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

16 Ms. L.,

*Petitioner-Plaintiff,*

17 v.

18 U.S. Immigration and Customs Enforcement  
19 ("ICE"); et al.,

*Respondents-Defendants.*

Case No. 18-cv-00428-DMS-MDD

Date Filed: July 28, 2018

**NOTICE REGARDING  
MOTION FOR STAY OF  
REMOVAL**

1 Plaintiffs submit this Notice to provide information responsive to issues raised  
2 by the Court at oral argument.

3 First, in the last several days, ICE has continued to administer the election  
4 form in a way that does not allow Class Members to make a knowing and informed  
5 decision. The attached declaration from pro bono attorneys explains that Class  
6 Members have been given the election form in a coercive manner, including with the  
7 first box *already* checked. *See* Decl. of Laila Arand, Ex. 58, ¶ 8, 15-16, 23.

8 Second, the Court asked Plaintiffs' counsel what decisions reunited families  
9 must now make, for which they need time to consult with each other and receive  
10 legal advice. As the attached declarations illustrate, Class Members who have final  
11 removal orders must choose between at least three options:

12 1. The child may request his or her own Credible Fear Interview—an option  
13 that would have been available to the family had it not been separated. If the child  
14 passes the Credible Fear Interview, under existing ICE procedures, the entire family  
15 will be placed in normal removal proceedings together under Section 240 of the  
16 Immigration and Nationality Act. *See* Decl. of Stephen Manning, Ex. 59, ¶ 5-7.

17 2. The parent may seek reconsideration of his or her own credible fear denial.  
18 If reconsideration is denied, the parent may be able to file a habeas petition to  
19 challenge the credible fear denial in federal court. As Plaintiffs explained at  
20 argument, the Ninth Circuit has a case pending that addresses federal jurisdiction  
21 over challenges to credible fear denials. *See Thuraissigiam v. DHS*, No. 18-55313  
22 (9th Cir. *argued* May 17, 2018).<sup>1</sup>

23 3. If the parent is ultimately going to be removed, the family must decide  
24 whether the child will remain in the country to pursue the child's own immigration  
25 claims, or be removed with the parent. That decision turns on a number of factors,  
26 including the nature of the relief available to the child, and the circumstances in  
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28 <sup>1</sup> Oral argument available at  
[https://www.ca9.uscourts.gov/media/view.php?pk\\_id=0000032491](https://www.ca9.uscourts.gov/media/view.php?pk_id=0000032491).

1 which the child will be living in the United States. *See* Govindaiah Decl., Ex. 40,  
2 9 (July 16, 2018) (discussing substantive claims that children may raise).

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Dated: July 28, 2018

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 28, 2018, I electronically filed the foregoing with the Clerk for the United States District Court for the Southern District of California by using the appellate CM/ECF system. A true and correct copy of this brief has been served via the Court’s CM/ECF system on all counsel of record.

/s/ Lee Gelernt

Lee Gelernt, Esq.

Dated: May 28, 2018