

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

HEREDIA MONS ET AL.,

*

PLAINTIFFS,

*

No. 19-cv-1593 (JEB)

V.

*

ALEJANDRO MAYORKAS, ET AL.,

*

DEFENDANTS.

* * *

MOTION TO CONTINUE FAIRNESS HEARING

Plaintiffs respectfully move this Court to continue the Fairness Hearing in this case—currently scheduled for January 24, 2025—for thirty (30) days. Defendants requested that Plaintiffs delay filing this motion until January 16, 2025, the date Defendants suggested to meet and confer. After that meet and confer today, concerning this Motion and compliance with the Settlement Agreement, the parties were not able to reach an agreement. Defendants state that they do not believe a continuance is warranted and thus do not consent to the relief requested in this motion; they intend to state their position more fully in a response to be filed prior to the currently scheduled hearing date. In support of this Motion, Counsel states the following:

1. Since approval of the Settlement Agreement (R. Doc. 257), class members and putative class members have contacted class counsel with apparent violations of the 2009 Parole Directive and, by extension, the Settlement Agreement. Moreover, since that time, class members informed class counsel of an apparent Defendant policy that on information and belief violates the Parole Directive, and therefore the Settlement Agreement.

2. Separately, an objection was filed with the Court on December 9, 2024.

3. Attempting to address the issues identified to class counsel by class members and putative

class members concerning Defendants' compliance with the Parole Directive, class counsel contacted Defendants on October 23, 2024; October 28, 2024; November 1, 2024; November 15, 2024; December 6, 2024; and December 13, 2024. *See Exhibit 1*, Noncompliance with Settlement Agreement. Along with these emails, Plaintiffs also included lists of individuals who came forward with complaints of categorical parole denials (updated in each email), which Plaintiffs sought to bring to Defendants attention. *See Exhibit 2*, December 13 Class Member and Putative Class Member Roster.¹ As Exhibit 1 shows, these efforts to address concerns that Defendants were not complying with the Parole Directive were unsuccessful.

4. Also, in their December 13, 2024 email, Plaintiffs explained that individuals detained under the New Orleans ICE Field Office Area of Responsibility were explicitly told that individuals from "former Soviet Union countries" (or similar) would not receive parole, meaning there would be no individualized review of parole requests for that population.

5. In light of the communicated concerns about compliance with the Settlement Agreement, class counsel contacted Defendants via the attached letter on January 3, 2025, notifying Defendants that there is reason to believe they are in breach of the Settlement Agreement and thus intend to reopen litigation. *See Exhibit 1*.

6. In response to the January 3, 2025 letter, Defendants requested to confer on January 16, 2025, when Defendants indicated they would provide additional information that would address this issue. *See Exhibit 3*, Correspondence concerning Noncompliance Notice.

7. On January 8, 2025, Plaintiffs asked Defendants for consent to continue the Fairness Hearing, in order to assess the additional information that would be provided, and in light of the ongoing dispute as to compliance with the Settlement Agreement. *See Exhibit 3*.

¹ The attached roster is redacted to remove names and registration numbers.

8. On January 10, 2025, Defendants responded and requested that any motion for continuance be delayed until January 14, 2025; they also indicated they would provide additional information – along with their position on continuing the Fairness Hearing – on that date. Plaintiffs agreed to the delay. *See Exhibit 3.*

9. On January 14, 2025, in their response to Plaintiffs’ concerns, Defendants submitted that “43 percent of the class members on the lists you provided” were granted parole and therefore “Defendants’ position remains that there is no basis for the assertion in your January 3, 2025 letter of a categorical denial of parole with respect to individuals from Russia or former Soviet countries.” The response further requested an additional delay for this motion, to January 16, 2025. *See Exhibit 3.*

10. On January 16, 2025, Plaintiffs and Defendants met and conferred regarding this Motion and the concerns outlined in the attached correspondence. The parties were not able to come to an agreement as to whether there are ongoing violations of the Settlement Agreement (specifically, a failure to provide individualized parole determinations) or whether a continuance was warranted. Defendants state that they do not believe a continuance is warranted and thus do not consent to the relief requested in this Motion, and intend to state their position more fully in a response to be filed prior to the currently scheduled hearing date.

11. Out of an abundance of caution and in the interest of conserving judicial resources, Plaintiffs respectfully request that the District Court continue the Fairness Hearing. Class counsel believes that the Settlement Agreement is not being effectuated and that moving forward with the Hearing as scheduled is not in the interest of the class.

12. Plaintiffs request a thirty (30) day continuance of the Fairness Hearing in order to further investigate alleged Parole Directive and Settlement Agreement violations, to confer with

Defendants, and to provide sufficient notice to class members of the delay. More specifically, class counsel aims to conduct in-person Know Your Rights presentations at two New Orleans ICE Field Office facilities (Richwood Correctional Center and Winn Correctional Center), as well as review legal intake received to date, in order to confirm or assuage the concerns identified in the attached correspondence.

Dated: January 16, 2025

Respectfully submitted,

/s/ Nora Ahmed

Nora Ahmed (admitted *pro hac vice*)
ACLU Foundation of Louisiana
1340 Poydras St., Suite 2160
New Orleans, Louisiana 70112
T: (504) 522-0628
F: (504) 613-5611
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/s/ Luz V. Lopez

LUZ V. LOPEZ
(D.C. BAR #1720589)
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HEREDIA MONS ET AL.,

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PLAINTIFFS,

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No. 19-cv-1593 (JEB)

V.

*

ALEJANDRO MAYORKAS, *ET AL.*,

*

DEFENDANTS.

* * *

DECLARATION OF ANDREW PERRY

1. My name is Charles Andrew Perry.
2. I am a staff attorney for the American Civil Liberties Union of Louisiana.
3. I conduct monthly Know Your Rights presentations at the immigration detention facilities in Louisiana, which are within the Area of Responsibility for the New Orleans ICE Field Office (“NOLA ICE”).
4. During Know Your Rights presentations in December 2024, individuals detained by NOLA ICE explained that they were explicitly told by NOLA ICE officials, including Mr. Patrick Arbuco, that individuals from “the former Soviet Union” would categorically not receive parole, or words to that effect. This information was relayed via correspondence to Defendants.
5. Attached as **Exhibit 1** is a true and accurate copy of the *RE: Noncompliance with Settlement Agreement Mons et al. v. Mayorkas et al., No. 19-1593* and the correspondence.

6. Attached as **Exhibit 2** is a true and accurate copy of the final version of the lists of individuals submitted by the ACLU of Louisiana to Defendants, redacting names and registration numbers.
7. Attached as **Exhibit 3** is a true and accurate copy of the January 2025 correspondence with Defendants' counsel, Jeremy Simon, subsequent to the issuing of **Exhibit 1**.
8. I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 16th day of January 2025, in New Orleans, Louisiana.

/s/Charles Andrew Perry
Charles Andrew Perry (La. Bar No.
40906)
ACLU of Louisiana
1340 Poydras St., Suite 2160
New Orleans, Louisiana 70112
T: (504) 522-0628
aperry@laaclu.org

EXHIBIT 1



P.O. Box 56157
New Orleans, LA 70156
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Louisiana

January 3, 2024

Jeremy S. Simon
Assistant United States Attorney
601 D Street, N.W.
Washington, D.C. 20530
(202) 252-2528
Jeremy.Simon@usdoj.gov
VIA EMAIL

RE: Noncompliance with Settlement Agreement
Mons et al. v. Mayorkas et al., No. 19-1593

Counsel:

We write regarding your clients' failure to comply with the terms of the settlement agreement in *Mons et al. v. Mayorkas et al.*, No. 19-1593 (D.D.C.), and our intention to reopen litigation.

As you are well aware, on September 23, 2024, the parties entered into a settlement agreement (R. Doc. 256-2), which provides in substantial part that the New Orleans Immigration and Customs Enforcement Office ("NOLA ICE") "shall comply with the standards and procedures set forth in 2009 Parole Directive until the 2009 Parole Directive is amended, modified, rescinded, superseded, or terminated, whichever occurs first." Compliance with the Parole Directive includes individualized consideration of parole applications for class members. The settlement agreement further provides that the sole remedy for material breach of the agreement is reinstating the claims of the lawsuit. Nonetheless, shortly after filing the settlement agreement into the record, violations of the agreement were brought to the attention of class counsel, who then shared those violations with you in October, November, and December of the prior calendar year.

In light of these continuing violations, it is our view that the court conference set for January 24, 2025 should not proceed. Reopening litigation seems necessary at this juncture. Below, we provide a detailed summary of our correspondence with your office to date, which in our view demonstrates an egregious failure on the part of your client to adhere with the both the terms of the settlement agreement and the 2009 Parole Directive:

October 2024 Correspondence

- **On October 23, 2024**, we expressed concerns via email about your clients' apparent noncompliance with the settlement agreement – specifically, failure to provide individualized consideration of parole applications in accordance with the requirements of the 2009 Parole Directive. In that email, we explicitly requested to speak with your clients prior to any court appearances. In response, on that same day, you requested that we provide specific names and Alien Registration numbers for agency review. You further stated that "the issue of a call is premature at this time since the agency has not yet had a chance to look into the allegations in your email below and needs information from you before it can begin to do so."



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- **On October 28, 2024**, we submitted 45 names of potential *Mons* class members who asserted that the New Orleans ICE Field Office (NOLA ICE) engaged in blanket denials of their parole requests by failing to conduct individualized reviews of their applications.
- **On October 29, 2024**, you requested that Plaintiffs remove any non-class members from that roster and resubmit an updated list.

November 2024 Correspondence

- **On November 1, 2024**, Plaintiffs indicated (and maintain today) that the government is far better positioned to identify class members, because the government has the most up-to-date information about parole decisions, CFI decisions, and whether detainees are categorized as arriving noncitizens, information that class counsel does not have. Nevertheless, Plaintiffs acquiesced to your clients' request and provided a revised list that explicitly identified verified class members and putative class members – whose class member status was verified using the government's sealed quarterly report that it provides to class counsel.
- **On November 15, 2024**, Plaintiffs wrote again, seeking a response and including yet more names of individuals who reported violations of the Preliminary Injunction and Settlement Agreement.
- **On November 21, 2024**, you responded “to acknowledge receipt of your email” and to state “With the holiday next week, and scheduled leave associated with the holiday, I don't expect to be in a position to respond to your email until some time the following week.”

December 2024 Correspondence

- **On December 6, 2024**, after still receiving no substantive response, we wrote again, with additional names of individuals who reported apparent violations of the Preliminary Injunction and Settlement Agreement. We did not receive a response.
- **On December 9, 2024**, Dmitrii Tropskii, a Russian asylum seeker, filed a declaration with the Court pursuant to Federal Rule of Civil Procedure 23(e)(5), explaining that he believed his parole requests were denied in violation of the Parole Directive. ECF No. 259.
- **On December 13, 2024**, we reported to you that multiple people in detention under NOLA ICE's Area of Responsibility informed us that, on or about December 8, 2024, multiple ICE officials explicitly told people in detention that there is “no parole for former Soviet Union countries” and that based on countries of origin, certain individuals will “only be released via the court.” We further informed you that people detained by NOLA ICE reported that this behavior was a pattern of conduct, and informed you of similar statements made approximately two months prior to individuals still in detention. We also included the information for additional individuals who once again reported a lack of compliance with the Preliminary Injunction and the Settlement Agreement, bringing the total number of reports to 79.



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- **On December 26, 2024**, you responded that as to the population identified *prior* to December 13, 2024, your client “has identified class members from the information you have provided who previously have not had a parole determination and ICE states that that issue has now been resolved,” without further elaboration. You further indicated that “ICE is currently reviewing that list and will ensure that all class members have received a parole determination.” You noted that ICE is also looking into the allegations “set forth in [the] December 13 email to the extent they relate, if at all, to the Mons litigation and parole directive.”

* * *

Taken together, and as we explained throughout our correspondence and explicitly on December 13, class members have informed us that, according to ICE officials, there is a self-proclaimed policy of categorical denials of parole for *Mons* class members based on their country of origin. This alleged policy violates the Parole Directive, the Preliminary Injunction, and the Settlement Agreement. Accordingly, we cannot in good conscience represent to the Court that the Settlement Agreement is being followed, much less that it is fair.

We believe that your clients are in violation of the terms of the Settlement Agreement and, as such, we seek to reopen litigation. We request a response to this letter by end of day, Monday, January 6, 2024 so we can determine forthwith how best to proceed in informing the Court of Plaintiffs’ position.

/s/ Luz V. Lopez
LUZ V. LOPEZ
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/s/Nora Ahmed
NORA AHMED
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Encl

Correspondence

Friday, January 3, 2025 at 16:16:37 Central Standard Time

Subject: RE: Mons
Date: Thursday, December 26, 2024 at 9:13:29 AM Central Standard Time
From: Simon, Jeremy (USADC)
To: Andrew Perry
CC: Chris Ivey, Nora Ahmed, Luz Lopez
Attachments: image001.gif, image002.jpg, image003.png, image004.jpg

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Andrew,

I hope you are having a relaxing holiday season.

As to the lists provided prior to your December 13 email below, the agency has identified class members from the information you have provided who previously have not had a parole determination and ICE states that that issue has now been resolved. Please note that Defendants neither confirm nor deny any information on the lists other than as the lists may pertain to an individual who is a class member based on the class definition in the *Mons* litigation. See 8 CFR 208.6 and 1208.6. As regards any names on the list provided in the December 13th email, ICE is currently reviewing that list and will ensure that all class members have received a parole determination. ICE also is looking into the allegations set forth in your December 13 email to the extent they relate, if at all, to the *Mons* litigation and parole directive.

Thanks.

Jeremy

From: Andrew Perry <APerry@laaclu.org>
Sent: Friday, December 13, 2024 2:10 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Nora Ahmed <Nahmed@laaclu.org>; Luz Lopez <luz.lopez@splcenter.org>
Subject: [EXTERNAL] Re: Mons - joint motion for preliminary approval (for review)

Good afternoon Jeremy,

I am writing concerning information received during Know Your Rights presentations conducted this week at Winn Correctional Center. As described by people currently in detention: On or about December 8, 2024, speaking to detained people near the Winn Correctional Center kitchen (including class members), Patrick Arbuco and 3 ICE officers stated that there is “no parole for former Soviet Union countries” and “you will only be released via the court,” or similar. This statement describing categorical denial based on country of origin was corroborated by several groups across Winn’s population.

This was further supported by other detained individuals who stated that, approximately 2 months ago while ICE officials were visiting a Winn Dorm, Mr. Arbuco was asked by a detained person about parole; reportedly, after a brief glance at the person's ID card and noting his language/country of origin (which was in Eastern Europe/Central Asia), Mr. Arbuco responded that "[you] will only be released by the Court."

Based on these allegations, we would ask for and appreciate an investigation into this apparent policy, which as described seems to be in direct violation of the Parole Directive.

Separately, as a continuation of the ongoing request and in light of this reported information, I am also submitting an updated list with several more names of purported class members. While I believe they are class members based on the conversations I had with them, I have only been able to verify one person's status based on last quarter's report as you will see.

Best,

Andrew Perry, Esq.

Pronouns: he/him/his

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From: Andrew Perry <APerry@laaclu.org>

Date: Friday, December 6, 2024 at 3:44 PM

To: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>

Cc: Chris Ivey <chris.ivey@splcenter.org>, Nora Ahmed <Nahmed@laaclu.org>, Luz Lopez <luz.lopez@splcenter.org>

Subject: Re: Mons - joint motion for preliminary approval (for review)

Good afternoon Jeremy,

Thanks and hope you had a nice holiday. I am confirming receipt. I am reattaching the most recent list of folks from November 15; in the interim, we received outreach from a few additional people whose parole denials appear to be based on unlawful, categorical bases, but whose class member status we could not verify. As such, I included those additional names in that second unverified section.

Best,

Andrew Perry, Esq.

Pronouns: he/him/his

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From: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>

Date: Thursday, November 21, 2024 at 9:39 AM

To: Andrew Perry <APerry@laaclu.org>

Cc: Chris Ivey <chris.ivey@splcenter.org>, Nora Ahmed <Nahmed@laaclu.org>, Luz Lopez <luz.lopez@splcenter.org>

Subject: RE: Mons - joint motion for preliminary approval (for review)

Andrew,

I am just writing to acknowledge receipt of your email. With the holiday next week, and scheduled leave associated with the holiday, I don't expect to be in a position to respond to your email until some time the following week.

Thanks.

Jeremy

From: Andrew Perry <APerry@laaclu.org>
Sent: Friday, November 15, 2024 4:20 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Nora Ahmed <Nahmed@laaclu.org>; Luz Lopez <luz.lopez@splcenter.org>
Subject: [EXTERNAL] Re: Mons - joint motion for preliminary approval (for review)

Good evening Jeremy,

I am just writing to check in on our previous discussion. Also, we have heard from additional potential class members whose parole denials appear to be based on unlawful, categorical bases. As before, I balanced names against the most recent *Heredia Mons* report and included the names on that report in the attached roster (marked as “New”) for clarity, as a supplement to the previous list. Where they couldn’t be verified, I added them to the second table (also marked as “New”), just to keep things clear. Thank you for your continued attention to this matter.

Have a nice weekend,

Andrew Perry, Esq.

Pronouns: he/him/his

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From: Andrew Perry <APerry@laaclu.org>
Date: Friday, November 1, 2024 at 3:24 PM
To: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>, Nora Ahmed <Nahmed@laaclu.org>, Luz

Lopez <luz.lopez@splcenter.org>

Subject: Re: Mons - joint motion for preliminary approval (for review)

Good evening Jeremy,

I apologize for the delay in response, I am catching up on emails after being out of office. As requested I am attaching an updated and more refined list. By way of explanation, we have cross-checked the first batch of names against our *Heredia Mons* reporting and isolated out those who appeared up to the most recent (September 2024) *Heredia Mons* report. As you can see, the attached list includes a majority of the names we had submitted on Monday.

We have also continued to list other individuals who have been reported to us as potential class members whose parole denials appear to be based on unlawful, categorical bases. Because our report only contains parole determinations on or before August 15, 2024, we cannot rule out on our end the remaining names submitted as potential class members. In addition, undertaking greater efforts to verify class membership can be difficult, especially for large numbers of detainees, because detainees do not always understand the legal distinctions between, e.g., being an “arriving alien” or not.

In contrast, ICE has the most up-to-date information about parole decisions, CFI decisions, and whether detainees are categorized as arriving noncitizens. The government can easily verify their status while class counsel cannot.

Thus, while we have reorganized the list to sort names based on whether or not they appeared on the September 2024 report, we maintain that the government can and should bear the responsibility for determining whether someone is a class member. This is especially true given that the majority of the names we have provided are on the *Heredia Mons* class lists, showing that the information we are providing includes many class members.

Lastly, we have updated the list with several more names, which are reflected in the new column we have added to show the date of reporting. We anticipate continuing to update this list as we hear reports from impacted individuals, unless you would prefer separate lists.

Have a nice weekend,

Andrew Perry, Esq.

Pronouns: he/him/his

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From: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>
Date: Tuesday, October 29, 2024 at 9:07 AM
To: Luz Lopez <luz.lopez@splcenter.org>
Cc: Chris Ivey <chris.ivey@splcenter.org>, Andrew Perry <APerry@laaclu.org>, Nora Ahmed <Nahmed@laaclu.org>
Subject: RE: Mons - joint motion for preliminary approval (for review)

Luz,

The agency has undertaken a preliminary review of the list that you provided in your email below of October 28, and it appears that the list is not limited to members of the class in the *Mons* lawsuit. As a reminder, the *Mons* class is limited to individuals who, among other things, “receive [a] positive credible fear determination.” From a preliminary review, it does not appear that the list of individuals you have provided are limited to that category of individuals. This is not the first time that you have asked the agency under the auspices of this case to look into alleged issues involving individuals who are not class members in *Mons*. And, as I have previously explained, the agency is not in a position to respond to any inquiries from you that are not limited to *Mons* class members. Accordingly, I would ask that you review the list you have provided, remove individuals who do not fall within the definition of class members in *Mons*, and re-submit the list to me.

Thanks.

Jeremy

From: Luz Lopez <luz.lopez@splcenter.org>
Sent: Monday, October 28, 2024 1:35 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>; Nora Ahmed <nahmed@laaclu.org>
Subject: [EXTERNAL] Re: Mons - joint motion for preliminary approval (for review)

Good afternoon Jeremy,

Per the below exchange, I am attaching a list of 45 names and A#s of Heredia Mons class members in detention in the NOLA ICE Field Office, who are asserting that NOLA ICE officials are engaging in a blanket denial of their parole requests, and not conducting individualized reviews, as required by the Parole Directive of 2009. We

understand that you want to raise our concerns to your client before we engage in a conversation with them. We look forward to answering any questions regarding the attached information, and the opportunity to share additional observations from Nora and Andrew's visits to different immigration detention facilities in the NOLA ICE Field Office. Thanks.

Best,

Luz

Luz Lopez ella/she

Senior Supervising Attorney | Democracy: Education & Youth Litigation Team

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From: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>

Sent: Wednesday, October 23, 2024 10:46 AM

To: Luz Lopez <luz.lopez@splcenter.org>

Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>

Subject: RE: Mons - joint motion for preliminary approval (for review)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Luz,

I have relayed this email to the agency and will get back to you once they have a chance to look into the specific allegation that has been made. Can you provide the names of the individuals and A numbers so the agency can determine whether they are class members and begin to look into these assertions.

However, I want to be clear that I disagree that the issue you raise in your email below is connected to the deadline today for filing a joint motion for approval of the settlement agreement. The settlement agreement already has been fully executed (it was fully executed as of Sept. 23, 2024), and per the express provisions of the agreement, specifically, par. 20(a) of the attached, the parties are to file a joint motion for preliminary approval within 30 days from the signature date, which is today.

Accordingly, I will get back to you separately on the issue you raise below once you provide

the additional information requested above and the agency has an opportunity to look into the allegations you make below, but I am not in a position to make the submission of the joint motion subject to the agency's response to your email below, or to the contingency you set forth below. What I can state is that, if the agency believes that a call is warranted after having an opportunity to look into the issue you raise below, then a call can be arranged. But I think the issue of a call is premature at this time since the agency has not yet had a chance to look into the allegations in your email below and needs information from you before it can begin to do so. As I assume you recognize, the process of looking into the allegations is not something that can be completed today (and, indeed, requires additional information from you as noted above).

In terms of the joint motion for preliminary approval, I sent you the most up-to-date draft of the joint motion yesterday, which consisted of mostly formatting edits from the version you previously approved, and asked in my email yesterday if I have your authority to show your conformed signature on the joint motion and file along with the accompanying order. For your convenience, I am attaching the current draft and accompanying proposed order to this email (which is the same as what I sent you yesterday). As the filing deadline for the joint motion is today per the parties' agreement, please confirm whether I have your authority to show your conformed signature on the joint motion and file. I would appreciate hearing back from you on that specific point – whether I can show your signature on the attached joint motion—by no later than early afternoon today.

Thanks.

Jeremy

From: Luz Lopez <luz.lopez@splcenter.org>
Sent: Wednesday, October 23, 2024 9:12 AM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>
Subject: [EXTERNAL] Re: Mons - joint motion for preliminary approval (for review)

Good morning Jeremy,

Co-Counsel, ACLU of Louisiana, visited several detention centers in the NOLA Field Office AOR on Monday and Tuesday, as part of their rotating monthly Know Your Rights presentation initiative.

They encountered many Russian, Eastern European, and Central Asian class members who explained that NOLA ICE Field Office AOR officials are engaging in blanket parole denials in violation of the Parole Directive and the existing PI Order. This information raises significant concerns that we would like to directly discuss with your clients as soon as possible, and certainly before we engage in a colloquy with the Court regarding the Settlement Agreement.

We would prefer to speak with your clients before finalizing the Settlement Agreement, but are willing to sign in good faith to keep the process moving forward, with the proviso that we can speak with your clients to discuss our concerns prior to any appearances in Court.

I understand the last minute nature of this request and apologize. I would like to reiterate that Co-Counsel received this information on their Monday/Tuesday visitations of this week, and

communicated it to SPLC last night. I deeply appreciate your understanding and look forward to your response.

Best,

Luz

On Oct 22, 2024, at 3:03 PM, Simon, Jeremy (USADC)
<Jeremy.Simon@usdoj.gov> wrote:

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Luz,

My reviewer mainly had formatting edits as reflected on the attached redline. I also am sending you the current version without redline. Please confirm that I have your authority to show your conformed signature on the attached joint motion and file tomorrow along with the accompanying proposed order.

Thanks.

Jeremy

From: Luz Lopez <luz.lopez@splcenter.org>
Sent: Tuesday, October 22, 2024 9:07 AM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>
Subject: [EXTERNAL] Re: Mons - joint motion for preliminary approval (for review)

Good morning Jeremy,

Thanks for drafting and for the update.

Best,

Luz

On Oct 22, 2024, at 8:39 AM, Simon, Jeremy (USADC)
<Jeremy.Simon@usdoj.gov> wrote:

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Luz,

Thanks for the email. I have submitted this for final review within my office. If there any edits, I will send you a redline before the end of the day so you have a chance to review before the motion is finalized for filing tomorrow.

Thanks.

Jeremy

From: Luz Lopez <luz.lopez@splcenter.org>
Sent: Monday, October 21, 2024 9:58 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>
Subject: [EXTERNAL] Re: Mons - joint motion for preliminary approval (for review)

Jeremy,

I apologize for not clarifying that we do not object to the language of the Proposed Order or the Joint Motion. We are good with both. Thanks for drafting.

Best,

Luz



Luz Lopez ella/she

Senior Supervising Attorney | Democracy: Education & Youth Litigation Team
Southern Poverty Law Center
T 404.387.9314

luz.lopez@splcenter.org | splcenter.org

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From: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>
Sent: Monday, October 21, 2024 9:50 AM
To: Luz Lopez <luz.lopez@splcenter.org>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>
Subject: RE: Mons - joint motion for preliminary approval (for review)

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links or open attachments unless you recognize the sender and know the content is safe.

Luz,

I just want to confirm that, in addition to the proposed order that I sent, that you have no edits to the joint motion that I also had sent along with the proposed order. Can you confirm? Once I get your confirmation, I can get the joint motion and order reviewed in my office and then on file by Wednesday (if there any edits during internal review I will let you know).

Thanks.

Jeremy

From: Luz Lopez <luz.lopez@splcenter.org>
Sent: Monday, October 21, 2024 9:47 AM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>
Subject: [EXTERNAL] Re: Mons - joint motion for preliminary approval (for review)

Good morning Jeremy,

Plaintiffs Counsel is fine with the proposed order. Thanks for drafting.

Best,

Luz

[<~WRD0000.jpg>](#)

Luz Lopez ella/she

Senior Supervising Attorney | Democracy: Education & Youth
Litigation Team

Southern Poverty Law Center

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From: Luz Lopez
Sent: Thursday, October 17, 2024 12:14 PM
To: Jeremy Simon <Jeremy.Simon@usdoj.gov>
Cc: Chris Ivey <chris.ivey@splcenter.org>; Andrew Perry <aperry@laaclu.org>
Subject: Re: Mons - joint motion for preliminary approval (for review)

Thank you, Jeremy. We will take a look and share our input by tomorrow.

Best,

Luz

On Oct 17, 2024, at 11:40AM, Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and

know the content is safe.

Luz,

The settlement agreement provides that the parties are to file a joint motion for preliminary approval by Wednesday, Oct. 23. I am attaching a draft joint motion and proposed order for your review. Please note that this still need to undergo final review within my office before it is finalized. Accordingly, to afford time for that review, please provided any proposed edits to the draft motion and/or order by no later than mid-day Monday, October 21.

Thanks.

Jeremy

<19 1593 Proposed Order (preliminary approval) draft
10.17.24.docx>

<MONS 19-1593 preliminary approval motion (draft
10.17.24).docx>

<MONS 19-1593 preliminary approval motion (draft 10.22.24) redline.docx>
<19 1593 Proposed Order (preliminary approval) draft 10.22.24 (redline).docx>
<19 1593 Proposed Order (preliminary approval) draft 10.22.24.docx>
<MONS 19-1593 preliminary approval motion (draft 10.22.24).docx>

EXHIBIT 2

	Russia	10/28/24
	Georgia	10/28/24
	Russia	10/28/24
		11/1/24
		11/1/24
		11/1/24
	Russia	11/15/24
		12/6/24
		12/6/24
		12/6/24
		12/6/24

		12/6/24
	Russia	12/6/24
	Russia	New

EXHIBIT 3

Thursday, January 16, 2025 at 14:32:15 Central Standard Time

Subject: RE: Mons et al. v. Mayorkas et al., No. 19-1593
Date: Thursday, January 16, 2025 at 2:30:36 PM Central Standard Time
From: Simon, Jeremy (USADC)
To: Andrew Perry
CC: Nora Ahmed, Luz Lopez, LA_Immigration
Attachments: image001.gif, image002.jpg, image003.png

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This message came from outside your organization.

Andrew,

Thanks for the email and for joining on the call today. Please indicate in your motion the following: "Defendants state that they do not believe a continuance is warranted and thus do not consent to the relief requested in this motion, and intend to state their position more fully in a response to be filed prior to the currently scheduled hearing date."

Thanks.

Jeremy

From: Andrew Perry <APerry@laaclu.org>
Sent: Thursday, January 16, 2025 3:07 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Nora Ahmed <Nahmed@laaclu.org>; Luz Lopez <luz.lopez@splcenter.org>; LA_Immigration <Immigration@laaclu.org>
Subject: [EXTERNAL] Re: Mons et al. v. Mayorkas et al., No. 19-1593

Good afternoon Jeremy,

Thank you for meeting with us today. This memorializes that we met and conferred today to discuss the below identified concerns of class counsel and the proposed 30-day continuance. We understand that Defendants do not agree that a 30-day continuance as described is necessary and do not consent. We will seek the 30-day continuance this afternoon and note your position. We are scheduling Know Your Rights presentations during the proposed 30-day window (January 27th-31 at Richwood Correctional Center, and February 7th at Winn Correctional Center). Taking these on-the-ground visits, and other additional follow-up from outstanding outreach, together, we believe we should be able to confirm or assuage our concerns within the requested time period for a continuance. We will alert the court accordingly.

Have a nice weekend,

Andrew Perry, Esq.

Pronouns: he/him/his

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From: Andrew Perry <APerry@laaclu.org>

Date: Tuesday, January 14, 2025 at 4:33 PM

To: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>

Cc: Nora Ahmed <Nahmed@laaclu.org>, Luz Lopez <luz.lopez@splcenter.org>, LA_Immigration <Immigration@laaclu.org>

Subject: Re: Mons et al. v. Mayorkas et al., No. 19-1593

Good afternoon Jeremy,

Thank you for your response. Plaintiffs continue to have concerns about breach of the Settlement Agreement, specifically violations of the Parole Directive. As requested and agreed upon in our January 10 correspondence, we agreed to delay any filing of a motion to continue the Fairness Hearing to today, January 14. We maintain that continuance is in the best interests of all parties. We are willing to delay filing any motion to continue again until after our call on January 16, 2024, if necessary. In an effort to have a productive conversation and as further explained below, ahead of our call with Defendants, we would ask for a more specific response from Defendants that explicitly confirms for us that Defendants do not now, and have not since our first correspondence on October 23, 2024, employed or utilized any policy of categorically denying parole to Mons class members based on country of origin.

While we appreciate the analysis of the individual parole results in the below correspondence, the information you provided does not assuage our concerns about an existing policy of categorical parole denial to *Mons* class members based on country of origin. Our concern is specifically about categorical parole denial to class members in the first instance. It is difficult to assess whether this is happening based on the information you provided below, given that the names and A-Numbers provided by class counsel was reported in near-real time, resulting

from outreach from people met in detention in person and/or shared with us via email/phone. By way of example, the information provided below does not explain when parole was granted in relation to our reporting. Granting parole to detained class members only *after* their names are raised to Defendants raises a concern that parole was categorically denied to a class member and then, after by-name intervention, subsequently granted; it does not suggest that there was or is no such existing policy for categorical parole denials.

Moreover as we previously noted, and unaddressed in the information provided below, multiple people explained to us that they were explicitly told by ICE officers supervising their detention that there is an existing policy to categorically deny parole requests for arriving aliens from “former Soviet Union countries” (or similar).

In the interim, as described above, Plaintiffs request a more specific response from Defendants that explicitly confirms for us that Defendants do not now, and have not since our first correspondence on October 23, 2024, employed or utilized any policy of categorically denying parole to Mons class members based on country of origin.

Taking this information together with ongoing outreach to our office from potential class members and what we have seen in our visits to the detention centers in Louisiana, we simply request additional time to further investigate these reports. For all of the foregoing reasons we believe that the Fairness Hearing should not go forward as scheduled. We are open to discussing a different period for continuance if Defendants are amenable.

Best,

Andrew Perry, Esq.

Pronouns: he/him/his

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From: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>
Date: Tuesday, January 14, 2025 at 11:21 AM
To: Andrew Perry <APerry@laaclu.org>
Cc: Nora Ahmed <Nahmed@laaclu.org>, Luz Lopez <luz.lopez@splcenter.org>, LA_Immigration <Immigration@laaclu.org>
Subject: RE: Mons et al. v. Mayorkas et al., No. 19-1593

Andrew,

The agency has compiled some additional information to address the issues raised in your January 3 letter. The following is a breakdown relating to the various lists that you provided prior to that letter and on which your letter is largely based (inclusive of the final list provided December 13, 2024):

<u>Total Names on Lists:</u>	<u>80</u>
Class Members:	54
Class Members Denied Parole and Still in custody:	29
Class Members with final orders of removal:	3
Class Members Granted Parole/Released: Russia per the information you provided)	22 (all of whom claim to be from

Thus, excluding class members with final orders of removal, 43 percent of the class members on the lists you provided were granted parole and/or have been released on parole, all of whom claim to be from Russia. Consequently, Defendants' position remains that there is no basis for the assertion in your January 3, 2025 letter of a categorical denial of parole with respect to individuals from Russia or former Soviet countries.

While Defendants are prepared to discuss this further during our call scheduled for this Thursday at 2:30 pm Eastern time (see call-in information below), Defendants do not believe there is any basis for Plaintiffs to request a continuance of the fairness hearing scheduled for January 24. Moreover, to the extent Plaintiffs continues to have concerns despite the above information, and despite having an opportunity to discuss the matter during the call scheduled for this Thursday, the fairness hearing will provide an opportunity to raise those concerns with the Court. For these reasons, Defendants would oppose a motion for continuance were Plaintiffs to decide to file such a motion. At a minimum, Defendants believe that Plaintiffs should defer any such filing until the parties have an opportunity to confer on Thursday.

The call-in information for the call for this Thursday at 2:30 pm Eastern is as follows:

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Meeting ID: 276 321 970 187

Passcode: rB9Bk6DJ

Dial in by phone

[+1 202-516-6093](#), [619185321#](#) United States, Washington

[Find a local number](#)

Phone conference ID: 619 185 321#

For organizers: [Meeting options](#) | [Reset dial-in PIN](#)

Thanks.

Jeremy

From: Andrew Perry <APerry@laaclu.org>
Sent: Friday, January 10, 2025 12:01 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Nora Ahmed <Nahmed@laaclu.org>; Luz Lopez <luz.lopez@splcenter.org>;
LA_Immigration <Immigration@laaclu.org>
Subject: [EXTERNAL] Re: Mons et al. v. Mayorkas et al., No. 19-1593

Good morning Jeremy,
That time works for our team on January 16.

We agree to delay filing any motion to continue until January 14, solely due to Defendants' request. I do want to note for your acknowledgement that under the default motion timeline under D.D.C. Local Rule 7(b), filing on January 14 would place the due date for any opposition motion (if Defendants oppose) after the scheduled date of the Fairness Hearing.

Best,

Andrew Perry, Esq.

Pronouns: he/him/his

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(c) 504-250-4879

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From: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>
Date: Friday, January 10, 2025 at 8:28 AM

To: Andrew Perry <APerry@laaclu.org>
Cc: Nora Ahmed <Nahmed@laaclu.org>, Luz Lopez <luz.lopez@splcenter.org>, LA_Immigration <Immigration@laaclu.org>
Subject: RE: Mons et al. v. Mayorkas et al., No. 19-1593

Andrew,

For the call on Jan. 16, would it be possible to schedule the call for 2:30 pm Eastern? Please let me know if that works for your team.

With the office closure yesterday and existing scheduling conflicts today, defendants have not had sufficient time to consider and formulate a position on your request below regarding a motion to continue the fairness hearing (currently scheduled for Jan. 24) by 30 days. I expect to be able to get back to you with defendants' position by Tuesday of next week (Jan. 14), along with some additional information that may be relevant to your consideration of the issue. Accordingly, please refrain from filing any such motion until defendants have had an opportunity to provide you with their position, which as noted above, I expect to provide on Tuesday of next week (which still would be 10 days prior to the hearing date should you decide to proceed with the motion).

Thanks.

Jeremy

From: Andrew Perry <APerry@laaclu.org>
Sent: Wednesday, January 8, 2025 3:36 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>; Andrew Perry <APerry@laaclu.org>
Cc: Nora Ahmed <Nahmed@laaclu.org>; Luz Lopez <luz.lopez@splcenter.org>; LA_Immigration <Immigration@laaclu.org>
Subject: [EXTERNAL] Re: Mons et al. v. Mayorkas et al., No. 19-1593

Good afternoon Jeremy,
If feasible for you, our best time on January 16 is at/after 2pmEST/1pmCST. Please advise if that time works for you.

In light of the timeline, we would like to ask the Court to continue the fairness hearing for 30 days. Would you consent to such a continuance? We'd like to motion to continue by the end of this week, and would appreciate your position on continuing the hearing by close of business Friday (1/10).

Best,

Andrew Perry, Esq.

Pronouns: he/him/his

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From: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>
Date: Monday, January 6, 2025 at 3:57 PM
To: Andrew Perry <APerry@laaclu.org>
Cc: Nora Ahmed <Nahmed@laaclu.org>, Luz Lopez <luz.lopez@splcenter.org>, LA_Immigration <Immigration@laaclu.org>
Subject: Re: Mons et al. v. Mayorkas et al., No. 19-1593

Andrew,

This will acknowledge receipt of your letter from Friday, January 3, 2025, which was sent by email after close of business that day. Given that the letter was only just received, Defendants are not in a position today to provide a comprehensive response to that letter. For present purposes, Defendants disagree that there has been a material breach of the settlement agreement and propose that the parties schedule a call for January 16 to discuss the issues raised in your letter. Prior to that call, and specifically by January 15, Defendants also expect to be in a position to provide additional information to you to facilitate the discussion on January 16. Accordingly, please advise as to your availability on January 16 and we can then circulate call-in information.

In the interim, I am able to offer the following observations, many of which have been conveyed to you previously:

First, the issue in this case concerns whether the agency is complying with the procedures in the Parole Directive; it does not concern the outcome of parole determinations. Accordingly, specific complaints about outcomes are not before the Court and not encompassed within the parties' settlement agreement.

Second, over the course of this litigation, you and your colleagues have raised issues in emails to me with respect to individuals who you had not confirmed fell within the definition of class members in the *Mons* litigation. On those occasions, I have reminded you that I am not in a position—nor is the agency in a position—to respond to such inquiries. Indeed, as I had endeavored to note in my email of December 26, 2024, there are regulations that prohibit the agency from responding to such inquiries given the type of information a response could

disclose. See 8 CFR 208.6 and 1208.6. Because your representation is limited to *Mons* class members, and this lawsuit is limited to *Mons* class members, the agency only can respond to inquiries with respect to the *Mons* class and only can do so in a manner that is consistent with the prohibitions under the above-referenced regulations.

Third and relatedly, it is the obligation of plaintiffs' counsel to confirm that it represents an individual as a *Mons* class member before making inquiries regarding an individual in the context of this lawsuit. The requirements for class membership have been clearly set forth by the Court and consist of information that you should be able to readily obtain from individuals who contact you. There is no obligation under the settlement agreement for Defendants to review lists provided to it and state whether a particular individual is or is not a class member. Indeed, to confirm that a specific individual on the lists that you have provided is not a class member could be interpreted as disclosing information about that individual prohibited by the above-referenced regulations.

Fourth, Defendants have been filing monthly and now quarterly reports for several years and those reports identify individuals who are class members. I advised in my email from December 26 that "[a]s to the lists provided prior to your December 13 email below, the agency has identified class members from the information you have provided who previously have not had a parole determination and ICE states that that issue has now been resolved." Accordingly, you can cross-reference any individual reflected on the lists you provided against the recent and next quarterly report to assess that assertion.

Fifth, as the periodic reports reflect, there are hundreds of parole determinations in any given reporting period. Given that volume, the limited number of issues with parole determinations that you have identified (and which Defendants state they have addressed as referenced in my December 26 email) does not establish a material breach of the settlement agreement.

Finally, my email of December 26 expressly stated that "[a]s regards any names on the list provided in the December 13th email, ICE is currently reviewing that list and will ensure that all class members have received a parole determination. ICE also is looking into the allegations set forth in your December 13 email to the extent they relate, if at all, to the *Mons* litigation and parole directive." You sent multiple lists to me during November, and the agency was endeavoring to address those prior lists when your December 13 email was received. Given that that effort already was underway before December 13, and give the holiday season and associated leave schedules, it is not unreasonable for Defendants to require additional time to respond to your December 13 email. Defendants expect to be in a position to respond to that email either during or prior to the call on January 16.

In light of the above, there has not been a material breach of the settlement agreement and no basis for plaintiffs to make such a claim to the Court. As noted at the outset of this email, I expect to be in a position to provide additional information prior to the call that we propose for January 16, 2025. Please let me know times when you are available on that date and we can then circulate call-in information. Defendants will provide a further response to your January 3 letter to the extent Defendants deem it necessary following the call on January 16.

Thanks.

Jeremy

From: Andrew Perry <APerry@laaclu.org>
Sent: Friday, January 3, 2025 5:58 PM
To: Simon, Jeremy (USADC) <JSimon@usa.doj.gov>
Cc: Nora Ahmed <Nahmed@laaclu.org>; Luz Lopez <luz.lopez@splcenter.org>;
LA_Immigration <Immigration@laaclu.org>
Subject: [EXTERNAL] Re: Noncompliance with Settlement Agreement Mons et al. v. Mayorkas et al., No. 19-1593

Good evening,

Please see attached corrected correspondence concerning *Mons et al. v. Mayorkas et al.*, No. 19-1593. A response is requested by end of day Monday, January 6, 2025.

Andrew Perry, Esq.

Pronouns: he/him/his

American Civil Liberties Union of Louisiana

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From: Andrew Perry <APerry@laaclu.org>
Date: Friday, January 3, 2025 at 4:54 PM
To: Simon, Jeremy (USADC) <Jeremy.Simon@usdoj.gov>
Cc: Nora Ahmed <Nahmed@laaclu.org>, Luz Lopez <luz.lopez@splcenter.org>, LA_Immigration <Immigration@laaclu.org>
Subject: Noncompliance with Settlement Agreement Mons et al. v. Mayorkas et al., No. 19-1593

Good evening,

Please see attached correspondence concerning *Mons et al. v. Mayorkas et al.*, No. 19-1593. A response is requested by end of day Monday, January 6, 2024.

Andrew Perry, Esq.

Pronouns: he/him/his

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HEREDIA MONS ET AL.,

*

PLAINTIFFS,

*

No. 19-cv-1593 (JEB)

V.

*

ALEJANDRO MAYORKAS, *ET AL.*,

*

DEFENDANTS.

* * *

[PROPOSED] ORDER

Having considered the *Motion to Continue Fairness Hearing*,

IT IS ORDERED that the Fairness Hearing is continued until _____ on _____.

Date: _____

THE HONORABLE JAMES E. BOASBERG