOT -- WE WOULD AGREE THAT AN ADOPTIVE

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1 PARENT WOULD -- WITH THE PROPER DOCUMENTATION, LEGAL
2 DOCUMENTATION, WOULD BE A PARENT.

3 THAT'S THE TYPE OF SITUATION WHERE DNA TESTING WOULD
4 NOT BE USEFUL AND THAT PAPERWORK WOULD BE NECESSARY, AND THAT
5 MIGHT TAKE SOME TIME TO GET THE PROPER PAPERWORK FROM THE
6 CONSULATES.

7 **MR. GELERT:** THAT IS HELPFUL. I APOLOGIZE. I WAS
8 NOT MEANING FOR YOU TO HAVE TO TELL ME FOR EACH PARENT SO FAR
9 WHETHER THEY WERE BIOLOGICAL, JUST WHAT THE GOVERNMENT'S
10 POSITION WAS GOING FORWARD. AND IT SOUNDS LIKE WE ARE IN
11 AGREEMENT THAT, IF THERE IS AN ADOPTIVE PARENT, DNA WOULDN'T
12 PROVE THAT BUT IF THEY HAD LEGAL PAPERS SHOWING THEY WERE THE
13 ADOPTIVE PARENT WE WOULD CONSIDER THEM A PARENT WITHIN THE
14 CLASS.

15 SO THAT IS HELPFUL. THANK YOU.

16 **MS. FABIAN:** I THINK LEGAL STATUS AS A PARENT WOULD
17 BE RECOGNIZED IN THIS CONTEXT. OBVIOUSLY WITH QUESTIONS OF
18 SOME INTERNATIONAL LAW THAT MAY HAVE TO BE WORKED OUT WITH
19 CONSULATES, BUT THAT IS NOT -- WE DON'T DISPUTE THAT LEGAL
20 PARENTAGE APPLIES HERE.

21 **MR. GELERT:** THEN THE ONLY OTHER QUESTION I WAS
22 GOING TO RAISE, YOUR HONOR, IS I THINK ONE THAT YOU TOUCHED
23 ON, IS THAT THERE HAVE BEEN THE 12 PARENTS WHO HAVE BEEN
24 REMOVED, AND THERE ARE ADDITIONAL PARENTS THAT HAVE BEEN
25 REMOVED FOR THE OVER-FIVE AND ARE STILL BEING REMOVED.

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1 I BELIEVE THE GOVERNMENT HAS VERIFIED THIS, BUT THE
2 MEDIA IS REPORTING THAT THERE ARE GOING TO BE A NUMBER OF
3 GUATEMALAN PARENTS WITH THEIR CHILDREN REMOVED TODAY, AND THEY
4 APPEAR TO BE CLASS MEMBERS. WE ARE NOT SURE, WE DON'T HAVE
5 THE LIST YET OF THE FIVE AND OVER.

6 WE ARE VERY CONCERNED THAT ANYBODY WHO HAS AGREED TO
7 REMOVAL BEFORE THIS NOTICE HAS GOTTEN -- AND NOW THAT YOUR
8 HONOR HAS SIGNED OFF ON THE NOTICE I AM HOPEFUL THAT WE CAN
9 GET IT OUT TODAY TO THE DETENTION CENTERS.

10 BUT THE FORM THE GOVERNMENT HAD BEEN USING
11 PREVIOUSLY, IN OUR VIEW, WAS MISLEADING AND MAY HAVE SUGGESTED
12 TO THE PARENTS THE ONLY WAY TO GET YOUR CHILD BACK IS TO WAIVE
13 YOUR RIGHT TO CONTEST REMOVAL.

14 NOW, MANY OF THOSE PARENTS MAY HAVE KNOWINGLY WAIVED
15 IT AND HAD NO CLAIMS, BUT MANY OTHERS MAY HAVE HAD A SHOT AT
16 ASYLUM OR SOME OTHER CLAIM.

17 AND SO, YOU KNOW, FOR THE ONES WHO HAVE BEEN REMOVED
18 WE ARE GOING TO HAVE TO CONTACT THEM. BUT WE WOULD ASK THAT
19 NO FURTHER REMOVALS OF CLASS MEMBERS OCCUR UNTIL THEY HAVE
20 BEEN ABLE TO SIGN THE NEW NOTICE THAT MAKES IT VERY CLEAR THAT
21 YOUR HONOR'S RULING DIDN'T MAKE GETTING YOUR CHILD BACK
22 CONTINGENT UPON WAIVING YOUR RIGHT TO CONTEST REMOVAL OR APPLY
23 FOR ASYLUM.

24 **THE COURT:** ISN'T THAT ALREADY IN PLACE? BECAUSE
25 THERE IS A CLASS DEFINITION, THERE IS AN INJUNCTION IN PLACE,

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1 DOESN'T THAT COVER THIS SITUATION?

2 **MR. GELERNT:** WELL, IT DOES, YOUR HONOR, EXCEPT THAT
3 I DON'T KNOW THAT THE CLASS MEMBERS ON THE GROUND UNDERSTAND
4 ALL OF THEIR RIGHTS. AND THAT IS WHY WE THINK IT IS CRITICAL
5 TO GET THEM NOTICE THAT HAS IT IN VERY PLAIN LANGUAGE YOU MAY
6 GET YOUR CHILD BACK, UNDER YOUR HONOR'S RULING, AND IT DOES
7 NOT MEAN YOU HAVE TO AGREE TO REMOVAL.

8 WE BELIEVE THE FORM THAT THE GOVERNMENT WAS USING UP
9 UNTIL NOW, SINCE THE RULING, AND MAYBE EVEN A LITTLE BIT
10 BEFORE, DIDN'T MAKE IT CRYSTAL CLEAR, BY ANY MEANS, THAT YOU
11 COULD CONTINUE TO SEEK ASYLUM OR CONTEST YOUR REMOVAL AND
12 STILL HAVE YOUR CHILD BACK.

13 SO THAT IS OUR CONCERN IS THAT GOING FORWARD WE
14 THINK IT IS GOING TO BE FINE BECAUSE THE NOTICE IS CLEAR, IT
15 HAS BOXES TO CHECK AND IT IS IN VERY CLEAR AND SIMPLE
16 LANGUAGE. BUT I THINK IT IS THE INDIVIDUALS WHO HAVE NOW
17 AGREED TO REMOVAL -- GOTTEN THEIR CHILD BACK AND AGREED TO
18 REMOVAL THAT WE ARE CONCERNED WITH.

19 SO I THINK IF THE GOVERNMENT CAN GO BACK AND GIVE
20 THEM THE NEW NOTICE AND HAVE THEM SIGN THE NEW NOTICE RATHER
21 THAN RELYING ON THE OLD GOVERNMENT FORM, THAT IS WHAT WE WOULD
22 BE ASKING OF YOUR HONOR.

23 **THE COURT:** DO YOU OBJECT?

24 **MS. FABIAN:** I DO OBJECT, YOUR HONOR. THE NOTICE
25 THAT -- THE GOVERNMENT DID CREATE A NOTICE IMMEDIATELY

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1 FOLLOWING YOUR HONOR'S ORDER. I KNOW THAT PLAINTIFFS BELIEVE
2 IT IS UNCLEAR, WE DISAGREE BUT WE WERE WILLING TO WORK UP A
3 FORM THAT WAS -- THAT WORKED FOR THEM. AND SO WE DID WORK
4 TOGETHER ON THAT NOTICE THAT YOUR HONOR APPROVED TODAY.

5 THE FORM -- THE INDIVIDUALS, I THINK, THAT ARE BEING
6 REFERENCED -- AND I CAN'T -- I DON'T HAVE THE NUMBERS IF CLASS
7 MEMBERS HAVE BEEN REMOVED SO FAR OR REALLY WHERE THEY ARE. WE
8 WILL LEARN MORE ABOUT THAT AS WE -- I WILL LEARN MORE ABOUT
9 THAT AS WE COMPILE INFORMATION AND SHARE INFORMATION ABOUT THE
10 REST OF THE CLASS.

11 BUT THE INDIVIDUALS SCHEDULED FOR REMOVAL TODAY ALL
12 HAVE FINAL ORDERS OF REMOVAL. SOME WERE OBTAINED BEFORE AN
13 IMMIGRATION JUDGE, SOME ARE EXPEDITED REMOVAL ORDERS. NONE OF
14 THEM CLAIMED FEAR, AND SO THEY ARE PROPERLY SUBJECT TO
15 REMOVAL. THEY DON'T HAVE AVENUES FOR -- TO CONTEST THAT
16 REMOVAL. THEY ALL REQUESTED TO BE REMOVED WITH THEIR CHILD
17 AND SIGNED A FORM REQUESTING TO BE REMOVED WITH THEIR CHILD.
18 AND THEREFORE THE REMOVALS THAT I UNDERSTAND, AT LEAST AS OF
19 YESTERDAY WERE SCHEDULED FOR TODAY, ARE ALL FINAL ORDER
20 INDIVIDUALS WHO REQUESTED TO BE REMOVED WITH THEIR CHILD. AND
21 THAT IS IN ACCORDANCE WITH THE COURT'S INJUNCTION.

22 **MR. GELERT:** YOUR HONOR, AND WE HAVE NO REASON,
23 OBVIOUSLY, TO DISPUTE, AND WE HAVE NO BASIS. YOU KNOW, IT MAY
24 BE TRUE THAT THEY ALL SIGNED THE FORM, I THINK THE DISPUTE IS
25 WHETHER THE FORM WAS MISLEADING.

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1 THE OTHER THING I WOULD JUST NOTE, WHEN THE
2 GOVERNMENT SAYS THERE IS A FINAL ORDER, I THINK THEY ARE
3 MEANING THERE IS AN ADMINISTRATIVELY FINAL ORDER. IT DOESN'T
4 MEAN ALL AVENUES FOR CHALLENGING REMOVAL ARE GONE, BECAUSE YOU
5 COULD GO TO FEDERAL COURT TO CHALLENGE YOUR REMOVAL ORDER TO
6 THE EXTENT THOSE AVENUES ARE POSSIBLE. YOU COULD SEEK
7 RECONSIDERATION FROM THE AGENCY.

8 SO I THINK THE FACT -- AND IT MAY BE THAT ALL 13 OF
9 THOSE WHEN THEY GET THE NEW NOTICE WILL SAY -- IF THESE
10 REMOVALS HAVE ALREADY OCCURRED THIS MORNING THEY HAVE
11 OCCURRED, BUT TOMORROW BEFORE THE NOTICE, I MEAN, THERE IS NO
12 REASON TO RELY ON THE OLD FORMS NOW THAT THE NEW NOTICE IS
13 THERE.

14 IF THE PARENTS GENUINELY WANT TO BE REMOVED AND KNEW
15 WHAT THEY WERE DOING THEY ARE JUST SIMPLY GOING TO CHECK THE
16 NEW NOTICE FORM BOX. SO I DON'T THINK THERE IS GOING TO BE
17 ANY PREJUDICE TO THE GOVERNMENT.

18 **THE COURT:** HOW MANY PARENTS, DO YOU KNOW, ARE
19 SCHEDULED TO BE REMOVED TODAY?

20 **MR. GELERT:** THE MEDIA IS REPORTING 13 GUATEMALAN
21 FAMILIES WITH THEIR CHILDREN. WE HAVE NO INDEPENDENT
22 VERIFICATION OF THAT. I THINK WE WERE GOING TO MAYBE TRY TO
23 REACH OUT TO THE GUATEMALAN CONSULATE.

24 **THE COURT:** IS IT YOUR REPRESENTATION THAT YOU
25 BELIEVE THESE 13, WHATEVER THE NUMBER IS, ARE CLASS MEMBERS,

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1 AND YOU WOULD LIKE THEM NOT TO BE REMOVED UNTIL THEY HAVE SEEN
2 THE CLASS NOTICE AND AGREED.

3 **MR. GELERT:** YOUR HONOR, I WANT TO BE CLEAR. WE
4 HAVE NO BASIS FOR KNOWING IF THEY ARE ALL 13 CLASS MEMBERS OR
5 NOT BECAUSE WE HAVE NO INFORMATION. I AM ASSUMING THAT THEY
6 PROBABLY ARE GIVEN THE TIMING AND THEY JUST RECEIVED THEIR
7 CHILDREN.

8 IF THE GOVERNMENT KNOWS THAT THE 13 ARE NOT CLASS
9 MEMBERS, FOR WHATEVER REASON, EITHER CRIMINAL CONVICTIONS OR
10 THEY WERE NOT PARENTS WHO HAD THEIR CHILDREN TAKEN AWAY FROM
11 THEM, THEN THAT WOULD -- WE WOULD, YOU KNOW, ACCEPT THAT
12 REPRESENTATION.

13 BUT IF THEY ARE CLASS MEMBERS AND IF THEY HAVEN'T
14 BEEN REMOVED WE WOULD ASK THAT THEY BE GIVEN THE NOTICE BEFORE
15 THEY ARE REMOVED.

16 **THE COURT:** ON THAT ISSUE, I WOULD DECLINE TO ISSUE
17 ANY ORDER. AS I UNDERSTAND IT, YOU ARE ASKING ME TO RULE FROM
18 THE BENCH AND ISSUE AN INJUNCTION WHERE THE GOVERNMENT WOULD
19 BE PRECLUDED FROM REMOVING THOSE 13 INDIVIDUALS, AND I AM NOT
20 PREPARED TO DO THAT UNLESS THERE IS A REPRESENTATION THAT
21 THESE ARE CLASS MEMBERS.

22 **MR. GELERT:** OKAY. YOUR HONOR, THEN, NO, I
23 UNDERSTAND. AND I CANNOT, IN GOOD FAITH, MAKE THAT
24 REPRESENTATION BECAUSE I AM RELYING IN SIGNIFICANT PART ON THE
25 MEDIA. IF THE GOVERNMENT, YOU KNOW, WERE TO TELL US RIGHT NOW

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1 THAT SOME OF THEM ARE CLASS MEMBERS, THAT MIGHT BE DIFFERENT.

2 BUT I THINK THAT THERE COULD BE REMOVALS TOMORROW OR
3 THE NEXT DAY WHERE EVEN THOUGH YOU HAVE SIGNED OFF ON THE
4 NOTICE TODAY THE GOVERNMENT IS STILL RELYING ON THE SIGNATURE
5 FOR AN OLD FORM. AND THOSE SEEM LIKE NOW THE PERSON COULD BE
6 ASKED TO SIGN THE NEW FORM BEFORE THE REMOVAL TAKES PLACE,
7 GOING FORWARD.

8 **MS. FABIAN:** I AM HAPPY TO AGREE TO GET THAT FORM
9 OUT AS QUICKLY AS POSSIBLE.

10 **THE COURT:** YES.

11 AND THIS, OF COURSE, DOESN'T PRECLUDE THE GOVERNMENT
12 FROM ELECTING NOT TO REMOVE THESE 13 PARENTS TODAY. IF THERE
13 IS ANY DOUBT, THE GOVERNMENT MAY EXERCISE DISCRETION AND HOLD
14 THE FLIGHTS OR WHATEVER THE TRANSPORTATION METHOD IS PENDING
15 FURTHER CLARIFICATION.

16 BUT SO WE ARE CLEAR, I WOULD DECLINE THE INVITATION
17 TO ISSUE AN INJUNCTION AS TO THOSE 13 OR SO INDIVIDUALS.

18 THERE WAS -- I THINK THERE WAS GOING TO BE SOME
19 DISCUSSION ON THE JUDGE GEE IN FLORES.

20 **MR. STEWART:** YES. THANK YOU, YOUR HONOR.

21 I AM SCOTT STEWART IN FROM DC, YOUR HONOR.

22 **THE COURT:** YES.

23 **MR. STEWART:** I AM WITH THE MAIN JUSTICE DEPARTMENT,
24 I HEAD THE OFFICE OF IMMIGRATION LITIGATION. I AM VERY GLAD
25 TO BE HERE ON BEHALF OF THE CIVIL DIVISION.

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1 AS YOU CAN UNDERSTAND, YOU HAVE SEEN, THIS IS AN
2 EXTRAORDINARILY IMPORTANT CASE TO THE GOVERNMENT, AND WE
3 APPRECIATE YOUR HONOR'S OPTIMISM, ENCOURAGEMENT, AND
4 RECOGNITION OF THE GOVERNMENT'S PROGRESS AND EFFORTS TO DATE.

5 I WANTED TO, AS MENTIONED, YOUR HONOR, TO ADDRESS AN
6 IMPORTANT POINT ABOUT THE GOVERNMENT'S UNDERSTANDING OF
7 COMPLIANCE WITH ANOTHER PIECE OF THIS COURT'S ORDER IN LIGHT
8 OF LAST NIGHT'S ORDER BY THE FLORES COURT.

9 IT SHOULDN'T TAKE ME LONG TO GET THROUGH, BUT I JUST
10 WANT TO MAKE SURE I LAY THE GROUNDWORK CLEARLY FOR YOUR HONOR.

11 **THE COURT:** YES.

12 **MR. STEWART:** LAST NIGHT, YOUR HONOR, THE FLORES
13 COURT ISSUED AN ORDER REGARDING THE GOVERNMENT'S OBLIGATION
14 UNDER THE FLORES AGREEMENT. IN SHORT, THE COURT CONCLUDED
15 THAT THE FLORES AGREEMENT CONTINUES TO REQUIRE THE RELEASE OF
16 A CHILD UNDER THE AGREEMENT EVEN WHERE THIS COURT'S INJUNCTION
17 PRECLUDES SEPARATION OF THE FAMILY.

18 IN ORDER TO READ THOSE TWO INJUNCTIONS TOGETHER,
19 YOUR HONOR, THE FLORES COURT EXPLAINED -- AS WE UNDERSTAND IT,
20 YOUR HONOR, THE FLORES COURT EXPLAINED THAT THE PARENT COULD
21 WAIVE THIS FLORES RIGHT AND CHOSE TO REMAIN TOGETHER, AND
22 OBSERVED THAT SUCH A WAIVER WAS PERMITTED UNDER THIS COURT'S
23 INJUNCTION.

24 IF I CAN JUST BRIEFLY EXPLAIN, YOUR HONOR. AS YOU
25 UNDERSTAND, THE GOVERNMENT MUST NOW IMPLEMENT TWO EXISTING

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1 INJUNCTIONS, YOUR HONOR'S AND THE FLORES COURT'S. AND WE WANT
2 TO PROVIDE JUST NOTICE ON HOW WE INTERPRET OUR COMPLIANCE WITH
3 YOUR INJUNCTION, YOUR HONOR.

4 AS VERY QUICK BACKGROUND, THE FLORES COURT STATED
5 THAT FLORES RIGHTS COULD BE WAIVED BY A PARENT AND THAT,
6 QUOTE, DETAINED PARENTS MAY CHOOSE TO EXERCISE THEIR MS. L.
7 RIGHT TO REUNIFICATION OR TO STAND ON THEIR CHILDREN'S FLORES
8 AGREEMENT RIGHTS, END QUOTE.

9 LIKewise, YOUR ORDER, YOUR HONOR, ALLOWS EXCEPTIONS
10 TO REUNIFICATION, SEPARATION PROVISIONS IF THERE IS, QUOTE,
11 AFFIRMATIVE, KNOWING, AND VOLUNTARY WAIVER BY THE PARENT.

12 YOUR HONOR HAS ALSO EMPHASIZED, ON FRIDAY IN
13 PARTICULAR, AS I RECALL A COUPLE TIMES, THAT THE ATTORNEY
14 GENERAL MAKES HIS OWN DETERMINATION AS TO WHETHER OR NOT TO
15 DETAIN OR PAROLE OR RELEASE SOMEONE. YOUR ORDER -- OR THE
16 ORDER YOUR HONOR SAID DOESN'T IMPACT IN ANY WAY THOSE
17 DECISIONS, AND YOU WERE NOT SUGGESTING, YOUR HONOR SAID, THAT
18 THE ATTORNEY GENERAL MUST RELEASE OR MUST DETAIN OR WHEN HE
19 CAN RELEASE OR DETAIN. THOSE ARE WITHIN THE GOVERNMENT'S
20 PREROGATIVE, CONSISTENT WITH LAW.

21 AND NOW I AM GETTING TO THE KEY POINT HERE, YOUR
22 HONOR, WHICH IS SORT OF THREE-FOLD.

23 FIRST, IN LIGHT OF THE FLORES RULING YESTERDAY, YOUR
24 HONOR, WE, THE GOVERNMENT, INTERPRET YOUR ORDER TO PERMIT US
25 TO PROVIDE FAMILIES DETAINED TOGETHER WITH ONE OF TWO OPTIONS.

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1 FIRST, THE FAMILY -- THE FAMILY -- THE ADULT MAY
2 CHOSE TO REMAIN IN DHS CUSTODY WITH THE FAMILY TOGETHER.
3 UNDER THIS COURT'S INJUNCTION, SUBJECT TO THE NORMAL RULES ON
4 WHEN AN ALIEN WOULD BE RELEASED FROM CUSTODY, SUCH AS PAROLE,
5 SO THE FAMILY COULD STAY DETAINED. AND AS THIS FIRST OPTION
6 THE PARENT WOULD BE ABLE TO WAIVE THE CHILD'S FLORES RIGHTS SO
7 THE CHILD COULD STAY WITH THE PARENT, REUNIFIED, CONSISTENT
8 WITH YOUR COURT'S ORDER.

9 THE SECOND OPTION THE GOVERNMENT CAN GIVE YOUR HONOR
10 IS THAT THE FAMILY, THROUGH THE PARENT, CAN AGREE TO RELEASE
11 THE CHILD TO O.R.R. CUSTODY, IN WHICH CASE THE FAMILY WOULD BE
12 SEPARATED, BUT WITH THE PARENT'S CONSENT, AS YOUR HONOR
13 ALLOWED. AND THE CHILD WOULD BE PLACED THROUGH O.R.R. AND
14 CONSISTENT WITH FLORES. SO THAT WOULD BE EXERCISING A FLORES
15 RIGHT. SO ONE OR THE OTHER, THE ADULT, YOUR HONOR, WOULD BE
16 ABLE TO, YOU KNOW, CONSISTENT WITH YOUR COURT'S INJUNCTION,
17 EITHER EXERCISE THE CHILD'S FLORES RIGHT OR WAIVE THAT FLORES
18 RIGHT SO THEY COULD STAY TOGETHER.

19 THE KEY POINT THERE AND THE KEY REASON FOR THOSE TWO
20 CHOICES -- AND THIS IS WHY I READ THE INJUNCTION THIS WAY,
21 YOUR HONOR. IS THAT IN NEITHER CIRCUMSTANCE WOULD THE PARENT
22 BE ABLE TO USE THIS COURT'S ORDER, TOGETHER WITH THE FLORES
23 COURT'S ORDER, TO BOOTSTRAP A RIGHT TO RELEASE, A RIGHT TO
24 HINDER, YOU KNOW, OR FORCE THE GOVERNMENT TO ALLOW PAROLE,
25 THAT SORT OF THING. AGAIN, THIS IS CONSISTENT, I BELIEVE,

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1 WITH YOUR HONOR'S ORDER, WITH THE LAW, AND JUST AUTHORITIES TO
2 DETAIN.

3 BUT, ANYWAY, I JUST WANTED TO CLARIFY THAT -- YOU
4 KNOW, INFORM THE COURT THAT THAT IS HOW THE GOVERNMENT
5 UNDERSTANDS YOUR HONOR'S ORDER, TO BE ABLE TO GIVE THE PARENTS
6 THOSE TWO OPTIONS. AND IN NEITHER CASE IS THE GOVERNMENT
7 FORCED TO RELEASE SOMEONE UNDER YOUR COURT'S ORDER, YOUR
8 HONOR.

9 AND THIS IS, AS YOU CAN UNDERSTAND, YOUR HONOR, AND
10 YOU, I THINK, HAVE UNDERSTOOD IT IN PREVIOUS HEARINGS IN THIS
11 REGARD. THE AUTHORITY TO DETAIN AND TO PAROLE ARE CRITICAL TO
12 THE GOVERNMENT. THERE ARE MANY CIRCUMSTANCES IN WHICH, YOU
13 KNOW, THE GOVERNMENT IS ALLOWED TO DETAIN IN IMMIGRATION
14 CUSTODY THESE PARENTS. SO ANY READING OF THE COURT'S ORDER
15 THAT WOULD HINDER THOSE AUTHORITIES IF -- WE READ THAT AS AN
16 OFF-LIMITS READING AND OUT OF STEP WITH WHAT YOUR COURT'S
17 LETTER AND SPIRIT WOULD SAY.

18 SO GIVEN ALL OF THOSE THAT IS -- JUST TO INFORM THE
19 COURT, YOUR HONOR, THAT IS OUR READING OF YOUR HONOR'S
20 INJUNCTION. AND WE ASK IF THE COURT DISAGREES OR TAKES
21 EXCEPTION TO THAT TO PLEASE -- WE ASK THAT YOU PLEASE RULE ON
22 THAT AND LET US KNOW RIGHT AWAY TODAY SO WE CAN CONTINUE TO --
23 BECAUSE IT IS VERY IMPORTANT THAT WE KNOW, HAVE CLARITY ON
24 THAT TO COMPLY WITH IT.

25 ABSENT THAT RULING WE WILL CONTINUE -- WE WILL

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1 PROCEED ON THAT SORT OF IMPLEMENTATION. BUT WE DO REQUEST, IF
2 YOUR HONOR DISAGREES WITH ANYTHING ABOUT THAT UNDERSTANDING,
3 THAT YOU LET US KNOW RIGHT AWAY SO WE CAN MAKE SURE WE ARE IN
4 COMPLIANCE FULLY AND CAN ALSO EXPLORE APPROPRIATE OPTIONS,
5 YOUR HONOR.

6 BECAUSE IF WE -- JUST IN THE INTEREST OF FULL
7 INFORMATION, YOUR HONOR, IF WE ARE PUT TO THE CHOICE WHERE WE
8 ARE FORCED TO RELEASE PARENTS WE WILL NEED TO EVALUATE
9 OPTIONS, WE WILL NEED TO POTENTIALLY PURSUE IMMEDIATE APPEAL
10 TO BE ABLE TO PRESERVE OUR AUTHORITIES.

11 IF IT IS A SITUATION WHERE WE HAVE TO RELEASE WE
12 WOULD ALSO ASK THAT YOUR HONOR STAY YOUR ORDER TO THE EXTENT
13 IT WOULD PROHIBIT, YOU KNOW, HAVING PARENTS MAKE THIS CHOICE.

14 BUT I LEAVE THOSE AS OPTIONS AND AS REQUESTS FOR
15 YOUR HONOR JUST OUT OF EMPHASIS THAT IT IS VERY IMPORTANT THAT
16 THE GOVERNMENT HAVE CLARITY IF THE ARTICULATION AND
17 UNDERSTANDING OF YOUR COURT'S ORDER IS INCORRECT SO THAT WE
18 CAN BE SURE TO COMPLY WITH IT AND KNOW HOW TO PROCEED
19 CORRECTLY.

20 AND TO BE CLEAR, YOU KNOW, TO THE EXTENT THAT WE
21 WOULD SEEK ANY STAY, IT IS NOT ON THE REUNIFICATION PIECE, IT
22 IS NOT ON THOSE, WE ARE FULL SPEED AHEAD ON THOSE. IT IS JUST
23 ON THIS NARROW -- TO THE EXTENT WE WOULD BE REQUIRED TO
24 RELEASE PARENTS UNDER YOUR COURT'S ORDER; WHICH AGAIN I DON'T
25 THINK IS THE RIGHT READING OF YOUR COURT'S ORDER, BUT I RAISE

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1 IT OUT OF IMPORTANCE FOR COMPLIANCE.

2 SO THAT IS THE KEY QUESTION, YOUR HONOR, AND THAT'S
3 OUR -- OR THE KEY ISSUE, AND THAT IS THE GOVERNMENT'S
4 UNDERSTANDING. I HOPE I HAVE BEEN REASONABLY CLEAR.

5 **THE COURT:** YES. IF THERE IS AN APPEAL IT WOULD
6 DIVEST THIS COURT OF JURISDICTION OF ALL OF THE ISSUES, WOULD
7 IT NOT, INCLUDING REUNIFICATION?

8 **MR. STEWART:** I DON'T BELIEVE SO, YOUR HONOR. THIS
9 IS A PRELIMINARY INJUNCTION AND, YOU KNOW, PROCEEDINGS
10 CONTINUE IN THE DISTRICT COURT, YOU KNOW, EVEN AS A PIECE OF A
11 CASE MIGHT GO UP. AND AGAIN, YOU KNOW --

12 **THE COURT:** THIS WOULD BE UNDER RULE 54, A CARVE-OUT
13 AND PIECEMEAL APPEAL, IN THEORY, IF IT IS JUST ON THIS
14 DETENTION OR RELEASE ISSUE?

15 **MR. STEWART:** I AM NOT SURE IF -- WHAT THE RIGHT
16 HOOK, ASIDE FROM 1292(A), WOULD BE, YOUR HONOR. BUT -- AND,
17 YOU KNOW, I WOULDN'T, YOU KNOW, WANT TO SAY SOMETHING TO
18 PREJUDICE OTHER OPTIONS. BUT RIGHT NOW REALLY WHAT WE ARE --
19 WHAT WE WOULD BE SEEKING A STAY ON BECAUSE, YOU KNOW, IF WE
20 WERE TO PURSUE A FAST APPELLATE STAY, YOU KNOW, WE WOULD WANT
21 -- WE WOULD NEED TO RUN IT BY YOUR HONOR FIRST, IS THAT ALL WE
22 WOULD BE SEEKING A STAY IS ON THIS PIECE. YOU KNOW, IF WE ARE
23 REQUIRED UNDER YOUR HONOR'S ORDER TO START RELEASING PARENTS
24 BECAUSE, YOU KNOW, WE CAN'T KEEP THEM TOGETHER UNDER FLORES OR
25 SOMETHING LIKE THAT, THAT IS THE PIECE WE WOULD BE SEEKING A

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1 STAY ON.

2 AGAIN, YOU KNOW, WE WANT TO GO FULL SPEED AHEAD AND
3 DO THE BEST WE CAN ON REUNIFICATION, AND SEE WHERE WE ARE ABLE
4 TO GO.

5 **THE COURT:** IF YOU ARE REQUIRED TO RELEASE -- SO
6 THIS IS THE WORST-CASE SCENARIO FOR THE GOVERNMENT. IF YOU
7 ARE REQUIRED TO RELEASE, WOULDN'T THAT BE UNDER JUDGE GEE'S,
8 FLORES? DOESN'T HAVE ANYTHING TO DO WITH THIS CASE.

9 **MR. STEWART:** I DON'T -- IT DEPENDS ON IF WE ARE
10 READING YOUR COURT'S -- IT DEPENDS ON THE RIGHT READING OF, I
11 THINK, THIS COURT'S INJUNCTION, YOUR HONOR.

12 AS JUDGE GEE SAID IN HER ORDER -- AND TO JUST QUOTE
13 THE KEY LANGUAGE -- IS THAT DETAINED PARENTS MAY CHOOSE TO
14 EXERCISE THEIR MS. L. RIGHT TO REUNIFICATION OR TO STAND ON
15 THEIR CHILDREN'S FLORES RIGHTS.

16 SO IT REALLY -- IT DEPENDS ON HOW YOU UNDERSTAND THE
17 MS. L. RIGHT TO REUNIFICATION. AND AS WE UNDERSTAND THIS
18 COURT'S -- THE RIGHT THAT THIS COURT HAS RECOGNIZED IS THAT IT
19 DOES NOT REQUIRE RELEASE OF PARENTS.

20 YOUR HONOR'S RULING AT THE MOTION TO DISMISS STAGE
21 WAS A DUE PROCESS RULING ABOUT FAMILY INTEGRITY AND WAS --
22 YOUR HONOR VERY CLEARLY EMPHASIZED THAT THE PLAINTIFFS HERE DO
23 NOT CHALLENGE THE GOVERNMENT'S AUTHORITY TO DETAIN. AND THERE
24 WOULD NOT BE ANY PLAUSIBLE DUE PROCESS ARGUMENT TO FORCE A
25 PARENT TO RELEASE WHEN THAT PARENT, THAT ADULT, IS SUBJECT TO

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1 DETENTION UNDER A LAWFUL AUTHORITY UNDER THE IMMIGRATION LAWS,
2 8, USC, 1225 OR THE LIKE.

3 SO, ANYWAY, IT DOES, I THINK -- AGAIN, IT IS A
4 MATTER OF INTERPRETING THE TWO INJUNCTIONS TOGETHER. BUT IF I
5 HAVE UNDERSTOOD YOUR INJUNCTION CORRECTLY, YOUR HONOR, YOU
6 KNOW, AS KIND OF DRAWN OUT BY YOUR STATEMENTS IN COURT, WE ARE
7 NOT -- YOUR INJUNCTION DOES NOT FORCE US TO DO THAT RELEASE TO
8 THOSE PARENTS WHO WE OTHERWISE HAVE VALID AUTHORITY TO KEEP IN
9 CUSTODY.

10 **THE COURT:** MR. GELERNT.

11 **MR. GELERNT:** WE DON'T DISAGREE WITH THAT READING.
12 OUR UNDERSTANDING IS THAT BOTH YOUR HONOR'S RULING AND JUDGE
13 GEE'S RULING ARE FAIRLY STRAIGHTFORWARD.

14 YOUR HONOR WANTS REUNIFICATION, BUT OBVIOUSLY THE
15 TOUCH TONE IS ALWAYS WHAT THE PARENT VIEWS IS THE BEST
16 INTEREST. SO IF THE PARENT WANTS TO WAIVE THEIR FLORES RIGHTS
17 AND KEEP THEIR CHILD WITH THEM IN FAMILY DETENTION THEY HAVE
18 THAT RIGHT -- I MEAN, SORRY -- OR WAIVE YOUR HONOR'S RULING
19 AND SAY WE WANT TO RELEASE, WE WOULD RATHER OUR CHILD BE
20 RELEASED UNDER FLORES. I THINK THAT IS WHAT YOU SAID AND WHAT
21 JUDGE GEE SAID VERY CLEARLY, THE PARENT HAS THE RIGHT TO
22 EITHER KEEP THEIR CHILD WITH THEM OR NOT, SO WE AGREE WITH THE
23 GOVERNMENT'S RULING. ANY RELEASE BY THE PARENT IS GOING TO BE
24 NOT UNDER YOUR RULING AND NOT UNDER JUDGE GEE'S FLORES RULING
25 WHICH APPLIES TO THE CHILDREN, IT IS GOING TO HAVE TO BE SOME

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1 SEPARATE ACTION WHERE THE PARENT SAYS, I HAVE A DUE PROCESS
2 RIGHT TO GET OUT OF DETENTION.

3 I THINK THERE PROBABLY IS THAT DUE PROCESS RIGHT.
4 JUDGE BOASBERG IN DC JUST TALKED ABOUT THAT, BUT IT DOESN'T
5 IMPLICATE YOUR RULING OR JUDGE GEE'S RULING. THE SHORT OF IT
6 IS WE AGREE WITH THE --

7 **THE COURT:** WHAT IF THE PARENT DOES NOT AGREE TO BE
8 SEPARATED AND HAVE THE CHILD RELEASED TO O.R.R. AND DOES NOT
9 AGREE TO JOINT DETENTION IN A FAMILY RESIDENTIAL CENTER. AS I
10 UNDERSTAND THE ARGUMENT THE GOVERNMENT IS LEFT WITH THE
11 HOBSON'S CHOICE OF THEN HAVING TO RELEASE THE PARENT BECAUSE
12 UNDER FLORES THEY CAN ONLY HOLD THE TWO FOR 20 DAYS IN
13 DETENTION, BUT IF THE PARENT IS SAYING THEY DON'T WANT JOINT
14 DETENTION THEN DO THEY HAVE TO RELEASE THE PARENT. AND LET'S
15 ASSUME --

16 **MR. GELERT:** YOUR HONOR, I WISH THAT FLORES WENT
17 THAT FAR AND REQUIRED THE RELEASE OF THE PARENT. IF THE
18 PARENT SAID, I WANT MY CHILD WITH ME UNDER MS. L. AND I DON'T
19 WANT TO BE HERE IN DETENTION LONG-TERM, I WANT TO BE RELEASED;
20 FLORES DOES NOT GIVE THE PARENT THAT RIGHT.

21 IF THE PARENT IS GOING TO GET OUT WITH THEIR -- THEY
22 ARE GOING TO HAVE TO BRING A SEPARATE SUIT. MAYBE THEY ARE
23 GOING TO WIN, MAYBE THEY ARE NOT UNDER DUE PROCESS. AND THAT
24 WOULD BE A BASIC CLAIM OF, THE GOVERNMENT CAN ONLY DETAIN ME
25 IF I AM A FLIGHT RISK OR A DANGER.

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1 BUT NOTHING IN FLORES WOULD REQUIRE THE GOVERNMENT
2 TO RELEASE THAT FAMILY UNIT IF THE MOTHER SAID, I WANT MY
3 CHILD HERE BUT I DON'T FEEL LIKE BEING IN DETENTION.

4 **THE COURT:** OKAY. THIS MIGHT BE THE HAPPY SITUATION
5 WHERE, IF I UNDERSTAND YOU CORRECTLY, MR. GELERNT, YOU ARE
6 AGREEING WITH WHAT THE GOVERNMENT HAS OUTLINED.

7 SO WHAT I WOULD PROPOSE, BECAUSE THE GOVERNMENT IS
8 ASKING FOR A DETERMINATION BY THE COURT AS SOON AS POSSIBLE,
9 IS THAT YOU MEET AND CONFER. IT SOUNDS LIKE YOU ARE IN
10 AGREEMENT --

11 **MR. GELERNT:** WE ARE.

12 **THE COURT:** -- AND SIMPLY SEND ME A JOINT MOTION AND
13 ORDER.

14 **MR. GELERNT:** THAT'S FINE, YOUR HONOR. WE WOULD
15 JUST SAY THAT IT WOULD SAY THAT A PARENT CAN ALWAYS WAIVE THE
16 REUNIFICATION RIGHT AND THEY CAN ALWAYS WAIVE THE FLORES RIGHT
17 TO RELEASE; BECAUSE ULTIMATELY OUR VIEW IS, IN BOTH CASES, THE
18 TOUCH TONE IS THE PARENT MAKES THE DECISION, WHERE THEY ARE
19 FIT AND NOT ABUSIVE, FOR THE BEST INTEREST OF THE CHILD. SO I
20 THINK THAT SHOULD BE ABLE TO BE DONE VERY, VERY QUICKLY TODAY.

21 **THE COURT:** OKAY. I WILL BE LOOKING OUT FOR THE
22 JOINT MOTION AND ORDER.

23 **MR. STEWART:** THANK YOU VERY MUCH, YOUR HONOR. I
24 APPRECIATE THE OPPORTUNITY TO BE HERE.

25 **THE COURT:** THANK YOU FOR BEING HERE.

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1 **MR. STEWART:** I SHOULD APOLOGIZE, YOUR HONOR. I MAY
2 MISS THE FRIDAY HEARING BECAUSE I HAVE TO GO UP TO SAN
3 FRANCISCO TO ADDRESS ANOTHER UNACCOMPANIED MINOR CASE IN THE
4 NINTH CIRCUIT. BUT OTHERWISE I WOULD BE HERE TO TRY TO HELP
5 OUT THE COURT AND CONTINUE -- I WILL BE FURTHERING COMPLIANCE
6 WITH THE COURT'S INJUNCTION AS BEST POSSIBLE.

7 **THE COURT:** VERY GOOD. THANK YOU.

8 **MR. STEWART:** THANK YOU, YOUR HONOR.

9 **THE COURT:** LET'S RECESS. I WILL LOOK FOR FORWARD
10 TO THE JOINT STATUS REPORT ON THURSDAY, AND THEN WE WILL MEET
11 AGAIN FRIDAY AT 1:00 O'CLOCK.

12 THANK YOU.

13 **MS. FABIAN:** THANK YOU, YOUR HONOR.

14 **MR. GELERT:** THANK YOU, YOUR HONOR.

15
16 * * *

17 I CERTIFY THAT THE FOREGOING IS A CORRECT
18 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS
19 IN THE ABOVE-ENTITLED MATTER.

20 S/LEEANN PENCE 7/10/2018
21 LEEANN PENCE, OFFICIAL COURT REPORTER DATE
22
23
24
25

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Exhibit W



Separated Parent's Removal Form

Purpose: This form is for detained alien parents with administratively final orders of removal who are class members in the *Ms. L. v. I.C.E.*, No. 18-0428, (S.D. Cal. Filed Feb. 26, 2018) lawsuit. Class members are entitled to be reunited with their child(ren) and may choose for their child(ren) to accompany them on their removal or may choose to be removed without their child(ren). Any such decision must be made affirmatively, knowingly, and voluntarily.

Instructions: This form must be read to the alien parent in a language that he/she understands. The alien parent should indicate which option he/she is choosing by signing the appropriate box below.

Parent Name / Nombre de Padre: _____

Parent A # / A # de Padre: _____

Country of Citizenship / Pais de Ciudadania: _____

Detention Facility / El Centro de Detención: _____

Child(ren) Name(s) / Nombre de Hijo: _____

Child(ren) A # / A # de Hijo: _____

Shelter / Albergue: _____

English: *I am requesting to reunite with my child(ren) for the purpose of repatriation to my country of citizenship.*

Signature / Firma: _____

English: *I am affirmatively, knowingly, and voluntarily requesting to return to my country of citizenship without my minor child(ren) who I understand will remain in the United States to pursue available claims of relief.*

Signature / Firma: _____

Certificate of Service

I hereby certify that this form was served by me at _____
(Location)

on _____ on _____, and the contents of this
(Name of Alien) (Date of Service)

notice were read to him or her in the _____ language.
(Language)

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

Exhibit X

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MS. L, et al.,

Case No. 18cv428 DMS MDD

Petitioners-Plaintiffs,

**JOINT STATUS REPORT
REGARDING REUNIFICATION**

vs.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.,

Respondents-Defendants.

On July 9, 2018, this Court held a status conference, and ordered the parties to file a joint report on July 10, 2018, “setting forth how many Class Members have been or will be reunited with their children by the court-imposed deadline, and how many Class Members may not be reunited with their children by the court-imposed deadline due to legitimate logistical impediments that render timely compliance impossible or excusable” ECF No. 95 at 2. The parties submit this joint status report in accordance with the Court’s instruction.

I. COMPLIANCE

A. Defendants’ Position

As previously reported to the Court, Defendants have identified 102 children under age 5 who, upon initial review by the U.S. Department of Health and Human Services (“HHS”) were determined potentially to have been separated from a parent, and who therefore were potentially the children of class members. Upon

1 further review, and based on the latest available information at the time of filing,
2 Defendants report the following regarding the reunification scenarios for those 102
3 children.
4

5 Not Eligible For Reunification

- 6 • 14 are not eligible for reunification because their parents are not class
7 members.
 - 8 ○ 8 parents had serious criminal history discovered during
9 background checks (criminal histories identified include child
10 cruelty and narcotics, human smuggling, a warrant for murder,
11 and robbery).
 - 12 ○ 5 adults were determined not to be the parent of the
13 accompanying child.
 - 14 ○ 1 parent faces credible evidence of child abuse.
- 15 • 2 are not eligible for reunification because their parents are not class
16 members at this time.
 - 17 ○ 1 parent has been determined to present a danger to the child at
18 this time because an adult in the household where the parent
19 plans to live with the child has an outstanding warrant for
20 aggravated criminal sexual abuse against a 10 year old girl.
21 This determination can be reconsidered if the parent identifies a
22 different living situation.
 - 23 ○ 1 parent detained in ICE custody is currently being treated for a
24 communicable disease. When the parent no longer has a
25 communicable disease, the reunification process can proceed.
- 26 • 10 are not eligible for reunification at this time. They will be assessed
27 for reunification after they are released from criminal custody,
28 provided that Defendants are made aware of that release.
 - 8 parents are in the custody of U.S. Marshals Service. They will
be assessed for reunification after they are released from
criminal custody and are transferred to U.S. Immigration and
Customs Enforcement (“ICE”) custody.
 - 2 additional parents are in state or county custody. They will be
assessed for reunification after they are released from criminal

1 custody, provided that Defendants are made aware of that
2 release.

- 3 • 1 child cannot be reunified at this time because the parent's location
4 has been unknown for more than a year. Defendants are unable to
5 conclusively determine whether the parent is a class member, and
6 records show the parent and child might be U.S. citizens.

7 Likely Eligible For Reunification

- 8 • 4 children were reunified with family members before the July 10
9 deadline.
10 ○ 1 was released to a parent that ICE released into the U.S.
11 ○ 1 was released to a parent in the U.S. with the other parent
12 being deported.
13 ○ 1 was released to a parent in the U.S. with the other parent
14 being still in ICE custody
15 ○ 1 voluntarily departed with the child's adult sibling, with the
16 consent of the parent who is still in ICE custody.
- 17 • 51 are eligible for reunification with a parent who is currently in ICE
18 detention.
19 ○ 34 parents have cleared a criminal background check and
20 parentage has been verified through a positive DNA match.
21 They are expected to be reunified on July 10, 2018.
22 ○ 16 parents have cleared a criminal background check but the
23 process for verifying parentage has not yet been completed.
24 They are expected to be reunified on July 10, 2018, or as soon
25 thereafter as parentage can be verified.
26 ○ 1 parent has criminal background check results that are still in
27 question and are being resolved today.
- 28 • 20 are eligible for reunification but cannot be reunified by July 10 due
to legitimate logistical impediments that render timely compliance
impossible or excusable.
○ 12 of those parents were removed from the United States. The
Government will work with Plaintiffs' counsel to contact these
12 parents and determine whether they wish to have their child
reunified with them in their home country. The parties'

1 proposals regarding the process to be followed for these
2 individuals are laid out below.

- 3 ○ 8 parents were previously released into the United States and
4 are undergoing safety and suitability screening in accordance
5 with the TVPRA.

6 Defendants contend that the above numbers show that Defendants are in
7 compliance with the Court's order. Of the 75 children eligible for reunification,
8 Defendants have already reunified 4, and expect to reunify 34 by the July 10
9 deadline, and 16 soon thereafter pending confirmation of eligibility. Of the
10 remaining 20, 8 will be reunified as soon as HHS can determine that the parent is
11 not unfit or a danger to the child in accordance with its existing procedures under
12 the TVPRA, and the remaining 12 may be reunified if their parents can be located
13 and if those parents request reunification, and reunification is otherwise proper
14 under the Court's order. Moreover, of the 27 children not currently eligible for
15 reunification, 14 have parents who are not class members, and the remaining 13
16 may be reunified if and when their parents no longer present a danger, have a
17 communicable disease, or are in criminal custody so long as ICE is aware of their
18 release, and it is otherwise determined that they meet the criteria for reunification.
19 Thus, any children not being reunified by the July 10 deadline are not being
20 reunified because of legitimate logistical impediments that render timely
21 compliance impossible or excusable, and so Defendants are complying with the
22 Court's order.
23
24
25
26
27
28

B. Plaintiffs' Position

1
2 Plaintiffs do not agree that Defendants have fully complied with the initial
3 reunification deadlines in the Court's preliminary injunction order. Plaintiffs
4 received Defendants' updated numbers within the past hour, and have no
5 independent verification that these numbers are accurate, or that there are not
6 additional children under five who should be on the government's list. Plaintiffs,
7 however, can state the following: By today's deadline, Defendants only plan to
8 reunify about half of the parents with children under five years old. Plaintiffs
9 recognize that Defendants cannot yet reunify the parents who are currently being
10 held in criminal custody. But as to all other Class Members with children under
11 five, the government is not in compliance with the clear deadline ordered by the
12 Court.
13
14
15
16

17 1. For the Class Members who were deported without their children,
18 Defendants have not even tried to contact them or facilitate their reunification by
19 today. Their children are stranded in this country because of Defendants' actions,
20 and yet Defendants have apparently done nothing to facilitate their reunification.
21

22 2. For the Class Members who have been released from custody,
23 Defendants have not explained why they could not facilitate their reunification by
24 the deadline. Defendants have all of these parents' contact information, and there
25 are apparently only 8 of them. To the extent Defendants have chosen to subject
26
27
28

1 these parents to ORR's lengthy sponsorship process, Plaintiffs do not believe those
2 procedures are required. Moreover, even if Defendants believed those procedures
3 would prevent them from reunifying 8 parents in two weeks, they should have
4 informed the Court far earlier than last Friday's status conference, a mere four days
5 before the deadline.
6

7
8 3. There are Class Members that Defendants do not currently plan to
9 release today, because Defendants have not yet completed their DNA tests.
10 Defendants have not explained why they could not complete these tests or verify
11 parentage through other means by today's deadline.
12

13 4. There is one child for whom Defendants have not even identified a
14 parent. They have not explained what steps they have taken to find this Class
15 Member.
16

17 II. DEADLINES

- 18 • **Removed Parents:** Defendants have provided to Plaintiffs the date of
19 removal and country of removal for all known removed parents with
20 children under 5. Defendants will provide to Plaintiffs the location of
21 the ICE detention facility where each removed parent was last held.
22 Plaintiffs' counsel will seek to locate those removed parents and
23 provide them with notice of their right to be reunified. If any parent
24 expresses that he or she wishes to be reunified with his or her child
25 then Defendants will facilitate that reunification.
 - 26 ○ Plaintiffs' Position: Plaintiffs believe that once Defendants are
27 notified that a removed parent wishes to be reunified with his or
28 her child, reunification should occur within 7 days.

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○ Defendants’ Position: Defendants ask the Court to allow a more flexible time period because there are several issues that may impact the timing of removal for these children. For example, Defendants would need to obtain travel documents for the child, and any ongoing removal proceedings for that child would have to be terminated which might require separate waiver from the parents and/or approval from an immigration judge. Moreover, if the child has already obtained relief and is in lawful status, then Defendants would not have the ability to facilitate reunification with a parent abroad. Because pieces of this process are out of Defendants hands, Defendants request that the Court allow for a flexible schedule for such removals that considers the need to complete these steps prior to removal for reunification.

- **Reunification To Released Parents:** This issue will be determined, at least in part, by the Court’s ruling on the parties’ joint submission on the procedures to be followed by HHS under the Court’s order. Accordingly, the parties will meet and confer following that ruling and will submit a proposal, or respective positions, on this issue for the Court’s consideration.

DATED: July 10, 2018

Respectfully submitted,

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Exhibit Y

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Fact Sheet: Zero-Tolerance Prosecution and Family Reunification

U.S. Department of Homeland Security sent this bulletin at 06/23/2018 10:17 PM EDT

U.S. DEPARTMENT OF HOMELAND SECURITY

Office of Public Affairs

FOR IMMEDIATE RELEASE

June 23, 2018

Zero-Tolerance Prosecution and Family Reunification

The Department of Homeland Security (DHS) and Health and Human Services (HHS) have a process established to ensure that family members know the location of their children and have regular communication after separation to ensure that those adults who are subject to removal are reunited with their children for the purposes of removal. The United States government knows the location of all children in its custody and is working to reunite them with their families.

As part of the apprehension, detention and prosecution process, illegal aliens, adults and children, are initially detained by U.S. Customs and Border Protection (CBP) before the children are sent to HHS' Office of Refugee Resettlement (ORR) and parents to Immigration and Customs Enforcement (ICE) custody. Each entity plays a role in reunification. This process is well coordinated.

U.S. Customs and Border Protection

- CBP has reunited 522 Unaccompanied Alien Children (UAC) in their custody who were separated from adults as part of the Zero Tolerance initiative. The reunions of an additional 16 UAC who were scheduled to be reunited on June 22, 2018 were delayed due to weather affecting travel and we expect they will all be reunited with their parents within the next 24 hours. There will be a small number of children who were separated for reasons other than zero tolerance that will remain

separated: generally only if the familial relationship cannot be confirmed, we believe the adult is a threat to the safety of the child, or the adult is a criminal alien.

- Because of the speed in which adults completed their criminal proceedings, some children were still present at a United States Border Patrol (USBP) station at the time their parent(s) returned from court proceedings. In these cases, the USBP reunited the family and transferred them, together, to ICE custody as a family unit.

U.S. Immigration and Customs Enforcement

- ICE has dedicated the [Port Isabel Service Processing Center](#) as the primary family reunification and removal center for adults in their custody.
- A parent who is ordered removed from the U.S. may request that his or her minor child accompany them. It should be noted that in the past many parents have elected to be removed without their children.
- ICE has posted information in all of its facilities advising detained parents who are trying to locate, and/or communicate with, a child in the custody of HHS to call the Detention Reporting and Information Line for assistance, which is staffed by live operators Monday through Friday from 8 AM to 8 PM.
- The information provided by these parents to the call operators will be forwarded to HHS for action. ICE and HHS will coordinate a review of their custodial data to identify where each child is located, verify the parent/child relationship, and set up regular communication and removal coordination, if necessary.
- Each ICE Field Office has Juvenile Coordinators who manage these cases throughout the immigration court proceedings.
- Further, ICE maintains a publicly available online detainee locator which can be used to locate adults detained by ICE. This site can be accessed at: <https://locator.ice.gov/odls/#/index>

ICE has completed the following steps toward reunification:

- Implemented an identification mechanism to ensure on-going tracking of linked family members throughout the detention and removal process;
- Designated detention locations for separated parents and will enhance current processes to ensure communication with children in HHS custody;
- Worked closely with foreign consulates to ensure that travel documents are issued for both the parent and child at time of removal; and

- Coordinated with HHS for the reuniting of the child prior to the parents' departure from the United States.

U.S. Health and Human Services Office of Refugee Resettlement

- Minors come into HHS custody with information provided by DHS regarding how they illegally entered the country and whether or not they were with a parent or adult and, to the extent possible, the parent(s) or guardian(s) information and location. There is a central database which HHS and DHS can access and update when a parent(s) or minor(s) location information changes.
- As of June 20th HHS has 2,053 separated minors being cared for in HHS funded facilities, and is working with relevant agency partners to foster communications and work towards reuniting every minor and every parent or guardian via well-established reunification processes. Currently only 17% of minors in HHS funded facilities were placed there as a result of Zero Tolerance enforcement, and the remaining 83% percent arrived to the United States without a parent or guardian.
- Parent(s) or guardian(s) attempting to determine if their child is in the custody of the Office of Refugee Resettlement (ORR) in HHS Administration for Children and Families should contact the ORR National Call Center (www.acf.hhs.gov/orr/resource/orr-national-call-center) at 1-800-203-7001, or via email information@ORRNCC.com. Information will be collected and sent to HHS funded facility where minor is located. The ORR National Call Center has numerous resources available for children, parent(s), guardian(s) and sponsors.
- Within 24 hours of arriving at an HHS funded facility minors are given the opportunity to communicate with a vetted parent, guardian or relative. While in HHS funded facilities' care, every effort is made to ensure minors are able to communicate (either telephonic or video depending on the circumstances) with their parent or guardian (at least twice per week). However, reasonable safety precautions are in place to ensure that an adult wishing to communicate with a minor is in fact that minor's parent or guardian.
- Minors in HHS funded facilities are permitted to call both family members and/or sponsors living in the United States and abroad. Attorneys representing minors have unlimited telephone access and the minor may speak to other appropriate stakeholders, such as their consulate, the case coordinator, or child advocate. Additional information on telephone calls, visitation, and mail policies are available in the [policy guide](#).
- Under HHS' [publicly available](#) policy guide for Unaccompanied Alien Children, the Office of Refugee Resettlement (ORR) releases minors to sponsors in the following order of preference: parent; legal guardian; an adult relative (brother, sister, aunt, uncle, grandparent or first cousin); an adult individual or entity

designated by the parent or legal guardian (through a signed declaration or other document that ORR determines is sufficient to establish the signatory's parental/guardian relationship); a licensed program willing to accept legal custody; or an adult individual or entity seeking custody when it appears that there is no other likely alternative to long term ORR care and custody.

#

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16
 17 UNITED STATES DISTRICT COURT
 18 SOUTHERN DISTRICT OF CALIFORNIA

19
 20 MS. L, et al.,

21 Petitioners-Plaintiffs,

22 vs.

23 U.S. IMMIGRATION AND CUSTOMS
 ENFORCEMENT, et al.,

24 Respondents-Defendants.
 25

Case No. 18cv428 DMS MDD

**DECLARATION OF
 JONATHAN WHITE**

26
 27
 28

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

4 1. I am a career officer in the United States Public Health Service Commissioned Corps
5 and have served in the Department of Health & Human Services in three Administrations. I am
6 presently assigned to the Office of the Assistant Secretary for Preparedness and Response, and
7 previously served as the Deputy Director of the Office of Refugee Resettlement for the
8 Unaccompanied Alien Children's Program.
9

10 2. I have been involved directly in the actions which HHS has taken to implement
11 Executive Order (EO) 13841 ("Affording Congress an Opportunity to Address Family Separation")
12 and comply with the orders in *Ms. L., et al., v. U.S. Immigration and Customs Enforcement, et al.*,
13 Case No. 18-cv-428 (S.D.Cal.). President Trump issued EO 13841 on June 20, 2018, and the Court
14 issued its orders on June 26, 2018.
15

16 **KEY HHS ACTIONS ON REUNIFICATION**

17 3. Focus on Child Safety: The Secretary of Health and Human Services has directed
18 HHS to take all reasonable actions to comply with the Court's orders and to prioritize child safety
19 and well-being when doing so.
20

21 4. Deployment of Additional Personnel: On June 22, 2018, the Secretary of Health and
22 Human Services directed ASPR to deploy personnel and resources to help the Office of Refugee
23 Resettlement (ORR) of the Administration for Children and Families (ACF) of HHS reunify children
24 in ORR custody with parents.

25 5. Determination of Class Members: HHS has worked closely with U.S. Department of
26 Homeland Security (DHS)—including U.S. Customs and Border Protection (CBP) and U.S.
27 Immigration and Customs Enforcement (ICE)—to try to determine all individuals who meet the
28

1 Court's criteria for class members. The determination of class membership involves real-time, inter-
2 agency collection and analysis of facts and data to: verify parentage; determine location of DHS
3 apprehension and separation; determine parental fitness; and evaluate whether reunification would
4 present a danger to the child. Class membership is not static; it can change due to transfers of putative
5 parents from ICE to the Bureau of Prisons (BOP) (or vice-versa), and newly-acquired information.

6
7 6. Facilitation of Regular Communication Between Class Members and Children in ORR

8 Custody: HHS has deployed field personnel to help putative class members communicate with
9 children in ORR care.

10 **DEPLOYMENT OF ADDITIONAL PERSONNEL**

11 7. As noted above, on June 22, 2018, the Secretary of Health and Human Services
12 activated ASPR to augment the resources that ORR had already devoted to expeditiously discharge
13 children from ORR care. ORR has had to continue performing core program functions for minors
14 who cross the border without parents (and who far outnumber separated children in ORR care). The
15 augmenting of resources has helped ORR continue performing those core functions.

16
17 8. The activating of ASPR included the Secretary's Operation Center (SOC), which is a
18 command center that operates 24 hours per day, 365 days per year. The mission of the SOC is to
19 synthesize critical public health and medical information for the U.S. Government. While typically
20 used for a public health emergency or natural disaster (e.g., Hurricane Maria in Puerto Rico), the SOC
21 can also serve as a communications hub for large, data-intensive, inter-departmental operations.

22
23 9. ASPR activated an Incident Management Team. As of July 3, 2018, the Incident
24 Management Team had 33 members (in addition to the permanent staff of the SOC). It works full-
25 time to provide logistical and administrative support.

26 10. ASPR has also dispatched approximately 115 personnel to the field to engage directly
27 with putative class members in DHS custody. Those personnel—who are organized into four field
28

1 teams— are from ACF, ASPR, the US Public Health Service Commissioned Corps, and the National
2 Disaster Medical System’s Disaster Medical Assistance Team (DMAT). The DMAT is a cadre of
3 trained health and medical professionals and para-professionals that augments ASPR’s capabilities
4 during public emergencies.

5 11. Finally, HHS has executed a contract with BCFS Health and Human Services, Inc.
6 (“BCFS”), to provide an additional 100 reunification case managers, plus approximately 40 staff for
7 logistical and administrative support. HHS has trained the case managers from BCFS, and is
8 deploying them on Thursday, July 5, and Friday, July 6, 2018, to augment existing field operations.
9 They too will engage directly with putative class members in ICE custody.

10
11 **DETERMINATION OF CLASS MEMBERS**

12 12. ORR has a process for placing unaccompanied alien children (UAC) with parents or
13 other sponsors that is designed to comply with the 1997 Flores Settlement Agreement, the Homeland
14 Security Act of 2002 (HSA), and the William Wilberforce Trafficking Victims Protection
15 Reauthorization Act of 2008 (TVPRA), as described in more detail below. This process ensures the
16 care and safety of children who are apprehended in the United States and then referred to HHS as
17 unaccompanied children.
18

19 13. HHS has modified and expedited its ordinary process so that it can determine class
20 membership using the Court’s criteria and, to the extent possible, reunify class members and their
21 children within the Court’s deadlines.
22

23 14. Under its modified process, HHS identifies putative class members with children in
24 ORR custody and verifies parentage. Also, HHS determines the putative class member’s immigration
25 history to confirm where they were apprehended and separated from their child. Finally, HHS
26 collects and analyzes criminal, medical (e.g., communicable disease), and other information to
27
28

1 determine the parental fitness of the putative class member and confirm that reunification would not
2 present a danger to the child. HHS generally performs these checks concurrently.

3 15. Putative class members who are not verified as parents are not included in the class
4 by HHS. Putative class members apprehended in the interior, who have relevant criminal history,
5 have a communicable disease, or are otherwise parentally unfit or present a danger to a child, are not
6 included in the class either.
7

8 16. In general, HHS knows the names and locations of all children who are in ORR care
9 and custody at all times because ORR maintains that data in its online case management portal. The
10 ORR portal includes data about each child that DHS provided when DHS transferred the child to
11 ORR custody. It also includes health and social data collected or entered by ORR personnel, grantees,
12 or contractors. While the ORR portal may contain some data about the child's parents, the ORR
13 portal was not designed to determine class membership or facilitate reunification under the criteria
14 and deadlines established by the Court's Order. Some of the data required to determine the class
15 membership of a putative class member resides with DHS, while HHS must collect some data directly
16 from the putative class member.
17

18 17. The data collection, sharing, and analysis required to determine class membership is
19 extraordinarily time and resource intensive. There are myriad reasons for this. For instance, DHS
20 has different information systems, and those systems were not designed to neatly capture and readily
21 share all of the data required to determine class membership. The departments must therefore map
22 their data manually. Also, the class potentially encompasses parents who were separated from their
23 children *before* the Administration implemented the zero-tolerance policy, and those groups may not
24 have received the same family unit identifiers from DHS as the groups separated *after* the
25 Administration implemented the zero-tolerance policy. Absent reliable and consistent identifiers,
26 HHS must glean the separations of class members and children (and related details) from the case
27
28

1 management files on the ORR portal. On top of these variables, a parent's class membership can
2 change if the parent is transferred between ICE and the Bureau of Prisons (BOP), or if information
3 obtained directly from the parent affects the class membership analysis.

4 18. To ensure that every separated child in ORR custody who belongs to a class member
5 is identified and reunified, HHS has had each grantee at one of ORR's approximately 110 shelters
6 certify the separated children who the grantee reasonably believes are in its care. HHS has also
7 conducted a full manual review of the case management file for each one of the approximate 11,800
8 children in ORR custody—the substantial majority of whom were not separated from a putative
9 parent at the border—to confirm or rule out any indicia of separation. The manual review was
10 conducted by dozens of HHS personnel working nights and over the weekend. The results of both
11 the manual review and the grantee certifications are undergoing validation.
12

13 19. As of July 5, 2018, we have identified approximately 101 minors under age 5, within
14 ORR care, whose records contain indicia of separation. Class membership analysis for putative class
15 members associated with the larger group of minors 5 through 18 is ongoing. Also, some of the
16 identified minors may have been separated prior to crossing the border, or there may be other factors
17 that need to be explored that would not make their parents members of the class. HHS has received
18 confirmation from DHS that approximately 40 parents of children in the under-5 group are in DHS
19 custody and another 9 are in U.S. Marshal's custody. The class membership analysis for putative
20 class members associated with the remaining children in the group of 101 is ongoing.
21
22

23 Verifying Parentage

24 20. HHS is using DNA testing to try to verify parentage of *all* putative class members, as
25 well as all children in ORR custody who ORR reasonably believes were separated from a putative
26 class member. HHS is conducting the DNA testing concurrent with collecting and reviewing
27
28

1 documentation of parentage, interviewing putative class members and family members, and
2 observing communications or interactions between putative class members and children.

3 21. DNA testing is a faster but costlier method for confirming parentage than collecting
4 and assessing documentation and anecdotal information. When ORR implements its safety and
5 suitability policies in the ordinary course of administering its program, it confirms parentage through
6 DNA testing as a last resort. HHS has dual-tracked global DNA testing to ensure child safety and to
7 expedite parentage verifications to try to comply with the deadlines in the Court's order.
8

9 22. ORR grantees are swabbing the cheeks of the children in ORR custody, while DHS
10 personnel or the field teams deployed by HHS are swabbing the cheeks of the putative class members
11 in ICE custody. The cheek swabs are then sent to a third-party laboratory services provider to
12 complete the DNA testing. The results are then transmitted electronically to the Incident
13 Management Team at the SOC, which shares them with the grantees. HHS will use the results only
14 for verifying parentage.
15

16 23. The DNA testing process takes nearly one week to complete for each putative class
17 member and child. Once HHS has made a data match between a putative class member and child, it
18 may take the field teams and grantees up to two days to further validate the match and swab cheeks.
19 It may then take up to three days for laboratory services provider to collect the sample and conduct
20 the test. Once the laboratory services provider completes the testing, it may take up to 24 hours for
21 the Incident Management Team to receive and transmit the results back to the grantees and field
22 teams.
23

24 24. The field teams are concurrently facilitating the completion of reunification
25 applications by putative class members. The packets seek medical and social data that bear on the
26 criteria for class membership, including parentage, parental fitness, and child endangerment. A copy
27 of a blank reunification application is attached at Tab 1.
28

1 25. My opinion is that DNA testing is the method of parental verification most likely to
2 protect children from harm given the compressed timeframe imposed by the court's order. The risk
3 of placing children with adults who are not their parents is a real and significant child welfare concern
4 for HHS because the experience of ORR is that children are smuggled across the border or trafficked
5 by adults who fraudulently hold themselves out as parents. The children may not disclose the
6 situation to CBP, ICE, or ORR because they may fear retaliation by the adults who brought them
7 across the border. In some instances, they may fear retaliation by their parents in their home country,
8 who have given them to the smuggler or trafficker so that they may earn money in the United States.
9 My opinion is that DNA testing mitigates the risk of the United States Government placing children
10 back with adults who are not their parents and who would endanger them.
11

12 26. If, however, HHS concludes that it can reliably and more quickly determine the
13 parentage of a putative class member based on documentation or anecdotal information collected
14 from the putative class member, then HHS will make that determination to try to comply with the
15 Court's reunification deadlines.
16

17 Background Checks for Parental Fitness

18 27. HHS is assessing the backgrounds of putative class members by reviewing summaries
19 of prior criminal background checks provided by ICE. Already such background check information
20 has come back with two results that show that two putative parents of children under five may
21 endanger the child (charges of kidnapping/rape and child cruelty), and 12 more need to be further
22 assessed.
23

24 Parental Fitness and Child Endangerment

25 28. As discussed below, HHS' ordinary process for placing children with sponsors
26 involves a safety and suitability analysis, as well as a home study in certain circumstances. These
27 checks can sometimes take weeks or months.
28

1 29. HHS has modified and expedited its ordinary process when further assessing parental
2 fitness and potential child endangerment for a potential reunification with a putative class member in
3 DHS custody. For potential reunifications with putative class members in DHS custody, any further
4 assessment of parental fitness and potential child endangerment involves only the review of the case
5 management records (which includes, for example, case review notes and other electronic files) and
6 the putative class member’s completed reunification packet for indicia of child abuse or neglect. If
7 there are no such indicia, then HHS will not conduct further assessment.
8

9 30. When further assessing parental fitness and potential child endangerment for potential
10 reunifications of putative class members who are no longer in DHS custody, HHS is modifying and
11 expediting its ordinary process on a case-by-case basis to try to comply with court-ordered deadlines
12 in ways that do not endanger child welfare.
13

14 31. For example, when placing a child with a putative parental sponsor who is no longer
15 in DHS custody, HHS would ordinarily verify the potential sponsor’s residential address and conduct
16 background checks of adult cohabitants to try to ensure that the potential sponsor is capable of
17 providing shelter and care – and that the potential sponsor’s cohabitants do not endanger the child—
18 after placement. To try to comply with the Court’s deadlines, HHS will likely need to streamline its
19 address verification process for putative class members. But HHS does not believe that it can
20 streamline background checks.
21

22 32. UAC sponsors have always included the parents of UACs , and close to half of the
23 sponsors to whom ORR ordinarily releases UACs are parents.

24 33. The *Flores* settlement agreement (“FSA”) prioritizes release to parents, if they are
25 available, and also specifically provides for ORR to ensure the suitability of such releases, and to
26 protect the child from danger. *See* FSA paragraphs 14-18.
27
28

1 34. The FSA describes a variety of criteria to consider before the government releases a
2 UAC to a parent (or other sponsor). *See* FSA paragraphs 14-18. These factors include:

- 3 • Verifying the identity of the parent;
- 4 • Verifying the identity and employment of the individuals offering support to the parent
5 and minor;
- 6 • Receiving information from their address and any future change of address;
- 7 • Ensuring the parent will provide for the minor’s physical, mental, and financial well-
8 being;
- 9 • Investigating the living conditions in which the minor would be placed and the
10 standard of care he would receive;
- 11 • Interviewing the members of the household where the parent will live with the child,
12 and in some cases a home visit; and
- 13 • Requiring the parent to ensure the minor’s presence at all future immigration
14 proceedings.
- 15 • Requiring the parent to ensure the minor’s presence at all future immigration
16 proceedings.

17 35. Furthermore, under the HSA and TVPRA, HHS has developed a series of safety and
18 suitability requirements that ensure child welfare, upon release, is protected. These policies, many
19 of which were refined after Congressional oversight, are contained in Section 2 of the ORR Policy
20 Guide: Children Entering the United States Unaccompanied, available at:

21 [https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-](https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.1)
22 [2#2.1](https://www.acf.hhs.gov/orr/resource/children-entering-the-united-states-unaccompanied-section-2#2.1) .

23 36. The policies include identifying the sponsor; submitting the application for release
24 and supporting documentation; evaluating the suitability of the sponsor, including verification of
25 the sponsor’s identity and relationship to the child; background checks; and in some cases home
26 studies; and planning for post-release.

27

28

1 37. ORR requires all potential sponsors, including parents, to undergo fingerprinting in
2 order to ensure the safety and suitability of release. The fingerprints are used to run background
3 checks of databases involving criminal history. ORR also checks sexual abuse information, child
4 abuse information, and other public record sources.

5 38. ORR also requires that, if there are other adults living in the household with a
6 sponsor (including a parent), those adults also undergo background checks. This ensures the child
7 will not be endangered if, for example, those household members have a history of child abuse or
8 sexual abuse that ORR must further consider before approving the release.
9

10 39. ORR also requires that sponsors, including parents, identify an alternative caregiver,
11 who will be able to provide care in the event the original sponsor is unavailable. These adult
12 caregivers must also be identified and undergo background checks.

13 40. To ensure safety and suitability for children, ORR considers the following factors
14 when evaluating release of a UAC to parents, other family members, and other potential sponsors in
15 the community:
16

- 17 a. The nature and extent of the sponsor's previous and current relationship with the child or
18 youth and the unaccompanied alien child's family, if a relationship exists.
- 19 b. The sponsor's motivation for wanting to sponsor the child or youth.
- 20 c. The UAC's parent or legal guardian's perspective on the release to the identified
21 potential sponsor (for cases in which the parent or legal guardian is not the sponsor).
- 22 d. The child or youth's views on the release and whether he or she wants to be released to
23 the individual.
- 24 e. The sponsor's understanding of the unaccompanied alien child's needs, as identified by
25 ORR and the care provider.
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- 1 f. The sponsor’s plan to provide adequate care, supervision, access to community
2 resources, and housing.
- 3 g. The sponsor’s understanding of the importance of ensuring the unaccompanied alien
4 child’s presence at all future hearings or proceedings, including immigration court
5 proceedings, and the sponsor’s receipt of Legal Orientation Program for Custodians
6 information that ORR provides to all potential sponsors.
- 7
- 8 h. The linguistic and cultural background of the child or youth and the sponsor, including
9 cultural, social, and communal norms and practices for the care of children.
- 10 i. The sponsor’s strengths, resources, and mitigating factors in relation to any risks or
11 special concerns of the child or sponsor, such as a criminal background, history of
12 substance abuse, mental health issues, or domestic violence and child welfare concerns.
- 13
- 14 j. The unaccompanied alien child’s current functioning and strengths in relation to any risk
15 factors or special concerns, such as children or youth who are victims of human
16 trafficking; are a parent or are pregnant; have special needs, disabilities or medical or
17 mental health issues; have a history of criminal, juvenile justice, or gang involvement; or
18 a history of behavioral issues.

19 41. In certain cases, the TVPRA requires a home study, prior to release. 8 U.S.C. §
20 1232(c)(3)(B) states: “A home study shall be conducted for a child who is a victim of a severe form
21 of trafficking in persons, a special needs child with a disability (as defined in section 12102 of title
22 42), a child who has been a victim of physical or sexual abuse under circumstances that indicate
23 that the child's health or welfare has been significantly harmed or threatened, or a child whose
24 proposed sponsor clearly presents a risk of abuse, maltreatment, exploitation, or trafficking to the
25 child based on all available objective evidence.” In circumstances in which a home study is not
26 required by the TVPRA or ORR policy, the Case Manager and an independent third party Case
27
28

1 Coordinator may recommend that a home study be conducted if they agree that the home study will
2 provide additional information required to determine that the sponsor is able to care for the health,
3 safety and well-being of the child.

4 42. ORR does not disqualify potential sponsors on the basis of their immigration status,
5 but does require sponsors (including parents) to complete a sponsor care plan. Among other things,
6 the care plan identifies the adult caregiver who will act for the sponsor, should the sponsor become
7 unavailable, and how such caregiver will be notified of such situation. It also includes a safety plan
8 in some circumstances.
9

10 43. Throughout the release process, care providers work with the child and sponsor so
11 that they can plan for the child's after care needs. This involves working with the sponsor and the
12 unaccompanied alien child to prepare them for post-ORR custody, assess the sponsor's ability to
13 access community resources, and provide guidance regarding safety planning, sponsor care plans,
14 and accessing services for the child. The care provider explains the U.S. child abuse and neglect
15 standards and child protective services that are explained on <https://www.childwelfare.gov>, human
16 trafficking indicators and resources, and basic safety and how to use the 9-1-1 number in
17 emergency situations.
18

19 44. Once the assessment is complete and a sponsor has been approved, the sponsor
20 enters into an agreement with the Federal government in which he or she agrees to:

- 21 a. Provide for the physical and mental well-being of the child, including but not
22 limited to, food, shelter, clothing, education, medical care and other services as
23 needed.
24
25 b. Attend a legal orientation program provided under the Department of
26 Justice/Executive Office for Immigration Review's (EOIR) Legal Orientation
27 Program for Custodians (Sponsors), if available where he or she resides.
28

- 1 c. Depending on where the unaccompanied alien child’s immigration case is
2 pending, notify the local Immigration Court or the Board of Immigration
3 Appeals within 5 days of any change of address or phone number of the child
4 (Form EOIR-33). (If applicable, file a Change of Venue motion on the child’s
5 behalf.¹⁰ A “change of venue” is a legal term for moving an immigration
6 hearing to a new location.)
7
- 8 d. Notify the DHS/U.S. Citizenship and Immigration Services within 10 days of
9 any change of address by filing an Alien’s Change of Address Card (AR-11) or
10 electronically at <http://www.uscis.gov/ar-11>.
11
- 12 e. Ensure the unaccompanied alien child’s presence at all future proceedings before
13 the DHS/Immigration and Customs Enforcement (ICE) and the DOJ/EOIR.
14
- 15 f. Ensure the unaccompanied alien child reports to ICE for removal from the
16 United States if an immigration judge issues a removal order or voluntary
17 departure order.
18
- 19 g. Notify local law enforcement or state or local Child Protective Services if the
20 child has been or is at risk of being subjected to abuse, abandonment, neglect or
21 maltreatment or if the sponsor learns that the child has been threatened, has been
22 sexually or physically abused or assaulted, or has disappeared. (Notice should be
23 given as soon as it is practicable or no later than 24 hours after the event or after
24 becoming aware of the risk or threat.)
25
- 26 h. Notify the National Center for Missing and Exploited Children at 1-800-843-
27 5678 if the unaccompanied alien child disappears, has been kidnapped, or runs
28 away. (Notice should be given as soon as it becomes practicable or no later than
24 hours after learning of the child’s disappearance.)

- 1 i. Notify ICE at 1-866-347-2423 if the unaccompanied alien child is contacted in
2 any way by an individual(s) believed to represent an alien smuggling syndicate,
3 organized crime, or a human trafficking organization. (Notice should be provided
4 as soon as possible or no later than 24 hours after becoming aware of the
5 information.)
6
7 j. In case of an emergency, such as serious illness, destruction of home, etc.,
8 temporarily transfer physical custody of the child to another person who will
9 comply with the terms of the Sponsor Care Agreement.
10
11 k. In the event that a sponsor who is not the child’s parent or legal guardian is no
12 longer able and willing to care for the unaccompanied alien child and is unable to
13 temporarily transfer physical custody, notify ORR using the ORR National Call
14 Center, at 1-800-203-7001.

15 45. If HHS cannot reasonably complete processes that are material to ensuring the welfare
16 of the children presently in ORR custody within the deadlines ordered by the Court, then HHS has
17 no choice but to make class membership determinations with incomplete information. The use of
18 incomplete information increases the risk of not only incorrect class membership determinations, but
19 also reunifications that endanger the welfare of the children presently in ORR care.

20 46. My opinion is that some relaxing of the Court’s deadlines is needed to allow HHS, on
21 a case-by-case basis, to complete processes that HHS determines are necessary to make informed
22 class membership determinations and to protect the welfare of the children presently in ORR custody.

23 **FACILITATION OF CLASS MEMBER COMMUNIATIONS**

24
25 47. HHS has facilitated communication between putative class members by helping
26 putative class members connect with case managers. HHS has directed field staff to help facilitate a
27 conversation between a putative class member and his or her child. For example, field staff may call
28

1 a case manager in a minor's shelter and ask the case manager to call or contact the detained parent.
2 In other instances, the detained adult may be given the shelter case manager's telephone number.

3 48. The ORR Helpline is a bilingual call center that ordinarily works with ORR grantees
4 to facilitate communications between potential sponsors and the children in the care of the grantees.
5 See <https://www.acf.hhs.gov/orr/about/ucs/contact-info> (last visited July 5, 2018). Potential sponsors
6 who call the ORR Helpline provide their name, contact information, relationship to the child, and
7 other information to the ORR Helpline representative, who communicates the information to the ORR
8 grantee caring for the child. The ORR grantee then responds to the potential sponsor and facilitates
9 direct communications with the child and a case worker. The ORR Helpline does not verify parentage
10 or make determinations regarding parental fitness or child endangerment.
11

12 49. HHS operates with the goal of facilitating communications between putative class
13 members and children in ORR custody twice a week.
14

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17 I declare under penalty of perjury that the foregoing is true and correct. Executed on July 5,
18 2018.

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23 Jonathan White,
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Exhibit AA

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L.; et al.,

 Petitioners-Plaintiffs,

v.

U.S Immigration and Customs
Enforcement (“ICE”); et al.,

 Respondents-Defendants.

Case No.: 18cv0428 DMS (MDD)

**ORDER FOLLOWING STATUS
CONFERENCE**

A status conference was held on July 9, 2018. Lee Gelernt appeared and argued for Plaintiffs and Sarah Fabian appeared and argued for Defendants. After consulting with counsel and being advised of the status of the case, IT IS HEREBY ORDERED:

1. On or before **6:00 p.m.** on **July 9, 2018**, counsel shall submit the following documents to the Court:
 - a. A joint status report on the issue of the procedures to be followed for the reunification of children and Class Members who have been released from ICE custody. To the extent counsel have agreed on the procedures, they should submit a joint motion and proposed order for the Court’s review. To the extent there is disagreement, each side should set out its respective proposal and specify the disagreements that require court resolution

1 b. A proposed notice to be provided to the Class.

2 2. On or before **10:00 a.m.** on **July 10, 2018**, counsel shall submit a joint status report
3 setting forth how many Class Members have been or will be reunited with their children
4 by the court-imposed deadline, and how many Class Members may not be reunited with
5 their children by the court-imposed deadline due to legitimate logistical impediments that
6 render timely compliance impossible or excusable, *e.g.*, detention of the Class Member in
7 criminal custody or removal of the Class Member from the United States. For the latter
8 group, counsel should explain why reunification may not be completed, and provide a
9 timeframe for those reunifications.

10 3. A further status conference shall be held at **11:00 a.m.** on **July 10, 2018**.

11 4. The Court has set up a dial in number for counsel and any members of
12 the news media that wish to attend. ***This number is for counsel and media***
13 ***only***, who should follow the steps below to connect to the conference call.
14 Members of the general public may appear in person.

- 15 1. Dial the toll free number: **877-873-8018**;
- 16 2. Enter the Access Code: **9911153** (Participants will be put on hold
17 until the Court activates the conference call);
- 18 3. Enter the Participant Security Code **07100428** and Press # (The
19 security code will be confirmed);
- 20 4. Once the Security Code is confirmed, participants will be prompted
21 to Press 1 to join the conference or Press 2 to re-enter the Security
22 Code.

23 Dated: July 9, 2018


24 
25 Hon. Dana M. Sabraw
26 United States District Judge

Exhibit BB

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L.; et al.,
Petitioners-Plaintiffs,
v.
U.S Immigration and Customs
Enforcement (“ICE”); et al.,
Respondents-Defendants.

Case No.: 18cv0428 DMS (MDD)

**ORDER SETTING FURTHER
STATUS CONFERENCE**

A status conference was held on July 6, 2018. Lee Gelernt appeared and argued for Plaintiffs and Sarah Fabian appeared and argued for Defendants. After consulting with counsel and being advised of the status of the case, IT IS HEREBY ORDERED:


1. On or before **July 7, 2018**, at **5:00 p.m.**, the Government shall provide to Plaintiffs a list of the 101 children discussed at the conference that identifies each child and explains the status of each child’s reunification with his or her parent.
2. Counsel shall meet and confer about the list, and shall also meet and confer on the ORR policies and procedures in dispute.
3. To the extent counsel reach an agreement on these issues, they should submit a joint motion and proposed order for the Court’s review and signature. Otherwise, counsel

1 should be prepared to discuss these issues at a further status conference scheduled for **July**
2 **9, 2018, at 10:00 a.m.**

3 The Court has set up a dial in number for counsel and any members of
4 the news media that wish to attend. ***This number is for counsel and media***
5 ***only***, who should follow the steps below to connect to the conference call:

- 6 1. Dial the toll free number: **877-873-8018**;
- 7 2. Enter the Access Code: **9911153** (Participants will be put on hold
8 until the Court activates the conference call);
- 9 3. Enter the Participant Security Code **07090428** and Press # (The
10 security code will be confirmed);
- 11 4. Once the Security Code is confirmed, participants will be prompted
12 to Press 1 to join the conference or Press 2 to re-enter the Security
13 Code.

14 Dated: July 6, 2018



15
16 Hon. Dana M. Sabraw
17 United States District Judge

Exhibit CC

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON, et al.

Plaintiff,

v.

THE UNITED STATES OF AMERICA,
et al.,

Defendants.

NO. 2:18-CV-00939

DECLARATION OF FRANCISCO
SERRANO IN SUPPORT OF
PLAINTIFFS' MOTION FOR
EXPEDITED DISCOVERY

I, Francisco Serrano, declare as follows:

1. I am over the age of 18 and have personal knowledge of the facts herein. If called as a witness, I could and would testify competently to the matters set forth below.

2. I reside in the District of Columbia. I live with my wife, my mother, and my two children who are fifteen and seventeen years old.

3. In May 2018, my niece Maria called me to tell me that she had traveled from El Salvador with a caravan, that she was at the Mexico-United States border and that she was going to cross the border by San Ysidro. She also told me that she was traveling with her two children, M. who is 7 years old and N. who is 2 years old.

4. Approximately a week later I received a call from a shelter indicating that the children were going to be separated from Maria, that they were on their way to New York, that Maria had designated me as a sponsor and asking me whether I was willing to be the sponsor. I

1 told the person that I would be the sponsor and then the person told me that I would be able to
2 talk to the children twice a week. Attached hereto as Exhibits 1 and 2 are the forms I was told
3 to complete in early May 2018 so that I could receive Maria's two sons.

4 5. I have spoken with the seven-year-old on several occasions since the family
5 arrived. He told me that officials told him that he and his little brother were being taken to a
6 detention center in Washington, D.C. to be closer to me, their uncle. I received a phone call from
7 the seven-year-old who thought he was in Washington, D.C., but he was not. He was in New
8 York. I was told by a social worker that the two young boys are in Lutheran Youth Hostel of
9 New York.

10 6. To become the sponsor the social worker told me that I had to provide: 1) Maria's
11 mother's birth certificate, 2) Maria's birth certificate, 3) the kids' birth certificates, and 4) my
12 birth certificate, driver's license, passport and proof of citizenship. In addition to completing the
13 paperwork, I had to provide copies of my identification and police record. I did not have copies
14 of Maria's mother's, Maria's or the kids' birth certificates so I had to ask persons in El Salvador
15 to send them to me. This process took 5 days because a friend was in El Salvador and was able
16 to help me, otherwise the process would have taken 15 to 20 days.

17 7. The social worker who was working with the kids told me that once I submitted
18 the documents she would get approval within 36 hours and the children would be released within
19 24 hours after that. I did not hear from them within 36 hours, but I assumed that everything was
20 valid because I had completed all of the forms and followed all of the instructions.

21 8. Approximately one week after I provided the paperwork I was told that I had to
22 be fingerprinted. The next day I took time off work and got fingerprinted.

23 9. After I submitted all the requested documents the social worker told me that she
24 was very sorry but that she had only been able to get one of the approvals she needed to approve
25 the paperwork. She said that she did everything she could but it was out of her hands.
26

1 10. In late May 2018, I received a power of attorney from my niece Maria giving me
2 the authorization to care for her two minor sons. A copy of the notarized power of attorney is
3 attached hereto as Exhibit 3. I provided a copy of this power of attorney to the social worker in
4 early June 2018.

5 11. About a week later I was asked to complete a certified form for a further
6 background check. On June 1, 2018, I completed the additional form that Lutheran Social
7 Services had provided to me to get authorization to receive Maria's two sons. I had to have the
8 form notarized. A copy of that form is attached hereto as Exhibit 4.

9 12. Then I was informed that I passed the background check but they needed one
10 more week to release the kids to me. The seven-year-old boy called me and told me that
11 officials had told him that he and his brother would be released to me in a week.

12 13. But then, I was told that they needed to perform a DNA test to confirm that
13 Maria is the children's mom. Recently, the social worker told me that a few days ago a
14 government employee went to Otay Mesa where Maria was detained to conduct the DNA test
15 but that Maria was not there. Later, when I spoke to Maria she said that she had been at Otay
16 Mesa the entire time.

17 14. On June 22, several weeks after I submitted all of the paperwork, on June 22,
18 2018, I was told that the paperwork I submitted was wrong, the power of attorney was not
19 valid, and the boys would not be released to me. She said that there were new forms we had to
20 complete, but she did not send me the forms until Friday, June 29, 2018. Those forms are
21 attached hereto as Exhibits 5 and 6.

22 15. On June 27 after borrowing money from family members, I was able to gather
23 \$10,000 to post Maria's bond. An immigration agent told me that Maria would come out on
24 June 28, 2018 and that she would be taken to the bus station so she could take the bus to
25 Washington, D.C. So Maria's bus ticket was for June 28. But immigration released her on
26 June 27 and Maria called me because the agents left her in a McDonald's and she did not have

1 any place to go or to sleep. She had to look for someone to take her in for one night and now
2 she in on the way to Washington, D.C.

3 16. On June 28, 2018, I talked to the social worker who told me that we will have
4 to start the sponsorship process again and that Maria will have to fill the application and
5 request the children because she already was released from immigration detention.

6 17. I am concerned that now the process for Maria's children to be reunited with my
7 family will have to start all over again. Everyone in my home, including my 78-year-old
8 mother, will have to submit fingerprints, police records, and identification, and we will have to
9 complete a new application form. Because of my mother's age, it is difficult to get her
10 fingerprints, and immigration officials previously told her that she would not have to submit
11 fingerprints again. I was told that my niece Maria will also have to be fingerprinted and will
12 have to submit all the documentation, as well. I am concerned that Maria will not be able to
13 produce the right paperwork to be reunited with her sons. Maria does not have a passport, and
14 all she has is an ID card from El Salvador.

15 18. All this process has been very difficult for my family:

16 a. At first when I would talk to M., the 7-year-old, he was very talkative and
17 excited because the social worker told him he would be out within a week. When the time came
18 that M. expected to be released and nothing happened he sounded depressed, he would not say
19 much and wanted to cry. He asked me why I had not picked him up yet. The social worker told
20 me that M. is depressed and asked me for words of encouragement to cheer him up. On June 28,
21 I spoke with him and he is glad because he thinks that soon he is going to be reunited with his
22 mother. I am worried about M.'s mental health when he learns that we have to start the process
23 again and that he is not going to be released soon.

24 b. Because I am only able to speak on the phone and N. is too young, I have
25 not been able to speak with him at all. M. told me that N. cries all the time, and that the only
26

1 time that the kids see each other is at night. M. told me that they let N. stay with him at night
2 because he is the only one with whom N. won't cry.

3 c. When I speak with Maria she asks for an update about the children and is
4 speechless when I tell her that I am still waiting for approval. She cries. She has only been able
5 to speak with the kids a few times.

6 d. The most affected person by all this is my mother. She raised Maria after
7 her mother died when Maria was 8 months old. At first, I did not want to tell my mom what was
8 happening because she is 78 years old and I was concerned that the news would adversely impact
9 her health. I only told her that Maria and the kids had crossed the border but were detained.
10 After watching news, my mom demanded I tell her what was happening. My mom became ill
11 when I told her that the kids had been separated from Maria Ever since my mom found out about
12 the family separation, she has had an intense headache and I had to take her to see a doctor. I
13 am really concerned about my mom's health. For Maria, the separation from her kids repeats
14 the story as when she lost her mother.

15 e. On my part, this process has been very depressive and frustrating. When
16 I finally thought that they were going to give me the children they tell me no. I have also had to
17 take time off work to do all that has been asked of me.

18 19. I am hopeful that Maria, M. and N. will be reunited soon.

19
20 I declare under penalty of perjury under the laws of the State of California and the laws
21 of the United States that the foregoing is true and correct.

22 Dated this 30th day of June 2018 in Washington D.C.

23
24 [Signature]

25 _____
26 FRANCISCO SERRANO

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CERTIFICATION OF TRANSLATION

Manuel Duran, a translator certified by the Judicial Council of California and the Office of Federal Courts, certifies that he translated/transcribed completely and accurately, and to the best of his ability the English translation of the following Spanish document(s):

NO. 2:18-CV-00939

DECLARATION OF FRANCISCO SERRANO IN SUPPORT OF PLAINTIFFS' MOTION FOR EXPEDITED DISCOVERY

I swear under penalty of perjury that the foregoing is true and correct. Signed on July 2, 2018 in Oceanside, California.



Manuel Duran
Manuel Duran
California Certification No. 300344
Federal Court Certification No. 93-462

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON, et al.,

Plaintiff,

v.

THE UNITED STATES OF AMERICA, et
al.,

Defendants.

NO. 2:18-CV-00939

DECLARACIÓN DE FRANCISCO
SERRANO EN APOYO A PETICIÓN
DE LOS DEMANDANTES PARA
EXHIBICIÓN DE PRUEBAS
ACELERADA

Yo, Francisco Serrano, declaro lo siguiente:

1. Tengo más de 18 años de edad y tengo conocimiento personal de los hechos en este documento. Si se me llamara como testigo, podría y testificaría de manera competente a las cuestiones que se exponen a continuación.

2. Yo resido en el Distrito de Columbia. Vivo con mi esposa, mi mamá, y mis dos hijos que tienen quince y diecisiete años de edad.

3. En mayo de 2018, mi sobrina María me llamó para decirme que había viajado desde El Salvador con una caravana, que estaba en la frontera de México y los Estados Unidos, y que iba a cruzar la frontera por San Ysidro. También me dijo que estaba viajando con sus dos niños, M. de 7 años de edad y N. de 2 años de edad.

4. Aproximadamente una semana después recibí una llamada de un albergue diciéndome que los niños iban a ser separados de María, que iban rumbo a Nueva York, que

1 María me había designado como patrocinador y preguntándome que si yo estaba dispuesto a
2 ser el patrocinador. Yo le dije a la persona que sería el patrocinador y la persona me dijo que
3 yo podría hablar con los niños dos veces por semana. Adjunto los Documentos 1 y 2 son los
4 formularios que me dijeron que completara a principios de mayo para que pudiera recibir a los
5 niños de María.

6 5. Yo he hablado con el niño de 7 años en varias ocasiones desde que la familia
7 llegó. Él me dijo que oficiales le dijeron que a él y a su hermanito los iban a llevar a un centro
8 de detención en Washington, D.C. para estar más cerca de mí, sus tío. Recibí una llamada del
9 niño de siete años quien pensaba que estaba en Washington, D.C., pero no era así. Él estaba en
10 Nueva York. Una trabajadora social me dijo que los dos niños están Lutheran Youth Hostel en
11 Nueva York.

12 6. Para ser el patrocinador la trabajadora social me dijo que tenía que proveer: 1) el
13 acta de nacimiento de la mamá de María, 2) el acta de nacimiento de María, 3) las actas de
14 nacimiento de los niños, y 4) mi acta de nacimiento, licencia de conducir, pasaporte y pruebas
15 de ciudadanía. Además de completar el papeleo, tuve que proporcionar copias de mi
16 identificación y registro policial. Yo no tenía copias de las actas de nacimiento de la mamá de
17 María, de María o de los niños así es que tuve que contactar a personas en El Salvador para que
18 me las enviaran. Este proceso tomo 5 días porque un amigo estaba en El Salvador y me pudo
19 ayudar, si no, el proceso hubiera durado de 15 a 20 días.

20 7. La trabajadora social que estaba trabajando con los niños me dijo que cuando yo
21 entregara los documentos ella obtendría aprobación en 36 horas y los niños saldrían 24 horas
22 después de eso. No escuché de ellos en las próximas 36 horas, pero asumí que todo era válido
23 porque ya había completado todos los formularios y seguido todas las instrucciones.

24 8. Aproximadamente una semana después que proporcione el papeleo me dijeron
25 que me tenían que tomar la huellas. El día siguiente pedí tiempo en mi trabajo y me tomaron las
26 huellas.

1 9. Después de que entregué los documentos que me pidieron la trabajadora social
2 me dijo que lo sentía mucho pero que solo había obtenido una de las aprobaciones que necesitaba
3 para aprobar el papeleo. Ella dijo que hizo todo lo posible pero que estaba fuera de sus manos.

4 10. A finales de mayo, recibí un poder legal de mi sobrina María dándome la
5 autorización para cuidar de sus dos niños menores. Una copia del poder legal notariado esta
6 adjunta como Documento 3. Yo proporcioné el poder legal a la trabajadora social a principios
7 de junio.

8 11. Aproximadamente una semana después me pidieron que completara una forma
9 certificada para una verificación de antecedentes adicional. El primero de junio de 2018, yo
10 completé el formulario que me proporciono Lutheran Social Services para obtener la
11 autorización de recibir a los dos hijos de María. Tuve que certificar el formulario por notario.
12 Una copia del formulario esta adjunto como Documento 4.

13 12. Luego me informaron que pasé la verificación de antecedentes, pero necesitaban
14 una semana más para entregarme a los niños. Hablé con el niño de siete años y me dijo que los
15 oficiales le dijeron que a él y su hermano me los iban a entregar en una semana.

16 13. Pero luego me dijeron que necesitaban hacer una prueba de ADN para confirmar
17 que María es la mamá de los niños. Recientemente, la trabajadora social me dijo que hace unos
18 días un empleado del gobierno fue a Otay Mesa donde María estaba detenida para tomarle la
19 prueba de ADN pero María no estaba ahí. Después, cuando hablé con María ella dijo que había
20 estado en Otay Mesa todo el tiempo.

21 14. El 22 de junio, varias semanas después que entregué todo el papeleo me dijeron
22 que el papeleo que entregué estaba equivocado, que el poder legal no era válido, y que no me
23 iban a entregar a los niños. Ella dijo que hay formularios nuevos que tenemos que completar,
24 pero no me envió los formularios hasta el viernes, 29 de junio de 2018. Esos formularios están
25 adjuntos como Documentos 5 y 6.

1 15. El 27 de junio después de pedir dinero prestado a miembros de mi familia, pude
2 recolectar \$10,000 y pagué la fianza de María. Un agente de inmigración me dijo que María
3 saldría el 28 de junio de 2018 y que la llevarían a estación de autobús para que ella pudiera tomar
4 el autobús a Washington D.C. Así es que el boleto de autobús de María estaba para la fecha del
5 28 de junio. Pero inmigración liberó a María el 27 de junio y María me llamó porque los agentes
6 la dejaron en un McDonald's y ella no tenía a donde ir ni dormir. Ella tuvo que buscar a alguien
7 que la alojara una noche y ahora está en camino hacia Washington D.C.

8 16. El 28 de junio de 2018, hablé con la trabajadora social quien me dijo que
9 tendremos que empezar el proceso de y que María tendrá que llenar la aplicación y pedir a los
10 niños porque ya salió de detención de inmigración.

11 17. Estoy preocupado que ahora tendremos que empezar de nuevo el proceso para
12 reunir a los niños de María con mi familia. Todos en mi casa, incluyendo mi mamá de 78 años
13 de edad, tendrán que someter huellas, registro policial, e identificación, y tendremos que
14 completar un nuevo formulario. Debido a la edad de mi mamá, es difícil tomarle las huellas, y
15 oficiales de inmigración me dijeron anteriormente que ella no tendría que someterse a las huellas
16 de nuevo. También me informaron que María tendrá que tomarse las huellas y tendrá que
17 presentar toda la documentación. Estoy preocupado de que María no pueda producir el papeleo
18 necesario para poder reunirse con sus dos hijos. María no tiene pasaporte, y todo lo que tiene es
19 tu tarjeta de identificación de El Salvador.

20 18. Todo este proceso ha sido muy difícil para mi familia:

21 a. Al principio cuando hablaba con M., el niño de 7 años, él estaba muy
22 platicador y estaba emocionado porque la trabajadora social le dijo que saldría en una semana.
23 Cuando el tiempo cuando M. esperaba salir llegó y nada pasó, él se escuchaba depresivo, no
24 decía mucho y quería llorar. Me preguntó por qué no he venido por él todavía. La trabajadora
25 social me dijo que M. estaba depresivo y me pidió palabras para animarlo. El 28 de junio hablé
26 con él y está contento porque piensa que pronto va a reunirse con su mamá. Estoy más

1 preocupado por la salud mental de M. cuando se entere que tendremos que empezar el proceso
2 de nuevo y que no va a salir pronto.

3 b. Porque solo puedo hablar por teléfono y N. es muy pequeño no he podido
4 hablar con él. M. me dijo que N. llora todo el tiempo, y el único momento en que los dos niños
5 se ven es en la noche. M. dijo que dejan que N. se quede con M. por la noche porque es lo único
6 que hará que N. deje de llorar

7 c. Cuando hablo con María ella me pregunta que está pasando con los niños
8 y se queda sin palabras cuando le digo que todavía estoy esperando la aprobación. Ella llora.
9 Ella solamente ha podido hablar con los niños pocas veces.

10 d. La más afectada por todo esto es mi mamá. Ella crio a María después que
11 su mamá murió cuando María tenía 8 meses de edad. Al principio, yo no quería decirle a mi
12 mamá lo que estaba pasando porque ella tiene 78 años de edad y estaba preocupado que si le
13 decía se iba a poner mal de salud. Yo solo le dije que María y los niños habían cruzado la
14 frontera, pero estaban detenidos. Después de ver las noticias, mi mamá exigió que le dijera que
15 estaba pasando. Mi mamá se puso mal de salud cuando le dije que los niños habían sido
16 separados de María. Desde que mi mamá se enteró de la separación familiar ha tenido un dolor
17 de cabeza intenso y yo tuve que llevarla al doctor. Estoy muy preocupado por la salud de mi
18 mamá. Para María, la separación de sus niños repite la historia de cuando ella perdió a su mamá.

19 e. Por mi parte, este proceso ha sido muy depresivo y frustrante. Cuando al
20 fin pensaba que me iban a dar los niños me dicen que siempre no. También he tenido que
21 descansar de mi trabajo para hacer todo lo que me han pedido que haga.

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19. Tengo la esperanza que María, M., y N. se reunirán pronto.

Declaro bajo pena de perjurio bajo las leyes del Estado de California y las leyes de los Estados Unidos que lo anterior es verdadero y correcto.

Fecha este 30 día de Junio de 2018 en Washington D.C.



FRANCISCO SERRANO

EXHIBIT 1



U.S. Department of Health and Human Services

Office of Refugee Resettlement
Sponsor Care Agreement, Rev. 04/30/2012

OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios de Niños
ACUERDO DE CUIDADO DEL PATROCINADOR

Nombre del menor: M [redacted] A [redacted] M [redacted] S [redacted] Número del menor A: _____

Alias (si los tuviera): _____ Fecha de nacimiento del menor: _____/10

Nombre del patrocinador: Francisco de Jesus Soriano Fecha: 05/10/18

Le solicito a la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement, ORR) patrocinar a un niño extranjero no acompañado en el cuidado y la custodia del gobierno federal conforme al acuerdo extrajudicial estipulado *Flores v. Reno*, número 85-4544-RJK (Px) (C.D. Cal., 17 de enero de 1997), sección 462 del Homeland Security Act de 2002 y la sección 235 del William Wilberforce Trafficking Victims Protection Reauthorization Act de 2008. Si se aprueba la solicitud de patrocinio, recibirá un formulario de *Verificación de liberación de ORR* y se celebrará un acuerdo de custodia con el gobierno federal en el cual acepta cumplir con las siguientes disposiciones mientras el menor esté en su cuidado:

- Proporcionar el bienestar mental y físico del menor, que incluye, entre otros, alimentos, refugio, vestimenta, educación, atención médica y otros servicios según sea necesario.
- Si no es el tutor legal ni el padre o la madre del menor, haga los mejores esfuerzos por establecer una custodia legal con el tribunal local dentro de un tiempo razonable.
- Asistir a un programa de orientación legal proporcionado por el Departamento de Justicia (Department of Justice, DOJ), o programa de orientación legal para custodios (patrocinadores) de la Oficina Ejecutiva para la Revisión de la Inmigración (Executive Office for Immigration Review, EOIR), si está disponible en el lugar donde reside.
- Según dónde esté pendiente el caso de inmigración del menor, notificar al Tribunal de Inmigración o al Tribunal de Apelaciones de Inmigración local en un período de cinco (5) días de todo cambio de dirección o número de teléfono del menor, usando el formulario de cambio de dirección de extranjeros (formulario EOIR-33). Además, si es necesario, presentar una petición de cambio de competencia territorial a nombre del menor. La petición de cambio de competencia territorial debe contener información especificada por el Tribunal de Inmigración. Tenga en cuenta que la petición de cambio de competencia territorial puede requerir la ayuda de un abogado. Para obtener asesoramiento sobre la "petición de cambio de competencia territorial", consulte el Manual de práctica del Tribunal de Inmigración en <http://1.usa.gov/e0H9zL>. Para obtener información sobre casos de inmigración, comuníquese con el sistema de información de casos de inmigración de EOIR llamando al 1-800-898-7180. Visite el sitio web de EOIR para obtener información adicional en: <http://www.justice.gov/eoir/formslist.htm>.
- Notificar al Departamento de Seguridad del Territorio Nacional (Department of Homeland Security, DHS) o a Servicios de Ciudadanía e Inmigración de los Estados Unidos (U.S. Citizenship and Immigration Services) en un período de diez (10) días de todo cambio de dirección, presentando la Tarjeta de Cambio de Dirección de Extranjero (AR-11) o de manera electrónica en <http://1.usa.gov/Ac5MP>.
- Asegurar la presencia del menor en todos los procedimientos futuros ante DHS o Inmigración y Seguridad de Aduanas (Immigration and Customs Enforcement, ICE) y el Departamento de Justicia (Department of Justice, DOJ) o EOIR. Para obtener información sobre casos de inmigración, comuníquese con el sistema de información de casos de EOIR llamando al: 1-800-898-7180.
- Asegurar que el menor se presente ante ICE para la expulsión de los Estados Unidos si un juez de inmigración emite una orden de expulsión o una orden de salida voluntaria. Se asigna al menor un oficial de deportación para los procedimientos de expulsión.

13. ¿Alguno de los ocupantes de su hogar sufre de alguna enfermedad grave y contagiosa (p. ej., TB, SIDA, hepatitis)? Si así fuera, por favor, explíquelo:

NO

14(a). ¿Usted o alguno de los ocupantes de su hogar han sido acusados o condenados por un delito (que no sea una infracción menor de tránsito, p. ej., velocidad excesiva, multa por mal estacionamiento)?

NO SÍ

14(b). ¿Usted o alguna persona en su hogar han sido investigados por abuso físico, sexual, descuido o abandono de un menor?

NO SÍ

Si usted respondió "SÍ" a cualquiera de las preguntas 14 (a) o 14(b), sírvase adjuntar una lista a este formulario con la siguiente información para cada cargo/condena:

- (1) Nombre de la persona involucrada;
- (2) Lugar y fecha del incidente;
- (3) descripción del incidente;
- (4) Resolución sobre el incidente (p. ej., desestimación de cargos, multado, encarcelado, período de prueba);
- (5) Copia del(de los) registro(s) judicial(es), registro(s) policial(es), y/o registro(s) de la agencia de servicio social gubernamental relacionado(s) con el(los) incidente(s)

15. Si existiese la posibilidad que usted deba salir de los Estados Unidos, o ser incapaz de cuidar al menor, ¿quién supervisaría al menor en su ausencia?:

Nombre del posible cuidador adulto: *Martini del Carmen Velazquez*

Fecha de nacimiento del posible cuidador adulto: *1/80*

Información de contacto (dirección y número de teléfono) del posible cuidador adulto: *Washington D.C.*

Relación con el menor, si hay alguna: *tía política por vía la pareja del tío*

Resuma su plan de cuidado en caso de que usted tenga que salir de los Estados Unidos o sea incapaz de cuidar al menor:

dejar los billetes pagados como renta o mortgage como suficiente dinero por cual quita emergencia etc

Declaro y afirmo bajo pena de perjurio que la información contenida en esta solicitud es verdadera y precisa, según mi leal saber y entender. Doy fe de que todos los documentos que presento o las copias de dichos documentos están libres de error y de fraude.

Doy fe además que me atenderé a las instrucciones contenidas en el Acuerdo del Patrocinador sobre el Cuidado. Velaré por el bienestar físico y mental del menor. También cumpliré con las leyes de mi estado respecto del cuidado de este menor, lo que incluye la inscripción del menor en la escuela, la provisión de atención médica cuando sea necesaria, la protección del menor contra el abuso, descuido y abandono, y cualquier otro requisito no contenido en el presente.

SU FIRMA:

FECHA:

05/10/18



OFICINA DE REUBICACIÓN DE REFUGIADOS
División de servicios para niños
SOLICITUD DE REUNIFICACIÓN FAMILIAR

1. Nombre del menor: M [redacted] A [redacted] M [redacted] S [redacted]	2. Su relación con el menor: Tio
3. Su nombre (de usted): Francisco de Jesus Serrano	4. Cualquier otro nombre que usted haya utilizado:
5. Su país de origen (de usted): El Salvador	6. Su fecha de nacimiento (de usted): [redacted] / 7A
7. Número(s) de teléfono donde nos podemos comunicar con usted: [redacted]	8. Su correo electrónico (si lo tiene) o número de fax: [redacted]
9. El domicilio donde residirán usted y el menor: [redacted] Washington, D.C. [redacted]	10. ¿Qué idiomas habla?: español y un poco inglés

11. Información de los ocupantes del hogar. (Si necesita más espacio, sírvase adjuntar una lista de los ocupantes del hogar a este formulario)

Nombre	Fecha de Nacimiento	Relación con el menor (p. ej., madre, padre)	Relación con usted (el patrocinador)
Francisco Serrano	[redacted] / 7A	Tio	soy el patrocinador
Marlene Velasquez	[redacted] / 80	Tia politica	esposa
Marcos Serrano	[redacted] / 40	tía Abuela	madre
J [redacted] S [redacted]	[redacted] / 01	Prima	hija
K [redacted] S [redacted]	[redacted] / 03	Primo	hijo

12. Información financiera: Sírvase explicar cómo va a mantener financieramente al menor:

tanto la vivienda como los alimentos
salud medica escuela
sera igual que mis propios hijos
Amor, cariño atencion etc



U.S. Department of Health and Human Services

Office of Refugee Resettlement
Family Reunification Checklist for Sponsors, Rev. 04/04/2014

OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios para Niños
LISTA DE VERIFICACIÓN FAMILIAR PARA PATROCINADORES

Formularios que deberán ser completados, firmados y devueltos a su trabajador social

- He completado y firmado la Autorización para la Divulgación de Información
- He completado y firmado la Solicitud para la reunificación familiar

Formularios que deberán ser leídos y mantenidos en su poder

- He leído la Carta introductoria del Paquete para la Reunificación Familiar
- He leído el Acuerdo de Cuidado del Patrocinador
- He leído la Lista de Verificación para Patrocinadores
- He leído el Programa General de Orientación Legal para Custodios
- He leído el Manual para el Patrocinador
- He leído las Instrucciones para la toma de huellas digitales por si tienen que ser sometidas.
- Carta de Designación del Cuidado de un Menor para el patrocinador que NO es uno de los padres del menor ni su tutor legal.

Documentos probatorios

Por favor proporcione una copia de los siguientes documentos que figuran a continuación. Por favor tome en cuenta que tanto la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement, ORR) como la División de Servicios de Niños no Acompañados (Division of Children's Services, DCS) pueden rechazar su solicitud como patrocinador si falta cualquier elemento de la información solicitada o si esa misma está incompleta o no es correcta. En el caso de que no pueda proveer los documentos requeridos, adjunte una explicación, junto con la Solicitud de Reunificación Familiar, en la que indique qué tipo de documentación de respaldo no puede presentar y la razón. Tenga en cuenta que su explicación sobre cualquier documentación faltante quedará sujeta a la aceptación de ORR/DCS.

1. Prueba de su Identidad:

- Una copia de una identificación emitida por el gobierno, tal como:
 - a. Licencia de conducir o tarjeta de identificación emitida por el estado
 - b. Documento de identidad (con foto) de su país de origen (p. ej., cédula)
 - c. Pasaporte

Y

- Una copia de su certificado de nacimiento

2. Prueba de la identidad del menor:

- Una copia del certificado de nacimiento del menor

3. Prueba de Parentesco:

- Entregue copias de certificados de nacimiento, de matrimonio, registros judiciales, registros de la tutoría u otros documentos, a fin de aportar evidencia de la relación entre usted y el menor.

4. Registros Legales (si corresponde)

Si usted respondió "SI" a las preguntas 14(a) y/o 14(b) en la *Solicitud de Reunificación Familiar*, aporte registros judiciales, policiales, y/o de los servicios sociales gubernamentales relacionados con el/ los incidente(s).

5. Si usted NO es uno de los padres o el tutor legal de este menor, por favor proporcione de uno de los siguientes documentos como comprobante de domicilio. Si usted SI es el padre o el tutor legal del menor, no es necesario que entregue un comprobante de domicilio.

- a. Una copia de su renta actual
- b. Una copia del estado de cuenta actual de su hipoteca
- c. Carta del propietario, en la que se confirme su domicilio.
- d. Una copia de su correspondencia, preferiblemente una factura de servicio público dirigida a usted, correspondiendo a los últimos dos meses.

OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios de Niños
AUTORIZACIÓN PARA LA DIVULGACIÓN DE INFORMACIÓN

INFORMACIÓN REQUERIDA PARA LA INVESTIGACIÓN DE ANTECEDENTES

NOMBRE DEL MENOR: M A M S				FECHA DE NACIMIENTO DEL MENOR: 2010		
INFORMACIÓN DEL PATROCINADOR:				FECHA DE NACIMIENTO		
Apellido Serrano		Primer nombre Francisco		Nombre del medio (sufrido) de Jesus		Mes <input type="checkbox"/> Día <input type="checkbox"/> Año 1974
SEXO: <input checked="" type="checkbox"/> MASC. <input type="checkbox"/> FEM.		Etnia Latino Americano		Color de ojos cafe		NÚMERO DE SEGURO SOCIAL (opcional)
Altura 5-03		Peso 131		Color de pelo negro		
LUGAR DE NACIMIENTO: (Use el código de dos letras para el estado)						
Ciudad Nueva San Salvador		Condado Santa Tecla		Estado La Libertad		País El Salvador
OTROS NOMBRES UTILIZADOS Y SUS FECHAS DE USO:						
Nombre		Desde: Mes Año	Hasta: Mes Año	Nombre		Desde: Mes Año
RESIDENCIAS EN LOS ÚLTIMOS 5 AÑOS:						
DESDE: Mes/Año 03/2004		HASTA: Mes/Año Presente		Apartamento nro.	Ciudad (condado) Washington	Estado D.C.
						Código postal
DESDE: Mes/Año		HASTA: Mes/Año		Domicilio	Apartamento nro.	Ciudad (condado)
						Estado
DESDE: Mes/Año		HASTA: Mes/Año		Domicilio	Apartamento nro.	Ciudad (condado)
						Estado
DESDE: Mes/Año		HASTA: Mes/Año		Domicilio	Apartamento nro.	Ciudad (condado)
						Estado
CIUDADANÍA DE LOS ESTADOS UNIDOS Si el patrocinador es ciudadano estadounidense, pero no nació en los EE. UU., brinde información acerca de una o más de las siguientes pruebas de ciudadanía.						
Certificado de naturalización						
Tribunal Supreme Court		Ciudad Washington		Estado DC	Número de certificado	Mes/Día/Año de emisión 11/15/16
Certificado de ciudadanía (¿Dónde se emitió el certificado?)						
Ciudad ↑		Estado ↑		Número de certificado ↑		Mes/Día/Año de emisión ↑
Formulario 240 del Departamento de Estado: Informe del nacimiento en el extranjero de un ciudadano de los Estados Unidos						
Indique la fecha en que se preparó el formulario y brinde una explicación si fuese necesario.		Mes/Día/Año		Explicación		
Pasaporte de los EE. UU.						
Puede ser tanto un pasaporte de los EE. UU. actual como anterior.				Número de pasaporte		Mes/Día/Año de emisión 09/05/2017
DOBLE CIUDADANÍA: Si el sujeto tiene (o tuvo) doble ciudadanía, de los Estados Unidos y de otro país, indique el nombre de dicho país en el espacio de la derecha.						País El Salvador
EXTRANJERO Si el sujeto es extranjero, indique la siguiente información:						
Lugar de entrada a los Estados Unidos		Ciudad	Estado	Fecha de entrada a los EE. UU. Mes Día Año		Número de registro del extranjero
						País de ciudadanía

* No es obligatorio indicar el número de Seguro Social. Sin embargo, si se lo indica, es posible que la ORR no pueda realizar la investigación de antecedentes necesaria para el procedimiento de reubicación.

OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios de Niños
AUTORIZACIÓN PARA LA DIVULGACIÓN DE INFORMACIÓN

Lea cuidadosamente esta autorización, luego fírmela y féchela con tinta negra.

Autorizo a cualquier investigador, agente especial, empleado, contratista, cesionario u otro representante debidamente autorizado que trabaje en nombre de la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement) que esté llevando a cabo la investigación de mis antecedentes y la evaluación de patrocinio a obtener información a fin de evaluar mi capacidad para brindarle el debido cuidado y lugar a un menor y para proveerle los servicios posteriores a su liberación, según sea necesario. Autorizo a cualquier agencia de justicia penal federal, estatal o local; agencia para el bienestar infantil federal, estatal, local o privada; agencia federal de inmigración o cualquier otra fuente de información, tal como escuelas, tribunales, proveedores de tratamiento, funcionarios de libertad condicional/bajo palabra, profesionales de la salud mental u otras referencias, a divulgar, tanto verbalmente como por escrito, información acerca de todo historial delictivo, cargos o dadas sobre abuso y descuido infantil, situación migratoria pasada y presente, problemas de salud mental, abuso de sustancias, violencia doméstica o cualquier otra información psicosocial recopilada acerca de mi persona.


Autorizo a los custodios de los registros y fuentes de la información sobre mi persona, a divulgar tal información ante la solicitud del investigador, agente especial, empleado, contratista, cesionario u otro representante debidamente acreditado de la Oficina de Reubicación de Refugiados.

Entiendo que la información divulgada por cualquier custodio de mis registros y otras fuentes de la información acerca de mi persona es para uso oficial por parte del gobierno de los EE. UU., sus empleados, cesionarios, contratistas y otro personal delegado para los fines expresados más arriba y que puede ser revelada por el gobierno de los EE. UU. solamente en la forma autorizada por la ley.

Entiendo que esta información se convertirá en propiedad de la Oficina de Reubicación de Refugiados y que puede ser revisada por sus empleados, cesionarios, contratistas y delegados. También entiendo que la Oficina de Reubicación de Refugiados puede compartir esta información con los empleados y contratistas de otras agencias federales.

Por el presente renuncio a cualquier reclamo o derecho en virtud de las leyes de los Estados Unidos contra el gobierno federal, sus empleados, cesionarios, contratistas o delegados por usar legalmente cualquier información recopilada durante la búsqueda de mi historial delictivo, información relativa al bienestar infantil, situación migratoria pasada o presente, cualquier información contenida en mi solicitud de patrocinio y en la documentación de respaldo y la información recopilada de cualquier otra fuente, en forma oral o escrita, relacionada con esta solicitud de patrocinio. Por el presente renuncio a toda demanda o acuerdo previo con cualquier agencia federal estatal, local o privada que pudiera impedirle al delegado oficial de la Oficina de Reubicación de Refugiados obtener la información solicitada.

Las copias de esta autorización que contengan mi firma son tan válidas como el original. Esta autorización es válida por un (1) año a partir de la fecha de su firma.

Firma (firmar con tinta) 		Nombre completo (a máquina o en letra de imprenta legible) Francisco de Jesus Serrano		Fecha de la firma 05/10/18
Otros nombres que usted haya usado (alias)		Fecha de nac. del patrocinador [redacted]/1974		Número del Seguro Social (opcional) [redacted]
Domicilio actual [redacted] Washington		Estado D.C.	Código postal [redacted]	Nro. de teléfono de su hogar (incluya el código de área) [redacted]

No es obligatorio indicar su número de Seguro Social. Sin embargo, si no lo indica, es posible que la ORR no pueda realizar la investigación de antecedentes necesaria para el procedimiento de reunificación.

EXHIBIT 2



U.S. Department of Health and Human Services

Office of Refugee Resettlement
Sponsor Care Agreement, Rev. 04/30/2012

OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios de Niños
ACUERDO DE CUIDADO DEL PATROCINADOR

Nombre del menor: N A G Número del menor A: 15
Alias (si los tuviera): _____ Fecha de nacimiento del menor: _____
Nombre del patrocinador: FRANCISCO DE JESUS SERRANO Fecha: 05/10/18

Le solicito a la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement, ORR) patrocinar a un niño extranjero no acompañado en el cuidado y la custodia del gobierno federal conforme al acuerdo extrajudicial estipulado Flores v. Reno, número 85-4544-RJK (Px) (C.D. Cal., 17 de enero de 1997), sección 462 del Homeland Security Act de 2002 y la sección 235 del William Wilberforce Trafficking Victims Protection Reauthorization Act de 2008. Si se aprueba la solicitud de patrocinio, recibirá un formulario de *Verificación de liberación* de ORR y se celebrará un acuerdo de custodia con el gobierno federal en el cual acepta cumplir con las siguientes disposiciones mientras el menor esté en su cuidado:

- Proporcionar el bienestar mental y físico del menor, que incluye, entre otros, alimentos, refugio, vestimenta, educación, atención médica y otros servicios según sea necesario.
- Si no es el tutor legal ni el padre o la madre del menor, haga los mejores esfuerzos por establecer una custodia legal con el tribunal local dentro de un tiempo razonable.
- Asistir a un programa de orientación legal proporcionado por el Departamento de Justicia (Department of Justice, DOJ), o programa de orientación legal para custodios (patrocinadores) de la Oficina Ejecutiva para la Revisión de la Inmigración (Executive Office for Immigration Review, EOIR), si está disponible en el lugar donde reside.
- Según dónde esté pendiente el caso de inmigración del menor, notificar al Tribunal de Inmigración o al Tribunal de Apelaciones de Inmigración local en un período de cinco (5) días de todo cambio de dirección o número de teléfono del menor, usando el formulario de cambio de dirección de extranjeros (formulario EOIR-33). Además, si es necesario, presentar una petición de cambio de competencia territorial a nombre del menor. La petición de cambio de competencia territorial debe contener información especificada por el Tribunal de Inmigración. Tenga en cuenta que la petición de cambio de competencia territorial puede requerir la ayuda de un abogado. Para obtener asesoramiento sobre la "petición de cambio de competencia territorial", consulte el Manual de práctica del Tribunal de Inmigración en <http://1.usa.gov/e61j9z1>. Para obtener información sobre casos de inmigración, comuníquese con el sistema de información de casos de inmigración de EOIR llamando al 1-800-898-7180. Visite el sitio web de EOIR para obtener información adicional en: <http://www.justice.gov/eoir/formslist.htm>.
- Notificar al Departamento de Seguridad del Territorio Nacional (Department of Homeland Security, DHS) o a Servicios de Ciudadanía e Inmigración de los Estados Unidos (U.S. Citizenship and Immigration Services) en un período de diez (10) días de todo cambio de dirección, presentando la Tarjeta de Cambio de Dirección de Extranjero (AR-11) o de manera electrónica en <http://1.usa.gov/Ae5MP>.
- Asegurar la presencia del menor en todos los procedimientos futuros ante DHS o Inmigración y Seguridad de Aduanas (Immigration and Customs Enforcement, ICE) y el Departamento de Justicia (Department of Justice, DOJ) o EOIR. Para obtener información sobre casos de inmigración, comuníquese con el sistema de información de casos de EOIR llamando al: 1-800-898-7180.
- Asegurar que el menor se presente ante ICE para la expulsión de los Estados Unidos si un juez de inmigración emite una orden de expulsión o una orden de salida voluntaria. Se asigna al menor un oficial de deportación para los procedimientos de expulsión.



OFICINA DE REUBICACIÓN DE REFUGIADOS
División de servicios para niños
SOLICITUD DE REUNIFICACIÓN FAMILIAR

1. Nombre del menor: M [redacted] A [redacted] G [redacted] S [redacted]		2. Su relación con el menor: tío	
3. Su nombre (de usted): Francisco de Jesus Serrano		4. Cualquier otro nombre que usted haya utilizado:	
5. Su país de origen (de usted): El Salvador		6. Su fecha de nacimiento (de usted): [redacted] / 1976	
7. Número(s) de teléfono donde nos podemos comunicar con usted: [redacted]		8. Su correo electrónico (si lo tiene) o número de fax: [redacted]	
9. El domicilio donde residirán usted y el menor: [redacted] Washington, D.C. [redacted]		10. ¿Qué idiomas habla?: Español y un poco ingles	
11. Información de los ocupantes del hogar. (Si necesita más espacio, sírvase adjuntar una lista de los ocupantes del hogar a este formulario)			
Nombre	Fecha de Nacimiento	Relación con el menor (p. ej., madre, padre)	Relación con usted (el patrocinador)
Martina Velasquez	[redacted] / 80	Tía política	esposa
Marcos Serrano	[redacted] / 40	tía Abuela	Mamá
J [redacted] S [redacted]	[redacted] / 01	Prima	hija
F [redacted] S [redacted]	[redacted] / 03	Primo	hijo
12. Información financiera: Sírvase explicar cómo va a mantener financieramente al menor: tanto la beverida como los Alimentos Salud medica Escuela Será Igual que mis propios hijos Amor, cariño Atención etc			

13. ¿Alguno de los ocupantes de su hogar sufre de alguna enfermedad grave y contagiosa (p. ej., TB, SIDA, hepatitis)? Si así fuera, por favor, explíquelo:

NO

14(a). ¿Usted o alguno de los ocupantes de su hogar han sido acusados o condenados por un delito (que no sea una infracción menor de tránsito, p. ej., velocidad excesiva, multa por mal estacionamiento)?

NO SÍ

14(b). ¿Usted o alguna persona en su hogar han sido investigados por abuso físico, sexual, descuido o abandono de un menor?

NO SÍ

Si usted respondió "SÍ" a cualquiera de las preguntas 14 (a) o 14(b), sírvase adjuntar una lista a este formulario con la siguiente información para cada cargo/condena:

- (1) Nombre de la persona involucrada; (2) lugar y fecha del incidente; (3) descripción del incidente;
- (4) Resolución sobre el incidente (p. ej., desestimación de cargos, multado, encarcelado, período de prueba); (5) Copia del(de los) registro(s) judicial(es), registro(s) policial(es), y/o registro(s) de la agencia de servicio social gubernamental relacionado(s) con el(los) incidente(s)

15. Si existiese la posibilidad que usted deba salir de los Estados Unidos, o ser incapaz de cuidar al menor, ¿quién supervisaría al menor en su ausencia?:

Nombre del posible cuidador adulto: *Martina del Carmen Velasquez*

Fecha de nacimiento del posible cuidador adulto: *[redacted] 80*

Información de contacto (dirección y número de teléfono) del posible cuidador adulto:

Relación con el menor, si hay alguna: *Tía política por ser la pareja del tío*

Resuma su plan de cuidado en caso de que usted tenga que salir de los Estados Unidos o sea incapaz de cuidar al menor:

dejar los billes pagados como renta o mortgage comida suficiente. dinero por cualquier emergencia e.t.c.

Declaro y afirmo bajo pena de perjurio que la información contenida en esta solicitud es verdadera y precisa, según mi leal saber y entender. Doy fe de que todos los documentos que presento o las copias de dichos documentos están libres de error y de fraude.

Doy fe además que me atenderé a las instrucciones contenidas en el Acuerdo del Patrocinador sobre el Cuidado. Velaré por el bienestar físico y mental del menor. También cumpliré con las leyes de mi estado respecto del cuidado de este menor, lo que incluye la inscripción del menor en la escuela, la provisión de atención médica cuando sea necesaria, la protección del menor contra el abuso, descuido y abandono, y cualquier otro requisito no contenido en el presente.

SU FIRMA: *[Signature]*

FECHA: *05/10/18*



OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios para Niños
LISTA DE VERIFICACIÓN FAMILIAR PARA PATROCINADORES

Formularios que deberán ser completados, firmados y devueltos a su trabajador social

- He completado y firmado la Autorización para la Divulgación de Información
- He completado y firmado la Solicitud para la reunificación familiar

Formularios que deberán ser leídos y mantenidos en su poder

- He leído la Carta introductoria del Paquete para la Reunificación Familiar
- He leído el Acuerdo de Cuidado del Patrocinador
- He leído la Lista de Verificación para Patrocinadores
- He leído el Programa General de Orientación Legal para Custodios
- He leído el Manual para el Patrocinador
- He leído las Instrucciones para la toma de huellas digitales por si tienen que ser sometidas.
- Carta de Designación del Cuidado de un Menor para el patrocinador que NO es uno de los padres del menor ni su tutor legal.

Documentos probatorios

Por favor proporcione una copia de los siguientes documentos que figuran a continuación. Por favor tome en cuenta que tanto la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement, ORR) como la División de Servicios de Niños no Acompañados (Division of Children's Services, DCS) pueden rechazar su solicitud como patrocinador si falta cualquier elemento de la información solicitada o si esa misma está incompleta o no es correcta. En el caso de que no pueda proveer los documentos requeridos, adjunte una explicación, junto con la Solicitud de Reunificación Familiar, en la que indique qué tipo de documentación de respaldo no puede presentar y la razón. Tenga en cuenta que su explicación sobre cualquier documentación faltante quedará sujeta a la aceptación de ORR/DCS.

1. Prueba de su Identidad:

- Una copia de una identificación emitida por el gobierno, tal como:
 - a. Licencia de conducir o tarjeta de identificación emitida por el estado
 - b. Documento de identidad (con foto) de su país de origen (p. ej., cédula)
 - c. Pasaporte

Y

- Una copia de su certificado de nacimiento

2. Prueba de la identidad del menor:

- Una copia del certificado de nacimiento del menor

3. Prueba de Parentesco:

- Entregue copias de certificados de nacimiento, de matrimonio, registros judiciales, registros de la tutoría u otros documentos, a fin de aportar evidencia de la relación entre usted y el menor.

4. Registros Legales (si corresponde)

Si usted respondió "Sí" a las preguntas 14(a) y/o 14(b) en la *Solicitud de Reunificación Familiar*, aporte registros judiciales, policiales, y/o de los servicios sociales gubernamentales relacionados con el/ los incidente(s).

5. Si usted NO es uno de los padres o el tutor legal de este menor, por favor proporcione de uno de los siguientes documentos como comprobante de domicilio. Si usted SI es el padre o el tutor legal del menor, no es necesario que entregue un comprobante de domicilio.

- a. Una copia de su renta actual
- b. Una copia del estado de cuenta actual de su hipoteca
- c. Carta del propietario, en la que se confirme su domicilio.
- d. Una copia de su correspondencia, preferiblemente una factura de servicio público dirigida a usted, correspondiendo a los últimos dos meses.

OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios de Niños
AUTORIZACIÓN PARA LA DIVULGACIÓN DE INFORMACIÓN

INFORMACIÓN REQUERIDA PARA LA INVESTIGACIÓN DE ANTECEDENTES

NOMBRE DEL MENOR: M A S **FECHA DE NACIMIENTO DEL MENOR:** 12/05

INFORMACIÓN DEL PATROCINADOR:

Apellido Stefano	Primer nombre FRANCISCO	Nombre del medio (sufijo) CD JESUS	FECHA DE NACIMIENTO		
SEXO: <input checked="" type="checkbox"/> MASC. <input type="checkbox"/> FEM.	Raza latino Americano	Color de ojos CAJOS	Mes	Día	Año 1976
Altura 5-03	Peso 131	Color de pelo Negro	NÚMERO DE SEGURO SOCIAL (opcional)*		

LUGAR DE NACIMIENTO: (Use el código de dos letras para el estado)

Ciudad Nueva San Salvador	Condado Santa Tecla	Estado la libertad	País El Salvador
----------------------------------	----------------------------	---------------------------	-------------------------

OTROS NOMBRES UTILIZADOS Y SUS FECHAS DE USO:

Nombre	Desde: Mes Año	Hasta: Mes Año	Nombre	Desde: Mes Año	Hasta: Mes Año
--------	----------------	----------------	--------	----------------	----------------

RESIDENCIAS EN LOS ÚLTIMOS 5 AÑOS:

DESDE: Mes/Año 03/2007	Domicilio	Apartamento nro.	Ciudad (condado) Washington	Estado D.C.	Código postal
HASTA: Mes/Año 12/2010					
DESDE: Mes/Año	Domicilio	Apartamento nro.	Ciudad (condado)	Estado	Código postal
HASTA: Mes/Año					
DESDE: Mes/Año	Domicilio	Apartamento nro.	Ciudad (condado)	Estado	Código postal
HASTA: Mes/Año					
DESDE: Mes/Año	Domicilio	Apartamento nro.	Ciudad (condado)	Estado	Código postal
HASTA: Mes/Año					

CIUDADANÍA DE LOS ESTADOS UNIDOS Si el patrocinador es ciudadano estadounidense, pero no nació en los EE. UU., brinde información acerca de una o más de las siguientes pruebas de ciudadanía.

Certificado de naturalización

Tribunal	Ciudad	Estado	Número de certificado	Mes/Día/Año de emisión
-----------------	---------------	---------------	------------------------------	-------------------------------

Certificado de ciudadanía (¿Dónde se emitió el certificado?)

Ciudad Supreme Court Washington	Estado D.C.	Número de certificado	Mes/Día/Año de emisión
--	--------------------	------------------------------	-------------------------------

Formulario 240 del Departamento de Estado: Informe del nacimiento en el extranjero de un ciudadano de los Estados Unidos

Indique la fecha en que se preparó el formulario y brinde una explicación si fuese necesario.	Mes/Día/Año	Explicación
--	--------------------	--------------------

Pasaporte de los EE. UU.

Puede ser tanto un pasaporte de los EE. UU. actual como anterior.

Número de pasaporte	Mes/Día/Año de emisión 09/03/2017
----------------------------	--

DOBLE CIUDADANÍA: Si el sujeto tiene (o tuvo) doble ciudadanía, de los Estados Unidos y de otro país, indique el nombre de dicho país en el espacio de la derecha.

País El Salvador

EXTRANJERO Si el sujeto es extranjero, indique la siguiente información:

Lugar de entrada a los Estados Unidos	Ciudad	Estado	Fecha de entrada a los EE. UU. Mes Día Año	Número de registro del extranjero	País de ciudadanía
--	---------------	---------------	--	--	---------------------------

* No es obligatorio indicar el número de Seguro Social. Sin embargo, si no lo indica, es posible que la ORR no pueda realizar la investigación de antecedentes necesaria para el procedimiento de reunificación.

OFICINA DE REUBICACIÓN DE REFUGIADOS
División de Servicios de Niños
AUTORIZACIÓN PARA LA DIVULGACIÓN DE INFORMACIÓN

Lea cuidadosamente esta autorización, luego firmela y féchela con tinta negra.

Autorizo a cualquier investigador, agente especial, empleado, contratista, cesionario u otro representante debidamente autorizado que trabaje en nombre de la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement) que esté llevando a cabo la investigación de mis antecedentes y la evaluación de patrocinio a obtener información a fin de evaluar mi capacidad para brindarle el debido cuidado y lugar a un menor y para proveerle los servicios posteriores a su liberación, según sea necesario. Autorizo a cualquier agencia de justicia penal federal, estatal o local; agencia para el bienestar infantil federal, estatal, local o privada; agencia federal de inmigración o cualquier otra fuente de información, tal como escuelas, tribunales, proveedores de tratamiento, funcionarios de libertad condicional/bajo palabra, profesionales de la salud mental u otras referencias, a divulgar, tanto verbalmente como por escrito, información acerca de todo historial delictivo, cargos o dudas sobre abuso y descuido infantil, situación migratoria pasada y presente, problemas de salud mental, abuso de sustancias, violencia doméstica o cualquier otra información psicosocial recopilada acerca de mi persona.

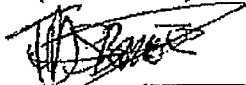
Autorizo a los custodios de los registros y fuentes de la información sobre mi persona, a divulgar tal información ante la solicitud del investigador, agente especial, empleado, contratista, cesionario u otro representante debidamente acreditado de la Oficina de Reubicación de Refugiados.

Entiendo que la información divulgada por cualquier custodio de mis registros y otras fuentes de la información acerca de mi persona es para uso oficial por parte del gobierno de los EE. UU., sus empleados, cesionarios, contratistas y otro personal delegado para los fines expresados más arriba y que puede ser revelada por el gobierno de los EE. UU. solamente en la forma autorizada por la ley.

Entiendo que esta información se convertirá en propiedad de la Oficina de Reubicación de Refugiados y que puede ser revisada por sus empleados, cesionarios, contratistas y delegados. También entiendo que la Oficina de Reubicación de Refugiados puede compartir esta información con los empleados y contratistas de otras agencias federales.

Por el presente renuncio a cualquier reclamo o derecho en virtud de las leyes de los Estados Unidos contra el gobierno federal, sus empleados, cesionarios, contratistas o delegados por usar legalmente cualquier información recopilada durante la búsqueda de mi historial delictivo, información relativa al bienestar infantil, situación migratoria pasada o presente, cualquier información contenida en mi solicitud de patrocinio y en la documentación de respaldo y la información recopilada de cualquier otra fuente, en forma oral o escrita, relacionada con esta solicitud de patrocinio. Por el presente renuncio a toda demanda o acuerdo previo con cualquier agencia federal estatal, local o privada que pudiera impedirle al delegado oficial de la Oficina de Reubicación de Refugiados obtener la información solicitada.

Las copias de esta autorización que contengan mi firma son tan válidas como el original. Esta autorización es válida por un (1) año a partir de la fecha de su firma.

Firma (fírmela con tinta) 	Nombre completo (a máquina o en letra de imprenta legible) Francisco de Jesus Serrano	Fecha de la firma 05/10/18
Otros nombres que usted haya usado (alias)	Fecha de nac. del patrocinador [redacted] / 1974	Número del Seguro Social (funcional) [redacted]
Domicilio actual [redacted] Washington	Estado D.C.	Código postal [redacted]
Nro. de teléfono de su hogar (incluya el código de área) [redacted]		[redacted]

No es obligatorio indicar su número de Seguro Social. Sin embargo, si no lo indica, es posible que la ORR no pueda realizar la investigación de antecedentes necesaria para el procedimiento de reunificación.

EXHIBIT 3

UNIFORM STATUTORY FORM POWER OF ATTORNEY

(California Probate Code Section 4401)

Notice: The powers granted by this document are broad and sweeping. They are explained in the uniform statutory form power of attorney act (California Probate Code Sections 4400-4465). If you have any questions about these powers, obtain competent legal advice. This document does not authorize anyone to make medical or other health care decisions for you. You may revoke this power at any time if you later wish to do so.

SARINA SERRANO
388 CALZADA DE LA FUENTE
SAN DIEGO CALIFORNIA 92134

(Your name and address)

AGENTE FRANCISCO DE JESUS SERRANO RANCOS

[REDACTED]
WASHINGTON DC [REDACTED]

(Name and address of the person appointed or of each person appointed if you want to designate more than one)

By this power, I intend to act for me in any lawful way with respect to the following initialed subjects:
1. To grant all of the following powers, initial the line in front of (N) and ignore the lines in front of the other powers,
2. To grant one or more, but fewer than all, of the following powers, initial the line in front of each power you are granting,
3. To withhold a power, do not initial the line in front of it. You may but need not cross out each power withheld.

INITIAL INITIAL

- | | |
|--|--|
| <input type="checkbox"/> (A) Real property transactions | <input type="checkbox"/> (D) Claims and litigation. |
| <input type="checkbox"/> (B) Tangible personal property transactions | <input checked="" type="checkbox"/> (J) Personal and family maintenance. |
| <input type="checkbox"/> (C) Asset and debt transactions | <input type="checkbox"/> (K) Benefits from social security, Medicare, Medicaid, or other governmental programs, or civil or military service |
| <input type="checkbox"/> (E) Bankruptcy and insolvency transactions | <input type="checkbox"/> (L) Retirement plan transactions. |
| <input type="checkbox"/> (F) Banking and other financial institution transactions. | <input type="checkbox"/> (M) Tax matters. |
| <input type="checkbox"/> (G) Business operating transactions. | <input type="checkbox"/> (N) ALL OF THE POWERS LISTED ABOVE. |
| <input type="checkbox"/> (H) Insurance and annuity transactions. | |
| <input type="checkbox"/> (I) Pensions from and other beneficiary transactions. | |
- You need not initial any other lines if you initial line(N)

SPECIAL INSTRUCTIONS:

(In the following lines you may give special instructions limiting or extending the powers granted to your agent)

Authorized to care for (medical, dental, school, financial or any act necessary) for my children:

[REDACTED] [REDACTED] [REDACTED] [REDACTED] (D.O.B. [REDACTED] 2010)

[REDACTED] [REDACTED] [REDACTED] [REDACTED] (D.O.B. [REDACTED] 2015)

This document, including this power of attorney, is effective immediately and will continue until: Revoked

This power of attorney will continue to be effective even though I become incapacitated.

(Strike the preceding sentence if you do not want this power of attorney to continue if you become incapacitated)

ATTENTION: IF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act _____

...you executed have that one agent and you want each agent to be able to act alone without the other agent... insert the word "jointly" in the blank space above. If you do not insert any word in the blank space or if you insert the word "jointly", then all of your agent must act or sign together)

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

Signed this 17th day of May, 2018

[Signature]
(Your signature)

[Redacted]
(Your social security number)

State of California

County of San Diego

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT.

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On May 17, 2018 before me, K. V. FAY

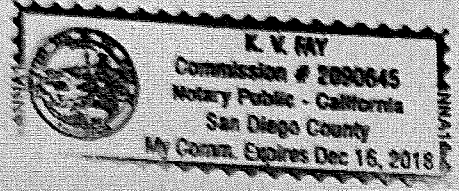
Notary Public personally appeared MARIA SERRANO

Personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that he/she/they (their signature(s)) on the instrument the person(s) or the entity upon behalf of which person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

K. V. FAY
(SIGNATURE OF NOTARY)



(Seal)

EXHIBIT 4



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
CHILDREN'S ADMINISTRATION
PO Box 45710
Olympia WA 98504-5710

**Washington State Child Abuse and Neglect
Founded Findings Request from Another State**

The information provided through this service is limited to the existence of founded findings (substantiated findings) of allegations of child abuse and neglect, and complies with the Adam Walsh Child Protection and Safety Act of 2002 for purposes of identifying a prospective adoptive or foster parent. Follow the steps below:

This form must be typewritten and signed. Any handwritten or incomplete forms will be returned for correction.

1. Complete one form for each individual for whom a child abuse/neglect findings request is being requested.
2. Include a check or money order in the amount of \$20.00, per individual inquiry, made payable to Children's Administration ADUHH.
3. Mail completed requests to: DSHS Children's Administration ATTN: Fiscal
PO Box 45710
Olympia WA 98504-5710
4. See "instructions" for ICPC requests. Call 1-800-562-5624 or email ca@icpc.wa.gov with any questions.

A. Requestor Information			
NAME, LAST	FIRST	TITLE	
Ramos	Cythia	Supervisor	
AGENCY OR BUSINESS NAME		WASHINGTON LICENSE NUMBER (IF APPLICABLE)	
Health and Human Services			
MAILING ADDRESS		CITY	STATE ZIP CODE
5600 Fishers Lane Parklawn Rd #02E70		Rockville	MD 20857
TELEPHONE NUMBER (WITH AREA CODE)	FAX NUMBER (WITH AREA CODE)	E-MAIL ADDRESS	
301-443-7047	301-480-0293	ca@hhs.wa.gov	
B. Signature of Requestor			
REQUESTED BY (SIGNATURE)			DATE SIGNED
C. Subject of Records Requested			
NAME, LAST	FIRST	MIDDLE	DATE OF BIRTH
Serrano	Francisco	DE JESUS	[REDACTED]
PREVIOUS NAMES USED (AKA, ALIASES OR MAIDEN)			SOCIAL SECURITY NUMBER
			[REDACTED]
LAST WASHINGTON STATE MAILING STREET ADDRESS		CITY	STATE ZIP CODE
[REDACTED] Washington			DC [REDACTED]
D. Authorization BY Subject of Records Requested			
By signing below, I authorize the State of Washington Department of Social and Health Services to release confidential information about me regarding any founded findings of child abuse or neglect to the requesting individual or agency identified above.			
SIGNATURE			DATE SIGNED
[Signature]			01/04/18
Response by the Washington State DSHS Children's Administration			
The result of a search of the Children's Administration child welfare records, pursuant to the data provided above is as follows:			CHECK NUMBER
<input type="checkbox"/> Our records do not indicate that the person identified in your inquiry request has been named as a subject in a founded finding of abuse or neglect.			FISCAL INITIALS
<input type="checkbox"/> Our records indicate that one or more founded findings exist in which the person identified in your inquiry request was the subject.			DATE COMPLETED
			STAFF INITIALS

EXHIBIT 5



Administración para los niños y la familia
Oficina de Reubicación de Refugiados

Solicitud de reunificación familiar

Cómo completar esta solicitud

IMPORTANTE: Si no puede completar estos pasos en el lapso de siete (7) días, infórmese al Administrador de su caso.

Paso 1

Si todavía no lo ha hecho, debe firmar y devolver de inmediato al Administrador de su caso el formulario de **Autorización de divulgación de información** y una copia de su identificación (ID) con foto emitida por el gobierno.

Si se le pide que presente huellas dactilares, el Administrador de su caso lo ayudará a programar una cita para presentar sus huellas dactilares en el lapso de tres (3) días. Comuníquese con el Administrador de su caso si tiene preguntas.

Paso 2

Lea el **Manual del patrocinador** y el **Acuerdo del patrocinador sobre el cuidado** que incluye otra información importante que debe saber acerca de patrocinar a un menor en nuestro programa.

Paso 3

Complete y firme la **Solicitud de reunificación familiar** (páginas 3 a 7 de este paquete).

Paso 4

Reúna los documentos necesarios que se enumeran en la sección **Documentos probatorios** (páginas 8 a 10 de este paquete).

Paso 5

Presente la **Solicitud de reunificación familiar** (esta solicitud) y los documentos probatorios necesarios al Administrador de su caso.

Solicitud de reunificación familiar

Oficina de Reubicación de Refugiados

Preguntas frecuentes

¿Puedo patrocinar a mi hijo si no tengo documentos?

Sí. La Oficina de Reubicación de Refugiados (ORR, Office of Refugee Resettlement)/División de Servicios de Niños No-Acompañados (Division of Unaccompanied Children's Services, DUCS) prefiere entregar un niño a su madre, padre o tutor legal sin importar la situación migratoria.

¿Tiene un costo patrocinar a un niño?

No. No se exigen cargos para completar los requisitos para patrocinar a un niño. Sin embargo, usted puede ser responsable de los costos de viaje y como acompañante del niño.

¿Necesito un abogado para patrocinar a un niño?

No. No necesita un abogado para completar los requisitos para patrocinar a un niño. Si necesita ayuda para completar los requisitos, el Administrador de su caso lo puede ayudar. Si busca atención adicional, tenga en cuenta que no hay ningún cargo por completar los requisitos para patrocinar a un niño.

¿Por qué tengo que presentar mis huellas dactilares?

ORR/DUCS requiere investigaciones de antecedentes para garantizar la seguridad del niño. Si se le pide que presente huellas dactilares, el Administrador de su caso lo ayudará a programar una cita para presentar sus huellas dactilares en el lapso de tres (3) días. Comuníquese con el Administrador de su caso si tiene preguntas.

¿Qué información debo proporcionar?

Debe completar la Solicitud de reunificación familiar y los documentos probatorios. También debe responder preguntas del Administrador de su caso sobre su hogar, la relación con el niño y su capacidad de cuidar el bienestar físico y mental del niño. Debe proporcionar prueba de su identidad.

¿Cuándo tengo que entregarle estos documentos al Administrador de mi caso?

Debe presentar toda la información necesaria en el lapso de siete (7) días o antes, si es posible. Cuanto antes presente todos los documentos necesarios, con más rapidez ORR tomará una decisión sobre la liberación del niño para su custodia. ORR le informará de inmediato la decisión sobre la liberación del niño para su custodia o le notificará si se necesita una evaluación o información adicional.

¿Necesita ayuda? Comuníquese con el
Administrador de su caso.

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ORR UAC/FRP-3s [Rev. 05/14/2018]

OMB 0970-0278 [válida hasta el 10/31/2018]

La LEY DE SIMPLIFICACIÓN DE TRÁMITES DE 1995 (Pub. L. 104-13). Se estima que el promedio de las declaraciones públicas obligatorias de esta solicitud de información es de 30 minutos por respuesta, incluido el tiempo para revisar las instrucciones, recolectar y mantener los datos necesarios y revisar la solicitud de información. Una agencia no puede dirigir ni patrocinar y no es necesario que una persona responda a una recopilación de información, a menos que muestre un número de control válido y actual de la Oficina de Administración y Presupuesto (Office of Management and Budget, OMB) Consulte el aviso de privacidad adjunto/Declaración de la Ley de Privacidad para obtener un análisis acerca de (1) la autoridad de la solicitud de información y acerca de si la divulgación es obligatoria o voluntaria, (2) los propósitos principales para los cuales la información está dirigida, (3) otros usos relacionados con los cuales se puede usar la información y (4) los efectos, si los hay, de no brindar toda o parte de la información solicitada.

Solicitud de reunificación familiar

Oficina de Reubicación de Refugiados

Acerca de usted, el patrocinador y el (los) menor(es)

1) Nombre(s) del (de los) menor(es)

Enumere los nombres de todos los niños que solicita patrocinar

2) Su relación con el (los) menor(es)

p. ej. madre, tío, amigo de la familia

3) Su nombre

--

4) Cualquier otro nombre que usted haya utilizado

Enumere otros nombres que haya usado, como su nombre antes de casarse o sus apellidos maternos (sepárelos con comas)

--

5) Su país de origen (de usted)

Dónde nació

--

6) Su fecha de nacimiento (de usted)

p. ej., 12/31/1979

--

7) Números de teléfono

p. ej., 210-555-1234

Teléfono principal

--

Teléfono secundario

--

8) Su dirección de correo electrónico o número de fax

--

9) Idioma(s) que habla

--

¿Necesita ayuda? Comuníquese con el Administrador de su caso.

Solicitud de reunificación familiar

Oficina de Reubicación de Refugiados

¿Dónde vivirán usted y el (los) menor(es)?

10) Domicilio

Domicilio
(+ número de departamento, si
corresponde)

Ciudad

Estado

Código postal

11) ¿Quién vive actualmente en este domicilio?

Nombre del miembro del hogar	Fecha de nacimiento	Relación con usted (el patrocinador)	Relación con el menor
(EJEMPLO) Miguel Perez	12/31/1985	Hermano	Tío

¿Necesita ayuda? Comuníquese con el Administrador de su caso.

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Solicitud de reunificación familiar Oficina de Reubicación de Refugiados

Adulto que se hará cargo del (de los) menor(es) si usted no puede hacerlo

En el caso de que tenga que irse de los Estados Unidos o no pueda hacerse cargo del (de los) menor(es), ¿quién se hará cargo del (de los) menor(es)?

12a) Nombre del posible encargado adulto

12b) Fecha de nacimiento del posible encargado adulto

12c) Información de contacto del posible encargado adulto

Número de teléfono

Domicilio
(+ número de departamento, si corresponde)

Ciudad

Estado

Código postal

12d) ¿Cuál es su relación con el (los) menor(es)?
(abuelo, tía, hermano mayor de 18 años, etc.)

12e) ¿Cuál es su relación con usted, el patrocinador?

12f) ¿Cómo se cuidará al (a los) menor(es) en el caso de que usted se tenga que ir de los Estados Unidos o no pueda cuidarlo(s)?

¿Necesita ayuda? Comuníquese con el
Administrador de su caso.

ORR UAC/FRP-3s [Rev. 05/14/2018]

OMB 0970-0278 [válida hasta el 10/31/2018]

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Solicitud de reunificación familiar Oficina de Reubicación de Refugiados

Información económica

13) ¿Cómo mantendrá económicamente al (a los) menor(es)?

Incluya todas las fuentes y los montos de su ingreso (por ejemplo, cuánto le pagan por semana) y explique cualquier apoyo económico que reciba de otros que lo ayudarán a mantener económicamente al (a los) menor(es).

Información médica

14a) ¿Alguno de los ocupantes de su hogar sufre de alguna enfermedad grave y contagiosa (tuberculosis [TB], síndrome de inmunodeficiencia adquirida [SIDA], hepatitis, etc.)? Si así fuera, explíquelo:

14b) ¿Sabe de alguna afección médica que el (los) menor(es) pueda(n) tener (discapacidades, alergias, enfermedades, etc.)? Si así fuera, explíquelo:

¿Necesita ayuda? Comuníquese con el
Administrador de su caso.

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Solicitud de reunificación familiar Oficina de Reubicación de Refugiados

Antecedentes penales

Si responde "Sí" a cualquiera de estas preguntas, tendrá que brindar más información. Consulte la página de Documentos probatorios (página 9 de este paquete) para obtener más información.

15a) ¿Usted o alguno de los ocupantes de su hogar han sido acusados o condenados por un delito alguna vez (que no sea una infracción menor de tránsito, p. ej., velocidad excesiva, multa por mal estacionamiento, etc.)?

Sí No

15b) ¿Usted o alguna persona en su hogar han sido investigados por abuso físico, sexual, descuido o abandono de un menor alguna vez?

Sí No

Firma y fecha de la solicitud

Declaro y afirmo bajo pena de perjurio que la información contenida en esta solicitud es verdadera y precisa, según mi leal saber y entender.

Doy fe de que todos los documentos que presento o las copias de dichos documentos están libres de error y de fraude.

Doy fe además que me atenderé a las instrucciones contenidas en el *Acuerdo del Patrocinador sobre el Cuidado*.

Velaré por el bienestar físico y mental del (de los) menor(es). También cumpliré con las leyes de mi estado respecto del cuidado de este menor, lo que incluye:

- la inscripción de (de los) menor(es) en la escuela;
- la provisión de atención médica cuando sea necesaria;
- la protección del (de los) menor(es) contra el abuso, descuido y abandono;
- y cualquier otro requisito no contenido en el presente.

SU FIRMA

FECHA

¿Necesita ayuda? Comuníquese con el
Administrador de su caso.

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Solicitud de reunificación familiar

Oficina de Reubicación de Refugiados

Documentos probatorios

Sírvase proveer una copia de los siguientes documentos que figuran a continuación. Si no puede proporcionar los documentos que solicitamos, explique el motivo. Tenga en cuenta que podemos rechazar su solicitud si falta cualquier elemento de la información solicitada, si esta se encuentra incompleta o no es correcta.

1) Prueba de identidad de usted y de los miembros del hogar

Una copia de una identificación emitida por el gobierno. Puede presentar una opción de la Lista A o dos o más opciones de la Lista B. Si presenta opciones de la Lista B, al menos una opción debe contar con una fotografía. Se aceptan documentos vencidos.

Lista A
Pasaporte de los EE. UU. o tarjeta pasaporte de los EE. UU.
Pasaporte extranjero que contenga una fotografía
Tarjeta de residente permanente o tarjeta de registro de extranjero (Formulario I-551)
Documento de Autorización de Empleo que contenga una fotografía (Formulario I-766)
Licencia de conducir o tarjeta de identificación de los EE. UU.

Lista B
Certificado de naturalización de los EE. UU.
Tarjeta de identificación militar de los EE. UU.
Partida de nacimiento
Certificado de matrimonio
Orden judicial para el cambio de nombre
Tarjeta de identificación de extranjero
Recibo de renovación del pasaporte del consulado que contenga una fotografía
Tarjeta de identificación del consulado de México
Licencia de conducir extranjera que contenga una fotografía
Tarjeta del registro de votantes extranjeros que contenga una fotografía
Tarjeta de cruce fronterizo de Canadá que contenga una fotografía
Tarjeta de cruce fronterizo de México que contenga una fotografía con el formulario I-94 válido
Documento de viaje del refugiado que contenga una fotografía
Otros documentos del gobierno similares

¿Necesita ayuda? Comuníquese con el Administrador de su caso.

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Solicitud de reunificación familiar Oficina de Reubicación de Refugiados

2) Prueba de la identidad del menor

Una copia del certificado de nacimiento del menor

3) Prueba del parentesco

Copias de los documentos para brindar pruebas de una relación entre usted y el menor. Se aceptan documentos vencidos.

Su relación con el menor	Documentos aceptables
Padre/madre	<ul style="list-style-type: none"> ● Partidas de nacimiento ● Registros judiciales ● Identificación con fotografía del padre/madre emitida por el gobierno
Padrastro/madrastra Adoptó legalmente al menor	<ul style="list-style-type: none"> ● Partidas de nacimiento ● Identificación con fotografía del padre/madre emitida por el gobierno ● Identificación con fotografía del padrastro/madrastra emitida por el gobierno ● Certificado de matrimonio ● Documentos de una orden judicial que confirman que se estableció la adopción o la tutoría legal
Tutor legal	<ul style="list-style-type: none"> ● Documentos de una orden judicial que confirman que se estableció la adopción o la tutoría legal ● Partidas de nacimiento ● Identificación con fotografía del tutor legal emitida por el gobierno ● Registros de la tutoría ● Certificados de defunción ● Registros hospitalarios
Miembro de la familia	<ul style="list-style-type: none"> ● Partidas de nacimiento ● Rastro de certificados de defunción y/o partidas de nacimiento de los familiares que muestren que usted y el menor tienen un parentesco ● Certificados de matrimonio ● Registros hospitalarios ● Registros judiciales ● Registros de la tutoría ● Certificado de bautismo
No tiene parentesco con el menor	Comuníquese con el Administrador de su caso

¿Necesita ayuda? Comuníquese con el
Administrador de su caso.

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4) Registros legales (si corresponde)

Si usted respondió "Sí" a cualquiera de las preguntas 15(a) o 15(b) de este formulario, proporcione la siguiente información para cada cargo/condena:

- Nombre de la persona implicada
- Lugar y fecha del incidente
- Explicación del incidente
- Pronunciamiento del incidente (p. ej., retiro de cargos, aplicación de multa, detención, libertad condicional)
- Copia del (de los) registro(s) judicial(es), registro(s) policial(es), y/o registro(s) de la agencia de servicio social gubernamental relacionado(s) con el (los) incidente(s)

5) Evidencia del domicilio

Una copia de al menos un tipo de documentación que verifique su domicilio actual. Los tipos de documentación aceptables incluyen los siguientes:

- Su renta actual con su nombre, y con fecha en los últimos dos meses
- Su estado de cuenta actual con su nombre, y con fecha en los últimos dos meses
- Su estado de cuenta bancario, con fecha en los últimos dos meses
- Su empleador emite un recibo de sueldo oficial, con fecha en los últimos dos meses
- Su ID del estado válida y vigente con su fotografía y domicilio actual
- Correspondencia, en lo posible una factura de servicio público o liquidación de seguros, dirigida a usted a su domicilio actual, con fecha en los últimos dos meses
- Carta de su locador, certificada por notario público, en la que se confirme su domicilio y que contenga su nombre, la fecha en la cual se mudó, la cantidad de dormitorios y la fecha de vencimiento de la renta
- Otros documentos similares que indiquen, de manera confiable, que vive en su domicilio actual, con fecha en los últimos dos meses

¿Necesita ayuda? Comuníquese con el
Administrador de su caso.

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Sponsor Care Agreement

Office of Refugee Resettlement

Le solicitó a la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement, ORR) patrocinar a un niño extranjero no acompañado en el cuidado y la custodia del gobierno federal conforme al acuerdo extrajudicial estipulado Flores v. Reno, número 85-4544-RJK (Px) (C.D. Cal., 17 de enero de 1997), sección 462 del Homeland Security Act de 2002 y la sección 235 del William Wilberforce Trafficking Victims Protection Reauthorization Act de 2008. Si se aprueba la solicitud de patrocinio, recibirá un formulario de *Verificación de liberación* de ORR y se celebrará un acuerdo de custodia con el gobierno federal en el cual acepta cumplir con las siguientes disposiciones mientras el menor esté en su cuidado:

- Proporcionar el bienestar mental y físico del menor, que incluye, entre otros, alimentos, refugio, vestimenta, educación, atención médica y otros servicios según sea necesario.
- Si no es el tutor legal ni el padre o la madre del menor, haga los mejores esfuerzos por establecer una custodia legal con el tribunal local dentro de un tiempo razonable.
- Asistir a un programa de orientación legal proporcionado por el Departamento de Justicia (Department of Justice, DOJ), o programa de orientación legal para custodios (patrocinadores) de la Oficina Ejecutiva para la Revisión de la Inmigración (Executive Office for Immigration Review, EOIR), si está disponible en el lugar donde reside.
- Según dónde esté pendiente el caso de inmigración del menor, notificar al Tribunal de Inmigración o al Tribunal de Apelaciones de Inmigración local en un período de cinco (5) días de todo cambio de dirección o número de teléfono del menor, usando el formulario de cambio de dirección de extranjeros (formulario EOIR-33). Además, si es necesario, presentar una petición de cambio de competencia territorial a nombre del menor. La petición de cambio de competencia territorial debe contener información especificada por el Tribunal de Inmigración. Tenga en cuenta que la petición de cambio de competencia territorial puede requerir la ayuda de un abogado. Para obtener asesoramiento sobre la "petición de cambio de competencia territorial", consulte el Manual de práctica del Tribunal de Inmigración en http://www.justice.gov/eoir/vii/OCLIPracManual/ocij_page1.htm. Para obtener información sobre casos de inmigración, comuníquese con el sistema de información de casos de inmigración de EOIR llamando al 1-800-898-7180. Visite el sitio web de EOIR para obtener información adicional en: <http://www.justice.gov/eoir/formslist.htm>.
- Notificar al Departamento de Seguridad del Territorio Nacional (Department of Homeland Security, DHS) o a Servicios de Ciudadanía e Inmigración de los Estados Unidos (U.S. Citizenship and Immigration Services) en un período de diez (10) días de todo cambio de dirección, presentando la Tarjeta de Cambio de Dirección de Extranjero (AR-11) o de manera electrónica en <http://i.usa.gov/AC5MP>.
- Asegurar la presencia del menor en todos los procedimientos futuros ante DHS o Inmigración y Seguridad de Aduanas (Immigration and Customs Enforcement, ICE) y el Departamento de Justicia (Department of Justice, DOJ) o EOIR. Para obtener información

sobre casos de inmigración, comuníquese con el sistema de información de casos de EOIR llamando al: 1-800-898-7180.

- Asegurar que el menor se presente ante ICE para la expulsión de los Estados Unidos si un juez de inmigración emite una orden de expulsión o una orden de salida voluntaria. Se asigna al menor un oficial de deportación para los procedimientos de expulsión.
- Notificar a la autoridad policial local o a los Servicios de Protección Infantil local o estatal si el menor estuvo o está en riesgo de estar sujeto a abuso, abandono, descuido o maltrato o si se entera de que el menor ha sido amenazado, abusado o agredido sexual o físicamente, o ha desaparecido. Se debe notificar ni bien sea posible o antes de las 24 horas después de ocurrido el acontecimiento, o después de tener conocimiento del riesgo o la amenaza.
- Notificar al Centro Nacional para Niños Perdidos y Explotados (National Center for Missing and Exploited Children) al 1-800-843-5678 si el menor desaparece, fue secuestrado o se escapa. Se debe notificar ni bien sea posible o antes de las 24 horas después de enterarse de la desaparición del menor.
- Notificar a ICE si algún individuo que se crea que represente un sindicato de contrabando de extranjeros, crimen organizado o una organización de tráfico de seres humanos se comunica de alguna forma con el menor. Notificar lo antes posible o antes de las 24 horas después de conocer esta información. Puede llamar a ICE al 1-866-347-2423.

términos de este *Acuerdo de cuidado del patrocinador*.

- Si no es el tutor legal ni el padre o madre del niño, en caso de que ya no pueda y no esté dispuesto a cuidar al menor y no pueda transferir de manera temporal la custodia física y el menor reúna los requisitos de la definición de niño extranjero no acompañado, debe notificar a ORR al 1-800-203-7001.
- La liberación del menor mencionado anteriormente de la Oficina de Reubicación de Refugiados para su cuidado no le otorga al menor ningún estado de inmigración legal y el menor debe presentarse a los procedimientos del tribunal de inmigración.



Declaración del patrocinador

Oficina de Reubicación de Refugiados

Declaro y afirmo, bajo pena de perjurio, que soy el patrocinador propuesto para el menor y que mi *Solicitud de reunificación familiar* y los documentos usados como respaldo a la solicitud funcionan como evidencia de que tengo la plena intención de proporcionarle cuidado al menor que pretendo patrocinar. Asimismo, no me presento como patrocinador para no tener a un menor a mi cuidado y luego transferir ese menor a otra persona, en incumplimiento de la política de la Oficina de Reubicación de Refugiados (Office of Refugee Resettlement, ORR) y las leyes federales.

Solo puedo transferir a un menor al cuidado de otra persona en las siguientes situaciones:

- (1) a los padres biológicos del menor, en caso de que al hacerlo no exponga al niño a un peligro inmediato y que no haya una finalización de los derechos parentales;
- (2) en el caso de que no pueda o no desee continuar el patrocinio debido a una dificultad inesperada o en el caso de que deje inminentemente los Estados Unidos, transferiré el cuidado del menor a un cuidador alternativo (y únicamente al cuidador alternativo) identificado en mi respuesta a las Preguntas 12a-e de mi *Solicitud de reunificación familiar*, conforme a lo aprobado por la ORR en mi *Plan de cuidado del patrocinador*, si al hacerlo no expongo al menor a un peligro inmediato;
- (3) a funcionarios encargados del cumplimiento de las leyes locales, estatales o federales o funcionarios del Servicio de Protección de Menores (Child Protective Service, CPS), o a las personas designadas del gobierno local o estatal.

Antes de intentar transferir a un menor, debo notificar al Centro de Atención Telefónica Nacional (National Call Center, NCC) de la ORR al 1-800-203-7001. La Oficina de Reubicación de Refugiados puede requerir más información antes de que pueda realizar una transferencia de cuidado o puede requerir una medida correctiva antes de aprobar una transferencia.

Si no notifico a la Oficina de Reubicación de Refugiados sobre una transferencia o si transfiero al menor a una persona no autorizada, entiendo que el gobierno federal puede procesarme por perjuicio, fraude, trata de personas u otros delitos penales establecidos en la ley federal, según corresponda.

Comprendo que la conspiración o la cooperación en la comisión de cualquiera de los siguientes actos constituye un delito:

- (1) ingresar o intentar ingresar a un extranjero a los Estados Unidos por un lugar que no sea el puerto de entrada designado u otro lugar designado por el Departamento de Seguridad Nacional (Department of Homeland Security, DHS);
- (2) transportar o mover, o intentar transportar y mover, a un extranjero que no tiene una condición legal dentro de los Estados Unidos para apoyar una violación de la ley;
- (3) alojar u ocultar, o intentar alojar y ocultar, a un extranjero que no tiene una condición legal dentro de los Estados Unidos; o

(4) incentivar o inducir a un extranjero para que venga a los Estados Unidos si su residencia es o será una violación a la ley.

Además, puedo estar sujeto a tener que asumir una responsabilidad civil derivada de una transferencia del cuidado de un menor a una persona no autorizada de forma negligente o imprudente. La Oficina de Reubicación de Refugiados coopera plenamente con las autoridades encargadas del cumplimiento de las leyes locales, estatales y federales, incluidas las autoridades de inmigración federales o las autoridades de bienestar de menores, para poner en práctica fielmente las leyes que involucran la divulgación de mi información personal en el caso de que un menor sea transferido de una manera no autorizada.

Además, entiendo que, si no soy un ciudadano estadounidense, una transferencia no autorizada de un menor puede afectar mi capacidad de permanecer en los Estados Unidos, independientemente de mi condición legal de inmigración.

Afirmo o certifico que entiendo la advertencia proporcionada en esta declaración.

Nombre del patrocinador

Fecha

Please wait...

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EXHIBIT 6

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Child and Family Services Agency



Request for a Child Protection Register (CPR) Check

The purpose of the Child Protection Register is to protect children and to ensure their safety by maintaining an index of perpetrators of child abuse and neglect in the District of Columbia. This confidential index includes the names of individuals with substantiated and/or inconclusive findings from the investigative reports of the Child Protective Services Unit of the Child and Family Services Agency. Authorized individuals may request background checks to establish whether an individual has a record of substantiated abuse or neglect of a child that occurred in the District of Columbia.

- ▶ To request a local police clearance for the District of Columbia, please visit <https://mpdc.dc.gov/node/187552>.
- ▶ For information about the Sex Offender Registry, visit: <https://mpdc.dc.gov/service/sex-offender-registry>.
- ▶ If you are making a request on behalf of a state child welfare agency outside of the District of Columbia and need the history of a family previously living in the District of Columbia, you may call 202-671-SAFE.
- ▶ For other questions, call the CPR Unit at 202-727-8885 between 8:30 am and 4:30 pm Monday through Friday.

Read all instructions – incomplete, incorrect or illegible forms will be returned and your request may be delayed

- Do not complete an old version of the form; get the latest form at <https://cfsa.dc.gov/service/background-checks>.
- Mail or deliver original application (no photocopies); no faxed, emailed, or scanned applications accepted.

Part I

- Schools (other than DCPS), child care facilities, private foster care agencies, and other private, community-based organizations should select “Non-Government Organization” as the Requestor Type.
- CPR check results are not transferrable and cannot be shared from one agency or employer to another.

Part II

- If you have no middle name write “no middle name” or if a middle name is an initial, indicate “initial only.”
- If the answer to any question is none, write “N/A”.

Part III

- An individual must sign the form to provide consent for CFSA to release information to an authorized requestor.
- The form must be signed in blue ink; electronic signatures are not permitted.
- An employment request allows access to substantiated reports of child maltreatment, to chief executive officers or directors of day care centers, schools, or any public or private organization working directly with children, for the purpose of making employment decisions.

Part IV

- Forms shall be returned if not notarized (*Note: applications for prospective and current CFSA resource parents and kin caregivers need not be notarized, but photo ID must be provided and the form must be signed in the presence of a CFSA employee*).

Part V

- Self-check applications must be submitted in person, not by mail.
- Individuals requesting a self-check and CFSA resource parents and kin caregivers must present **one** non-expired, government-issued, photo identification: e.g., driver’s license, state identification card, passport, “green card”.
- Results of CPR self-checks may not be used for employment purposes. Employers must directly request CPR clearances for prospective or current employees.

MAIL or HAND DELIVER completed forms to:	Attn: Child Protection Register Unit Child and Family Services Agency 200 I Street SE, 3rd Floor Washington, DC 20003	Applications accepted between 8:30 am and 4:30 pm Monday through Friday
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Please **type** or **print** clearly. Sign the form in **blue** ink, and date where indicated. Thoroughly review and submit to the CFSa CPR office. **Allow up to 30 business days** for results to be processed. Expedited requests will be considered on a case-by-case basis. **Forms will be returned** if incomplete, incorrect, or illegible resulting in a delayed response.

PART I: Requesting Organization/Employer Information

Request Date		Corrected Application Re-submission Date	
Requestor Type			
<input type="checkbox"/> Court	<input type="checkbox"/> Government Agency	<input type="checkbox"/> Non-Government Organization	<input type="checkbox"/> Self (<i>personal use only</i>)
Purpose			
<input type="checkbox"/> Adoption	<input type="checkbox"/> Court Request	<input type="checkbox"/> Foster/Adoption Licensing	<input type="checkbox"/> Kinship Licensing
<input type="checkbox"/> Visitation	<input type="checkbox"/> Current Employee/Volunteer	<input type="checkbox"/> New Hire/Volunteer	<input type="checkbox"/> Other:
Requesting Organization/Employer Contact Information (results cannot be mailed to a P.O. Box)			
Requesting Organization	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, PROGRAM SUPPORT CENTER, DIVISION OF CHILDREN'S SERVICES		
Attention To	Cynthia Ramos		
Requestor Address	5600 FISHERS LANE, ROOM 02E70, ROCKVILLE, MD 20857		
Phone Number	(301) 443-7047	Fax Number	(301) 480-0292
Preferred method to return CPR check results to the requesting organization		<input type="checkbox"/> By Mail	<input checked="" type="checkbox"/> By Fax

PART II: Applicant Information

Last Name (include suffix if applicable)	First Name	Full Middle Name (write "no middle name" if there is none)	
Date of Birth (MM/DD/YYYY)	Social Security Number (or USCIS/Alien Registration #)	Gender (on birth certificate)	
		<input type="checkbox"/> Male	<input type="checkbox"/> Female
Other Names Used (nicknames, alias, maiden name, previous married name, legal name change, etc.)			

Household Information. List all persons living at the current address with the applicant (including students away at college).

Name (first name, middle name, last name)	Date of Birth	Relationship to Applicant

PART III: Applicant Consent

I hereby consent and authorize the D.C. Child and Family Services Agency to provide the Requestor (noted in Part I) information concerning me that is contained in the Child Protection Register ("CPR").

Printed Name: _____

Signature: _____
Must be signed in blue ink; electronic signatures not permitted

Date: _____

PART IV: Certificate of Acknowledgement of the Applicant before a Notary Public



Applicant Name
(Printed)

Applicant Signature
(must be signed in the presence of a Notary)

Date

Subscribed and affirmed or sworn to me, in my presence, on this _____ day of _____, 20____

Signature of Notary Public: _____ in the state of, _____

My commission expires on ____/____/____

PART V: Self Check, CFSA Resource Parent, and CFSA Kinship Caregiver Verification

CFSA USE ONLY: Identification has been shown to me that I have deemed satisfactorily identifies the applicant:

Type of ID		ID #	
CFSA Employee Name (print)			
CFSA Employee Title (print)			
CFSA Employee Signature			

Exhibit DD



July 6, 2018

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Kristjen Nielsen
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Azar and Secretary Nielsen:

As governors representing states where separated migrant children are being detained, we write to express our growing concern with this Administration's ability to reunify families in accordance with the federal court injunction issued on June 26, 2018. Given recent reports suggesting this process is being carried out chaotically and inconsistently, and in light of your agencies' latest admission that hundreds more separated migrant children are in the custody of the Office of Refugee Resettlement (ORR) than were previously accounted for, we remain deeply concerned that wholly inadequate resources and procedures are in place to ensure children and parents are reunified safely and securely within the court-ordered deadlines.

The U.S. Department of Health and Human Services (HHS) now claims it has as many as 3,000 children in its custody who were removed from their parents at the southern border, as a result of this Administration's outrageous family separation policy. The substantial discrepancy between this number and the 2,047 children who were previously identified by Secretary Azar raises serious questions about this Administration's systems and processes for ensuring these children, including infants and toddlers, can be safely returned to their parents. To date, your agencies have also consistently refused to account for the number of children who are already reunified with their parents or placed with another long-term sponsor.

Let us be clear — the responsibility for these children's plight rests solely in your hands. It is unequivocal that this Administration's harmful "zero-tolerance" policy is to blame for the forcible separation of families at the southern border, not Congress or the courts. That's why each of us forcefully and vocally opposed this destructive approach to immigration enforcement, which has inflicted intentional, gratuitous and permanent trauma on thousands of young children. Although we welcomed the decision to abandon the shameful practice of forced family separation, we strongly object to the omission in the President's executive order on June 20, 2018, of any clear directive or strategy to reunify separated children with their parents.

A federal district court ruled correctly last week that this policy constitutes “irreparable harm” with long-term implications for children’s health, safety and well-being, and it ordered the Trump Administration to reunify separated children under the age of five within 14 days and all separated children within 30 days. Unfortunately, it remains entirely unclear whether your agencies have established the necessary protocols or dedicated adequate resources to meet these deadlines without compromising children’s safety and welfare.

Perhaps even more troubling is a recent indication by representatives of your agencies that the Trump Administration does not believe separated children must be reunified with their actual parents under the court order. In a meeting with governors’ offices on June 29, 2018, these representatives shared that reunification may include the placement of separated children with any long-term sponsor — regardless of whether that placement is with their parents, another family member residing in the U.S., a family member residing in their home country or in a long-term foster care setting. If true, this interpretation appears to blatantly ignore the terms of the court order. The federal government has also recently admitted that reunification is being used as a bargaining chip to induce parents to agree to voluntary deportation.

On behalf of the children residing in our states who have been needlessly traumatized and who remain justifiably frightened for themselves and their families, we ask that you immediately answer the following basic questions:

1. How many separated migrant children in HHS custody have already been reunified? Are there any new children who have been separated from their parents since the President’s executive order on June 20, 2018? If so, how many and where are they?
2. Of those children who have already been reunified, how many have been placed with the parents they arrived with at the U.S. southern border? How many were placed with a non-parent family member or other sponsor? Of the children placed with a non-parent family member or sponsor, in which states were they placed?
3. If any were placed with a non-parent sponsor, what policies do your agencies intend to put in place to enable long-term reunification between children and their parents?
4. What steps is the federal government requiring separated parents to comply with before gaining back custody of their children? (For example, must they consent to return to their country of origin, post bond, or submit to DNA testing or finger-printing?)
5. What safeguards are being put in place to ensure the results of any DNA testing of parents and children are not used for any purpose other than familial verification? Are these results de-identified and ultimately destroyed?
6. How many of the separated migrant children in HHS custody have been provided with legal services and representation?

As parents, we are heartbroken by the unimaginable pain inflicted on thousands of unwitting children who have done nothing wrong and parents who often have valid claims for refugee or

asylum status. As governors, we will not stay silent as long as these children remain unjustly detained in our states, separated from their parents simply because of this Administration's unwillingness or ineptitude to govern legally with humanity and compassion.

Sincerely,



Governor Jay Inslee
State of Washington



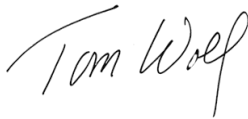
Governor Andrew Cuomo
State of New York



Governor Dannel P. Malloy
State of Connecticut



Governor Phil Murphy
State of New Jersey



Governor Tom Wolf
State of Pennsylvania



Governor Kate Brown
State of Oregon