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11  
 12 UNITED STATES DISTRICT COURT  
 13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 IMMIGRANT DEFENDERS LAW  
 15 CENTER, a California corporation, et  
 16 al.,

17 Plaintiff,

18 v.

19 CHAD WOLF, Acting Secretary,  
 Department of Homeland Security, et  
 20 al.,

21 Defendants.

Case No. 2:20-cv-09893 JGB (SHKx)

**DEFENDANTS' REPLY IN SUPPORT  
 OF THEIR MOTION TO TRANSFER  
 PURSUANT TO 28 U.S.C. § 1404(A)  
 AND THE FIRST-TO-FILE RULE**

Hearing Date: January 25, 2021  
 Hearing Time: 9:00 a.m.  
 Ctrm: Riverside, Courtroom 1  
 22 Hon. Jesus G. Bernal  
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1 **I. INTRODUCTION**

2 In their Opposition, Plaintiffs do not appear to dispute that (a) a substantial portion  
3 of the events giving rise to Plaintiffs’ claims arose in the Southern District, (b) the  
4 Southern District would be more convenient than the Central District for all but two of  
5 the numerous parties in this case (Immigrant Defenders and Daniel Doe), (c) many  
6 witnesses will be from the Southern District or in Mexico in close proximity to the  
7 Southern District, and (d) few witnesses would find the Central District a more  
8 convenient forum. Plaintiffs rely heavily on claims that Immigrant Defenders (a) resides  
9 in the Central District, (b) was purportedly injured in the Central District, and (c) has two  
10 employees who intend to testify. But these facts do not make the Central District a  
11 convenient forum, much less a forum that is anywhere near as convenient as the  
12 Southern District. Immigrant Defenders is but one of *eighteen* parties named in this  
13 litigation, it has “questionable standing,” *Al Otro Lado, Inc. v. Kelly*, 2017 WL  
14 10592130, at \*2 (C.D. Cal. 2017); *see* ECF No. 88 at 27, and the brunt of its alleged  
15 injuries occurred in the Southern District. *See, e.g.*, Compl., ¶¶ 211-14, 216-17.

16 Plaintiffs also attempt to minimize the significance of location for their claims,  
17 characterizing it as a challenge to policies that were “promulgated by Defendants in  
18 Washington, D.C.” and “apply uniformly across the U.S.-Mexico border.” Opp. at 7.  
19 But the Court need not look further than the Complaint itself to see that Government  
20 practices and occurrences in or near the Southern District are central to the claims of  
21 Plaintiffs and the putative class (defined as persons who “presented, will present, or have  
22 been directed to present themselves at the San Ysidro or Calexico ports of entry”).  
23 Compl., ¶¶ 84, 243. The Complaint is devoid of specific allegations concerning the  
24 process of “promulgating” policies in Washington, D.C.; instead, it raises an *as-applied*  
25 challenge to implementation of certain policies at a local level, focusing heavily—if not  
26 exclusively—on practices and occurrences in the Southern District (or just across the  
27  
28

border from the Southern District).<sup>1</sup>

Plaintiffs’ claims center on the requirement that they present to ports of entry in the Southern District, and their issues related to access to counsel and the asylum system in the Southern District. It is a border case, which the Southern District of California has a greater interest in resolving and for which the Southern District provides a more appropriate venue.

**II. ARGUMENT**

**A. The Convenience of the Parties Favors Transfer**

The mention in Section 1404(a) of the “convenience of the parties” is a reference to “all of the parties to the action, which means that their frequently competing conveniences must be taken into account.” *See* 15 Wright, Miller & Cooper, Federal Practice and Procedure § 3849 (4th ed. 2009). In supporting its motion for a transfer of venue, a defendant must show that the plaintiff would not be substantially inconvenienced by a transfer. *Id.*

Here, Plaintiffs only argue that two out of the ten named Plaintiffs (Immigrant Defenders and Daniel Doe) would find it more convenient to litigate in the Central District. *Opp.* at 5. But Plaintiffs do not argue that any of the absent putative class members would find the Central District more convenient. *Opp.* at 5. Nor do they argue that any plaintiff would be substantially inconvenienced by a transfer to the Southern District. *See generally* *Opp.*

And Immigrant Defenders and Daniel Doe’s convenience arguments make little sense. As explained in the Motion, Immigrant Defenders has a presence in the Southern District, and according to its own Complaint, its activities in the Southern District are most relevant to this litigation. *Mot.* at 11; *Compl.*, ¶¶ 211-13. Further, Daniel Doe’s desire to relocate to Los Angeles should be given no weight in the analysis. *See, e.g.,*

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<sup>1</sup> *See, e.g.,* *Compl.*, ¶¶ 4, 14-22, 45-46, 51, 74-75, 84, 86-87, 100, 102-103, 106, 108-10, 112, 118-206, 211-14, 216-19, 221-23, 225-43, 245, 254, 256-57, 269, 276, 278, 284-85, 291-92, 296-98, 307-10, 322-23, 329-332.

1 *Valenzula v. Sol Grp. Marketing Co.*, 2015 WL 653086, at \*3 (C.D. Cal. Jan. 30, 2015)  
2 (transferring case to the Southern District of Florida, and declining to give any weight to  
3 plaintiff’s choice of forum based on assertion that he “*plan[s] on* returning to California  
4 in approximately April or May 2015” (emphasis in original)). Indeed, if Daniel Doe is  
5 granted asylum and actually does relocate to Los Angeles, his claims would be mooted.

6 As to Defendants’ convenience, Plaintiffs gloss over *Al Otro Lado* entirely when  
7 they argue that Washington, D.C.-based defendants may not find the Southern District  
8 more convenient. There, the court concluded that the Southern District was more  
9 convenient for the parties where the defendants were government officials sued in their  
10 official capacity, who were part of Washington D.C.-based agencies. *See Al Otro Lado*,  
11 2017 WL 10592130, at \*3. Those same agencies are named as Defendants here, and  
12 similarly seek transfer to the Southern District because their relevant personnel are  
13 located there.

14 **B. The Convenience of the Witnesses Favors Transfer**

15 Next, Plaintiffs argue that Defendants’ Motion should be denied because  
16 Defendants (a) fail to submit any declarations or affidavits in support of their assertions  
17 about witness convenience and (b) fail to identify any true third-party witnesses. But  
18 first, the lack of declarations or affidavits is no grounds for denying transfer in this case.  
19 Plaintiffs do not appear to dispute—and cannot reasonably dispute—that local CBP and  
20 ICE personnel and named Plaintiffs and absent class members will be relevant witnesses.  
21 Nor do they or can they dispute that the Southern District provides a much more  
22 convenient forum for any of these individuals. The Court can come to this common-  
23 sense conclusion with reference to the pleadings and declarations filed to date and  
24 without the need for further declarations.<sup>2</sup> *See, e.g., Texas Roadhouse, Inc. v. Texas*  
25 *Corral Restaurants, Inc.*, 2016 WL 232407, at \*4 (W.D. Mich. Jan. 20, 2016)

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28 <sup>2</sup> In *Al Otro Lado*, the court was able to readily conclude, without any declarations  
submitted by defendants, that “the overwhelming majority of witnesses . . . are located in  
the Southern District of California.” 2017 WL 10592130, at \*3.

1 (concluding that transfer under Section 1404(a) to Indiana was appropriate because  
2 “[t]he locus of the allegations in Plaintiffs’ complaint originated in Indiana, where much  
3 of the proofs logically rest, and which is the most convenient forum for witnesses, and  
4 equally or more convenient to the parties”); *see also Washington Public Utilities Grp. v.*  
5 *U.S. Dist. Ct. for W. Dist. of Wash.*, 843 F.2d 319, 326 (9th Cir. 1987) (court may *sua*  
6 *sponte* transfer venue under Section 1404(a)); *PETA, Inc. v. Beyond the Frame, Ltd.*,  
7 2011 WL 686158, at \*2 (C.D. Cal. Feb. 16, 2011) (same).

8         And second, true third-party witnesses will naturally be from the Southern District  
9 as well. These witnesses include named Plaintiffs’ attorneys, attorneys from the firms on  
10 the EOIR free legal service provider list for the San Diego immigration court, and other  
11 local San Diego immigration attorneys with experience representing clients in MPP  
12 while the clients are in Mexico, and before, during, and after hearings before the San  
13 Diego immigration court. In any event, Plaintiffs do not identify any true third-party  
14 witnesses from the Central District so as to even nudge the scales toward the Central  
15 District. With virtually all of *both* party and non-party witnesses either residing in the  
16 Southern District (in the case of local CBP and ICE personnel and local attorneys) or  
17 nearer to the Southern District (in the case of named Plaintiffs and absent putative class  
18 members in Mexico), the witness convenience factor weighs strongly in favor of  
19 transfer.

### 20         **C. Plaintiffs’ Choice of Forum Is Entitled to No Weight**

21         Plaintiffs argue that their choice of forum should be entitled to “substantial  
22 deference” because Defendants have not provided any particular reasons why diminished  
23 or no deference should be given, such as the existence of “forum shopping.” Opp. at 8-  
24 10. But Defendants have more than adequately done so. As explained in the Motion, (1)  
25 none of the facts in this case are alleged to have occurred in the Central District, (2) the  
26 Central District does not have any particular interest in the parties or the subject matter  
27 of this litigation, (3) the overwhelming majority of litigants in this case do not have their  
28 primary residence in the Central District of California, (4) the subject matter of this

1 litigation is not substantially connected to the Central District, and (5) a plaintiff's choice  
 2 of forum is "given less" weight in a class action. *Lodestar Anstalt v. Bacardi & Co.*,  
 3 2017 WL 1434265, at \*4 (C.D. Cal. 2017) (citing *Metz v. U.S. Life Ins. Co. in City of*  
 4 *New York*, 674 F. Supp. 2d 1141, 1146 (C.D. Cal. 2009)); *Al Otro Lado*, 2017 WL  
 5 10592130, at \*2; Mot. at 9-13.

6 Plaintiffs only dispute the second of these five factors (the Central District's  
 7 interest), arguing that Immigrant Defenders has been indirectly injured in Los Angeles  
 8 (by having to divert resources) and that non-party members of the "Los Angeles  
 9 community" have, in turn, been indirectly affected by Immigrant Defenders' diversion of  
 10 resources. Opp. at 9. However, such tangential connections to the Central District do  
 11 not justify granting deference to Plaintiffs' choice of forum. For starters, the interests of  
 12 the "Los Angeles community" at large are irrelevant to Plaintiffs' claims. The  
 13 Complaint asserts no claims concerning injuries to the "Los Angeles community," and as  
 14 non-parties who are not even putative class members, Immigrant Defenders has no  
 15 standing to represent their interests. Moreover, Immigrant Defenders' indirect injuries in  
 16 Los Angeles (1) are only secondary to its asserted injury of choosing to undertake new  
 17 ventures in San Diego in order to represent members of the putative class as a result of  
 18 MPP, *see* Compl., ¶¶ 211-13 (explaining that Immigrant Defenders began representing  
 19 clients in San Diego immigration court because "the San Diego immigration courts  
 20 routinely deny motions for change of venue in MPP cases [to Los Angeles]"); (2) ignore  
 21 the absence of any Los Angeles-based injuries among the other nine named Plaintiffs or  
 22 members of the putative class; and (3) are entitled to little weight in light of Immigrant  
 23 Defenders' questionable standing.<sup>3</sup>

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 25 <sup>3</sup> As Defendants explained more fully in their Opposition to Plaintiffs' Motion for  
 26 a Preliminary Injunction, "Plaintiffs' allegations are insufficient to demonstrate that the  
 27 MPP impaired their ability to provide services by inhibiting their daily operations," and  
 28 they have failed to "allege or present evidence that the implementation of MPP  
 jeopardized their client base or their funding." ECF No. 88 at 27. Just as the court in *Al  
 Otro Lado* gave minimal weight to the location and purported injuries of an  
 organizational plaintiff with "questionable standing," the Court should give minimal  
 (footnote cont'd on next page)



1 Finally, to the extent Defendants are required to demonstrate that Plaintiffs’ choice  
2 of forum was the result of “forum shopping” (they are not), Defendants have adequately  
3 done so. Rather than file in a district (1) where most of the relevant events took place,  
4 (2) that would be more convenient to named Plaintiffs and putative class members  
5 currently residing in Mexico, and (3) where two related MPP challenges are pending,  
6 Plaintiffs chose to file in the Central District, where (1) only one Organizational Plaintiff  
7 resides, (2) none of the relevant events took place, and (3) there are no related cases  
8 pending. Notably, when this case was filed, it was initially assigned to the Honorable  
9 John A. Kronstadt, whose chambers are located in Los Angeles—the location  
10 purportedly most convenient for Immigrant Defenders. Despite this, Plaintiffs  
11 immediately filed a Notice of Related Cases, requesting that the case be transferred over  
12 fifty miles east to Riverside, California, on the ground that it was “related” to *Torres, et*  
13 *al., v. Department of Homeland Security, et al.*, No. 5:18-cv-02604 JGB (SHKx)  
14 (“*Torres*”), a case involving three detention facilities within the Central District and that  
15 does not involve MPP, the policy challenged here. *See* ECF No. 5, 34. If this does not  
16 constitute forum shopping, it is incumbent on Plaintiffs to otherwise explain their choice  
17 of forum in the Central District. They have not done so.

18 **D. Virtually All of the Operative Events Occurred in the Southern District**  
19 **or Across the Border from the Central District**

20 Plaintiffs do not appear to dispute that a significant portion of the operative events  
21 occurred in the Southern District and none in the Central District. Rather, they attempt  
22 to identify just some events that occurred outside the Southern District and attempt to  
23 diminish the significance of some of the events that occurred in the Southern District.  
24 Plaintiffs’ arguments are unavailing.

25 First, Plaintiffs note that the “critical policies challenged were developed in the  
26 District of Columbia,” Opp. at 10, but fail to explain why the location of the policies’

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weight to Immigrant Defenders’ location and purported Los Angeles-based injuries. *See*  
*Al Otro Lado*, 2017 WL 10592130, at \*2.

1 development matters. Plaintiffs make clear in their pleadings that their case is about the  
2 implementation of those policies and their effect on access to counsel in the Southern  
3 District before, during, and after San Diego immigration court hearings, and living  
4 conditions just across the border from the Southern District in and around Tijuana and  
5 Mexicali.

6 Second, Plaintiffs argue that the purported “Return Policy” and “Presentation  
7 Requirement” do “not focus on actions that occurred within the Southern District,” but  
8 rather harm that “occurs in Mexico.” Opp. at 10, 11. But the complained-of act under  
9 the “Return Policy”—returning the putative class to Mexico—largely *does* occur in the  
10 Southern District, as does the complained of “Presentation Requirement”—requiring  
11 presentation at two ports of entry in the Southern District. And even if some of the  
12 actual harm occurs across the border in Mexico, as Plaintiffs claim it does, that only  
13 further warrants transfer to the Southern District (which is immediately across the border  
14 from Mexico) and away from the Central District (which is over one hundred miles from  
15 the border).

16 Third, Plaintiffs argue that their “challenge to the Deprivation of Counsel Policy is  
17 not limited to the one-hour period during which asylum seekers are purportedly allowed  
18 to speak with attorneys prior to their immigration court hearings” and involves harms in  
19 Mexico. Opp. at 10. But all other alleged harms from the purported “Deprivation of  
20 Counsel Policy” also occurred at least partially in the Southern District, and the  
21 remainder in close proximity across the border from the Southern District. The  
22 Organizational Plaintiffs allege that the policy makes their representation of putative  
23 class members *in San Diego* more difficult. The Individual Plaintiffs allege that this  
24 policy impedes their access to attorneys *in San Diego*. And both the Organizational and  
25 Individual Plaintiffs complain of inadequacies in the local counsel available to assist  
26 clients in MPP. *See* Compl., ¶¶ 45 (“The list includes contact information for six  
27 organizations that represent individuals in the San Diego Immigration Court . . .”), 228  
28 (“Jewish Family Service is the only organization on the EOIR free legal services

1 provider list in the San Diego area that consistently provides legal representation” to  
2 MPP clients).

3 Finally, Plaintiffs’ attempts to minimize the relevance of events that occurred in  
4 the Southern District and to distinguish *Al Otro Lado* are unavailing. Indeed, Plaintiffs  
5 rely heavily on attorney and putative class member experiences and government action  
6 in the Southern District to establish the alleged violations that form the very basis of  
7 their First through Seventh claims. By way of example, some of the named Plaintiffs  
8 allege that their right to counsel was obstructed because they “did not see or have any  
9 opportunity to communicate with any attorneys at the San Diego immigration court  
10 when [they were] there for [their] hearings.” Compl., ¶¶ 170 (Anthony Doe), ¶ 146  
11 (Hannah Doe). Plaintiff Immigrant Defenders alleges that it had to start representing  
12 clients “before the San Diego immigration courts” because “the San Diego immigration  
13 courts routinely deny motions for change of venue in MPP cases,” and Plaintiff Jewish  
14 Family Services, which is dedicated to providing “services to immigrants in San Diego  
15 and Imperial Counties,” alleges that it had to “shift[] its focus to respond to the needs of  
16 individuals subject to MPP.” *Id.*, ¶¶ 213, 225, 227. Plaintiffs state in numerous places in  
17 their submissions that the attorneys on one side of the allegedly impeded attorney-client  
18 relationship are largely working from San Diego. *See, e.g.*, Nicholas Doe Decl. (ECF  
19 No. 44), ¶ 9 (“In mid-March, I reached Jewish Service in San Diego and was connected  
20 with an attorney who has been helping me prepare my asylum case. My access to my  
21 attorney has been obstructed . . .”). And Plaintiffs rely heavily on the fact that putative  
22 class members are not given enough time by ICE agents to speak with attorneys before  
23 hearings, yet do nothing to support their assertion that local ICE witnesses would not be  
24 material.

25 **E. The Ease of Access to Evidence, Cost, and Local Interest Factors Weigh**  
26 **in Favor Of Transfer**

27 When it comes to the ease of access to evidence, cost, and local interests,  
28 Plaintiffs do not dispute that the Southern District provides a more convenient and

1 superior forum than the Central District. Regarding access to evidence and costs,  
2 Plaintiffs merely argue that witnesses “are dispersed around the world.” Opp. at 14.  
3 While that may be so, there are many more relevant witnesses in the Southern District  
4 (including immigration attorneys representing clients in MPP, local government  
5 personnel carrying out the alleged policies and practices alleged in the Complaint, and  
6 attorneys from Jewish Family Services) than in the Central District (“[a]t least two  
7 ImmDef employees who intend to testify in this action work in ImmDef’s Los Angeles  
8 office”). And there are many more relevant witnesses just across the border from the  
9 Southern District in Mexico, including the named Plaintiffs, putative class members, and  
10 attorneys representing clients in MPP in Mexico. Depositions and securing testimony  
11 from all of these witnesses will be far more convenient and less costly with this case  
12 transferred to the Southern District.

13 And with respect to local interests, the Central District’s local interest is  
14 attenuated, as explained above in Section II.C. The Southern District’s interest, on the  
15 other hand, is significant. This is a border case involving (1) clients’ access to counsel  
16 (a) as they reside near the border in Mexico with attorneys on the other side in the  
17 Southern District, (b) attend immigration court hearings in San Diego; (2) the return of  
18 aliens to Mexico (generally from the Southern District); and (3) the presentment of aliens  
19 to two ports of entry in the Southern District. The relief Plaintiffs request includes  
20 orders requiring Defendants to:

21 (1) “provide an adequate facility in the United States for legal visitation  
22 with no less than 20 confidential meeting spaces (adequate under all  
23 appropriate precautionary public health measures), accessible by legal  
24 representatives, interpreters and individuals subjected to MPP for no less  
25 than seven days a week, including holidays, for no less than eight hours a  
26 day per day on regular business days and a minimum of four hours per day  
27 on weekends and holidays. Such meeting spaces shall provide access to an  
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1 international telephone line, third-party interpretation, and  
2 videoconferencing”; and

3 (2) “permit Organizational Plaintiffs and others similarly situated to provide  
4 legal services presentations to groups of individuals subjected to the  
5 Protocols, including members of the class, for the purpose of informing  
6 them of U.S. immigration law and procedures”; and

7 (3) provide food, shelter, medical care, and other appropriate relief to  
8 Individual Plaintiffs and members of the class in order to address their basic  
9 human needs while in Mexico.

10 Compl. at 80-81 (Prayer for Relief). Therefore, transfer of this action to the venue in  
11 which the enforcement of any injunctive relief might be awarded is appropriate. *See,*  
12 *e.g., College Craft Companies, Ltd. v. Perry*, 889 F. Supp. 1052, 1057 (N.D. Ill. 1995)  
13 (public interest in having an action litigated where a judgment can best be enforced  
14 favors transfer); *Habitat Wallpaper and Blinds, Inc. v. K.T. Scott Ltd. Partnership*, 807  
15 F. Supp. 470, 475 (N.D. Ill. 1992) (injunctive relief sought would require enforcement in  
16 transferee district). As such, this action should proceed in the Southern District, “which  
17 is located along the United States-Mexico border, [and thus] has strong ties to the issues  
18 in this case.” *See Al Otro Lado*, 2017 WL 10592130, at \*3.

19 **F. The First-to-File Rule and Existence of Related Cases Warrants**  
20 **Transfer**

21 Finally, Plaintiffs argue that this case should stay with this Court because it is  
22 “familiar with the complex legal issues at hand” from its involvement in *Torres*, yet  
23 argue that this case and *Doe* have “minimal overlap in the factual allegations” and that  
24 the claims in this case and *E.A.R.R.* “are substantially different.” *Opp.* at 1, 16-17.  
25 Plaintiffs’ assertions make little sense. *Torres* involves a class of aliens present in the  
26 Central District in three detention facilities with claims regarding access to counsel for  
27 *existing* attorney-client relationships. *Doe* and *E.A.R.R.*, on the other hand, involve  
28 challenges to the same policy challenged in this case—MPP. If the pendency of *Torres*

1 warranted transfer to this Court, the pendency of *Doe* and *E.A.R.R.* heavily weighs in  
2 favor of transfer to the District where those cases are pending. The presiding judge in  
3 *Doe*—the Honorable Dana M. Sabraw—would have familiarity “with the complex legal  
4 issues at hand,” as he has issued a classwide preliminary injunction in an MPP case  
5 enjoining the Government from “conduct[ing] class members’ non-*refoulement*  
6 interviews without first affording the interviewees access to their retained counsel both  
7 before and during any such interview.”<sup>4</sup> *Doe v. Wolf*, 432 F. Supp. 3d 1200, 1215-16  
8 (S.D. Cal. 2020). While, as Plaintiffs note, this Court has two fully briefed motions  
9 pending before it and heard argument on December 14, 2020, *see* Opp. at 1, such a  
10 hearing only took place because Plaintiffs noticed two motions on an emergency basis  
11 immediately upon filing the Complaint, and the hearing was focused on just one  
12 threshold question: jurisdiction. Defendants have not responded to the Complaint, and  
13 this case remains in its infancy. It is a proper and efficient time to transfer this case to a  
14 District where related cases are pending.

15 More critically, the putative class in this case overlaps with the putative class in  
16 *E.A.R.R.* and the certified class in *Doe*, as Plaintiffs acknowledge, *see* Opp. at 16-17,  
17 each action seeks similar relief, *see* Mot. at 15-16, and the claims are not “substantially  
18 different,” as Plaintiffs claim they are. The plaintiffs in this case, in *E.A.R.R.*, and in  
19 *Doe* all allege barriers in access to counsel as a result of MPP and seek relief to avoid  
20 purported dangers in Mexico created as a result of MPP.<sup>5</sup> It would be most efficient, and  
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22 <sup>4</sup> That preliminary injunction remains in effect. On December 15, 2020, the Ninth  
23 Circuit vacated the Government’s appeal of the *Doe* court’s orders granting the  
24 plaintiffs’ motion for a classwide preliminary injunction, “pending the Supreme Court’s  
disposition of *Wolf, et al. v. Innovation Law Lab, et al.*, No. 19-1212.” *Doe, et al. v.*  
*Wolf, et al.*, 19-cv-2119 (S.D. Cal.), Dkt. No. 60.

25 <sup>5</sup> *Compare* Complaint, ¶ 3 (“[T]hrough MPP’s ‘Return Policy,’ which forces  
26 asylum seekers to live indefinitely under perilous conditions in Mexico, Defendants  
27 jeopardize Individual Plaintiffs’ personal safety and prevent them from being able to  
28 fulfill basic human needs. The Return Policy also thereby deprives asylum seekers of  
access to the information and tools necessary to defend against *refoulement* and to  
meaningfully present their asylum claims. . . . “[T]he Protocols’ ‘Deprivation of  
Counsel’ Policy has obstructed legal representation for nearly 93 percent of impacted  
*(footnote cont’d on next page)*”

1 avoid duplication and potentially inconsistent rulings, if this case was transferred to the  
2 Southern District, where claims of overlapping MPP classes are already pending.

3 **III. CONCLUSION**

4 For the foregoing reasons, the Court should transfer venue under 28 U.S.C. §  
5 1404(a) and pursuant to the first-to-file rule.

6  
7 Dated: January 11, 2021

Respectfully submitted,

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15 /s/ Matthew J. Smock  
16 JASON K. AXE  
MATTHEW J. SMOCK  
Assistant United States Attorneys

17 Attorneys for Defendants  
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25 individuals.”), *with E.A.R.R., et al. v. U.S. D.H.S., et al.*, 3:20-cv-02146 (S.D. Cal.), Dkt.  
26 No. 1 (complaint), ¶¶ 5-7 (“Plaintiffs and putative class members in Mexico do not have  
27 sufficient shelter, are denied essential medical equipment and care, and/or face barriers  
28 such as inaccessible buildings and facilities, a lack of sign language interpreters, and a  
lack of effective communication, all of which substantially affect their ability to prepare  
for and adequately aid in their defense in removal proceedings.”) *and Doe*, 19-cv-2119,  
Dkt. No. 1 (complaint), ¶¶ 20, 88 (“Plaintiffs bring this case to protect the statutory and  
constitutional right of access to retained counsel before and during *non-refoulement*  
interviews for persons facing threats of torture or persecution in Mexico. . . . Individuals  
and families seeking asylum and forced into MPP are often extremely vulnerable and  
subject to grave danger in Mexico.”).

1 **PROOF OF SERVICE BY MAILING**

2 I am over the age of 18 and not a party to the within action. I am employed by the  
3 Office of United States Attorney, Central District of California, and am readily familiar  
4 with the practice of this office for collection and processing collection and mailing. My  
5 business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California  
6 90012.

7 On **January 11, 2021**, I served: **DEFENDANTS' REPLY IN SUPPORT OF**  
8 **THEIR MOTION TO TRANSFER PURSUANT TO 28 U.S.C. § 1404(A) AND**  
9 **THE FIRST-TO-FILE RULE** on each persons or entities named below by enclosing a  
10 copy in a sealed envelope with postage fully prepaid and addressed as shown below and  
11 placing the envelope for collection and mailing with the United States Postal Service on  
12 the date and at the place shown below following our ordinary office practices.

13 Date of mailing: **January 11, 2021**. Place of mailing: Los Angeles, California.

14 Person(s) and/or Entity(s) To Whom Mailed:

15 Nadia Dahab  
16 Innovation Law Lab  
17 333 SW 5th Avenue Suite 200  
18 Portland, OR 97204

19 I declare under penalty of perjury under the laws of the United States of America  
20 that the forgoing is true and correct.

21 I declare that I am employed in the office of a member of the bar of this Court at  
22 whose direction the service was made.

23 Executed on **January 11, 2021** at Los Angeles, California.

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25 JULIE MORALES  
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