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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION – RIVERSIDE**

FAOUR ABDALLAH FRAIHAT, *et al.*,
Plaintiffs,
v.
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, *et al.*,
Defendants.

Case No.: 19-cv-01546-JGB(SHKx)

**[Proposed] Order Granting
Plaintiffs’ Motion to Enforce the
Court’s April 20, 2020 Preliminary
Injunction**

1 Upon this Court’s thorough review of Plaintiffs’ Motion to Enforce, the
2 evidence in support, and Defendants’ response, the Court hereby GRANTS
3 Plaintiffs’ Motion to Enforce the Preliminary Injunction Order and ORDERS as
4 follows:

5 1) Within 10 days of this order, Defendants shall release all subclass 1
6 and subclass 2 members that remain in ICE custody unless
7 Defendants—through revised custody redeterminations conducted for
8 Subclass members whom ICE intends to keep in custody—establish
9 by individualized evidence both that a subclass member poses a
10 danger to the community or a risk of flight and that the subclass
11 member will be provided adequate medical care and detention
12 conditions to ensure their safety during the COVID-19 pandemic if
13 not released. In conducting these redeterminations, Defendants shall
14 ensure that the presence of a Risk Factor constitutes a significant
15 factor weighing in favor of release. This applies to all subclass
16 members with Risk Factors regardless of the statutory basis of their
17 detention (e.g., mandatory detention). That a subclass member is
18 subject to mandatory detention is, standing alone, not a categorical
19 basis to deny release. Defendants shall also ensure that they evaluate
20 all subclass members with Severe Psychiatric Illnesses as defined by
21 Plaintiffs’ medical experts, and Defendants shall issue revised
22 guidance correcting and expanding their previous guidance
23 concerning subclass members with Severe Psychiatric Illness.
24 Defendants shall provide individualized explanations in writing
25 explaining the basis for any continued detention. Written explanations
26 shall be provided to the Special Master for review.

27 2) Appointment by the Court, through a subsequent order pursuant to
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1 Rule 53 of the Federal Rules of Civil Procedure, of one or more
2 Special Masters for the purposes of:

3 a. Overseeing the custody redetermination process of subclass 1 and
4 subclass 2 members that remain in ICE custody pursuant to the PI
5 Order and updated order described directly above. The Special
6 Master should ensure that in conducting custody redeterminations,
7 the presence of a Risk Factor is considered by ICE to be a
8 significant factor weighing in favor of release, and that ICE is
9 considering for release all people with Risk Factors
10 (notwithstanding mandatory detention status), including all people
11 with severe psychiatric illness as defined by Plaintiffs' medical
12 experts. If a determination is made that a subclass member will
13 remain in ICE's custody, the Special Master shall oversee the
14 development of procedures for providing subclass members
15 written notice and the basis for continuing detention.

16 b. Overseeing ongoing updates of the Pandemic Response
17 Requirements (PRR) to establish the minimum acceptable
18 detention conditions necessary to reduce the risk of COVID-19
19 infection to subclass members as well as providing proper
20 treatment and monitoring of subclass members if they become
21 infected. At a minimum, those standards shall include the
22 precautions outlined in the expert reports of Dr. Homer Venters,
23 Dr. Susi Vassallo, and Dr. Craig Haney, including but not limited
24 to: a plan for the immediate implementation of universal and
25 ongoing testing in all ICE facilities; prohibitions on unnecessary
26 inter-facility transfers; prohibitions on the use of conditions
27 equivalent to solitary confinement for purposes of medical
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1 isolation, quarantining, and infection control; safe use of
2 cleaning/disinfectant; increased social distancing protocols for
3 subclass members; increased access to PPE for subclass members
4 and staff who work with them; a plan for increased and accelerated
5 medical and mental health monitoring and surveillance of people
6 with Risk Factors; audits of medical staffing levels at facilities;
7 increased training concerning COVID-19 precautions of all staff
8 with responsibility over people with Risk Factors; twice daily
9 temperature and symptom checks of all people with Risk Factors
10 and development of a screening tool; a plan for regular distribution
11 of clinical guidance for treatment of COVID-19 to all facilities;
12 implementation of a hospitalization protocol; and promulgation of
13 protocols to ensure that subclass members have a pre-infection
14 COVID-19 clinical plan, increased monitoring during infection,
15 and recovery planning. These additional precautions are illustrative
16 and not exclusive. Further, the PRR should regularly be assessed
17 and amended to reflect updated clinical guidance, best practices
18 and research.

19 c. Overseeing implementation of oversight and monitoring of the
20 PRR pursuant to the Court's PI Order.

21 3) Within 10 days of this Order, Defendants shall provide to Plaintiffs'
22 counsel all records required to be provided by the Court's May 15,
23 2020 Order (ECF 150) that have not previously been provided but that
24 are currently in Defendants' custody, possession, or control. Future
25 spreadsheets provided pursuant to paragraph 3 of the May 15 Order
26 shall also include fields indicating whether each person (a) has been
27 tested for COVID-19, and (b) whether the test results are positive,
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negative or not yet determined.

IT IS SO ORDERED.

DATED: _____

The Honorable Jesus Bernal
UNITED STATES DISTRICT JUDGE

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