

1 JOSEPH H. HUNT
 Assistant Attorney General
 2 U.S. Department of Justice
 Civil Division
 3 WILLIAM C. PEACHEY
 Director
 4 Office of Immigration Litigation
 District Court Section
 5 JEFFREY S. ROBINS
 Deputy Director
 6 LINDSAY M. VICK (MA 685569)
 Trial Attorneys
 7 450 5th Street, N.W., Rm 5223
 Washington, D.C. 20530
 8 Telephone: (202) 523-4023
 Facsimile: (202) 305-7000
 9 lindsay.vick@usdoj.gov
 10 Attorneys for Defendants

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 12 UNITED STATES DISTRICT COURT
 13 CENTRAL DISTRICT OF CALIFORNIA

14 FAOUR ABDALLAH)
 15 FRAIHAT, *et al.*,)
 16 *Plaintiffs,*)
 17 v.)
 18 U.S. IMMIGRATION AND)
 CUSTOMS ENFORCEMENT, *et*)
 19 *al.*,)
 20 *Defendants.*)

Case No. 5:19-CV-01546 JGB (SHKx)

**DEFENDANTS' NOTICE OF
 MOTION AND MOTION FOR
 RECONSIDERATION;**

**MEMORANDUM OF POINTS AND
 AUTHORITIES; and
 [PROPOSED] ORDER**

**Before The Honorable Jesus G.
 Bernal**
Hearing Date: February 24, 2020
Hearing Time: 9:00 a.m.

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NOTICE OF MOTION AND MOTION FOR RECONSIDERATION

1 PLEASE TAKE NOTICE that Defendants hereby move to reconsider the
2 Order re Transfer Pursuant to General Order 19-03 (Related Cases), ECF No. 20.
3 This motion is made under Federal Rule of Civil Procedure 59(e) and Local Rule
4 7-18. On February 24, 2020 at 9:00 a.m., or at another time set by the Court,
5 Defendants will appear in Courtroom 1 of the District Court for the Central District
6 of California, located at 3470 Twelfth Street, Riverside, California 92501, and
7 request that the Court reconsider its ruling that the instant case is related to *Torres*
8 *v. DHS*, 5:18-CV-02604 JGB(SHKx) and *Novoa v. The GEO Group, Inc.*, 5:17-
9 CV-02514 JGB(SHKx) because those cases “[a]rise from the same or closely
10 related transactions, happenings or events; or [c]all for determination of the same
11 or substantially related or similar questions of law and fact; or [f]or other reasons
12 would entail substantial duplication of labor if heard by different judges.” ECF No.
13 20.
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15 This motion for reconsideration is based upon the Memorandum of Points
16 and Authorities attached hereto; all pleadings and papers filed in this action; such
17 oral argument as may be presented at the hearing on the motion; and such other
18 evidence of which this Court may take judicial notice or consider. This motion is
19 made following the conference of counsel pursuant to Local Rule 7-3, which took
20 place telephonically on November 20, 2019.

21 Dated: November 27, 2019

Respectfully submitted,

22
23 JOSEPH H. HUNT
Assistant Attorney General
24 WILLIAM C. PEACHEY
Director
25 JEFFREY S. ROBINS
26 Deputy Director

/s/ Lindsay M. Vick
LINDSAY M. VICK
Trial Attorney
United States Department of Justice
Office of Immigration Litigation
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Case No. 5:19-CV-01546 JGB (SHKx)

**DEFENDANTS' MEMORANDUM
 OF POINTS AND AUTHORITIES
 IN SUPPORT OF DEFENDANTS'
 MOTION FOR
 RECONSIDERATION**

**Before The Honorable Jesus G.
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MEMORANDUM OF POINTS AND AUTHORITIES

1 Under Federal Rule of Civil Procedure 59(e), reconsideration is appropriate
2 “if (1) the district court is presented with newly discovered evidence, (2) the
3 district court committed clear error or made an initial decision that was manifestly
4 unjust, or (3) there is an intervening change in controlling law.” *SEC v. Platforms*
5 *Wireless Int’l Corp.*, 617 F.3d 1072, 1100 (9th Cir. 2010) (internal quotation marks
6 omitted); *see also* C.D. Cal. R. 7-18 (Motion for Reconsideration). Relying on this
7 second ground, Defendants urge that reconsideration is appropriate here because
8 the Court erred in its finding that the instant case is related to *Torres v. DHS*, 5:18-
9 CV-02604 JGB(SHKx) and *Novoa v. The GEO Group, Inc.*, 5:17-CV-02514
10 JGB(SHKx) prior to considering Defendants’ response to Plaintiffs’ Notice of
11 Related Cases, ECF No. 4, as allowed by Local Rule 83-1.3.3.

12 Local Rule 83-1.3.3 provides that, within five days of receiving service of
13 the Notice of Related Cases, or within five days of appearing in the case, any party
14 to a case may file and serve an opposition setting forth reasons that a case does not
15 qualify as a related case under the local rules. Defendants were not served with the
16 Complaint in this case until August 29, 2019. However, the Court considered
17 Plaintiffs’ Notice of Related Cases and ordered the transfer of the instant case, on
18 August 22, 2019, prior to Defendants receiving service of the Notice of Related
19 Cases and prior to entering an appearance. C.D. Cal. R. 83-1.3.3. Thus, the Court’s
20 Order deprived Defendants of the opportunity to respond as allowed by the local
21 rules. Fed. R. Civ. P. 59(e); C.D. Cal. R. 7-18(c).

22 Moreover, Defendants contend that the cases Plaintiffs identified are not
23 related to this case currently pending before the Court, and therefore, those cases
24 do not qualify as related cases under the local rules. *See* C.D. Cal. R. 83-1.3.1. In
25 its August 22, 2019, Order transferring this case, the Court found that *Torres* and
26 *Novoa* were related cases because both cases “[a]rise from the same or closely
27 related transactions, happenings or events; or [c]all for determination of the same
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1 or substantially related or similar questions of law and fact; or [f]or other reasons
2 would entail substantial duplication of labor if heard by different judges.” ECF No.
3 20.

4 However, the facts and claims for relief in *Torres* and *Novoa* have little, if
5 anything, to do with this case. The only similarity between the three cases is that
6 they all involve immigration detainees, which is certainly not a sufficient reason to
7 conclude that these are related cases under the Local Rules. Further, neither *Torres*
8 nor *Novoa* involve claims challenging the provision of medical and mental health
9 care, segregation issues, or issues related to detainees with disabilities under the
10 Rehabilitation Act. Instead, *Torres* addresses access to counsel at several detention
11 facilities in southern California and involves an entirely different assessment of
12 rights under the Due Process Clause of the Fifth Amendment as well as under the
13 First Amendment, the Immigration and Nationality Act, and the Administrative
14 Procedures Act. *See generally* Am. Compl., Feb., 28, 2019, ECF No. 62. *Novoa*
15 involves claims by immigrant detainees alleging a private prison corporation
16 violated anti-trafficking and state labor laws seeking monetary compensation
17 regarding wages. *See generally* Compl., Dec. 19, 2017, ECF No. 1. To the extent
18 that the complaint in *Novoa* alleges that The GEO Group uses segregation as a
19 threat for those who complain about uncompensated or undercompensated work,
20 that is background fact and not related to the relief sought in that case. *Id.* at ¶¶ 7,
21 60. Access to counsel is not a claim or request for relief in this case, and none of
22 the claims in this case involve anti-trafficking and state labor laws. *See generally*
23 Compl., ECF No. 1. Rather, the present complaint alleges Constitutional and
24 Rehabilitation Act violations related to medical and mental health treatment of
25 immigration detainees, which present distinct factual and legal questions from
26 *Torres* or *Novoa*. Thus, the claims in *Torres* and *Novoa* do not arise from the same
27 or closely related transactions or events as those in the instant case, nor do they call
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1 for a determination of the same or substantially similar questions of law and fact or
2 entail a duplication of labor if heard by different judges. C.D. Cal. R. 83-1.3.1.

3 Accordingly, the Court should strike the Order re Transfer Pursuant to
4 General Order 19-03 (Related Cases), ECF No. 20, from the docket, and consider
5 Defendants' response to Plaintiffs' Notice of Related Cases, ECF No. 4, as allowed
6 by Local Rule 83-1.3.3. Upon consideration, the Court should find that the cases
7 Plaintiffs identified are not related to the instant suit and that transfer of this case
8 was not appropriate.

9 Dated: November 27, 2019

Respectfully submitted,

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11 JOSEPH H. HUNT
Assistant Attorney General

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13 WILLIAM C. PEACHEY
Director

14
15 JEFFREY S. ROBINS
Deputy Director

16
17 /s/ Lindsay M. Vick
18 LINDSAY M. VICK
Trial Attorney
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**[PROPOSED] ORDER RE:
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1 This matter having come before this Court upon motion by Defendants in
2 the above-captioned case, and after having considered the parties' briefs, IT IS
3 HEREBY ORDERED:

4 Defendants' Motion for Reconsideration is GRANTED. The Court, having
5 considered Defendants' response to Plaintiffs' Notice of Related Cases under
6 Local Rule 83-1.3.3, finds that this case and the cases identified in Plaintiffs'
7 Notice of Related Cases, ECF No. 4, are not related cases under Local Rule 83-
8 1.3.1. The Court further finds that transfer of the instant suit under General Order
9 19-03 was inappropriate. The Court strikes the Court's August 22, 2019, Order re
10 Transfer Pursuant to General Order 19-03 (Related Cases), ECF No. 20, from the
11 docket.

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14 Dated: _____

The Honorable Jesus G. Bernal
UNITED STATES DISTRICT JUDGE

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