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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FAOUR ABDALLAH
FRAIHAT, *et al.*,

Plaintiffs,

v.

U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT, *et*
al.,

Defendants.

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

**DEFENDANTS' REPLY
IN SUPPORT OF DEFENDANTS'
MOTION FOR
RECONSIDERATION**

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

ARGUMENT

1
2 This Court should reconsider its Order Re Transfer Pursuant to General
3 Order 19-03 (“Order”), ECF No. 20, because the instant case is not related to
4 *Torres v. DHS*, 5:18-CV-02604 JGB(SHKx), and Defendants never had an
5 opportunity to respond to Plaintiffs’ Notice of Related Cases, ECF No. 4, pursuant
6 to Local Rule 83-1.3.3. *See* Fed. R. Civ. Pro. 59(e).

7 *Torres* and the present case do not arise from related events, require analysis
8 of similar factual or legal issues, or result in a duplication of labor if heard by a
9 different judge. *See* ECF No. 20; Local Rule 83-1.3.1. While *Torres* is also a
10 putative class action brought by immigration detainees for declaratory and
11 injunctive relief, that is where the similarities end. *See generally*, 411 F. Supp. 3d
12 1036 (C.D. Cal. 2019). Unlike the present case, *Torres* involves claims concerning
13 immigration detainees’ conditions of confinement related to access to counsel and
14 is limited to immigration detention facilities within the Central District of
15 California. *See id.* Further, the plaintiffs in *Torres* brought claims under procedural
16 and substantive Due Process as well as under the First Amendment. *See id.*

17
18 In the present case, Plaintiffs bring a putative class action on behalf of all
19 immigration detainees nationwide for declaratory and injunctive relief involving
20 Due Process. More specifically, this case involves claims of constitutionally
21 inadequate medical and mental health care, as well as claims under the
22 Rehabilitation Act. Notably, this case involves claims arising out of detention
23 centers located in multiple judicial circuits, and therefore, involves claims that are
24 subject to different legal standards depending upon the judicial circuit in which a
25 plaintiff is detained. Compl. ¶¶ 600-01. Even though both *Torres* and the present
26 case involve Due Process claims concerning conditions of confinement, the basis
27 for Due Process in each case is entirely different—*Torres* is an access to counsel
28 case and, conversely, the present case concerns medical and mental health care,

1 administrative segregation, and issues related to detainees with disabilities under
2 the Rehabilitation Act. Such claims involve different legal standards and analysis
3 and lack factual overlap. The many differences between the present case and
4 *Torres* also support Defendants’ position in other pending motions before this
5 Court that Plaintiffs’ claims should be severed, dismissed or transferred, or
6 stricken.

7 Contrary to Plaintiffs’ contention, Defendants do not argue that “two cases
8 must be the same in each and every possible way” for them to be related cases
9 under the Local Rules. Pls.’ Opp. to Defs.’ Mot. to Reconsider (“Pls. Opp.”) 4,
10 ECF No. 70. But the cases must still satisfy the standard for relating cases under
11 Local Rule 83-1.3, and Plaintiffs have not demonstrated that the standard is met in
12 this case. Further, Plaintiffs’ argument that having the two cases heard by different
13 judges would result in duplication of labor is unconvincing. Plaintiffs contend that
14 because the parties in each case have raised the same legal arguments at the motion
15 to dismiss stage, a duplication of efforts would result if the two cases were not
16 related and heard by one judge. However, that the same legal arguments were
17 made at the motion to dismiss stage in each case is more a consequence of the type
18 of arguments generally made at this stage of the litigation rather than the similarity
19 between the two cases.
20

21 Defendants’ Motion to Reconsider is not based on “mere disagreement” with
22 the Court’s decision, and the implication that Defendants have made “no attempt”
23 to comply with the Local Rules is false. *See* Pls.’ Opp. 3. Defendants were
24 deprived of the opportunity to oppose Plaintiffs’ Notice of Related Case Order
25 under Local Rule 83-1.3.3 and request the opportunity to be heard on that issue.
26 Defendants met and conferred with Plaintiffs on this Motion as well as on their
27 other Motions and submit this Motion in good faith.
28

1 Plaintiffs' cases cited in support of their argument that Defendants' Motion
2 to Reconsider is untimely are inapposite. In *Selectron Indus. Co., Inc. v. Selectron*
3 *Int'l.*, the court denied a motion to reconsider the denial of a motion to enforce a
4 settlement agreement after a four month delay during which the parties took part in
5 arbitration and the movant changed its position on settlement based upon the
6 subsequent arbitration. *See* No. CV 04-4146-PLA, 2007 WL 5193735, *3 (C.D.
7 Cal. Sept. 25, 2007). In *Mattel, Inc. v. MGA Entm't, Inc.*, the defendant waited two
8 months before requesting reconsideration of a court order, and the court found the
9 request untimely. *See* 782 F. Supp. 2d 911, 960 (C.D. Cal. 2011). In *Mattel*, the
10 court order came after "extensive briefing and oral argument" such that defendant
11 had already been heard on the issues and no new facts or changes in law had
12 occurred in the two-month interim. *Id.* Further, in *Honeywell Int'l., Inc. v. W.*
13 *Support Grp.*, the court denied a motion to reconsider the denial of a second
14 summary judgment motion where defendants were not given an opportunity to file
15 a reply before the court's denial. *See* No. CV 12-00645-PHX-JAT, 2013 WL
16 2369919, *3 (D. Ariz. May 29, 2013).

18 In each of those cases, the litigation was well underway and the party
19 requesting reconsideration had previously been heard on the relevant issues. Here,
20 not only were Defendants never heard on the Notice of Related Case Order,
21 Defendants had not even been served with the Complaint before the Court entered
22 its order transferring this case. *See* ECF No. 37. Moreover, Defendants' request for
23 reconsideration comes at the earliest stages of this litigation where the parties have
24 not yet been heard on Defendants' response to Plaintiffs' Complaint. All of these
25 factors weigh in favor of granting the instant Motion. Accordingly, the Court
26 should find that *Torres* is not related to the present case and grant Defendants'
27 Motion to Reconsider.
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Dated: February 10, 2020

Respectfully submitted,

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