

1 Ahilan T. Arulanantham, SBN 237841
arulanantham@law.ucla.edu
2 UCLA CENTER FOR IMMIGRATION LAW
AND POLICY
3 385 Charles E. Young Dr. East
Los Angeles, CA 90095
4 Telephone: +1 310 825 1029

5 Jessica Karp Bansal (SBN 277347)
jessica.b@uwunited.org
6 UNEMPLOYED WORKERS UNITED
P.O. Box 142
7 Claremont, CA 91107
Telephone: +818-570-6731

8 Alycia A. Degen (SBN 211350)
adegen@sidley.com
9 Sean A. Commons (SBN 217603)
scommons@sidley.com
10 SIDLEY AUSTIN LLP
11 555 West Fifth Street
Los Angeles, CA 90013
12 Telephone: +1 213 896 6010

13 Attorneys for Plaintiffs
[Additional Counsel Listed on Next Page]

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16

17 CRISTA RAMOS, individually and on behalf
of others similarly situated; CRISTINA
18 MORALES; BENJAMIN ZEPEDA,
individually and on behalf of others similarly
19 situated; ORLANDO ZEPEDA; JUAN
EDUARDO AYALA FLORES, individually
20 and on behalf of others similarly situated;
MARIA JOSE AYALA FLORES; ELSY
21 YOLANDA FLORES DE AYALA; HNAIDA
CENEMAT, individually and on behalf of
22 others similarly situated; WILNA DESTIN;
RILYA SALARY, individually and on behalf
23 of others similarly situated; SHERIKA
BLANC; IMARA AMPIE; MAZIN AHMED;
24 HIWAIDA ELARABI; and SALMA AHMED,

25 *Plaintiffs,*

26 v.

27 ALEJANDRO MAYORKAS, in his official
capacity as Secretary of Homeland Security;
28 UNITED STATES DEPARTMENT OF

Case No. 3:18-cv-01554-EMC

**NOTICE THAT PLAINTIFFS WILL NOT
FILE AN AMENDED COMPLAINT**

The Honorable Edward M. Chen

1 HOMELAND SECURITY; and UNITED
2 STATES OF AMERICA,

3 *Defendants.*

4 KESHAV BHATTARAI; SAJJAN PANDEY;
5 SUMNIMA THAPA; DONALDO POSADAS
6 CACERES; SORAYDA RODRIGUEZ
7 MOTIÑO; DENIS MOLINA CHAVEZ; S.S.,
individually and on behalf of others similarly
situated; and G.D.P., individually and on
behalf of others similarly situated,

8 *Plaintiffs,*

9 v.

10 ALEJANDRO MAYORKAS, in his official
11 capacity as Secretary of Homeland Security;
12 UNITED STATES DEPARTMENT OF
HOMELAND SECURITY; and UNITED
STATES OF AMERICA

13 *Defendants.*

Case No. 3:19-cv-00731-EMC

**NOTICE THAT PLAINTIFFS WILL NOT
FILE AN AMENDED COMPLAINT**

The Honorable Edward M. Chen

1 Additional Counsel for Plaintiffs

2 Emilou MacLean (SBN 319071)
emaclean@aclunc.org
3 William S. Freeman (SBN 82002)
wfreeman@aclunc.org
4 ACLU FOUNDATION
OF NORTHERN CALIFORNIA
5 39 Drumm Street
San Francisco, California 94111
6 Telephone: +1 415 621 2493

7 Michael Kaufman (SBN 254575)
mkaufman@aclusocal.org
8 ACLU FOUNDATION
OF SOUTHERN CALIFORNIA
9 1313 West 8th Street
Los Angeles, CA 90017
10 Telephone: +1 213 977 5236

11 Nicole M. Ryan (SBN 175980)
nicole.ryan@sidley.com
12 SIDLEY AUSTIN LLP
555 California Street, Suite 2000
13 San Francisco, CA 94104
14 Telephone: +1 415 772 1219

Winifred Kao (SBN 241473)
winifredk@advancingjustice-alc.org
ADVANCING JUSTICE – ASIAN
LAW CAUCUS
55 Columbus Avenue
San Francisco, California 94111
Telephone: +1 415 896 1701

Keally Cieslik (SBN 55413)
keally.c@uwunited.org
UNEMPLOYED WORKERS UNITED
100 N. Howard Street, Suite 4000
Spokane, WA 99201
Telephone: +508-250-0518
Admitted Pro Hac Vice

15 *Institution listed for identification purposes
16 only

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1 On December 28, 2023, this Court granted Defendants' Motion to Dismiss Plaintiffs'
2 claims challenging the TPS terminations with prejudice. The Court held that Plaintiffs' claims
3 were mooted by the Biden Administration's "unequivocal" policy change, which "fully addressed
4 Plaintiffs' objections by granting TPS status and/or rescinding TPS terminations at issue." Order
5 at 13.

6 Also on December 28, 2023, this Court granted Defendants' Motion to Dismiss Plaintiffs'
7 claims challenging the \$50 registration fee for lack of standing. The Court gave Plaintiffs 60 days,
8 or until February 26, 2024, to file an amended complaint to pursue this claim. Order at 19-20.
9 Plaintiffs hereby give notice that they will not file an amended complaint.

10 Plaintiffs also respectfully submit that because the Court dismissed certain claims due to
11 lack of subject matter jurisdiction as moot, and will be dismissing the claim challenging the \$50
12 registration fee for lack of standing, any dismissal should be *without* prejudice. As this Court has
13 previously recognized, "[t]he Supreme Court has specifically rejected deciding the merits of a case
14 where the court lacks jurisdiction because jurisdiction is a threshold question, and without
15 jurisdiction the court cannot proceed at all in any cause." *Capella Photonics, Inc. v. Cisco Systems*
16 *Inc.*, No. 14-cv-03348-EMC, 2019 WL 4242665, at *3 (N.D. Cal. Sept. 6, 2019) (Chen, J.)
17 (cleaned up); *accord Hampton v. Pac. Inv. Mgmt. Co. LLC*, 869 F.3d 844, 846 (9th Cir. 2017)
18 ("Dismissals for lack of subject-matter jurisdiction ... must be without prejudice, because a lack of
19 jurisdiction deprives the dismissing court of any power to adjudicate the merits of the case."). In
20 particular, "the law universally disfavors dismissing an action with prejudice based on lack of
21 standing, and there is a strong presumption that such a dismissal is improper." *Capella Photonics,*
22 *Inc.*, 2019 WL 4242665, at *3 (internal quotations omitted); *accord Burwell v. Portland School*
23 *District No. 1J*, 857 Fed.Appx. 377 (9th Cir. May 24, 2021) (vacating in part and remanding with
24 instructions for district court to dismiss claims disposed of due to lack of standing without
25 prejudice, rather than with prejudice). Plaintiffs also contacted Defendants about this issue, and
26 Defendant do not object to Plaintiffs' request that the dismissal be without prejudice.

27 Plaintiffs reserve any and all rights to seek fees and costs for the relief they obtained on
28

1 behalf of TPS holders through the preliminary injunction and subsequent developments, including
2 the *en banc* Ninth Circuit’s vacatur of the panel decision and Defendants’ recent “unequivocal”
3 policy change.

4 Date: February 26, 2024

Respectfully submitted,

5 SIDLEY AUSTIN LLP

6 /s/ Sean A. Commons*

7 Sean A. Commons

8 Alycia A. Degen

9 Nicole Ryan

10 UCLA CENTER FOR IMMIGRATION
LAW AND POLICY

11 /s/ Ahilan T. Arulanantham

12 Ahilan T. Arulanantham

13 ACLU OF NORTHERN CALIFORNIA

14 /s/ Emilou MacLean

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16 William S. Freeman

17 UNEMPLOYED WORKERS UNITED

18 /s/ Jessica Karp Bansal

19 Jessica Karp Bansal

20 Keally Cieslik

21 ADVANCING JUSTICE – ASIAN LAW
22 CAUCUS

23 /s/ Winifred Kao

24 Winifred Kao

25 ACLU OF SOUTHERN CALIFORNIA

26 /s/ Michael Kaufman

27 Michael Kaufman

28 *Attorneys for Plaintiffs*

* Filer attests that all signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.