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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HASSAN AMHIRRA,

Petitioner,

v.

TAMMY FITTING, *et al.*,

Respondent.

Case No.: 2:25-cv-01376-TL

Noting Date: 10/28/2025

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EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

Plaintiff Hassan Amhirra urgently moves for a Temporary Restraining Order (“TRO”) to hold in abeyance his immigration merits hearing scheduled for October 28, 2025, at 1:00 PM, until his right to a qualified interpreter is assured and appropriate remedial measures are determined to remedy the failure to provide interpretation at the preliminary hearings. Mr. Amhirra is a native speaker of the Haouz region dialect of Tamazight, an indigenous North African language. At no point in his removal proceedings to date has Mr. Amhirra been provided a qualified interpreter in the Haouz region dialect. Proceeding with the merits hearing without the necessary preliminary hearings interpreted will severely prejudice his ability to prepare and participate in his own merits hearing and constitute a fundamental due process violation. Indeed, the immigration judge in Mr. Amhirra’s case previously acknowledged on the record that moving forward beyond preliminary hearings without a qualified Tamazight interpreter would violate due process. Nonetheless, Respondents have insisted on pressing ahead with the merits hearing without providing interpretation at the preliminary hearings or securing an appropriate interpreter. Plaintiffs seek emergency relief to prevent irreparable harm and to preserve the status quo until the Court can address the due process violation and fashion an appropriate remedy for the failure to provide interpretation at the preliminary hearings.

On October 27, 2025, this Court granted reconsideration and held that it has jurisdiction to hear Mr. Amhirra’s purely legal, collateral due-process challenge to the manner in which his removal proceedings are being conducted (*i.e.* conducting hearings

1 without a qualified interpreter). The Court recognized that such a claim does not challenge
2 any discretionary decision to commence or prosecute removal, but rather targets the
3 procedural fairness of the proceedings. In line with Ninth Circuit precedent, the Court
4 found that claims seeking to enforce due process rights in removal proceedings are not
5 barred by 8 U.S.C. § 1252(g). *See Walters v. Reno*, 145 F.3d 1032, 1052 (9th Cir. 1998).
6 Accordingly, Mr. Amhirra's due process claim is properly before this Court, and the Court
7 indicated it would entertain a renewed request for a TRO to avert imminent harm while the
8 matter is pending.

9 ***Emergency relief is necessary.*** Mr. Amhirra's merits hearing on his applications
10 for relief from removal is set for today, October 28, 2025, at 3:00 PM. *See Ex. 1, EOIR*
11 *Hearing Notice*. Without Court intervention, that hearing will proceed without providing
12 Haouz region Tamazight interpreter in the preliminary hearings, effectively nullifying Mr.
13 Amhirra's right to be prepare, understand, present, and heard. The irreparable injury to Mr.
14 Amhirra's due process rights and his ability to obtain relief, such as asylum or other
15 protection will be immediate and constitutionally profound if the hearing is not postponed.
16 Plaintiff respectfully requests that the Court issue a TRO before 3:00 PM on October 28,
17 2025, enjoining Respondents, including the Executive Office for Immigration Review
18 ("EOIR") and its Immigration Judges, from conducting or continuing the merits hearing
19 until due process is satisfied and the Court determines what remedial measures are
20 necessary to cure the interpreter denial at the preliminary hearings.

21 As set forth below, Plaintiff meets all the requirements for temporary injunctive
22 relief. He easily satisfies the four-factor test of *Nken v. Holder*, 556 U.S. 418 (2009), for
23 obtaining a stay or injunction in the immigration context. Plaintiff further requests that any
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1 TRO explicitly forbid ICE from removing or transferring him during the pendency of this
2 action, to preserve the Court’s jurisdiction and ability to render meaningful relief. Finally,
3 Plaintiff asks the Court to set an expedited briefing schedule on the remedial phase of this
4 case – *i.e.*, to determine what relief or new proceedings are required to cure the deprivation
5 of a qualified interpreter throughout Mr. Amhirra’s removal proceedings to date. For the
6 Court’s convenience, a Proposed Order is submitted herewith, containing specific factual
7 findings and relief requested.

8 **II. FACTUAL BACKGROUND**

9 Mr. Amhirra is an indigenous Amazigh (Berber) man who primarily speaks Tamazight
10 (Haouz region dialect), a language for which qualified interpreters are exceedingly rare.
11 ECF 1 at ¶ 4. He has only a rudimentary understanding of other languages. *Id.* at ¶ 5. He
12 has been in detained at the Northwest ICE Processing Center and currently in renewed
13 removal proceedings before the immigration court at in Tacoma, Washington. Throughout
14 those proceedings, no interpreter fluent in the Haouz region dialect of Tamazight has been
15 provided to Mr. Amhirra. *Id.* at ¶ 22. At master calendar hearings, and in preparation for
16 the merits hearing, Mr. Amhirra has not been able to fully comprehend the dialogue or
17 adequately communicate with the Court, due to the lack of an interpreter in his language.
18 *Id.* at ¶ 23. His counsel and the immigration judge are aware of the language barrier. In
19 fact, at a prior proceeding, the Immigration Judge explicitly noted on the record that
20 proceedings without an appropriate Tamazight interpreter would be fundamentally unfair
21 and terminated proceedings. Despite this acknowledgment, Respondents have not secured
22 a qualified Haouz region interpreter for any hearing in the renewed proceedings, and the

1 Department of Homeland Security’s attorneys have indicated their intent to proceed
2 regardless.

3 Mr. Amhirra filed the instant federal action to enforce his Fifth Amendment right to
4 due process in his removal case – specifically, his right to a competent interpreter so that
5 he can understand and participate in the proceedings. The sole objective of this action is to
6 ensure a fair hearing, not to challenge the Government’s initiation of removal proceedings
7 or any final order. Initially, the Court dismissed the case for lack of jurisdiction, construing
8 the claims as an attempt to impede prosecutorial discretion under 8 U.S.C. § 1252(g).
9 However, upon Plaintiff’s motion for reconsideration, the Court reconsidered its prior
10 dismissal on October 27, 2025 and agreed that Mr. Amhirra’s claim is a procedural due
11 process challenge to the manner in which the hearings are conducted, and thus falls outside
12 the narrow scope of § 1252(g). *See generally* ECF 16. The Court’s order recognized that
13 allowing the removal case to proceed “in the absence of a qualified interpreter” is the
14 precise harm complained of, and it noted that Plaintiff seeks only to “hold in abeyance the
15 removal proceedings ... until the interpreter requirement is satisfied.” *Id.* This Court has
16 thus confirmed its jurisdiction and signaled willingness to consider injunctive relief to
17 prevent manifest injustice.

18 Following the Court’s reconsideration order, undersigned counsel conferred with
19 Respondents’ counsel regarding a possible stipulation to postpone the merits hearing and
20 to prevent Mr. Amhirra’s transfer or removal during the litigation. As of the filing of this
21 Motion, however, no agreement has been reached. The merits hearing remains set for
22 October 28, 2025, at 3:00 PM, before Immigration Judge Tammy Fitting at the Tacoma
23 Immigration Court. In light of the imminent deadline, Plaintiff files this Emergency Motion
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1 and respectfully requests immediate relief to maintain the status quo. The sole purpose of
2 the TRO is to enjoin Respondents from going forward with the October 28 hearing until
3 the Court can adjudicate Plaintiff's due process claim and order an appropriate remedy
4 such as a new preliminary hearing with a qualified interpreter or other relief deemed just
5 and proper.

6 **III. LEGAL STANDARD**

7 A temporary restraining order is an extraordinary remedy intended to prevent
8 immediate, irreparable harm and to preserve the status quo until a hearing can be held on
9 the merits of the requested relief. In the immigration context, the Supreme Court has
10 emphasized that courts considering a stay of removal or similar injunctive relief should
11 apply the traditional four-factor test. *See Nken v. Holder*, 556 U.S. 418, 434 (2009). Those
12 factors are: (1) a likelihood of the applicant's success on the merits; (2) irreparable harm
13 to the applicant absent relief; (3) the balance of equities (hardship to the applicant versus
14 harm to the Government); and (4) the public interest. *See Id.*; *see also Hilton v. Braunskill*,
15 481 U.S. 770, 776 (1987). The first two factors "are the most critical" and a stronger
16 showing on one can offset a weaker showing on the other, so long as at least some chance
17 of success on the merits is shown. *See Nken*, at 434; *Leiva-Perez v. Holder*, 640 F.3d 962,
18 970 (9th Cir. 2011) (explaining sliding-scale approach post-*Nken*). The last two factors
19 merge when the Government is the opposing party, because the Government's harm and
20 the public interest are often one and the same. *See Nken*, at 435. Ultimately, the court must
21 "balance the competing claims of injury and consider the effect on each party of the
22 *granting* or withholding of the requested relief," paying particular attention to the public
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1 consequences. *Winter v. NRDC*, 555 U.S. 7, 24 (2008). We address each factor in turn as
2 it applies to Mr. Amhirra’s motion.

3 **IV. ARGUMENT**

4 **A. Likelihood of Success on the Merits**

5 Plaintiff is likely to succeed on the merits of his due process claim. The Fifth
6 Amendment guarantees noncitizens a right to full and fair proceedings in removal hearings,
7 which includes the right to comprehend the proceedings and communicate effectively. *See*
8 *Campos-Sanchez v. INS*, 164 F.3d 448, 450 (9th Cir. 1999) (due process requires that
9 immigration proceedings be fundamentally fair). Where a respondent in removal
10 proceedings does not speak English, the failure to provide a competent interpreter
11 effectively denies the respondent a meaningful opportunity to be heard, in violation of due
12 process. *See Hartooni v. I.N.S.*, 21 F.3d 336, 340 (9th Cir. 1994). The Ninth Circuit has
13 long held that “due process [is] violated where incompetent translation prevented [the
14 noncitizen] from presenting his case.” *See Perez-Lastor v. INS*, 208 F.3d 773, 777–78 (9th
15 Cir. 2000). Here, the situation is even more stark: Mr. Amhirra has no interpreter at all in
16 the language he understands. Being forced to proceed in a language one does not
17 adequately speak or comprehend is tantamount to no hearing at all, as critical as having no
18 counsel or being tried in absentia.

19 Multiple sources of law recognize the right to an interpreter in immigration
20 proceedings. Department of Justice regulations require that immigration judges assure a
21 competent interpreter is available if the respondent is not fluent in English. *See, e.g.*, 8
22 C.F.R. § 1240.5 (any person acting as interpreter in immigration court must be sworn to
23 translate accurately). This fundamental right does arise only at the time of a merits hearing.
24

1 *See Hartoni*, 21 F.3d at 340. In Mr. Amhirra’s first removal proceedings, the immigration
2 judge herself acknowledged this fundamental right attached at preliminary hearings and
3 that proceeding at all without an interpreter in Plaintiff’s language would violate due
4 process. *See Ex. 2, IJ Order Terminating Proceedings*. Yet Respondents have been unable
5 or unwilling to secure a qualified Haouz region Tamazight interpreter, effectively
6 depriving Mr. Amhirra of the ability to participate in preparation, understand the
7 government’s initial evidence, or the Court’s instructions. Regardless, Respondents have
8 disregarded the procedural necessity of interpretation at all hearings, denying Mr.
9 Ahmirra’s motion to terminate for lack, and have scheduled Mr. Ahmirra for a individual
10 hearing. *See Ex 3, IJ Order Denying Motion to Terminate Proceedings*.

11 Plaintiff’s claim in this Court is straightforward: conducting his removal hearing “in
12 the absence of a qualified interpreter” at any point in these proceedings violated the Fifth
13 Amendment. He does not seek review of any discretionary decision, but rather enforcement
14 of the basic fair-hearing guarantee. This Court has already determined that such a due
15 process claim is within its jurisdiction and raises serious legal questions. On the merits of
16 that claim, Plaintiff is likely to prevail. The facts are essentially undisputed—Respondents
17 have not provided an appropriate interpreter—and the law strongly supports Plaintiff’s
18 position that this failure renders the proceedings fundamentally unfair. At a minimum,
19 Plaintiff has shown “serious questions going to the merits” of his claim, which is sufficient
20 where, as here, the balance of hardships tips sharply in his favor. *See Wild Rockies v.*
21 *Cottrell*, 632 F.3d. 1127, 1131-1132 (9th Cir. 2011).

22 Finally, to the extent “prejudice” is a component of the due process inquiry, Plaintiff
23 easily demonstrates prejudice or the potential to affect the outcome. *See Acewicz v. INS*.

1 984 F.2d 1056, 1063 (9th Cir.1993) (Deportation proceedings violate due process if the
2 alien does not receive a "full and fair" hearing and suffers prejudice as a result of the
3 inadequate proceedings.) Without an interpreter, Mr. Amhirra cannot fully explain the
4 Court's instructions to counsel, consequences of the proceedings, persecution he fled or
5 respond coherently to questions—virtually guaranteeing an erroneous result. Courts have
6 recognized that poor or absent interpretation can lead to unwarranted adverse credibility
7 findings and the exclusion or distortion of evidence, thereby altering the outcome of the
8 case. Interpretation is required at all phases of the proceedings. In sum, Plaintiff has a high
9 likelihood of success in ultimately obtaining relief, such as an order requiring a new
10 hearings with a qualified interpreter, or other appropriate remedy, because the complete
11 denial of interpretation services in his language is a textbook due process violation.

12 **B. Irreparable Harm Absent Relief**

13 If the TRO is not granted, Mr. Amhirra will suffer irreparable harm. The scheduled
14 October 28, 2025 hearing will go forward with Mr. Amhirra effectively unable to prepare,
15 participate in, or understand his own removal proceedings. He will be deprived of his right
16 to a fair opportunity to present his asylum claim, potential consequences, or other defenses
17 to removal. This is not a trivial procedural hiccup; it strikes at the heart of due process. The
18 Supreme Court has noted that deprivation of constitutional rights “unquestionably
19 constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (holding minimal
20 losses of rights guaranteed by the constitution constitute irreparable harm).

21 Here, the denial of Mr. Amhirra's due process right to a comprehensible hearing cannot
22 be remedied after the fact. If forced to proceed without an interpretation of previous
23 hearing, Mr. Amhirra may misinterpret procedural requirements; inadvertently omit
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1 critical evidence, misunderstand questions, or appear not credible due to understanding of
2 the proceedings. Failure to understand the initial proceedings could also result in the
3 immigration judge premitting or denying his applications for relief as a result, and an
4 order of removal might be entered—all based on a fundamentally flawed preliminary
5 proceedings. Even if Plaintiff could later appeal or move to reopen on due process grounds,
6 the damage will have been done: evidence will be frozen in a tainted record, in fact the
7 evidentiary record in Mr. Ahmirra’s proceedings is already closed, and correcting the error
8 would be exceedingly difficult. Courts recognize that preventing unlawful hearing in the
9 first place is necessary to avoid irreparable impairment of rights. Once the hearing is
10 conducted without a proper interpreter, the bell cannot be unrung. In practical terms, there
11 is no adequate remedy at law for forcing a person to undergo an unfair hearing that could
12 result in deportation to persecution or other harm.

13 Furthermore, allowing the hearing to proceed would expose Mr. Amhirra to the
14 continued detention, which after more than a year is already prolonged, and imminent risk
15 of removal. If he is ordered removed as a result of the merits hearing, DHS could execute
16 that removal before appellate judicial review could occur at the Circuit Court. While the
17 Government might argue Mr. Amhirra could continue to pursue appeals from abroad, the
18 Supreme Court in *Nken* acknowledged that removal causes a “serious burden” and often
19 effectively deprives the noncitizen of meaningful review. Here, the harm is not merely the
20 prospect of removal, but the loss of Plaintiff’s right to a fair process to determine his
21 removability and relief eligibility in the first place. That harm is irreparable. If he is
22 removed without a fair hearing, his right to due process in the removal proceeding is forever

1 lost; even if he were returned later, the opportunity to timely present his case with fresh
2 evidence and recollection of testimony will have passed.

3 In sum, absent a TRO, Mr. Amhirra faces immediate, irreparable injury: a violation of
4 his Fifth Amendment right to due process and the potential wrongful denial of his asylum
5 claim due to an unfair proceeding. This factor weighs heavily in favor of relief.

6 **C. Balance of Equities**

7 The balance of equities tips decidedly in Plaintiff's favor. On Plaintiff's side of the
8 scale is the profound harm described above: loss of constitutional due process rights, risk
9 of an erroneous denial of refuge, and possible removal to a country where he fears
10 persecution – all without a fair hearing. On the Government's side, by contrast, the harm
11 from a brief delay of the proceedings is minimal. Enjoining the October 28 hearing simply
12 maintains the status quo and ensures that if Mr. Amhirra's case goes forward, it does so in
13 a fair manner. The Government cannot claim a legitimate interest in conducting a
14 proceeding that is a nullity or that will have to be redone. In fact, ensuring language access
15 advances the Government's interest in the orderly administration of justice, rather than
16 impeding it. Taking modest steps to assess and provide an interpreter would facilitate, not
17 threaten the efficient resolution of the case. A short postponement to secure an interpreter,
18 remedy the failure of to provide an interpreter at the previous hearings, or to allow this
19 Court to resolve the interpreter issue will ultimately save time and prevent the waste of
20 resources on a hearing that would otherwise be subject to challenge and likely nullified.

21 The Government may argue that it has an interest in the expeditious execution of
22 immigration proceedings. Generally, that is true – but speed cannot trump justice. The
23 Supreme Court recognizes a strong public interest in prompt immigration enforcement, but
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1 only insofar as the proceedings comport with the law and due process. *See Nken*, at 436.
2 Here, any governmental interest in proceeding quickly is outweighed by the catastrophic
3 consequence to Mr. Amhirra of proceeding unfairly. There is no appreciable harm to
4 Respondents in delaying the hearing until an interpreter is available and due process is
5 assured. In fact, the government took no action to remove Mr. Amhirra while he languished
6 in detention for seven months. Now, they seek to hurriedly remove Mr. Amhirra without
7 providing an interpreter at any point thus far in his removal proceedings. Thus, the equities
8 strongly favor Plaintiff. The hardship to Mr. Amhirra if the TRO is denied far exceeds any
9 inconvenience to the Government if the TRO is granted.

10 **D. Public Interest**

11 The public interest is served by granting the TRO. The public has a compelling interest
12 in the integrity of the judicial and administrative process and in ensuring that governmental
13 proceedings are conducted fairly and in accordance with the Constitution. *See Hernandez*
14 *v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (“The public interest in upholding the
15 Constitution’s due process guarantees always weighs heavily.”). There is little public value
16 in rushing through a hearing that is fundamentally flawed; to the contrary, it undermines
17 public confidence in the immigration system. By contrast, temporarily halting the
18 proceedings to ensure Mr. Amhirra is afforded his due process rights reinforces the
19 principle that our legal system safeguards fairness for everyone, including noncitizens and
20 linguistic minorities.

21 It is also in the public interest to get it right the first time. If the immigration court
22 proceeds without an interpreter, the likely result is an unjust outcome that will spur further
23 litigation (appeals, motions to reopen, or collateral challenges). That wastes judicial
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1 resources and taxpayer funds. The public interest favors preventing an erroneous removal
2 that could send a refugee back into harm's way without fair hearing. Additionally, in cases
3 where the Government is the opposing party, the public interest and the Government's
4 interest merge. While the Government has an interest in enforcing immigration laws, it also
5 has a fundamental obligation to do so through fair procedures. Here, upholding due process
6 aligns with the public's interest in justice, whereas proceeding in violation of due process
7 would disserve that interest.

8 In short, granting the TRO will promote the public's confidence that our courts demand
9 fundamental fairness before an individual may be ordered deported. No public interest is
10 harmed by a brief pause to ensure a qualified interpreter is present; if anything, the public
11 interest is enhanced by adherence to the rule of law and the Constitution's guarantees.

12 **V. REQUEST FOR REMEDIAL BRIEFING SCHEDULE**

13 Finally, Plaintiff requests that the Court set a schedule for the parties to brief and
14 propose appropriate remedial relief to cure the denial of a qualified interpreter in Mr.
15 Amhirra's past and pending removal proceedings. Granting the TRO will prevent the
16 immediate violation, but Mr. Amhirra has already been navigating his case without an
17 interpreter up to this point, and the question remains how to fully remedy the due process
18 violation. Plaintiff anticipates that the remedy may include an order requiring a preliminary
19 hearing in immigration court with a certified Haouz region Tamazight interpreter provided
20 to cure prejudicial effects of prior proceedings that took place without proper interpretation.

21 Plaintiff notes that the Court, in its reconsideration order, instructed the parties to
22 meet and confer on coordinating this case with the separate habeas petition and suggested
23 possibly converting the TRO motion to a preliminary injunction motion to streamline
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1 proceedings. Plaintiff may be amenable to such coordination. However, given the
2 immediate time constraints, Plaintiff seeks a TRO now to avert the impending harm and
3 will comply with any further scheduling or consolidation directives once the emergency is
4 past. Plaintiff respectfully asks the Court to use its equitable powers to not only pause the
5 unconstitutional hearing, but also to guide the case toward a full resolution on how to
6 correct the underlying due process violation.

7 **VI. CONCLUSION**

8 For the foregoing reasons, Plaintiff Hassan Amhirra respectfully requests that this
9 Court GRANT the Emergency Motion for a Temporary Restraining Order. Specifically,
10 Plaintiff asks that the Court:

11 **Enjoin** Respondents and the Executive Office for Immigration Review from
12 conducting or advancing Mr. Amhirra's removal merits hearing scheduled for October 28,
13 2025, at 3:00 PM, or from taking any further adjudicative steps in his removal proceedings,
14 until Mr. Amhirra is afforded a qualified interpreter in the Haouz region dialect of
15 Tamazight and this Court determines that due process has been satisfied after appropriate
16 remedial proceedings;

17 **Enjoin** Respondents, including U.S. Immigration and Customs Enforcement (ICE),
18 from removing Mr. Amhirra from the United States, or transferring him from the Western
19 District of Washington (or from his current detention facility), while this Court's TRO is
20 in effect and until the Court has resolved the merits of Plaintiff's claims and ordered
21 remedial relief;

1 **Order** the parties to submit briefing on the issue of appropriate remedial relief to cure
2 the lack of a qualified interpreter, on a schedule to be set by the Court (or, in the alternative,
3 direct the parties to meet and confer and propose a briefing schedule within a few days);

4 **Provide** any other and further relief that may be just and proper to safeguard Plaintiff's
5 rights and the Court's jurisdiction.

6 Plaintiff thanks the Court for its swift attention to this urgent matter.

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8 Dated: September 8, 2025

Respectfully Submitted,

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/s/Ines Ati

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Ines Ati, Esq.

Email: ia@urenaesq.com

11

Rafael Ureña, Esq.

12

Phone: (703) 989-4424

Email: ru@urenaesq.com

13

14

URENA & ASSOCIATES, PLLC

42 West Street, Floor R

15

Brooklyn, NY 11222

Lead Counsel for Plaintiff

16

17

Julia Carroll Hunter

LAW OFFICES OF CAROL L. EDWARD
& ASSOCIATES (SEA)

18

500 DENNY WAY

19

SEATTLE, WA 98109

206-956-9556

20

Fax: 206-956-4025

Email: julia@seattle-immigration.com

21

Local Counsel for Plaintiff

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CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2025, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. Service of the motion is being made upon all Respondents by operation of the Court’s ECF notification system to Respondents’ counsel of record.

Dated: October 28, 2025

Respectfully Submitted,

/s/ Ines Ati
Ines Ati, Esq.
Email: ia@urenaesq.com

Rafael Ureña, Esq. (Pro Hac Vice to be filed)
Phone: (703) 989-4424
Email: ru@urenaesq.com

URENA & ASSOCIATES, PLLC
42 West Street, Floor R
Brooklyn, NY 11222