UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NOLBERTA AGUILAR, et al., Petitioners and Plaintiffs, v. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, et al., Respondents and Defendants.	C.A. No. 07-10471-RGS

RESPONDENTS' OPPOSITION TO PETITIONERS' EMERGENCY MOTION FOR HEARING, TEMPORARY RESTRAINING ORDER AND MOTION TO COMPEL DISCOVERY

Since the U.S. District Court lacks subject matter jurisdiction over Petitioners' challenges to their removal, the Court should not issue a temporary restraining order. Furthermore, Respondents do not agree that the document Plaintiffs attached to their motion as Exhibit J is a filing with an Immigration Court that would result in an "automatic stay" of any removal order. Lastly, Petitioners' discovery requests are far beyond the scope and specific discovery authorized by this Court on March 21, 2007.

ARGUMENT

A. Pursuant to the REAL ID Act of 2005, Pub. L. No. 109-13, Div. B, 119 Stat. 231 ("RIDA"), this Court lacks subject matter jurisdiction to afford injunctive relief. Congress has eliminated any and all district court jurisdiction (in habeas or otherwise) to entertain challenges to the validity of any action taken to effect removal of an alien and/or of orders of removal and provided for exclusive jurisdiction for such claims in the courts of appeal. Petitioners' recourse is to reopen their proceedings before the Immigration Judge or the Board of Immigration Appeals, and, should such a motion fail, seek review of that decision in the appropriate court of appeals.

On May 11, 2005, the President signed into law the RIDA which, among other things, amends certain provisions of the Immigration and Nationality Act ("INA"). Congress amended the judicial review provisions of the INA to explicitly provide that jurisdiction to review the validity and execution of any and all removal orders lies exclusively in the United States Circuit Courts of Appeals. Section 106(a)(1)(B) of the RIDA creates a new INA section 242(a)(5), 8 U.S.C. § 1252(a)(5):

> (5) EXCLUSIVE MEANS OF REVIEW- Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal entered or issued under any provision of this Act, except as provided in subsection (e). For purposes of this Act, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms `judicial review' and `jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of such title, and review pursuant to any other provision of law (statutory or nonstatutory).

Id.

Section 106(a) of the RIDA explicitly and unequivocally eliminates habeas jurisdiction in the district courts to entertain any challenge to the validity or execution of a removal order. Specifically, Section 106(a)(2) of the RIDA amends 8 U.S.C. §1252(9) to provide:

> CONSOLIDATION OF QUESTIONS FOR JUDICIAL REVIEW-
> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this

> title shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

Id. Section 106(a)(3) of the RIDA further amends 8 U.S.C. § 1252(g) to provide:

> EXCLUSIVE JURISDICTION.--Except as provided in this section and notwithstanding any other provision of law *(statutory or nonstatutory) including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of such title*, no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act.

Id. (amendments italicized).

The sum and substance of these amendments is to make explicit that no court other than the court of appeals has any subject matter jurisdiction respecting "all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States," and respecting "any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this [INA]." See INA sections 242(b)(9) and 242(g), codified at 8 U.S.C. §1252(b)(9) and (g), respectively, as amended by the RIDA.

With respect to aliens whose removal orders are final, the Petitioners seek to challenge the validity of those orders. Similarly, to the extent that the Petitioners would contest the validity of any individuals' choice to waive proceedings, such a claim is a challenge to the validity of that order or removal. This Court lacks subject matter jurisdiction to entertain such claims or to enter a stay based upon such claims. Ishak v. Gonzales, 422 F.3d 22, 29 (1st Cir. 2005) ("The plain language of these amendments, in effect, strips the district court of habeas jurisdiction over final orders of removal, including orders issued prior to enactment of the Real ID Act. . . . Congress now has definitively eliminated any provision for jurisdiction."); Tejada v. Cabral, 424 F. Supp. 2d 296, 298 (D. Mass. 2006) ("Congress made it quite clear that all court orders regarding alien removal -- be they stays or permanent injunctions -- were to be issued by the appropriate court of appeals."). (Emphasis added).

Congress has expressly provided that their remedy lies in another court, yet, Petitioners do not even attempt to address or distinguish these provisions. See, e.g., Do Canto v. Ashcroft, 2003 WL 21078115, *1 (D. Mass. 2003) ("because there exists a specific statutory review process for such claims, there is no basis to invoke habeas corpus jurisdiction to provide a duplicative means of review or vary that which Congress has provided."). Unsatisfied with the remedy Congress has provided, these Petitioners have simply filed, seriatim, multiple requests for injunctions in this Court. Indeed, both Respondents and this Court have been forced to endure repetitive filings as to issues that have previously been addressed (or that could have been addressed) in the two prior hearings seeking preliminary injunctions which sought, *inter alia*, to enjoin Immigration and Customs Enforcement officials from going forward with removal proceedings.[1]

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[1] The instant circumstances are not an "emergency," they are the logical progression of removal proceedings against individuals not lawfully in the United States, a stay of which has been previously denied by this Court. The Petitioners, Respondent would suggest, are not entitled to seek new restraining orders, *ad infinitum*, simply because the aliens' removal proceedings go forward in their normal course.

B. Petitioners claim that their alleged filing of a joint motion to reopen with the Office of the Chief Immigration Judge suffices to stay the removals of those with pre-existing orders of removal entered *in absentia*. Although a properly filed motion to reopen and rescind an *in absentia* order may result in an automatic temporary stay of removal pursuant to 8 C.F.R. §§ 1003.23(b)(1)(v) and/or (b)(4)(ii), an alien who properly files a motion to reopen before an immigration judge may always request an affirmative stay of removal from the IJ, and so not have to depend solely on any "interpretation" of the effect of the motion as an operation of law. See 8 C.F.R. § 1003.23(b)(1)(v). Petitioners make no showing that they have exhausted this administrative remedy.

In any event, the “letter” sent by Petitioners to Chief Immigration Judge David Neal is not properly filed. See Exhibit 1, DHS response dated March 27, 2007. The regulations require that motions to reopen be filed with the immigration court having control over the Record of Proceedings, i.e., the immigration court that issued the order of removal. 8 C.F.R. § 1003.23(b)(1)(ii). The sole exception provided in the regulations is where the immigration judge who issued the removal order is unavailable or unable to adjudicate the motion; in these instances, once the motion to reopen is properly filed with the individual immigration court, the Chief Immigration Judge may assign the motion to reopen to another immigration judge for adjudication. 8 C.F.R. § 1003.23(b)(1)(iii). As a result, no automatic stay was triggered by the purported “filing” of Petitioners’ Exhibit J with Chief Immigration Judge David Neal.

C. At the hearing of March 21, 2007, counsel for Respondents understood that, although Petitioners requested several depositions, the Court limited Petitioners’ discovery to a single deposition of Field Office Director Bruce Chadbourne, and encouraged the parties to expedite that deposition.[2] After Respondents complied with the Court's directives and informed Petitioners of Mr. Chadbourne's availability the morning of Friday, March 23, late Friday evening, Petitioners forwarded to counsel a notice of deposition of Mr. Chadbourne, "to continue from day to day until completed" (in contravention of Rule 30(d)(2) regarding deposition duration), and Notices of Rule 30(b)(6) Depositions for three additional days. Petitioners also served Respondents with a request for production of documents, and requested production of those documents by close-of-business March 29. See Petitioners' Requests for Discovery (attached as Exhibits 2-6). The deposition notices and document requests are not limited to subject matters outlined by the Court but also include requests for documents regarding attorney access, humanitarian release policies for those detained in the action, and outstanding removal orders of Petitioners. See id.

To the extent that Petitioners seek discovery in habeas, the full scope of civil discovery is not permitted:

> At the very least, it is clear that there was no intention to extend to habeas corpus, as a matter of right, the broad discovery provisions which, even in ordinary civil litigation, were 'one of the most significant innovations' of the new rules. . . . Such a broad-ranging preliminary inquiry is neither necessary nor appropriate in the context of a habeas corpus proceeding. . .

Harris v. Nelson, 394 U.S. 286, 295, 297 (1969) (citing Hickman v. Taylor, 329 U.S. 495, 500 (1947)). That being said, discovery is certainly available upon specific Court order and within the sound discretion of this Court. Id., at 298 ("a district court may, in an appropriate case, arrange for procedures which will allow development, for purposes of the hearing, of the facts

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[2] Respondents have requested an expedited copy of the transcript, which is not yet available.

relevant to disposition of a habeas corpus petition."). In this case, the Court has allowed Petitioners to orally depose FOD Chadbourne and Respondents have arranged for FOD Chadbourne to be orally deposed on April 30, 2007.

To the extent that Petitioners rely on their characterization of their action as not an action for habeas, general civil discovery under the Federal Rules of Civil Procedure is permitted only after a Rule 26(f) conference or by order or agreement of the parties. Fed. R. Civ. P. 26(d). No Rule 26(f) conference has been scheduled, this Court has not ordered general discovery, and Respondents have agreed only to the deposition of Mr. Chadbourne. Accordingly, Petitioners' discovery requests are unauthorized. Moreover, Respondents request that the Court reassert and clarify the full extent of discovery authorized in this action, to preclude further litigation on this issue.

CONCLUSION

Accordingly, this Court should deny Petitioners' third request for a temporary restraining order, and deny Petitioners' motion to compel discovery.

March 28, 2007

Respectfully submitted,

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Principal Deputy Director

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on March 28, 2007.

By: __/s Elizabeth J. Stevens_________

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E.O.I.R.
O.C.I.J.

U.S. Immigration
and Customs
Enforcement

March 28, 2007

Chief Judge David L. Neal
Office of the Chief Immigration Judge
U.S. Department of Justice
Executive Office for Immigration Review
5107 Leesburg Pike, Suite 2600
Falls Church, Virginia 22041

RE: Self-styled "Joint Motion to Rescind In Absentia Removal Orders and Reopen Proceedings, and Reopen Proceedings, and Acknowledgment of the Stay of Removal Provided by Statute" – "RE: LOPEZ, Jesus Vicente, et al, A98 912 215 [and] Jane Doe, et al"

Dear Chief Judge Neal:

We are in receipt of the above-referenced communication referred to as a "joint motion" dated March 26, 2007. For purposes of clarification, the Department of Homeland Security (DHS) wishes to advise you of its position that this document is not "jointly filed" within the meaning of 8 C.F.R. §1003.23(b)(4)(iv), which requires a joint filing to be agreed upon by all parties and jointly filed. DHS has neither agreed to this document, nor has it joined in any purported filing. Moreover, for the reasons set forth below, the position of DHS is that the document is not cognizable as a motion under 8 C.F.R. §1003.23(b), has not been properly filed and does not confer an automatic stay of removal under 8 C.F.R. §1003.23(b)(1)(v). DHS therefore requests the filing of this document be considered jurisdictionally deficient and rejected.

First, the Chief Immigration Judge has no jurisdiction to adjudicate motions to reopen under these circumstances. Under 8 C.F.R. §1003.23(b), jurisdiction over a motion to reopen not before the Board of Immigration Appeals rests with the immigration judge who has made the decision in the matter. Indeed, to be properly filed, a motion to reopen a decision of an immigration judge must be filed with the immigration court having control over the record of proceeding. 8 C.F.R. §1003.23(b)(ii); see also 8 C.F.R. §1003.31(a). The sole role of the Chief Immigration Judge envisioned by the regulations is to assign a motion to reopen to another immigration judge should the original immigration judge be unavailable or unable to adjudicate the motion. 8 C.F.R. §1003.23(b)(iii). Counsel has not properly filed motions to the immigration judges who have rendered the opinions in these cases and has made no showing that any individual immigration judge is unavailable or unable to adjudicate any such motions if properly filed. Nor has counsel alleged that they even attempted to do so. Rather than comply with the regulations, they have simply chosen to create some new process and procedure not countenanced by rule or regulation. Likewise, the submission is deficient under 8 C.F.R. §1003.23(b)(ii) in that the moving party must make service of the motion "upon the Office of the District Counsel for the district in which the case is completed" along with a certificate of service. Neither requirement has been complied with.

A motion to reopen must be signed by the affected party or the attorney or representative of record. 8 C.F.R. 1003.23(b)(i). It shall state whether the validity of the removal order has been or is subject of any judicial proceeding and whether the subject of the motion is also the subject of any pending criminal proceeding. Id. If the moving party is represented, a Form EOIR-28, Notice of Appearance as Attorney or Representative Before an Immigration Judge. must be filed with the motion. 8 C.F.R. §1003.23(b)(ii). Rather than file an EOIR-28 in the name of a specific individual. counsel has submitted a single barebones EOIR-28 with an appended sheet naming eight individuals and purports to name "Jane Doe. et al" as well. This too is improper as "An appearance shall be filed on the appropriate form by the attorney or representative appearing in each case." 8 C.F.R. 1292.4(a). There is no statement regarding judicial or criminal proceedings against the named individuals. nor naturally enough. the "Jane Does". The single EOIR-28 fails to list the address or location of any of these individuals but simply says that they are "Detained by ICE." This serves as prequel to greater deficiencies in counsel's submission.

Counsel purports to represent a group of aliens identified as those encountered by Immigration and Customs Enforcement (ICE) at the Bianco Factory in New Bedford. Massachusetts on March 6, 2007 and has filed an EOIR-28 which. under the regulation. constitutes a representation that counsel is authorized to represent the aliens. 8 C.F.R. §1292.4. However. counsel has failed to identify by name any clients other than eight individuals. There has been absolutely no showing that counsel has met with the "Jane Does" or has any authorization to represent them. Counsel seeks to except from representation, persons represented by other counsel, but again. does not identify them. Being unable to identify their supposed clients. listing clients as "Jane Does" and failing to even allege that any have agreed to such representation. then further proof of authority to act in a representative capacity should be required. See 8 C.F.R. §1292.4. Every alien in proceedings has a right to be represented by counsel of his or her choice. This right is personal to the alien and cannot be cavalierly claimed by someone without specific authorization.

Counsel's inability to identify the individuals purported to be represented leads to the conclusion that there is no good faith basis for an assertion that an individual alien's failure to appear was the result of "exceptional circumstances" or failure to receive notice as provided in 8 C.F.R. §1003.23(b)(4)(ii). Indeed. counsel makes no statement that any individual alien did not receive notice. stating only without support by any affidavits. "On information and belief, numerous respondents with in absentia removal orders were improperly served notice of their removal hearings." The arguments and assertions of counsel to the Chief Immigration Judge are not proper evidence. See Matter of Obaigbena. 19 I &N Dec. 533. 534 n. 2 (BIA 1988); Matter of Laureano, 19 I. & N. Dec. 1. 3 n.2 (BAI 1983): Matter of Ramirez-Sanchez, 17 I&N Dec. 503, 506 (BIA 1980); Matter of Perez-Valle, 17 I. & N. Dec. 581. 586 (BIA 1980). Counsel has submitted no evidence or information to support any such belief. Their submission rather seems more to be conjecture and supposition. Mere opinion of counsel is not enough to give credence to these assertions. In the same vein, to the extent that instant counsel alleges that individual aliens have "been denied full access to counsel," DHS notes that no evidence is provided in this regard. but only a reference to a "petition/complaint" filed in United States District Court. That document, however. also fails to provide any evidence in this regard.

The logical extension of any acceptance of counsel's submission as properly filed is to countenance a document purporting to represent all unknown, unrepresented aliens in the United States ordered removed *in absentia* on a given day. Clearly, counsel's submission here has been improperly filed and should be rejected.

cc: Attorneys Kaplan, Kelly, and Wilshire

George R. Martin
USICE, DHS
for:

Sincerely,

Richard D. Neville
Deputy Chief Counsel

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NOLBERTA AGUILAR, SEBASTIAN AGUILAR, TERESA AGUILAR, DIEGO AJPOP, 174 additional named Petitioners listed on Schedule A attached hereto, and others similarly situated, Petitioners and Plaintiffs, v. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE DEPARTMENT OF HOMELAND SECURITY; JULIE L. MYERS, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement; BRUCE CHADBOURNE, Field Office Director for Detention and Removal, Boston Field Office, Immigration and Customs Enforcement; MICHAEL CHERTOFF, Secretary, Department of Homeland Security; and ALBERTO GONZALES, Attorney General of the United States, Respondents and Defendants.	)	CA No. 07-10471

PETITIONERS'/PLAINTIFFS' FIRST REQUEST FOR DOCUMENTS TO RESPONDENTS/DEFENDANTS

Pursuant to Fed. R. Civ. P. 34, Petitioners/Plaintiffs request that Respondents/Defendants produce the following documents for inspection and copying on March 29, 2007 at 10:00 a.m. at the offices of Dechert LLP, 200 Clarendon Street, 27th Floor, Boston, MA, 02118.

Definitions and Instructions

1. "Respondents" refers collectively to Julie L. Meyers, both individually and in her capacity as Assistant Secretary of Homeland Security for Immigration and Customs Enforcement; Bruce Chadbourne, both individually and in his capacity as Field

Office Director for Detention and Removal, Boston Field Office, Immigration and Customs Enforcement; Michael Chertoff, both individually and in his capacity as Secretary, Department of Homeland Security; Alberto Gonzales, both individually and in his capacity as Attorney General of the United States; and the United States Immigration and Customs Enforcement Division of the Department of Homeland Security.

2. "Petitioners" refers collectively to Nolberta Aguilar, Sebastian Aguilar, Teresa Aguilar, Diego Ajpop, 174 additional named Petitioners listed on Schedule A of the Amended Complaint, any others arrested or detained during the Raid, and others similarly situated.

3. "Raid" refers to the action taken by Immigration and Customs Enforcement Division of Homeland Security ("ICE") on March 6, 2007 in which agents operating under ICE's authority arrested and detained individuals working at Michael Bianco, Inc. ("MBI") in New Bedford, Massachusetts.

4. The term "this action" refers to the action identified by the document number and title in the above caption.

5. The term "document" means all documents as defined in Rule 34(a) of the Federal Rules of Civil Procedure (including but not limited to written, typewritten, printed, recorded, charged, taped, graphic, magnetic, photographed, filmed, and computer based materials including but not limited to emails) and any drafts or copies thereof, in the possession, custody, or control of Respondents or their attorneys, or known by Respondents or their attorneys to exist.

6. The term "all documents" as used herein means every document, as defined above, known to you and every such document which can be located or

discovered by reasonably diligent efforts. If more than one version or copy of a document exists and any such version or copy bears markings or notations which are not on other versions or copies of the document, each such version or copy is included within the meaning of the term "document."

7. The term "communication" means emails, letters, telegrams, mailgrams, telexes, memoranda, and any other documents used to make or to record communications whether in written, printed, typed, or electronic form.

8. The term "person" means any natural person or any business, legal, or governmental entity or association.

9. The terms "relate" or "relating" mean referring to, recording, regarding, evidencing, containing, setting forth, constituting, establishing, comprising, reflecting, memorializing, showing, disclosing, describing, explaining, summarizing, concerning, substantiating, supporting or negating (whether indirectly or directly), identifying, or pertaining to.

10. The term "concerning" means referring to, relating to, describing, evidencing, or constituting.

11. The term "including" shall be construed broadly, and shall encompass "including but not limited to" and "including without limitation."

12. The term "or" means "and/or."

13. The past tense shall be construed to include the present tense and vice versa to make the request inclusive rather than exclusive.

14. The singular shall be construed to include the plural tense and vice versa to make the request inclusive rather than exclusive.

15. If any form of privilege or other protection from disclosure is claimed as a ground for withholding a document requested to be produced, set forth with respect to the document the date, title, identity of the author, subject matter (without revealing the information for which a privilege is claimed) and each and every fact or basis on which you claim privilege, with sufficient specificity to permit the Court to make a determination as to whether the claim of privilege is valid.

16. To the extent documents or things that no longer exist are responsive to any of the requests, identify the substance of those documents and the time and circumstances under which those documents were destroyed.

17. Operation United Front means and includes the program, plan or operation referred to by Respondents when using that terminology.

REQUEST FOR PRODUCTION

Request No. 1

Any and all documents relating to the planning, timing and execution of the Raid and/or Operation United Front, including, but not limited to, documents relating to the decision on when to conduct the Raid and/or Operation United Front.

Request No. 2

Any and all documents relating to the planning, consideration and decision as to where to house the Petitioners after the Raid, including but not limited to, any decision to modify the housing plan after the Raid occurred.

Request No. 3

Any and all documents relating to the execution of the Raid and/or Operation United Front.

Request No. 4

Any and all documents relating to the planning, consideration and decision to move any of the Petitioners to locations within and outside of Massachusetts, including but not limited to documents reflecting the time at which airplanes transporting any of the Petitioners left Massachusetts, as well as any and all documents reflecting the decision to send some of the Petitioners to Texas.

Request No. 5

Any and all documents reflecting the availability of bed space that could have been used to house Petitioners in Massachusetts and in any contiguous states at any time since Respondents first contemplated this Raid.

Request No. 6

Any and all documents relating to any efforts to find or use bed space or other facilities to house Petitioners after the Raid.

Request No. 7

Any and all documents reflecting communications, written and oral, with Massachusetts state authorities including officials in the Executive Office of Health and Human Services, Executive Office of Public Safety, the Department of Social Services and the Governor's Office, relating to the Raid, including but not limited to any communications with Massachusetts state authorities about caring for minors, pregnant women, the Petitioners' children, and other family members after the Raid.

Request No. 8

Any and all documents relating to the planning and consideration of the effects the Raid and the detention and removal of Petitioners would have on their children and other members of their families and what if anything was done to minimize the impact that the detention and removal of Petitioners would have on their children and families.

Request No. 9

Any and all documents relating to the decision to and the need to move any of the Petitioners from Ft. Devens to Texas.

Request No. 10

Any Inter-Governmental Service Agreements (IGSAs), contracts, memoranda of understanding, memoranda of agreement, letters of understanding or other documents between or among ICE, DHS, the Office of the Federal Detention Trustee and/or any other defendant or governmental entity and each detention facility housing individuals arrested in the Raid, including but not limited to Fort Devens; Barnstable County Correctional Facility; El Paso Service Processing Center; Port Isabel Service Processing Center; Berks Family Shelter in Leesport, Pennsylvania and any detention facility in New Mexico or Florida.

Request No. 11

Any and all communications by or among ICE, DHS, the Office of the Federal Detention Trustee and/or any other defendant or governmental entity and each facility housing Petitioners, including those named above, relating to the planning for and/or provision of housing of the individuals arrested in the Raid.

Request No. 12

Any and all communications with jails, prisons, correctional facilities or detention facilities requesting space availability to house individuals detained in the Raid, and any and all responses from such jails, prisons, correctional facilities or detention facilities.

Request No. 13

Any and all documents reflecting agreements and communications, written and oral, with authorities in Massachusetts, including but not limited to communications and agreements with the Suffolk County Sheriff's Department relating to the Raid.

Request No. 14

Any Inter-Governmental Service Agreements (IGSAs), contracts, memoranda of understanding, memoranda of agreement, letters of understanding or other documents between Respondents and any Massachusetts state, county or local law enforcement agencies regarding the planning or execution of the Raid.

Request No. 15

Any and all documents reflecting a budget or allocation of funds relating to the Raid.

Request No. 16

Any and all documents reflecting the flight times and passenger lists of the JPATS or commercial flights transporting Petitioners from Devens, Massachusetts to other detention centers.

Request No. 17

Any and all documents reflecting a policy of release of individuals detained in the Raid for medical, humanitarian or other reasons.

Request No. 18

A copy of the documents posted in the rooms at Fort Devens during the time Petitioners were detained there including but not limited to all documents advising them of names and contact information of consulates and free legal services.

Request No. 19

All communications concerning policies and instructions regarding the treatment of Petitioners during their arrest, detention, interrogation or transfer.

Request No. 20

All documents concerning any policy (written or otherwise) concerning the effect of the entry of a notice of appearance by an attorney for any of the Petitioners on the decision to transfer any of the Petitioners.

Request No. 21

All documents concerning the identities of the Petitioners, including all lists of names and "A" numbers for Petitioners.

Request No. 22

All outstanding removal orders and all documents concerning proceedings, including bond hearings, for Petitioners who are under removal orders, and including their removal orders and related documents referenced in Respondents' filing with the Court on March 23, 2007.

Request No. 23

All documents concerning access to Petitioners provided to attorneys, Massachusetts Department of Social Services ("DSS") and other interested parties while the Petitioners were at Ft. Devens.

Request No. 24

All documents concerning access to lists identifying Petitioners provided to attorneys, DSS and other interested parties, both wile Petitioner were at Ft. Devens and any time subsequent.

Request No. 25

All documents concerning information, resources and documents made available to Petitioners while they were at Ft. Devens and any time subsequent.

Request No. 26

All documents concerning notice provided to detainees about the move from Massachusetts to detention centers in other states.

Request No. 27

All documents concerning Operation United Front.

Request No. 28

All documents concerning the intake forms/questionnaires that were used by Respondents to screen Petitioners.

Request No. 29

All documents concerning the normal time period and procedure for processing detainees following a raid by Respondents.

Dated: March 23, 2007

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Counsel for Petitioners

Certificate of Service

I, Bernard J. Bonn, III, hereby certify that on this 23 day of March, 2007, I caused to be served a true and correct copy of the foregoing Notice of Deposition, via email and first-class mail, upon the following counsel of record:

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NOLBERTA AGUILAR, SEBASTIAN AGUILAR, TERESA AGUILAR, DIEGO AJPOP, 174 additional named Petitioners listed on Schedule A attached hereto, and others similarly situated,

Petitioners and Plaintiffs,

v.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE DEPARTMENT OF HOMELAND SECURITY; JULIE L. MYERS, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement; BRUCE CHADBOURNE, Field Office Director for Detention and Removal, Boston Field Office, Immigration and Customs Enforcement; MICHAEL CHERTOFF, Secretary, Department of Homeland Security; and ALBERTO GONZALES, Attorney General of the United States,

Respondents and Defendants.

CA No. 07-10471

NOTICE OF RULE 30(b)(6) DEPOSITION

To: Elizabeth J. Stevens
Office of Immigration Litigation
Civil Division
United States Department of Justice
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

Barbara Healy Smith
United States Attorney's Office
John Joseph Moakley Federal Courthouse
1 Courthouse Way, Suite 9200
Boston, Ma 02110

Frank Crowley
Immigration and Customs Enforcement
Department of Homeland Security
PO Box 8728
JFK Station
Boston, MA 02114

Mark J. Grady
United States Attorney's Office
John Joseph Moakley Federal Courthouse
1 Courthouse Way, Suite 9200
Boston, Ma 02110

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Petitioners will take the deposition recorded by video and stenographically of the representative(s) of the United States Immigration and Customs Enforcement Division of the Department of Homeland Security ("ICE") at 10:00 a.m. on April 2, 2007 at the offices of Dechert LLP, 200 Clarendon Street, 27th Floor, Boston, MA 02116. In accordance with Rule 30(b)(6), ICE shall designate one or more persons who consent to testify on its behalf as to each topic noticed in Exhibit A attached hereto.

The deposition will be taken before a notary public or other officer authorized to administer oaths and will continue from day to day thereafter until completed. You are invited to attend and cross examine.

Dated: March 23, 2007

Bernard J. Bonn, III (BBO #049140)
Michael Shin (BBO #658134)
Matthew M. Lyons (BBO #657685)
DECHERT LLP
200 Clarendon Street, 27th Floor
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Nancy Kelly (BBO #44562)

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211 Congress St.
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(617) 482-3170

Ondine Sniffin (BBO #638899)
Catholic Social Services of Fall River, Inc.
1600 Bay St.
Fall River, MA 02724
(508) 674-4681

Counsel for Petitioners

EXHIBIT A

Definitions

The terms used in this Exhibit A shall have the same meaning as defined in the Petitioners'/Plaintiffs' First Request For Documents To Respondents/Defendants.

Rule 30(b)(6)Topics

1. The planning, timing and execution of the raid conducted by Immigration and Customs Enforcement Division of Homeland Security ("ICE") on March 6, 2007 (the "Raid") in which agents operating under ICE's authority arrested and detained individuals working at Michael Bianco, Inc. ("MBI") in New Bedford, Massachusetts.

2. The planning, consideration and decision as to where to house the Petitioners after the Raid, including but not limited to, any decision to modify the housing plan after the Raid occurred.

3. The planning, consideration and decision to move any of the Petitioners to locations within and outside of Massachusetts, including but not limited to the time at which airplanes transporting any of the Petitioners left Massachusetts, as well as the decision to send some of the Petitioners to Texas.

4. Any efforts to find or use bed space or other facilities to house Petitioners after the Raid.

5. The availability of bed space that could have been used to house Petitioners in Massachusetts and in any contiguous states at any time since Respondents first contemplated this Raid.

6. All communications, written and oral, with Massachusetts state authorities relating to the Raid, including but not limited to any communications with Massachusetts

state authorities about caring for the Petitioners' children and other family members after the Raid.

7. The planning and consideration of the effects the Raid and the detention and removal of Petitioners would have on their children and other members of their families and what if anything was done to minimize the impact that the detention and removal of Petitioners would have on their children and families.

8. The decision to and the need to move any of the Petitioners from Ft. Devens to Texas.

9. The decision to consider or enter into any Inter-Governmental Service Agreements (IGSA's), contracts, memoranda of understanding, memoranda of agreement, letters of understanding or other documents between or among ICE, DHS the Office of the Federal Detention Trustee and/or any other defendant or governmental entity and each detention facility housing individuals arrested in the Raid, including but not limited to Fort Devens; Barnstable County Correctional Facility; El Paso Service Processing Center; Port Isabel Service Processing Center; Berks Family Shelter in Leesport, Pennsylvania; and any detention facility in New Mexico or Florida.

10. Any and all communications and agreements by or among ICE, DHS, the Office of the Federal Detention Trustee and/or any other defendant or governmental entity and each facility housing Petitioners, including those named above, relating to the planning for and/or provision of housing of the individuals arrested in the Raid.

11. Any and all communications and agreements with jails, prisons, correctional facilities or detention facilities requesting space availability to house individuals detained

in the Raid, and any and all responses from such jails, prisons, correctional facilities or detention facilities

12. Any and all communications, written and oral, with authorities in Massachusetts, including but not limited to communications with the Suffolk County Sheriff's Department relating to the Raid.

13. The decision to consider or enter into any Inter-Governmental Service Agreements (IGSAs), contracts, memoranda of understanding, memoranda of agreement, letters of understanding or other documents between Respondents and any Massachusetts state, county or local law enforcement agencies regarding the planning or execution of the Raid.

14. The budget or allocation of funds relating to the Raid.

15. The flight times and passenger lists of the JPATS or commercial flights transporting Petitioners from Devens, Massachusetts to other detention centers.

16. The policy of release of individuals detained in the Raid for medical, humanitarian or other reasons.

17. The documents posted in the rooms at Fort Devens during the time Petitioners were detained there including but not limited to all documents advising them of names and contact information of consulates and free legal services.

18. The access to Petitioners provided to attorneys, Massachusetts Department of Social Services ("DSS") and other interested parties while the Petitioners were at Ft. Devens.

19. The access to lists identifying Petitioners provided to attorneys, DSS and other interested parties, both while Petitioner were at Ft. Devens and any time subsequent.

20. The information, resources and documents made available to Petitioners while they were at Ft. Devens and any time subsequent.

21. The notice provided to detainees about the move from Massachusetts to detention centers in other states.

22. The planning, timing and execution of Operation United Front.

23. Any polices, procedures and instructions regarding the treatment of Petitioners during their arrest, detention, interrogation or transfer.

24. Any polices, procedures and instructions regarding the effect of the entry of notice of appearance by an attorney for any of the Petitioners on the decision to transfer any of the Petitioners.

25. The identities and A-numbers of Petitioners.

26. Any outstanding removal orders for any of the Petitioners.

27. The intake procedure form and questionnaire ICE workers used to screen Petitioners.

28. The normal or standard period and procedure for processing individuals detained in an immigration raid.

Certificate of Service

I, Bernard J. Bonn, III, hereby certify that on this 23 day of March, 2007, I caused to be served a true and correct copy of the foregoing Notice of Deposition, via email and first-class mail, upon the following counsel of record:

Elizabeth J. Stevens
Office of Immigration Litigation
Civil Division
United States Department of Justice
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

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Boston, Ma 02110

Bernard J. Bonn, III

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NOLBERTA AGUILAR, SEBASTIAN AGUILAR, TERESA AGUILAR, DIEGO AJPOP, 174 additional named Petitioners listed on Schedule A attached hereto, and others similarly situated, Petitioners and Plaintiffs, v. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE DEPARTMENT OF HOMELAND SECURITY; JULIE L. MYERS, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement; BRUCE CHADBOURNE, Field Office Director for Detention and Removal, Boston Field Office, Immigration and Customs Enforcement; MICHAEL CHERTOFF, Secretary, Department of Homeland Security; and ALBERTO GONZALES, Attorney General of the United States, Respondents and Defendants.	)	CA No. 07-10471

NOTICE OF RULE 30(b)(6) DEPOSITION

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United States Attorney's Office
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Boston, Ma 02110

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Petitioners will take the deposition recorded by video and stenographically of the representative(s) of the Department of Homeland Security at 10:00 a.m. on April 3, 2007 at the offices of Dechert LLP, 200 Clarendon Street, 27th Floor, Boston, MA 02116. In accordance with Rule 30(b)(6), the Department of Homeland Security shall designate one or more persons who consent to testify on its behalf as to each topic noticed in Exhibit A attached hereto.

The deposition will be taken before a notary public or other officer authorized to administer oaths and will continue from day to day thereafter until completed. You are invited to attend and cross examine.

Dated: March 23, 2007

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Michael Shin (BBO #658134)
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1600 Bay St.
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(508) 674-4681

Counsel for Petitioners

EXHIBIT A

Definitions

The terms used in this Exhibit A shall have the same meaning as defined in the Petitioners'/Plaintiffs' First Request For Documents To Respondents/Defendants.

Rule 30(b)(6)Topics

1. The planning, timing and execution of the raid conducted by Immigration and Customs Enforcement Division of Homeland Security ("ICE") on March 6, 2007 (the "Raid") in which agents operating under ICE's authority arrested and detained individuals working at Michael Bianco, Inc. ("MBI") in New Bedford, Massachusetts.

2. The planning, consideration and decision as to where to house the Petitioners after the Raid, including but not limited to, any decision to modify the housing plan after the Raid occurred.

3. The planning, consideration and decision to move any of the Petitioners to locations within and outside of Massachusetts, including but not limited to the time at which airplanes transporting any of the Petitioners left Massachusetts, as well as the decision to send some of the Petitioners to Texas.

4. Any efforts to find or use bed space or other facilities to house Petitioners after the Raid.

5. The availability of bed space that could have been used to house Petitioners in Massachusetts and in any contiguous states at any time since Respondents first contemplated this Raid.

6. All communications, written and oral, with Massachusetts state authorities relating to the Raid, including but not limited to any communications with Massachusetts

state authorities about caring for the Petitioners' children and other family members after the Raid.

7. The planning and consideration of the effects the Raid and the detention and removal of Petitioners would have on their children and other members of their families and what if anything was done to minimize the impact that the detention and removal of Petitioners would have on their children and families.

8. The decision to and the need to move any of the Petitioners from Ft. Devens to Texas.

9. The decision to consider or enter into any Inter-Governmental Service Agreements (IGSA's), contracts, memoranda of understanding, memoranda of agreement, letters of understanding or other documents between or among ICE, DHS the Office of the Federal Detention Trustee and/or any other defendant or governmental entity and each detention facility housing individuals arrested in the Raid, including but not limited to Fort Devens; Barnstable County Correctional Facility; El Paso Service Processing Center; Port Isabel Service Processing Center; Berks Family Shelter in Leesport, Pennsylvania; and any detention facility in New Mexico or Florida.

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15. The flight times and passenger lists of the JPATS or commercial flights transporting Petitioners from Devens, Massachusetts to other detention centers.

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17. The documents posted in the rooms at Fort Devens during the time Petitioners were detained there including but not limited to all documents advising them of names and contact information of consulates and free legal services.

18. The access to Petitioners provided to attorneys, Massachusetts Department of Social Services ("DSS") and other interested parties while the Petitioners were at Ft. Devens.

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26. Any outstanding removal orders for any of the Petitioners.

27. The intake procedure form and questionnaire ICE workers used to screen Petitioners.

28. The normal or standard period and procedure for processing individuals detained in an immigration raid.

Certificate of Service

I, Bernard J. Bonn, III, hereby certify that on this 23 day of March, 2007, I caused to be served a true and correct copy of the foregoing Notice of Deposition, via email and first-class mail, upon the following counsel of record:

Elizabeth J. Stevens
Office of Immigration Litigation
Civil Division
United States Department of Justice
1331 Pennsylvania Avenue, N.W.
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Bernard J. Bonn, III

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NOLBERTA AGUILAR, SEBASTIAN AGUILAR, TERESA AGUILAR, DIEGO AJPOP, 174 additional named Petitioners listed on Schedule A attached hereto, and others similarly situated, Petitioners and Plaintiffs, v. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE DEPARTMENT OF HOMELAND SECURITY; JULIE L. MYERS, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement; BRUCE CHADBOURNE, Field Office Director for Detention and Removal, Boston Field Office, Immigration and Customs Enforcement; MICHAEL CHERTOFF, Secretary, Department of Homeland Security; and ALBERTO GONZALES, Attorney General of the United States, Respondents and Defendants.	)	CA No. 07-10471

NOTICE OF RULE 30(b)(6) DEPOSITION

To: Elizabeth J. Stevens
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Civil Division
United States Department of Justice
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

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1 Courthouse Way, Suite 9200
Boston, Ma 02110

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, Petitioners will take the deposition recorded by video and stenographically of the representative(s) of the United States Department of Justice at 10:00 a.m. on April 4, 2007 at the offices of Dechert LLP, 200 Clarendon Street, 27th Floor, Boston, MA 02116. In accordance with Rule 30(b)(6), the United States Department of Justice shall designate one or more persons who consent to testify on its behalf as to each topic noticed in Exhibit A attached hereto.

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Dated: March 23, 2007

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1600 Bay St.
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Counsel for Petitioners

EXHIBIT A

Definitions

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28. The normal or standard period and procedure for processing individuals detained in an immigration raid.

Certificate of Service

I, Bernard J. Bonn, III, hereby certify that on this 23 day of March, 2007, I caused to be served a true and correct copy of the foregoing Notice of Deposition, via email and first-class mail, upon the following counsel of record:

Elizabeth J. Stevens
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Bernard J. Bonn, III

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

NOLBERTA AGUILAR, SEBASTIAN AGUILAR, TERESA AGUILAR, DIEGO AJPOP, 174 additional named Petitioners listed on Schedule A attached hereto, and others similarly situated,

Petitioners and Plaintiffs,

v.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT DIVISION OF THE DEPARTMENT OF HOMELAND SECURITY; JULIE L. MYERS, Assistant Secretary of Homeland Security for Immigration and Customs Enforcement; BRUCE CHADBOURNE, Field Office Director for Detention and Removal, Boston Field Office, Immigration and Customs Enforcement; MICHAEL CHERTOFF, Secretary, Department of Homeland Security; and ALBERTO GONZALES, Attorney General of the United States,

Respondents and Defendants.

CA No. 07-10471

NOTICE OF DEPOSITION OF BRUCE E. CHADBOURNE

To: Elizabeth J. Stevens
Office of Immigration Litigation
Civil Division
United States Department of Justice
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

Barbara Healy Smith
United States Attorney's Office
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PLEASE TAKE NOTICE that, pursuant to the Federal Rules of Civil Procedure, counsel for Petitioners and Plaintiffs will take the deposition recorded by video and stenographically of Bruce E. Chadbourne before a person duly authorized to administer oaths, at the offices of Dechert LLP, 200 Clarendon Street, 27th Floor, Boston, MA 02116, on March 30, 2007, commencing at 10 a.m. and to continue from day to day until completed.

Dated: March 23, 2007

Bernard J. Bonn, III (BBO #049140)
Michael Shin (BBO #658134)
Matthew M. Lyons (BBO #657685)
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Counsel for Petitioners

Certificate of Service

I, Bernard J. Bonn, III, hereby certify that on this 23 day of March, 2007, I caused to be served a true and correct copy of the foregoing Notice of Deposition, via email and first-class mail, upon the following counsel of record:

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