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Attorneys for Plaintiffs
(Additional counsel listed on following page)

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

12 East Bay Sanctuary Covenant; Al Otro Lado;
13 Innovation Law Lab; and Central American
14 Resource Center in Los Angeles,

Plaintiffs,

v.

16 William Barr, Attorney General, in his official
17 capacity; U.S. Department of Justice; James
18 McHenry, Director of the Executive Office for
19 Immigration Review, in his official capacity; the
20 Executive Office for Immigration Review; Kevin
21 McAleenan, Acting Secretary of Homeland
22 Security, in his official capacity; U.S. Department
23 of Homeland Security; Ken Cuccinelli, Acting
24 Director of the U.S. Citizenship and Immigration
25 Services, in his official capacity; U.S. Citizenship
26 and Immigration Services; John Sanders,
Commissioner of U.S. Customs and Border
Protection, in his official capacity; U.S. Customs
and Border Protection; Matthew Albence, Acting
Director of Immigration and Customs
Enforcement, in his official capacity; Immigration
and Customs Enforcement,

Defendants.

Case No.: 3:19-cv-04073-JST

**NOTICE OF MOTION AND
EMERGENCY MOTION TO
CONSIDER SUPPLEMENTAL
EVIDENCE AND RESTORE THE
NATIONWIDE SCOPE OF THE
INJUNCTION**

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16 **Admitted Pro hac vice*

17 ***Pro hac vice application forthcoming*

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1 TO RESPONDENTS AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Plaintiffs East Bay Sanctuary Covenant, Al Otro Lado,
3 Innovation Law Lab, and Central American Resource Center of Los Angeles hereby move the Court
4 to consider supplemental evidence in support of the necessary scope of preliminary injunctive relief
5 to remedy Plaintiffs' harms, and to restore the nationwide scope of the preliminary injunction
6 entered on July 24, 2019. *See* ECF No. 42.

7 This motion is brought pursuant Federal Rule of Civil Procedure 65 and is based on the
8 accompanying Memorandum in Support and materials cited therein; the pleadings and evidence on
9 file in this matter; the accompanying declarations; and such other materials and argument as may be
10 presented in connection with the hearing on the motion.

11 The additional declarations Plaintiffs have asked the Court to consider are limited to the
12 scope of the injunction, and are of the same nature as the plaintiff declarations filed in the first *East*
13 *Bay Sanctuary Covenant* case, *see* 18-cv-06810-JST, ECF No. 8-3, 8-4, 8-6, 8-7, as well as the
14 plaintiff declarations filed in this case in support of preliminary injunctive relief, *see* ECF No. 3-2, 3-
15 3, 3-4, 3-5, which the government did not challenge factually. In light of the irreparable harm that
16 Plaintiffs will face if the Interim Final Rule is not enjoined nationwide, Plaintiffs propose that
17 Defendants' opposition to this motion be due within 48 hours of this filing, and that Plaintiffs' reply
18 be due within 24 hours of the filing of Defendants' opposition. Should the Court wish to hear
19 argument on this motion, Plaintiffs request a hearing on Friday, August 23, 2019, at 2:30 pm.

20 Counsel for Plaintiffs provided notice of their intent to file this motion to Defendants on
21 August 18, 2019, by email to Erez R. Reuveni, Counsel for Defendants. Counsel for Plaintiffs will
22 promptly send a copy of these filings to Mr. Reuveni by email.

23 Counsel for Defendants requested that Plaintiffs submit the following statement on their
24 behalf: Defendants are not able to consent to a schedule without having the opportunity to see what
25 new evidentiary matter Plaintiffs are submitting in support of their motion, as Defendants must
26 determine whether they need to submit evidentiary matter of their own or to request expedited
27 discovery as to Plaintiffs' evidence. Although Plaintiffs contacted Defendants about scheduling,
28 because Defendants cannot review Plaintiffs' evidence before Plaintiffs file, Defendants propose that

1 the Court order the parties to meet and confer on a schedule that reasonably provides both parties
2 sufficient time to submit or contest evidentiary matters relevant to Plaintiffs' pending motion.
3 Defendants do not believe that can be accomplished in the 48 hours Plaintiffs propose Defendants
4 have to respond, and note that in other cases in which discovery is needed to assess scope of injury,
5 such proceedings often take months. *See, e.g.*, ECF Nos. 28 and 118, *United States v. California*, No.
6 18-490 (E.D. Cal.) (orders providing for expedited discovery period of nine weeks as to issues
7 related to scope of injury).

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10 Dated: August 19, 2019

Respectfully submitted,

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