

1 SAMIR DEGER-SEN\*  
samir.deger-sen@lw.com  
2 WILLIAM M. FRIEDMAN\*  
william.friedman@lw.com  
3 CHARLES A. BERDAHL\*  
charles.berdahl@lw.com  
4 LATHAM & WATKINS LLP  
555 Eleventh Street, NW  
5 Suite 1000  
Washington, D.C. 20004-1304  
6 Tel: 202.637.2200  
Fax: 202.637.2201

7 AMANDA BARNETT (SBN 319046)  
amanda.barnett@lw.com  
8 JESSIE CAMMACK (SBN 329794)  
jessie.cammack@lw.com  
9 LATHAM & WATKINS LLP  
10 355 South Grand Avenue, Suite 100  
Los Angeles, California 90071-1560  
11 Tel: 213.485.1234  
Fax: 213.891.8763

12 Attorneys for Plaintiffs-Petitioners  
13 \*Admitted Pro hac vice

AHILAN ARULANANTHAM  
(SBN 237841)  
aarulanantham@aclusocal.org  
JESSICA KARP BANSAL  
(SBN 277347)  
jbansal@aclusocal.org  
MICHELLE (MINJU) CHO  
(SBN 321939)  
mcho@aclusocal.org  
ACLU Foundation of Southern  
California  
1313 West 8th Street  
Los Angeles, CA 90017  
Telephone: (213) 977-9500  
KYLE VIRGIEN (SBN 278747)  
kyle.virgien@lw.com  
LATHAM & WATKINS LLP  
505 Montgomery Street  
Suite 2000  
San Francisco, California 94111-6538  
Tel: 415.391.0600 Telephone: (213)  
977-9500

14 UNITED STATES DISTRICT COURT  
15 CENTRAL DISTRICT OF CALIFORNIA

16 KELVIN HERNANDEZ ROMAN,  
BEATRIZ ANDREA FORERO  
17 CHAVEZ, MIGUEL AGUILAR  
ESTRADA, on behalf of themselves and  
18 all others similarly situated,

19 Petitioners-Plaintiffs,

20 v.

21 CHAD F. WOLF, Acting Secretary, U.S.  
Department of Homeland Security;  
22 MATTHEW T. ALBENCE, Deputy  
Director and Senior Official Performing  
23 the Duties of the Director, U.S.  
Immigration and Customs Enforcement;  
24 DAVID MARIN, Director of the Los  
Angeles Field Office, Enforcement and  
25 Removal Operations, U.S. Immigration  
and Customs Enforcement; and JAMES  
26 JANECKA, Warden, Adelanto ICE  
Processing Center,

27 Respondents-Defendants.  
28

) Case No. 5:20-cv-00768

) **ADELANTO COVID**

) **PETITIONERS-PLAINTIFFS'**  
) **EX PARTE APPLICATION FOR**  
) **EMERGENCY STATUS**  
) **CONFERENCE AND**  
) **TEMPORARY RESTRAINING**  
) **ORDER**

1 Petitioners learned today that there is now a confirmed COVID-19 outbreak  
2 at Adelanto. Petitioners had received reports from detainees suggesting as much,  
3 and therefore emailed Respondents' counsel to inquire. On September 16, 2020 at  
4 2:49 PM, counsel for Respondents confirmed that there is currently an outbreak.

5 Decl. of William Friedman Ex. 1. The email states:

6 On September 14 and 15, 2020, Adelanto reported 6 new cases  
7 originating in two housing units, 5WC and 5WD. Adelanto then tested  
8 all the detainees in the affected housing units. Thus far, we have  
9 received 38 positive test results for those detainees tested at 5WC and  
10 5WD. The remaining test results are still pending but are expected  
11 within the next several days.

12 *Id.*

13 **Status Conference**

14 Petitioners request an emergency status conference to be held as soon as  
15 possible with Respondents and the Court to determine the relevant facts and seek the  
16 Court's guidance on how to proceed. Petitioners submit that Respondents should be  
17 prepared to provide information concerning the following:

- 18 • All information concerning testing done in response to this outbreak,  
19 including the number of tests conducted, the type of test conducted (including  
20 whether the tests are rapid, point of care tests, or laboratory tests), when the  
21 results are expected, and the results of those tests;
- 22 • Whether Adelanto has access to rapid, point of care testing;
- 23 • Whether people with confirmed positive cases are currently being medically  
24 isolated from people with pending test results, people with confirmed negative  
25 test results, or people who have not been tested;
- 26 • Whether people with pending tests results who are in housing units where  
27 confirmed cases have been reported are currently being medically isolated

- 1 from each other and people with confirmed negative tests results;
- 2 • How many *Fraihat* class members are currently in the affected housing units;
- 3 • Whether Adelanto staff members have received positive test results, and if so,
- 4 whether they are still entering the building;
- 5 • What space is available for people with confirmed cases to medically isolate;
- 6 • What space is available for people with suspected cases to medically isolate;
- 7 • Whether any class members have been hospitalized;
- 8 • Whether transfers or new detainees are currently being admitted into
- 9 Adelanto.

10 **Temporary Restraining Order**

11 Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and Local Rule  
12 65-1, Petitioners hereby move the Court for emergency relief in the form of a  
13 temporary restraining order seeking the following relief:

- 14 • **Immediate testing of all detainees in Adelanto.** Respondents' email  
15 suggests: (1) they are not planning to conduct universal testing other than in  
16 the two housing units and (2) they are not using rapid, point of care tests, but  
17 instead using laboratory tests which may take days to return results. In order  
18 to assess the magnitude of the outbreak, including what space is available to  
19 safely medically isolate people with confirmed positive cases, Respondents  
20 must test all detainees with the most expedited form of testing available to  
21 them. If Respondents do not have rapid, point of care tests, they should acquire  
22 them immediately.
- 23 • **Medical isolation of confirmed positives:** Respondents should medically  
24 isolate all people with confirmed positive cases immediately. No people with  
25 confirmed positive cases should be in the same dorm as a non-confirmed  
26 positive case. Respondents' email suggests that people with confirmed  
27 positive cases may be presently interacting with people who do not have

28

1 confirmed positive cases within the same housing unit. That must stop  
2 immediately. People with pending results and who are detained in any of the  
3 housing units where positive cases have been confirmed should also be  
4 medically isolated from each other and the general population in order to  
5 prevent the disease from spreading rapidly while they await their results.

6 These two emergency requests are necessary to blunt the rapid spread of this  
7 outbreak and to prevent catastrophic, irreparable harm that would endanger the  
8 public interest. The government's refusal to provide these basic safeguards violates  
9 the Fifth Amendment and requires emergency relief. *King v. County of Los Angeles*,  
10 885 F.3d 548, 557 (9th Cir. 2018); *Winter v. Nat. Res. Def. Council, Inc.*, 555  
11 U.S. 7, 20 (2008).

12 On September 16, 2020 at 6:12 PM, counsel for Petitioners emailed counsel  
13 for Respondents to advise of this ex parte application for status conference and  
14 motion for temporary restraining order. As of the time of filing, counsel for  
15 Respondents have not responded.

16 As Petitioners continue to discuss the outbreak with medical experts, they  
17 anticipate requesting further relief shortly.

18 Respectfully submitted,

19  
20 Dated: September 16, 2020

/s/ Amanda Barnett  
AMANDA BARNETT  
Counsel for Plaintiffs-Petitioners

21  
22  
23  
24  
25  
26  
27  
28

1 SAMIR DEGER-SEN\*  
samir.deger-sen@lw.com  
2 WILLIAM M. FRIEDMAN\*  
william.friedman@lw.com  
3 CHARLES A. BERDAHL\*  
charles.berdahl@lw.com  
4 LATHAM & WATKINS LLP  
555 Eleventh Street, NW  
5 Suite 1000  
Washington, D.C. 20004-1304  
6 Tel: 202.637.2200  
Fax: 202.637.2201

7 AMANDA BARNETT (SBN 319046)  
amanda.barnett@lw.com  
8 JESSIE CAMMACK (SBN 329794)  
jessie.cammack@lw.com  
9 LATHAM & WATKINS LLP  
10 355 South Grand Avenue, Suite 100  
Los Angeles, California 90071-1560  
11 Tel: 213.485.1234  
Fax: 213.891.8763

12 Attorneys for Plaintiffs-Petitioners  
13 \* *Admitted Pro hac vice*

AHILAN ARULANANTHAM  
(SBN 237841)  
aarulanantham@aclusocal.org  
JESSICA KARP BANSAL  
(SBN 277347)  
jbansal@aclusocal.org  
MICHELLE (MINJU) CHO  
(SBN 321939)  
mcho@aclusocal.org  
ACLU Foundation of Southern  
California  
1313 West 8th Street  
Los Angeles, CA 90017  
Telephone: (213) 977-9500  
KYLE VIRGIEN (SBN 278747)  
kyle.virgien@lw.com  
LATHAM & WATKINS LLP  
505 Montgomery Street  
Suite 2000  
San Francisco, California 94111-6538  
Tel: 415.391.0600 Telephone: (213)  
977-9500

14 **UNITED STATES DISTRICT COURT**  
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 KELVIN HERNANDEZ ROMAN,  
17 BEATRIZ ANDREA FORERO  
18 CHAVEZ, MIGUEL AGUILAR  
ESTRADA, on behalf of themselves and  
all others similarly situated,

19 Petitioners-Plaintiffs,

20 v.

21 CHAD F. WOLF, Acting Secretary, U.S.  
Department of Homeland Security;  
22 MATTHEW T. ALBENCE, Deputy  
Director and Senior Official Performing  
23 the Duties of the Director, U.S.  
Immigration and Customs Enforcement;  
24 DAVID MARIN, Director of the Los  
Angeles Field Office, Enforcement and  
25 Removal Operations, U.S. Immigration  
and Customs Enforcement; and JAMES  
26 JANECKA, Warden, Adelanto ICE  
Processing Center,

27 Respondents-Defendants.  
28

) Case No. 5:20-cv-00768

) **ADELANTO COVID**

) **DECLARATION OF WILLIAM**  
) **M. FRIEDMAN IN SUPPORT**  
) **OF PETITIONERS-**  
) **PLAINTIFFS' EX PARTE**  
) **APPLICATION FOR**  
) **EMERGENCY STATUS**  
) **CONFERENCE AND**  
) **TEMPORARY RESTRAINING**  
) **ORDER**

1 I, William M. Friedman, declare as follows:

2 1. I am an attorney with the law firm Latham & Watkins LLP, attorneys  
3 for Petitioners-Plaintiffs (“Petitioners”). I am an attorney in good standing in  
4 Washington, D.C. and Maryland. I have personal knowledge of the facts set forth  
5 below, and if called upon, can and will competently testify thereto.

6 2. I am making this Declaration in support of Petitioners’ Ex Parte  
7 Application for Emergency Status Conference and Temporary Restraining Order.

8 3. Over the past several days, counsel for Petitioners have received  
9 reports from detainees in Adelanto that staff and detainees were exhibiting  
10 symptoms of COVID-19 and certain housing units were being locked down.

11 4. Counsel for Petitioners sent an email to counsel for Respondents  
12 inquiring about these reports and asked for further information. On September 16,  
13 2020 at 2:49 PM, counsel for Respondents replied and alerted Petitioners that there  
14 is currently an outbreak in Adelanto. A true and correct copy of that correspondence  
15 is attached as Exhibit 1.

16 5. On September 16, 2020 at 6:12 PM, counsel for Petitioners emailed  
17 counsel for Respondents to inform them of Petitioners’ intention to file this Ex Parte  
18 Application. As of filing, Petitioners have not received a response.

19  
20 I declare under penalty of perjury that the foregoing is true and correct.

21  
22 Dated: September 16, 2020



23  
24 WILLIAM M. FRIEDMAN  
25 Counsel for Petitioners’-Plaintiffs  
26  
27  
28

# EXHIBIT 1

**Friedman, Will (DC)**

---

**From:** Chen, Hans H (CIV) <Hans.H.Chen@usdoj.gov>  
**Sent:** Wednesday, September 16, 2020 5:49 PM  
**To:** Jessica Bansal  
**Cc:** Ahilan Arulanantham; Deger-Sen, Samir (NY); Friedman, Will (DC); Virgien, Kyle (Bay Area); Robins, Jeffrey (CIV); Mercado-Santana, Victor M. (CIV); Molina, Ernesto H. (CIV); Sola, Wendy (CIV); Wilson, Sarah S. (CIV); Osinoff, Joanne (USACAC)  
**Subject:** RE: Hernandez Roman--Concerning Reports

Jessica,

We have learned that through September 13, 2020, Adelanto had 14 positive cases since the onset of COVID-19 pandemic. All of these cases involved new intakes to Adelanto who were tested upon arrival. 13 of the 14 have recovered and are no longer in medical isolation.

On September 14 and 15, 2020, Adelanto reported 6 new cases originating in two housing units, 5WC and 5WD. Adelanto then tested all the detainees in the affected housing units. Thus far, we have received 38 positive test results for those detainees tested at 5WC and 5WD. The remaining test results are still pending but are expected within the next several days.

There were a total of 80 detainees tested between the two housing units (including the initial six). Among other measures in response, Adelanto has placed 5WC and 5WD on quarantine status and is conducting contact tracing for all infected detainees.

We are preparing a notice and declaration with these facts for the Court and expect to file it soon. As this situation is unfolding in real-time, the information is subject to change frequently due to the nature of this event.

Hans

Hans H. Chen  
Trial Attorney  
United States Department of Justice  
Office of Immigration Litigation – District Court Section  
P.O. Box 868 | Washington, D.C. 20044  
(202) 305-0190 | [hans.h.chen@usdoj.gov](mailto:hans.h.chen@usdoj.gov)

---

**From:** Jessica Bansal <JBansal@aclusocal.org>  
**Sent:** Tuesday, September 15, 2020 12:35 PM  
**To:** Robins, Jeffrey (CIV) <jerobins@CIV.USDOJ.GOV>; Chen, Hans H (CIV) <hchen@CIV.USDOJ.GOV>; Mercado-Santana, Victor M. (CIV) <vmercado@CIV.USDOJ.GOV>  
**Cc:** Ahilan Arulanantham <AArulanantham@aclusocal.org>; Samir.Deger-Sen@lw.com; William.Friedman@lw.com; Kyle.Virgien@lw.com  
**Subject:** Hernandez Roman--Concerning Reports

Counsel,



We are receiving numerous reports from class members and immigration attorneys that several dorms in Adelanto are on quarantine, with many detainees experiencing COVID-19 symptoms, and that numerous staff members have been hospitalized with COVID-19 symptoms.

Can you please (1) look into this and confirm whether there are currently dormitories in which detainees other than new arrivals are under quarantine due to suspected or confirmed COVID-19 cases and (2) provide an update on the number of confirmed and suspected COVID-19 cases among Adelanto detainees and staff as well as the number of detainees reporting COVID-19 symptoms over the past two weeks.

Given the urgency of this situation we ask that you respond no later than tomorrow.

Thank you,

Jessica

Jessica Bansal, Senior Staff Attorney  
ACLU of Southern California  
Inland Empire Office  
(o) 909.380.7501

[aclusocal.org](https://aclusocal.org) || [facebook](#) || [twitter](#) || [blog](#) || [app](#)

**ACLU SoCal: *STAND FOR JUSTICE* >> Download our mobile app at [mobilejusticeca.org](https://mobilejusticeca.org)**

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED.