

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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LILIAN PAHOLA CALDERON JIMENEZ)		
and LUIS GORDILLO, et al.,)		
)		
Individually and on behalf of all others)	No. 1:18-cv-10225-MLW	
similarly situated,)		
)		
Plaintiffs-Petitioners,)	ORAL ARGUMENT REQUESTED	
)		
v.)		
)		
KIRSTJEN M. NIELSEN, et al.,)		
)		
Defendants-Respondents.)		
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**MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTIVE RELIEF**

Under Rule 65 of the Federal Rules of Civil Procedure, Petitioners respectfully move for a temporary restraining order and preliminary injunction directing Respondents to refrain from unduly interfering with Petitioners' and class members' access to the provisional waiver process. Specifically, for the reasons set forth in Petitioners' accompanying memorandum of law, Petitioners respectfully request that this Court preliminarily enjoin Respondents from:

- 1) removing any class member who is pursuing lawful status with due diligence under the provisional waiver process as described in the amended complaint, Dkt. No. 27, ¶¶ 31-35, unless the class member:
 - a. is the subject of an outstanding warrant of arrest for criminal violations; or
 - b. is a threat to the safety or well-being of another party;
- 2) removing any class member without:

- a. at least 60 days' notice—which shall also be sent to class counsel and any attorney of record for the noncitizen—containing the reasons why the noncitizen should not be permitted to pursue the provisional waiver process;
 - b. an opportunity for the class member to present written argument to the Field Office Director of the Boston office of Immigration and Customs' Enforcement's Enforcement and Removal Operations; and
 - c. a written decision containing the reasons why the noncitizen should not be permitted to remain in the United States to pursue the provisional waiver process;
- 3) detaining any class member at a USCIS interview or otherwise, unless the class member:
- a. is the subject of an outstanding warrant of arrest for criminal violations;
 - b. assaults another party during the course of a USCIS interview;
 - c. willfully destroys government property or commits any other crimes of such nature and magnitude during a USCIS interview;
 - d. is a threat to the safety or well-being of another party; or
 - e. is involved in another similar action or situation at a USCIS interview, such that USCIS district management determines that the noncitizen should be placed under arrest;
- 4) continuing the detention of any class member for longer than two weeks (unless the noncitizen seeks a continuance) without the opportunity for a bond hearing in immigration court at which the government bears the burden to demonstrate by clear and convincing evidence that the noncitizen poses a danger or flight risk such that no

conditions of release will reasonable assure the safety of the community or the noncitizen's appearance or cooperation with any order to depart; and

- 5) detaining or removing the named noncitizen Petitioners, none of whom has been shown to be subject to the exceptions described in Paragraphs 1.a to 1.b and 3.a to 3.e above, without authorization of this Court, unless exigent circumstances render detention prior such authorization necessary to preserve public safety or prevent flight.

Respectfully submitted this 30th day of April, 2018.

/s/ Kevin S. Prussia

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CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

I, Kevin S. Prussia, hereby certify that in accordance with Local Rule 7.1(a)(2), counsel for Petitioners and counsel for respondents met and conferred in good faith on April 30, 2018, regarding resolution of this motion. Counsel for Respondents indicated that they oppose Petitioners' motion.

/s/ Kevin S. Prussia
Kevin S. Prussia

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2018, a true copy of the foregoing will be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF).

/s/ Kevin S. Prussia
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