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Defendants*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MS. L, et al.,

Petitioners-Plaintiffs,

vs.

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

Respondents-Defendants.

Case No. 18cv428 DMS MDD

**NOTICE REGARDING
IMPLEMENTATION OF PLAN FOR
REUNIFICATIONS ABROAD**

1 As requested by the Court, the parties met and conferred regarding
2 Defendants’ reunification plan for removed class members. At the request of
3 Plaintiffs, and after discussion between the parties, Defendants have agreed to some
4 changes to the plan document, and Defendants therefore submit the attached revised
5 plan document that reflects those changes. The parties having now reached
6 agreement on this plan, Defendants respectfully ask that the Court approve the plan
7 so that the reunification process for removed parents under this plan can move
8 forward immediately.

9 In making this request, Defendants note that their agreement to the changes
10 proposed by Plaintiffs, as well as their ability to move forward in implementing the
11 attached plan, relies on Defendants’ understanding that nothing in this Court’s
12 preliminary injunction order (or the plan) requires Defendants to return any removed
13 class members to the United States for the purpose of reunification. Indeed, such a
14 requirement would be inconsistent with the Court’s order making clear that the
15 Government “remain[s] free to enforce its criminal and immigration laws, and to
16 exercise its discretion in matters of release and detention consistent with law.” ECF
17 No. 83 at 20.¹ Thus, Defendants’ plan proposes an efficient process to reunify
18 children with their parents who have been removed in the family’s home country,
19 and Defendants have agreed to the changes in the attached plan with the
20 understanding that, upon the Court’s approval of the plan, reunifications will be able
21 to proceed in that manner.

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¹ This Court’s previous order also is consistent with the application of parole authority, which must be exercised on a case-by-case basis and is a non-reviewable discretionary authority of the Secretary of Homeland Security. *See* 8 U.S.C. § 1182(d)(5); 8 C.F.R. § 212.5; *see also* 8 U.S.C. § 1252(a)(2)(B)(ii).

1 Plaintiffs in *M.M.M. v. Sessions*, Case No. 18-cv-1832 (S.D. Cal.), also
2 pending before this Court, and the companion case in the District of Columbia
3 raising materially identical issues, *M.M.M. v. Sessions*, Case No. 18-cv-1835
4 (D.D.C.), have suggested through email communication and at oral argument this
5 week in the District Court for the District of Columbia that they intend to take the
6 position that where a child has been separated from his or her parent, and that parent
7 has been removed, the child has a legal right to demand that the Government return
8 his or her parent to the United States to act as a consultant on behalf of the child in
9 any further asylum or protection-related proceedings to which the child may be
10 entitled. Regardless of whether such a right exists—a proposition that Defendants
11 strongly dispute and would oppose if raised directly with this Court or the District
12 Court for the District of Columbia—such assertions would directly and significantly
13 interfere with Defendant’s ability to execute the attached plan.

14 If *M.M.M.* Plaintiffs choose to interfere with implementation of the attached
15 plan by requesting this relief, such a request would be fundamentally at odds with
16 the prompt reunification contemplated by the parties in this case, would make
17 implementation of the attached plan unworkable as currently written, and would
18 request relief that the Court lacks jurisdiction to order. Accordingly, Defendants
19 request that in approving this plan, the Court make clear that it does not intend to
20 require the Government to return *Ms. L* class members to the United States for
21 purposes of reunification, but instead will permit the Government to proceed under
22 the attached plan to reunify children with their parents in their home country.

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1 DATED: August 16, 2018

Respectfully submitted,

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Acting Assistant Attorney General
4 SCOTT G. STEWART
Deputy Assistant Attorney General
5 WILLIAM C. PEACHEY
Director
6 WILLIAM C. SILVIS
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8 /s/ Sarah B. Fabian
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is Box 868, Ben Franklin Station, Washington DC 20044. I am not a party to the above-entitled action. I have caused service of the accompanying **NOTICE REGARDING IMPLEMENTATION OF PLAN FOR REUNIFICATIONS ABROAD** on all counsel of record, by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically provides notice.

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

DATED: August 16, 2018

s/ Sarah B. Fabian
Sarah B. Fabian