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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

JENNY LISETTE FLORES, *et al.*,) Case No. CV 85-4544-DMG (AGR_x)
)
Plaintiffs,) **DEFENDANTS’ NOTICE OF**
) **MOTION TO PARTIALLY**
v.) **RECONSIDER ORDER OF APRIL 3,**
) **2026; MEMORANDUM OF POINTS**
) **AND AUTHORITIES**
TODD BLANCHE, Acting Attorney)
General of the United States, *et al.*,)
) Hearing Date: May 22, 2026
Defendants.) Time: 9:30 AM
) Place: Courtroom 8C, First Street
) Courthouse
)
) Honorable Dolly M. Gee
) Chief United States District Judge

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1 **NOTICE OF MOTION**

2 NOTICE IS HEREBY GIVEN that Defendants U.S. Department of
3 Homeland Security and U.S. Immigration and Customs Enforcement, by and
4 through undersigned counsel, will bring this motion for hearing on May 22, 2026, at
5 9:30 a.m. or as soon thereafter as counsel may be heard, before Chief United States
6 District Judge Dolly M. Gee, in Courtroom 8C, 8th Floor, at the Los Angeles – 1st
7 Street courthouse located within the Central District of California.

8 **COMPLIANCE WITH LOCAL RULE 7-3**

9 This motion is made following a telephonic meeting of counsel pursuant to
10 L.R. 7-3, which took place on April 13, 2026. Plaintiffs oppose this motion.

11 **MOTION TO PARTIALLY RECONSIDER ORDER OF APRIL 3, 2026**

12 Defendants respectfully move the Court to reconsider and remove the
13 following sentences from its April 3, 2026 Order regarding the March 30, 2026
14 status conference: “As previously ordered, Defendants shall cease placing minors at
15 hotels, with a narrow exception for brief, one to two-night stays while in transit or
16 prior to flights. [See Doc. # 976.] Continued non-compliance will result in the re-
17 appointment of a Special Master/Independent Monitor.” Doc. # 1755, at 4. The
18 Order cited, Doc. # 976, is the Court’s September 4, 2020 In Chambers—Order Re
19 Plaintiffs’ Motion to Enforce Settlement as to “Title 42” Class Members. The
20 September 4, 2020 Order did not impose restrictions on hotel stays outside the Title
21 42 context, and the reasons for the September 4, 2020 Order’s restrictions do not
22 warrant extending those restrictions to current hotel stays. Because the September 4,
23

1 2020 Order does not apply to current hotel stays, Defendants were in compliance
2 with that Order.

3 This motion is based upon the above Notice, the accompanying Memorandum
4 of Points and Authorities, the attached Exhibits, all pleadings and papers on file in
5 this action, and such other matters as may be presented to this court at the time of
6 the hearing on the motion.

7 DATED: April 17, 2026

Respectfully submitted,

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9 Assistant Attorney General
10 Civil Division

11 WILLIAM C. SILVIS
12 Assistant Director

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MEMORANDUM OF POINTS AND AUTHORITIES

1
2 Defendants U.S. Department of Homeland Security (“DHS”) and U.S.
3 Immigration and Customs Enforcement (“ICE”) respectfully move the Court to
4 reconsider and remove the following sentences from its April 3, 2026 Order
5 regarding the March 30, 2026 status conference: “As previously ordered, Defendants
6 shall cease placing minors at hotels, with a narrow exception for brief, one to two-
7 night stays while in transit or prior to flights. [See Doc. # 976.] Continued non-
8 compliance will result in the re-appointment of a Special Master/Independent
9 Monitor.” Doc. # 1755, at 4. The Order cited, Doc. # 976, is the Court’s September
10 4, 2020 In Chambers—Order Re Plaintiffs’ Motion to Enforce Settlement as to
11 “Title 42” Class Members. The Order did not impose restrictions on hotel stays
12 outside the Title 42 context, and the reasons for the September 4, 2020 Order’s
13 restrictions as to Title 42 placements do not warrant extending those restrictions to
14 current hotel stays. Even if the Court intended to apply the September 4, 2020 Order
15 to all hotel stays, the Court should not do so because the current circumstances are
16 materially different. And, because the September 4, 2020 Order does not apply to
17 current hotel stays, the Court should not have stated that Defendants have been in
18 noncompliance with that Order. In addition, before extending the September 4, 2020
19 Order to the current circumstances, the Court should have provided Defendants with
20 notice and an opportunity to be heard on whether doing so was proper. For these
21 reasons, Defendants respectfully seek partial reconsideration of the April 3, 2026
22 Order.
23

BACKGROUND¹

A. Relevant Provisions of the *Flores* Settlement Agreement

The *Flores* Settlement Agreement (“FSA”) covers “[a]ll minors who are detained in the legal custody of the [Immigration and Naturalization Service (‘INS’)].” FSA ¶ 10. Paragraph 12.A of the FSA states that “[w]henver the INS takes a minor into custody, it shall expeditiously process the minor.” *Id.* ¶ 12.A. Although Paragraph 12.A contemplates that minors will be released or transferred to a licensed placement under Paragraph 19 within three or five days, it provides that during an “influx of minors into the United States,” the INS shall place minors “as expeditiously as possible.” *Id.* ¶ 12.A.3. The FSA defines “influx of minors into the United States” as “those circumstances where the INS has, at any given time, more than 130 minors eligible for placement in a licensed program under Paragraph 19, including those who have been so placed or are awaiting such placement.” *Id.* ¶ 12.B. Plaintiffs have not disputed that at all relevant times over the last several years the “influx” provision has been continuously in effect based on the number of minors in immigration custody.

Paragraph 12.A requires DHS to “hold minors in facilities that are safe and sanitary and that are consistent with the INS’s concern for the particular vulnerability of minors.” *Id.* ¶ 12.A.

¹ Given this Court’s familiarity with the case, Defendants provide a summary tailored to the issues related to hotel stays.

1 **B. Title 42 Hotel Use and Litigation**

2 During the COVID-19 pandemic, the Centers for Disease Control and
3 Prevention (“CDC”) invoked its authority under Title 42 of the U.S. Code to prohibit
4 the introduction of covered aliens into the United States because of the public health
5 emergency. *See, e.g.*, Amendment and Extension of Order Suspending Introduction
6 of Certain Persons from Countries Where a Communicable Disease Exists, 85 Fed.
7 Reg. 31,503 (May 26, 2020). Unaccompanied alien children and accompanied
8 minors in family units slated for expulsion pursuant to Title 42 were housed in hotels
9 in three cities. *See* Decl. of Mellissa Harper ¶ 2, Doc. # 925-1. In August 2020,
10 Plaintiffs moved to enforce the FSA as to children detained in hotels pending Title
11 42 expulsion. Doc. # 920-1.

12 On September 4, 2020, the Court granted Plaintiffs’ motion to enforce. *See* In
13 Chambers—Order Re Plaintiffs’ Motion to Enforce Settlement as to “Title 42” Class
14 Members, Doc. # 976. The Court noted the Independent Monitor’s August 2020
15 finding that 660 minors between the ages of 10 and 17 had been held in hotels. *Id.*
16 at 3. Of those minors, 577 were unaccompanied. *Id.* The Court described the use of
17 hotels as “a full-scale detention operation for minors and families immediately
18 preceding their expulsion under Title 42.” *Id.* at 4. The Court also mentioned the
19 Independent Monitor’s recommendation that unaccompanied minors be excluded
20 from the hoteling program. *Id.*

21 In ruling on the motion to enforce, the Court first held that minors who were
22 detained pending expulsion under Title 42 were *Flores* class members. *Id.* at 6.

1 The Court then held that the use of hotels to effectuate expulsions under the
2 Title 42 public health order violated the FSA. The Court ruled that hotels are not
3 licensed programs and not part of expeditiously placing minors in licensed programs
4 for the purposes of FSA paragraphs 12, 19. *Id.* at 12. The Court reasoned that DHS
5 was not seeking to place minors in licensed programs “as expeditiously as possible”
6 because DHS did not intend to ever send minors subject to Title 42 to licensed
7 placements. *Id.* (“Hoteling has *fully replaced* licensed programs for minors in Title
8 42 custody for the period prior to expulsion.”); *id.* at 16 (“Title 42 has largely
9 replaced the Title 8 framework at the southwest Border.”). The Court held that not
10 sending unaccompanied alien children to licensed placements was unreasonable
11 when Office of Refugee Resettlement (“ORR”) shelters “were 97% vacant.” *Id.* at
12 13.

13 The Court next held that, while Title 42 hotel placements were generally
14 “sanitary,” they were not “safe” under the circumstances. *Id.* The Court concluded
15 that, in hotels, there was a “lack of qualified, specialized supervision, especially for
16 younger, unaccompanied children.” *Id.* at 14. The Court also held that DHS’s
17 “oversight of the hoteling program is vague and minimal.” *Id.* The Court additionally
18 reasoned that the Title 42 “hotel program is not safe with respect to preventing
19 minors from contracting COVID-19.” *Id.* at 15.

20 Finally, the Court held that the Title 42 hoteling was not consistent with the
21 FSA’s provisions related to access to counsel. *Id.* The Court stated that “[l]egal
22 services providers attest that they face unusual difficulty locating children within
23 Title 42 custody, and DHS officials often are unable to provide accurate information

1 as to where a child is at any given moment.” *Id.* The Court also credited allegations
2 that “ICE physically prevented [attorneys] from entering [a] hotel” to speak with
3 children and that “ICE has also limited children’s ability to speak to attorneys by
4 phone.” *Id.* at 16. The Court determined that “Paragraph 32 is straightforward in
5 requiring that Plaintiffs’ counsel be allowed to access the facilities and contact the
6 minors, even if they do not yet know the identity of a specific minor.” *Id.* The Court
7 emphasized that “Defendants may not exploit Title 42 to send children in their legal
8 custody ‘off into the night.’” *Id.* at 17.

9 The Court ordered that minors pending Title 42 expulsion are *Flores* class
10 members. *Id.* at 17. The Court then ordered DHS to stop placing minors at hotels:

11 DHS shall cease placing minors at hotels by no later than September
12 15, 2020. Consistent with past practice, exceptions may be made for
13 one to two-night stays while in transit or prior to flights, if minors are
14 traveling longer distances, or due to unexpected flight delays. If other
15 exigent circumstances arise that necessitate future hotel placements,
16 Defendants shall immediately alert Plaintiffs and the Independent
17 Monitor, providing good cause for why such unlicensed placements are
18 necessary.

16 *Id.* The Court ordered DHS to transfer all minors held at hotels to licensed facilities,
17 although the Court acknowledged that accompanied minors would likely be placed
18 in unlicensed family residential centers. *Id.* at 17 & n.10. The Court reasoned that
19 family residential centers “at least have well-established standards of care and
20 oversight in common with licensed facilities.” *Id.* The Court also ruled that class
21 counsel “shall be permitted to visit any facility where minors in Title 42 custody are
22 held, and to meet with any minor held in Title 42 custody” and that the Independent
23

1 Monitor may “conduct investigations, interviews, and site visits with respect to any
2 minors held in Title 42 custody and any facilities where minors in Title 42 custody
3 are held.” *Id.* at 17–18.

4 On September 21, 2020, the Court denied Defendants’ motion for a stay of its
5 September 4, 2020 order. Doc. # 990.² But the Court modified the September 4, 2020
6 order to note that “DHS may implement *brief* hotel stays (not more than 72 hours)
7 as necessary and in good faith to alleviate bottlenecks in the intake processes at
8 licensed facilities.” *Id.* at 5. The Court added, “When any Class Members are
9 transferred to hotels for this purpose, Defendants shall notify Plaintiffs’ counsel and
10 the Independent Monitor, providing the identities and number of minors subject to
11 the hotel placements, and the locations of the hotels.” *Id.* The Ninth Circuit affirmed
12 the district court’s September 21, 2020 order. *Flores v. Garland*, 3 F.4th 1145, 1147
13 (9th Cir. 2021).

14 **C. ICE’s Current Use of Hotels**

15 There are important differences between hoteling that was used to facilitate
16 expulsions pursuant to the CDC’s public health order under Title 42 and ICE’s
17 current use of hotels. ICE currently uses hotels as part of its efforts to expeditiously
18 move minors (1) out of ICE custody through repatriation or other release, or (2) to a
19 family residential center or a licensed facility for unaccompanied alien children. Ex.
20 A, Declaration of Dawnisha M. Helland (“Helland Decl.”) ¶ 5. The vast majority of
21 hotel stays for both family units and unaccompanied alien children are less than 48

22
23 ² Defendants refer to the September 4, 2020 Order and the September 21, 2020
Order collectively as the “Title 42 Orders.”

1 hours. *Id.* ¶ 6. But several different operational challenges can lead to longer hotel
2 stays, including:

3 (1) delays in obtaining necessary travel documents, such as passports
4 for U.S. citizen children from the Department of State, which can take
5 several days if not secured by the parents prior to apprehension;

6 (2) holiday and winter weather disruptions, especially during December
7 and January, which impacted processing and travel;

8 (3) flight cancellations or rescheduling;

9 (4) increased attempted escapes during transfers to repatriation flights,
10 which require additional time and security measures; and

11 (5) failure of the aliens to comply with removal procedures.

12 *Id.* ¶ 8. In many situations, release during the brief period while these operational
13 challenges are resolved is impossible or impracticable given the flight risks and other
14 operational concerns. *Id.* ¶¶ 10–11. In addition, when a family includes a U.S. citizen
15 child, transfer to ORR or ICE’s family residential center is not possible because U.S.
16 citizen children cannot be placed with ORR or into family residential centers. *Id.* ¶ 9.

17 ICE closely monitors the length of stay and amenities provided during hotel
18 placements. *Id.* ¶ 13. ICE Headquarters reviews and monitors hotel stays for children
19 and must approve any hotel stay expected to exceed 48 hours. *Id.* ICE’s Temporary
20 Housing Standards, published in July 2023, govern hotel stays. *Id.*; see Temporary
21 Housing Standards for Children, Families, and Single Adults, *ICE* (July 2023),
22 <https://www.ice.gov/doclib/detention-standards/ths.pdf> [[https://perma.cc/GQ8F-
23 56A6](https://perma.cc/GQ8F-56A6)].

D. Ongoing Court Oversight of ICE and April 3, 2026 Order

1
2 Since July 2025, the Court has intensified its own oversight of ICE’s
3 compliance with the FSA. The Court has required the ICE Juvenile Coordinator to
4 file supplemental reports about numerous topics and has held multiple status
5 conferences to discuss the supplemental reports and Plaintiffs’ responses to the
6 reports.³ *See* Order Re July 25, 2025 Status Conference, Doc. # 1614; Order Re
7 September 22, 2025 Status Conference, Doc. # 1672; Order Re December 15, 2025
8 Status Conference, Doc. # 1714; Order Re March 30, 2026 Status Conference, Doc.
9 # 1755. The result of this procedure has been a series of asymmetrical filings: The
10 ICE Juvenile Coordinator files the factual information requested by the Court (Docs.
11 ## 1648-4, 1692-4, 1736-1), but Plaintiffs file allegations about any concerns they
12 have, as well as legal arguments about how to interpret the FSA and the Court’s prior
13 orders (Docs. ## 1656, 1706, 1748). Defendants have not sought leave to respond to
14 Plaintiffs’ filings because Defendants believed that they would have an opportunity
15 for complete legal briefing before the Court issued any substantive injunctive orders,
16 either through briefing on a motion to enforce or in response to an order to show
17 cause.

18 As part of the Court’s oversight of time in custody, the Court has requested
19 information about lengths of time that class members have spent in hotels while in
20 ICE custody. *See* Doc. # 1672, at 2; Doc. # 1714, at 2. But, in the April 3, 2026

21 ³ Defendants objected to the Court’s requiring the juvenile coordinators to file
22 supplemental reports and answer questions at status conferences. Doc. # 1620. The
23 Court overruled those objections. Doc. # 1638, at 8. At the September 22, 2025
status conference, the Court recognized that Defendants have a standing objection.
See Tr. of Sept. 22, 2025 Status Conference at 42, 48–49, Doc. # 1668.

1 Order regarding the March 30, 2026 status conference, the Court went further than
2 simply requiring more data reporting about hotel stays. Doc. # 1755. The Court
3 mandated, “As previously ordered, Defendants shall cease placing minors at hotels,
4 with a narrow exception for brief, one to two-night stays while in transit or prior to
5 flights. [See Doc. # 976.] Continued non-compliance will result in the re-
6 appointment of a Special Master/Independent Monitor.” *Id.* at 4. Thus, without any
7 briefing on the issue, the Court appears to have applied its September 4, 2020 Order
8 about implementation of Title 42 hoteling, Doc. # 976, to current, distinct uses of
9 hotels. And the Court has improperly determined that there is “non-compliance.”
10 Doc. # 1755, at 4.

11 Defendants ask the Court to reconsider those conclusions.

12 LEGAL STANDARDS

13 “[A]s long as a district court has jurisdiction over the case, then it possesses
14 the inherent procedural power to reconsider, rescind, or modify an interlocutory
15 order for cause seen by it to be sufficient.” *City of L.A., Harbor Div. v. Santa Monica*
16 *Baykeeper*, 254 F.3d 882, 885, 889 (9th Cir. 2001) (quoting *Melancon v. Texaco,*
17 *Inc.*, 659 F.2d 551, 553 (5th Cir. 1981)); *see* Fed. R. Civ. P. 54(b) (“[A]ny order or
18 other decision, however designated, that adjudicates fewer than all the claims . . .
19 may be revised at any time before the entry of a judgment adjudicating all the claims
20 and all the parties’ rights and liabilities”); *see also* Order of Nov. 5, 2018, Doc.
21 # 518, at 1 (applying this legal standard).⁴

22 ⁴ The limited grounds for seeking reconsideration in Local Rule 7-18 do not
23 apply here. Local Rule 7-18 only limits the grounds for seeking reconsideration of

ARGUMENT

I. The Court should reconsider its extension of hotel restrictions in the September 4, 2020 Order to current hotel uses because the considerations that led to the Title 42 restrictions do not apply to non-Title 42 hotel stays.

The Court’s September 4, 2020 Order arose from implementation of the CDC’s public health order under Title 42, and its injunctions are properly read as limited to that context. Thus, the Court did not previously order restrictions on hotel use generally. In addition, the September 4, 2020 Order’s restrictions on hotel stays should remain limited to the Title 42 context because prior use of hotels to facilitate expulsions under the Title 42 public health order differs in important ways from the current use of hotels.

A. The hotel restrictions in the September 4, 2020 Order should be read as limited to implementation of the CDC’s public health order under Title 42.

The Court’s September 4, 2020 Order is best read as limited to the Title 42 context. To determine an injunction’s scope, the order must be read “in context.” *See Edmo v. Corizon, Inc.*, 935 F.3d 757, 800 (9th Cir. 2019) (per curiam); *see also Salazar v. Buono*, 559 U.S. 700, 730 (2010) (Scalia, J., concurring) (“The only reasonable reading of the original injunction, in context, is that it proscribed the cross’s display on federal land.”). And the injunction must “be construed with reference to the issues it was meant to decide.” *City of Vicksburg v. Henson*, 231 U.S. 259, 269 (1913); *see Epic Games, Inc. v. Apple Inc.*, 161 F.4th 1162, 1176 (9th Cir. 2025). That rule makes sense because “[i]njunctive relief must be tailored to

an “Order on any motion or application.” C.D. Cal. L.R. 7-18. The April 3, 2026 Order was not an order on a motion or application.

1 remedy the specific harm alleged.” *Nat. Res. Def. Council, Inc. v. Winter*, 508 F.3d
2 885, 886 (9th Cir. 2007).

3 Read in context with reference to the issues it was meant to decide, the
4 September 4, 2020 Order only limits hotel placements used to facilitate expulsions
5 under Title 42. The Order specifically addressed “Plaintiffs’ Motion to Enforce
6 Settlement as to ‘Title 42’ Class Members.” Doc. # 976. The Order resolved the
7 question of whether minors detained pending expulsion under Title 42 were *Flores*
8 class members at all. *Id.* at 6. The Court held that “Title 42 has largely replaced the
9 Title 8 framework at the southwest Border” and that hotel use had “*fully replaced*
10 licensed programs for minors in Title 42 custody.” *Id.* at 12, 16. The Court described
11 the use of hotels as “a full-scale detention operation for minors and families
12 immediately preceding their expulsion under Title 42.” *Id.* at 4. The Court concluded
13 its Order by stating “Defendants may not exploit Title 42 to send children in their
14 legal custody ‘off into the night.’” *Id.* at 17. And in the rulings at the end of the
15 September 4, 2020 Order, the Court mentioned “Title 42” no less than eight times.

16 The Court’s restrictions on hotel placements must therefore be understood as
17 specifically directed at hoteling in connection with Title 42 expulsions. In September
18 2020, the Court had no reason to rule on the permissibility of hotel stays outside the
19 Title 42 context, especially because in the Court’s view “Title 42 [had] largely
20 replaced the Title 8 framework.” Doc. # 976, at 16. Thus, the Court should
21 reconsider its statement that the Court “previously ordered” strict limits on hotel
22 stays generally. Doc. # 1755, at 4.

1 **B. The Court’s reasoning in the Title 42 Orders does not apply to**
2 **current hotel use.**

3 The Court should not apply the restrictions in the September 4, 2020 Order to
4 other uses of hotels for temporary stays because current hotel use differs in
5 meaningful ways from hoteling under Title 42—and the Court has not engaged in
6 factfinding or briefing addressing these changes.

7 The scale and purpose of current hotel use is vastly different today than at the
8 time of the Court’s 2020 orders. The Court described the use of hotels under Title
9 42 as “a full-scale detention operation for minors and families.” Doc. # 976, at 4.
10 The Court reasoned that DHS was not seeking to place minors in licensed programs
11 “as expeditiously as possible” because DHS did not intend to ever send minors
12 subject to Title 42 to licensed placements. *Id.* at 12. In contrast, hotel stays now are
13 part of ICE’s efforts to expeditiously move minors (1) out of ICE custody through
14 repatriation or other release, or (2) to a family residential center or a licensed facility
15 for unaccompanied alien children. Helland Decl. ¶ 5. Because hotel stays were the
16 default placement under Title 42, the Court placed default rules and restrictions on
17 its use. But hotel use now is situational, and longer hotel stays typically only occur
18 when difficult-to-plan-for operational challenges arise. *See id.* ¶¶ 6–12. An
19 inflexible rule with only “a narrow exception for brief, one to two-night stays” would
20 not account for the variety of operational challenges that ICE faces in the current
21 environment. Doc. # 1755, at 4.

22 In the Title 42 context, the alternatives to hotel stays were clear to the Court.
23 The Court found that most of the children between the ages of 10 and 17 who had

1 stayed in hotels were unaccompanied alien children (577 unaccompanied alien
2 children out of 660 total minors). Doc. # 976, at 3–4. The Court believed that these
3 unaccompanied alien children could be sent to licensed ORR shelters, which “were
4 97% vacant.” *Id.* at 13. Thus, the Court held that, instead of presumptively placing
5 children in hotels pending Title 42 expulsion, DHS could transfer unaccompanied
6 alien children to ORR custody. *Id.* Similarly, the Court held that sending families to
7 one of ICE’s family residential centers was preferable to hotel stays. *Id.* at 17 n.10.

8 In the current context, however, hotel stays longer than two nights occur when
9 there is not a practicable alternative. For example, a family with a U.S. citizen child
10 cannot be sent to ORR or to a family residential center. Helland Decl. ¶ 9. In
11 addition, when removal is imminent but delayed by flight cancellations or weather,
12 release or transfer is not practicable because of flight risk or logistical difficulty. *Id.*
13 ¶¶ 8, 10–12. Categorical limits on hotel use would not be workable in this context.

14 Moreover, the Title 42 context is different from the current situation because
15 the typical length of hotel stays is much shorter now compared to the length of hotel
16 stays during implementation of Title 42. On average, minors stayed in hotels “for
17 just under five days” prior to Title 42 expulsion. Doc. # 976, at 3. In contrast, in
18 December 2025 and January 2026, hotel stays exceeding 48 hours were relatively
19 rare. Helland Decl. ¶ 6. For unaccompanied alien children, approximately 4.4% of
20 hotel stays lasted more than 48 hours. *Id.* Approximately 9.6% of family units had
21 hotel stays over two days. *Id.* Thus, the vast majority of hotel stays for both groups
22 were less than 48 hours—much shorter than the five days that was an average length
23 of stay during implementation of Title 42.

1 The Court’s concerns about safety in the Title 42 context do not apply to
2 current hotel stays either. *See* Doc. # 976, at 13. In the Title 42 context, the Court
3 concluded that, in hotels, there was a “lack of qualified, specialized supervision,
4 especially for younger, unaccompanied children” and that DHS’s “oversight of the
5 hoteling program is vague and minimal.” *Id.* at 14. As an initial matter, the Court’s
6 specific concern about supervision of younger, unaccompanied children in the Title
7 42 context does not translate to current hotel stays for family units where a parent or
8 legal guardian is in the room with the children. In addition, DHS’s current oversight
9 of hotel placements is not vague and minimal. ICE closely monitors the length of
10 stay and amenities provided during hotel placements. Helland Decl. ¶ 13.
11 Headquarters staff review and monitor hotel stays for children and must approve any
12 hotel stay expected to exceed 48 hours. *Id.* Moreover, in July 2023, ICE published
13 detailed standards that govern all aspects of hotel stays. *See* Temporary Housing
14 Standards, *supra*.

15 In 2020, the Court also reasoned that the Title 42 “hotel program is not safe
16 with respect to preventing minors from contracting COVID-19.” Doc. # 976, at 15.
17 That concern is now inapplicable because the global pandemic has ended.

18 Finally, the Court held that the Title 42 hotel program was not consistent with
19 the FSA’s provisions related to access to counsel. *Id.* The Court stated that “[l]egal
20 services providers attest that they face unusual difficulty locating children within
21 Title 42 custody, and DHS officials often are unable to provide accurate information
22 as to where a child is at any given moment.” *Id.* The Court also credited allegations
23 that “ICE physically prevented [attorneys] from entering [a] hotel” to speak with

1 children and that “ICE has also limited children’s ability to speak to attorneys by
2 phone.” *Id.* at 16.

3 Current hotel stays do not implicate the same concerns. Children are not sent
4 “off into the night” without ever having the chance to speak with counsel. *Id.* at 17.
5 The children who have recently stayed in hotels are subject to regular, long-standing
6 Title 8 removal processes where minors have access to counsel. Standard 22 of ICE’s
7 Temporary Housing Standards specifically provides for in-person and telephonic
8 access to counsel for those in temporary housing. *See* Temporary Housing
9 Standards, *supra*. 14. While in a hotel placement, unaccompanied alien children and
10 families can access their counsel via ICE-provided phones and tablets. Helland Decl.
11 ¶ 14. Arrangements can also be made for in-person meetings at the nearest field
12 office. *Id.*

13 In short, none of the special concerns that arose in the Title 42 context justify
14 categorical limits on hotel use today. There is no reason to treat hotels differently
15 from other temporary placements used under the influx provision of Paragraph 12.
16 Expeditious processing is a flexible standard that accounts for the numerous
17 circumstances that can arise while ICE works to release or transfer children. Doc.
18 # 976, at 12. For these reasons, the Court should reconsider its imposition of the Title
19 42 restrictions from September 2020 onto current operations.

1 **II. The Court should have provided notice and an opportunity to respond**
2 **before extending the hotel restrictions in its Title 42 Orders to the current**
3 **situation.**

4 “Before issuing injunctive relief, the court must provide the affected party
5 with notice and an opportunity to be heard.” *Armstrong v. Brown*, 768 F.3d 975,
6 979–80 (9th Cir. 2014). As explained above, the Court had not previously ordered
7 specific restrictions on hotel stays outside the Title 42 context. Therefore, the Court
8 should have provided Defendants with notice and an opportunity to be heard before
9 doing so, and the Court should reconsider its April 3, 2026 Order in light of the
10 arguments that Defendants have now raised. If the Court wishes to address these
11 issues, it should require Plaintiffs to file an appropriately noticed motion and allow
12 the government the opportunity to fully brief any issues raised.

13 **CONCLUSION**

14 For the foregoing reasons, the Court should reconsider and remove the
15 following sentences from its April 3, 2026 Order: “As previously ordered,
16 Defendants shall cease placing minors at hotels, with a narrow exception for brief,
17 one to two-night stays while in transit or prior to flights. [See Doc. # 976.] Continued
18 non-compliance will result in the re-appointment of a Special Master/Independent
19 Monitor.” Doc. # 1755, at 4.
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1 DATED: April 17, 2026

Respectfully submitted,

2 BRET A. SHUMATE
3 Assistant Attorney General

4 WILLIAM C. SILVIS
5 Assistant Director

6 MICHAEL A. CELONE
7 Senior Litigation Counsel

8 /s/ Joshua C. McCroskey
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L.R. 11-6.2 Certification

The undersigned counsel of record for the United States certifies that this brief contains 4,380 words, which complies with the word limit of L.R. 11-6.1.

Dated: April 17, 2026

/s/ Joshua C. McCroskey
JOSHUA C. MCCROSKEY
Trial Attorney

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EXHIBIT

A

adults, and family units (FAMU), and developing and implementing goals, policies, procedures, and operational plans that are sensitive to this population's vulnerabilities and needs.

4. On July 29, 2022, I was appointed by the Court to serve as the Juvenile Coordinator for ICE.
5. ICE is committed to acting in good faith and exercising due diligence to comply with the *Flores* Settlement Agreement (FSA). ICE's operational procedures are designed to expeditiously move minors from hotels either (1) out of ICE custody through repatriation or other release, or (2) to a Family Residential Center (FRC) or a licensed facility for UACs.
6. Data from December 2025 and January 2026 reporting periods demonstrate that hotel stays exceeding one or two nights are relatively rare. For UACs, approximately 4.4% of hotel stays lasted more than 48 hours. For family units, approximately 9.6% experienced stays over 48 hours. The vast majority of hotel stays for both groups are less than 48 hours.
7. In the rare instance that a hotel stay for a UAC or family unit extends beyond 48 hours, it is due to operational challenges outside of ICE's control.
8. These operational challenges include, but are not limited to: (1) delays in obtaining necessary travel documents, such as passports for U.S. citizen children from the Department of State, which can take several days if not secured by the parents prior to apprehension; (2) holiday and winter weather disruptions, especially during December and January, which impacted processing and travel; (3) flight cancellations or rescheduling; (4) increased attempted escapes during transfers to repatriation flights,

which require additional time and security measures; and (5) failure of the aliens to comply with removal procedures.

9. In cases where a U.S. citizen child is with the family, transfer to the Office of Refugee Resettlement (ORR) or FRCs is not possible. U.S. citizen children cannot be placed into FRCs or with ORR, so families with a U.S. citizen child traveling with them must remain in a hotel setting until removal is effectuated.
10. Release of a family unit to obtain travel documents prior to the next removal flight is unreasonable given the flight risk, especially when the parents failed to secure these documents while participating in Alternatives to Detention (ATD) programs. Parents or legal guardians are often asked to get travel documents while on ATD. Failure to do so may result in extended hotel stays.
11. ICE cannot release individuals who are subject to removal proceedings or are scheduled for imminent removal due to risk of flight and operational concerns. When removal is imminent but delayed due to flight cancellations or weather delays, operationally it would not make sense to waste resources and risk an alien absconding.
12. ICE cannot release UACs when unforeseen delays occur as ICE is legally obligated to transfer UACs to ORR custody. ICE cannot release a UAC as ICE has no legal authority to do so. ICE is legally required to transfer UACs to ORR custody and only to ORR custody. Operationally it is impractical and often impossible to get ORR placement for a delay of a few days.
13. ICE closely monitors the length of stay and amenities provided during hotel placements. ICE's Temporary Housing Standards outline the requirements for housing children and families in temporary accommodations, such as hotels. Hotel stays for children and

families are reviewed and monitored at the ICE Headquarters level. If a hotel stay is expected to exceed 48 hours, the ERO office must provide documentation explaining the reasons for the extended stay and detail the steps being taken to decrease the amount of time in custody. This documentation is submitted to JFM with ERO HQ. JFM then submits the documentation to me, the juvenile coordinator, for final decision. If the justification is not sufficient, the request for an extended hotel stay can be declined. This oversight ensures that extended stays are rare, justified, and minimized to the greatest extent possible.

14. While in a hotel placement, UACs and families can access their counsel via ICE provided phones and tablets. Arrangements can be made for in person meetings at the nearest field office.
15. ICE's use of hotels is a temporary, operationally necessary measure, and extended stays are rare and only occur due to circumstances beyond ICE's control. ICE remains committed to expeditiously moving UACs and family units out of hotels while ensuring their safety and compliance with all legal obligations.

I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on this 17th day of April 2026.

DAWNISHA M
HELLAND

Digitally signed by
DAWNISHA M HELLAND
Date: 2026.04.17 19:03:14
-04'00'

Dawnisha Helland
Deputy Assistant Director
Juvenile and Family Management
Non-Detained Management Division
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

EXHIBIT

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14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**
16 **WESTERN DIVISION**

17 JENNY LISETTE FLORES; *et al.*,) Case No. CV 85-4544-DMG-AGR
)
18 Plaintiffs,) **DECLARATION OF JOSHUA C.**
) **MCCROSKEY REGARDING**
19 v.) **CONFERRAL ABOUT**
) **DEFENDANTS’ MOTION TO**
20) **PARTIALLY RECONSIDER ORDER**
21 TODD BLANCHE, Acting Attorney) **OF APRIL 3, 2026**
22 General of the United States, *et al.*,)
)
23 Defendants.) Honorable Dolly M. Gee
) Chief United States District Judge

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1 I, Joshua C. McCroskey, declare:

2 1. I am a Trial Attorney with the U.S. Department of Justice and am assigned to
3 handle the instant case. As such, I have personal knowledge of the following facts
4 and, if called as a witness, I could and would testify competently thereto.

5 2. On Thursday, April 9, 2026, I emailed counsel for Plaintiffs asking to meet
6 and confer about a potential motion to reconsider or clarify the Court’s April 3, 2026
7 Order [Doc. # 1755]. I informed Plaintiffs’ counsel that Defendants specifically plan
8 to ask the Court to reconsider or clarify the following sentence: “As previously
9 ordered, Defendants shall cease placing minors at hotels, with a narrow exception
10 for brief, one to two-night stays while in transit or prior to flights. [See Doc. # 976.]”
11 *Id.* at 4. I informed Plaintiffs’ counsel that Defendants’ counsel preferred to meet on
12 Friday, April 10 but could also meet on Monday, April 13.

13 3. On April 9, 2026, counsel for Plaintiffs emailed in reply that they would not
14 be available on April 10 but could be available on Monday, April 13.

15 4. Counsel for the parties met and conferred on Monday, April 13, 2026.
16 Plaintiffs’ counsel informed undersigned counsel that Plaintiffs oppose Defendants’
17 proposed requests for clarification and for reconsideration.

18 5. Defendants are filing their motion on Friday, April 17, 2026, because motions
19 to reconsider ordinarily “must be filed no later than 14 days after entry of the Order
20 that is the subject of the motion.” C.D. Cal. L.R. 7-18.

21 I declare under penalty of perjury that the foregoing is true and correct.

22
23 Executed on April 17, 2026, in Washington, D.C.

24 /s/ Joshua C. McCroskey
25 JOSHUA C. MCCROSKEY
26 Trial Attorney
27

1 BRETT A. SHUMATE
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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**

16 JENNY LISETTE FLORES; *et al.*,
17
18 Plaintiffs,
19
20 v.
21 TODD BLANCHE, Acting Attorney
General of the United States, *et al.*,
22
23 Defendants.

Case No. CV 85-4544-DMG (AGR_x)

[Proposed]

**ORDER ON DEFENDANTS’
MOTION TO PARTIALLY
RECONSIDER ORDER OF APRIL
3, 2026**

[Hon. Dolly M. Gee]

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1 THIS CAUSE comes before the Court upon Defendants’ Motion to Partially
2 Reconsider Order of April 3, 2026. UPON CONSIDERATION, the Motion is
3 **GRANTED.**

4 Accordingly, **IT IS HEREBY ORDERED:**

5 The following two sentences are stricken from page 4 of the Court’s April 3,
6 2026 In Chambers—Order Re March 30, 2026 Status Conference [Doc. # 1755]:
7 “As previously ordered, Defendants shall cease placing minors at hotels, with a
8 narrow exception for brief, one to two-night stays while in transit or prior to flights.
9 [See Doc. # 976.] Continued non-compliance will result in the re-appointment of a
10 Special Master/Independent Monitor.”

11
12 **IT IS SO ORDERED.**

13
14 DATED: _____, 2026.

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17 _____
18 HONORABLE DOLLY M. GEE
19 Chief United States District Judge
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