

Exhibit A

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

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA;
DONALD TRUMP, in his official capacity as
President of the United States of America,
et al.,

Defendants.

NO. 2:18-cv-00939-MJP

PLAINTIFF STATES' FIRST SET OF
DISCOVERY REQUESTS FOR
EXPEDITED DISCOVERY

TO: THE UNITED STATES OF AMERICA; DONALD TRUMP, in his official
capacity as President of the United States of America; U.S. DEPARTMENT OF
HOMELAND SECURITY; U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; U.S. CUSTOMS AND BORDER PROTECTION; U.S.
CITIZENSHIP AND IMMIGRATION SERVICES; U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES; OFFICE OF REFUGEE
RESETTLEMENT; KIRSTJEN NIELSEN, in her official capacity as Secretary
of the U.S. Department of Homeland Security; THOMAS HOMAN, in his

1 official capacity as Acting Director of U.S. Immigration and Customs
2 Enforcement; KEVIN K. MCALEENAN, in his official capacity as
3 Commissioner of U.S. Customs and Border Protection; ALEX AZAR, in his
4 official capacity as Secretary of U.S. Department of Health and Human Services;
5 SCOTT LLOYD, in his official capacity as Director of Office of Refugee
6 Resettlement; and JEFFERSON BEAUREGARD SESSIONS III, in his official
7 capacity as the Attorney General of the United States, Defendants;

8 AND TO: JOSHUA S. PRESS, Attorney for Defendants.

9 **I. INSTRUCTIONS**

10 Pursuant to Federal Rules of Civil Procedure 26 and 34, Plaintiffs hereby request that
11 Defendants produce the following documents and electronically stored information for
12 inspection and copying within the time ordered by the Court to the office of Laura K. Clinton,
13 Assistant Attorney General, Office of the Attorney General, 800 Fifth Avenue, Suite 2000,
14 Seattle, Washington 98104-3811, or at such other place as the parties shall mutually agree.
15 Electronic documents may be produced in PDF format or as a printed record.

16 For each document that you assert is privileged or otherwise excludable from discovery,
17 please provide the following information: the author(s), the recipient(s), all copy recipients, the
18 date, the type of document (memorandum, e-mail, letter, chart, photograph, etc.), a description
19 of the document, the privilege being claimed, and the grounds for the privilege claim.

20 If any request for production seeks information in any document formerly in your
21 possession, custody, or control that has been discarded, misplaced, lost, destroyed, or otherwise
22 placed outside your custody or control, identify the document and describe its contents in detail
23 and state when the document was discarded, misplaced, lost, destroyed, or otherwise placed
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1 outside your custody or control. If the document was destroyed, identify each person with
2 knowledge of its destruction, the person requesting or performing the destruction, the reasons
3 for its destruction, and each document that refers or relates to either the existence or destruction
4 of the document. For each document that was discarded, misplaced, lost, or otherwise placed
5 outside your custody or control, explain all circumstances in relation to the loss of the document
6 and identify each person with knowledge regarding those circumstances.

7 If you object to producing documents in response to any request for production, state
8 your objection and all factual and legal bases for the objection.

9 These discovery requests are continuing in nature. If you discover additional or different
10 information that is responsive to these discovery requests, you are required to provide
11 supplemental responses in accordance with Federal Rules of Civil Procedure 26(e). If you do not
12 provide the required supplemental information, the Plaintiffs may move at the time of trial to
13 exclude from evidence any requested information and documents that were not timely furnished.

14 The singular shall include the plural and vice versa, and the conjunctive shall include the
15 disjunctive and vice versa. Wherever used, references to the masculine, feminine, or neuter
16 gender shall include the neuter, feminine, and masculine genders, as the context demands.

17 **II. DEFINITIONS**

18 The following definitions apply to following discovery requests:

19 The term “document” encompasses the broadest possible definition permitted under the
20 Rules and specifically includes all written or recorded material of any kind or character in your
21 possession, custody, or control or within your knowledge, including without limitation
22 statements, letters, correspondence, telegrams, memoranda, notes, records, reports, studies,
23 interoffice communications, calendar and diary entries, microfilm, bulletins, circulars,
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1 pamphlets, messages, invoices, maps, charts, tabulations, summaries or abstracts, video or audio
2 recordings, work sheets, surveys, graphs, statistics, tables, photographs, rules, regulations,
3 opinions, orders, interpretations, guidelines, electronic mail, any data or information stored or
4 saved on any computer hard disk, floppy disk, tape, or other medium, any computer print-outs,
5 computer software or code, whether in machine or human readable form on any medium, and all
6 other documentary material, including non-identical copies (whether different from the original
7 because of any alterations, notes, comments, or other material contained thereon or attached
8 thereto or otherwise and whether a draft or final version).

9 The term “communication” means any transmission, disclosure or exchange of
10 information or opinion, however made.

11 The term “concerning or relating to” to means referring to, evidencing, containing,
12 discussing, mentioning, describing, reflecting, summarizing, constituting, identifying,
13 memorializing, referring or pertaining to, studying, commenting or reporting on, or analyzing,
14 in whole or in part

15 A “person” means any individual, corporation, partnership, association, or any other
16 entity of any kind.

17 “You” and “your” mean any Defendants and any person acting or purporting to act on
18 behalf of any of them, including without limitation all present and former employees, agents,
19 representatives, personnel, attorneys, accountants, consultants, experts, investigators, or other
20 persons.

21 “Separated Child” or “Separated Children” mean any child under the age of 18 who
22 entered the United States along the U.S.-Mexico border at or between designated ports of entry
23 with a parent or guardian, and who was separated from that parent or adult guardian by the
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1 Department of Homeland Security (DHS) or any other Defendant without a determination that
2 the parent or adult guardian is unfit or presents a danger to the child.

3 “Separated Parent” means any parent or guardian who entered the United States along
4 the U.S.-Mexico border at or between designated ports of entry with a child under the age of 18,
5 and who was separated from that child by DHS or any other Defendants without a determination
6 that the parent or adult guardian is unfit or presents a danger to the child.

7 The “*Ms. L Case*” refers the matter *Ms. L., et al. v. U.S. Immigration and Customs*
8 *Enforcement, et al.*, Case No. 18-cv-0428 DMS (MDD) (S.D. Cal.).

9 III. REQUESTS FOR PRODUCTION

10 **REQUEST FOR PRODUCTION NO. 1:** All documents provided to Plaintiffs’ counsel
11 or the court in the *Ms. L Case* concerning the separation of families and Defendants’ attempts to
12 reunite them. For future productions of materials in the *Ms. L Case*, please produce such materials
13 concurrently with, or within two business days after, production in *Ms. L*.

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15 **REQUEST FOR PRODUCTION NO. 2:** To the extent such documents are not already
16 included and produced in response to Request for Production No. 1, documents sufficient to
17 identify:

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- 19 a) The number and location of Separated Children placed by the Office of Refugee
20 Resettlement (ORR) - or any other Defendant - in each Plaintiff State from
January 1, 2018 to the present.
 - 21 b) The number and location of Separated Parents who are or were detained in each
22 Plaintiff State from January 1, 2018 to the present, by month and facility.
 - 23 c) The number and location of Separated Parents in each Plaintiff State released
24 from DHS custody from January 1, 2018 to the present, including the facility
from which they were released, the conditions of release, and current location.

1 d) As to every Separated Parent who is present in any Plaintiff State (or who was
2 present in a Plaintiff State on the day this lawsuit was filed) the location of that
Parent’s children and DHS’ plan to reunify the Separated Parent with the child.

3 e) As to every Separated Child who is present in any Plaintiff State (or who was
4 present in a Plaintiff State on the day this lawsuit was filed), the current placement
5 and location of every such child (e.g., living with a sponsor in Seattle,
Washington), the location of that Separated Child’s Separated Parent(s), and
6 DHS’ plan to reunify the Separated Child with the Separated Parent(s).

7 **REQUEST FOR PRODUCTION NO. 3:** To the extent such documents are not already
8 included and produced in response to RFP No. 1, documents regarding Defendants’ efforts to
9 reunify families separated at the Southwestern border, including

10 a) Directives regarding the treatment of Separated Children as Unaccompanied Minors
11 as a matter of policy, and application of ORR’s Unaccompanied Minor reunification
policies to separated families;

12 b) Documents concerning the justification and implementation directives for vetting
13 “sponsors” of separated parents and/or children, including treating parents as
sponsors unrelated to their children;

14 c) Documents concerning financial and procedural prerequisites to reunification
15 including the justification and implementation directives for requiring Separated
16 Parents to comply with any financial or administrative requirements prior to
reunifying them with their children, including paying for costs of reunification or
submitting to fingerprinting;

17 d) Documents sufficient to identify the number of Separated Parents who have been
18 deported by Defendants without their children since January 1, 2018.

19 **REQUEST FOR PRODUCTION NO. 4:** To the extent such documents are not already
20 included and produced in response to RFP No. 1, documents regarding the rollout and
21 implementation of the family separation policy at the Southwestern border, including documents
22 concerning the justification for such policy and directives to those who were charged with
23 implementing, overseeing, and tracking the individuals affected by the policy.
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2 **REQUEST FOR PRODUCTION NO. 5:** To the extent such documents are not already
3 included and produced in response to RFP No. 1, documents concerning the justification for and
4 implementation of U.S. Immigration and Customs Enforcement’s “Separated Parent’s Removal
5 Form,” Dkt. 27-1, Exhibit W, including the number of Separated Parents provided with such
6 form, the number of Separated Parents who signed such form, and the number of Separated
7 Parents who were deported after signing such form.

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9 **REQUEST FOR PRODUCTION NO. 6:** To the extent such documents are not already
10 included and produced in response to RFP No. 1, documents concerning whether hearings on
11 parental fitness were provided to Separated Parents prior to Defendants separating them from their
12 children.

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14 **REQUEST FOR PRODUCTION NO. 7:** To the extent such documents are not already
15 included and produced in response to RFP No. 1, documents sufficient to ascertain the number of
16 Separated Parents against whom an allegation of unfitness has been made, the number of such
17 Parents found to be unfit after judicial hearing, the number of child trafficking prosecutions or other
18 felony criminal charges brought against such parents in 2018, and the number of such prosecutions
19 that resulted in conviction.

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22 **REQUEST FOR PRODUCTION NO. 8:** Documents reflecting Defendants’ knowledge
23 of the practice of refusing to permit persons who seek asylum to present themselves at valid ports
24 of entry along the U.S.-Mexico border, including discussion of “metering”, numerical or space

1 limits on asylum claims, administrative or other limits on asylum claim processing, or requiring
2 asylum seekers to return to ports of entry at a later day or time, including any directives to
3 Defendants' employees at the Southwestern border concerning same.

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5 **REQUEST FOR PRODUCTION NO. 9:** Documents concerning Defendants' pilot
6 program separating families in the El Paso sector of the U.S.-Mexico border was alleged in
7 paragraphs 45- 46 and 120 of the Complaint (Dkt. 1), including directives to Defendant
8 employees charged with implementing and monitoring such program.

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10 **REQUEST FOR PRODUCTION NO. 10:** Documents concerning the implementation
11 of a family detention policy, including information regarding potential sites within the Plaintiff
12 States for family detention centers and any proposed or enacted regulatory changes related to
13 family detention.

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15 **REQUEST FOR PRODUCTION NO. 11:** Documents concerning implementation of
16 Defendants' "Northern Border Strategy" as alleged in paragraph 136 of the Complaint (Dkt. 1).

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18 **REQUEST FOR PRODUCTION NO. 12:** Documents, including medical studies,
19 concerning any negative effects on psychological, emotional, and physical health, that family
20 separation might have on Separated Children or Separated Parents.
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1 DATED this day of July, 2018.

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3 _____
4 NOAH G. PURCELL, WSBA #43492
5 Solicitor General
6 COLLEEN M. MELODY, WSBA #42275
7 Civil Rights Division Chief
8 LAURA K. CLINTON, WSBA #29846
9 MEGAN D. LIN, WSBA #53716
10 Assistant Attorneys General
11 Attorneys for Plaintiff State of Washington

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14 **CERTIFICATION**

15 The undersigned attorney certifies that he/she has read each response and objection to
16 these discovery requests, and that to the best of his/her knowledge, information, and belief,
17 formed after a reasonable inquiry, each is: (1) consistent with the Rules and warranted by existing
18 law or a good faith argument for the extension, modification, or reversal of existing law; (2) not
19 interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless
20 increase in the costs of litigation; and (3) not unreasonable or unduly burdensome or expensive,
21 given the needs of the case, the discovery already had in the case, the amount in controversy,
22 and the importance of the issues at stake in the litigation.

23 DATED this ____ day of _____, 2018

24 _____
ATTORNEY NAME, WSBA #
Attorneys for Plaintiffs

VERIFICATION

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STATE OF WASHINGTON)
) ss.
County of _____)

I, _____, being first duly sworn, upon oath, state as follows:

That I am a Defendant authorized to sign these Answers and Responses to the Plaintiffs' First Set of Discovery Requests for Expedited Discovery; that I have read the foregoing Interrogatories and Requests for Production and the Answers and Responses thereto, know the contents thereof, and swear that the foregoing are true and correct.

DATED this ____ day of _____, 2018.

By: _____
Defendant

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2018.

NOTARY SIGNATURE

NOTARY PRINTED NAME
Notary Public
State of Washington
My Commission Expires: _____