

## ***Fraihat v. ICE* // Citations to May 15, 2020 Order**

This document provides cites to the May 15, 2020 order Order GRANTING Plaintiffs' Ex Parte Application and (2) DENYING Defendants' Ex Parte Applications to Strike.

### **REGARDING DELAYED RESPONSE**

"[T]he Court [has] detailed Defendants' lethargic response to the COVID-19 pandemic. In light of the exploding number of detainees testing positive, the Court is concerned that Defendants continue to slow walk their systemwide pandemic response." (p. 5)

### **NON-COMPLIANCE OF P.I ORDER (TO SUPPORT THE NEED FOR RELEASE)**

"Defendants' cavalier approach to the Preliminary Injunction is disturbing." (p. 6)

"Defendants' stance on compliance ignores the acute threat posed by COVID-19 to the Subclasses and that their response to date has been lackadaisical and likely objectively deliberately indifferent." (p. 6)

"[T]he Court has little difficulty finding Defendants are not complying with multiple aspects of the Preliminary Injunction. For example, Defendants have completely ignored the Court's order to develop a Performance Standard or supplement to the PRR with more detailed minimum requirements for the detention of individuals with Risk Factors." (p. 6)

"Defendants' nonsensical position appears to be that they can monitor and enforce the PRR by utilizing pre-pandemic annual compliance mechanisms not updated to reflect the PRR, (Hott Decl. II), or that they can monitor and enforce the PRR without also "tracking" their efforts to do the same." (p. 6)

"To restate what should by now be obvious, these gaps [in guidance on response to COVID-19] are very likely to result in unconstitutional conditions of confinement for Subclass Members who remain detained." (FN 2, p. 6)

"The need for rapid information exchange is illustrated by Defendants' slow response to date and the vicissitudes of the pandemic." (p. 7)