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10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 TATIANA ZAIKO,
13 Plaintiff,
14 v.
15 JAMES JANECKA, et al.
16 Respondents.
17

No. 2:25-cv-08646-MWC-AGR

**RESPONDENTS' OPPOSITION TO
PLAINTIFF'S EX PARTE
APPLICATION; SUGGESTION OF
MOOTNESS**

**RESPONDENTS' OPPOSITION TO *EX PARTE* TRO APPLICATION;
SUGGESTION OF MOOTNESS**

Plaintiff Tatiana Zaiko has filed an *Ex Parte* Application for Temporary Restraining Order and Order to Show Cause (the “*Ex Parte* TRO Application”) [Dkt. 3]. The *Ex Parte* TRO Application should be denied, and an order to show cause re: dismissal of this action should be entered instead. A Notice to Appear (NTA) was issued to Plaintiff Tatiana Zaiko back on August 23, 2025. A copy of that NTA is attached as Exhibit A hereto. As set forth on her NTA, Plaintiff Zaiko has been ordered to appear before the Immigration Judge on November 4, 2025 at 8:00 a.m. In claiming she has not been issued an NTA, the Plaintiff’s *Ex Parte* TRO Application and Petition are wrong. Moreover, this action more generally is moot and devoid of subject matter jurisdiction.

As a threshold matter, the *Ex Parte* TRO Application does not comply with Local Rule 7-19 in its form or content. Although the *Ex Parte* TRO Application claims notice was provided, it states only that “Counsel for Petitioner provided notice of this application to the United States Attorney’s Office for the Central District of California by email on September 11, 2025 at 4:30 p.m. Opposing counsel was informed of Petitioner’s intent to file this application and the nature of the relief sought.” *Id.* It is unclear what was supposedly e-mailed and to whom. Nor was any attempt at providing oral notice of the application identified, as Local Rule 7-19 required.

More importantly, however, Tatiana Zaiko was issued an NTA on August 23, 2025, and provided personal service of it. *See* Exhibit A hereto. She is obligated to appear in front of the Immigration Judge on November 4, 2025. *Id.* While the NTA indicates that Plaintiff Tatiana Zaiko apparently declined, in person, to sign the certification of service for her NTA (her Petition suggests she may be attempting to refuse to participate in her immigration proceedings more generally), that is irrelevant to the fact that immigration proceedings were promptly and timely commenced against her, and she is thus properly detained pursuant to those proceedings.

1 Insofar as the Petition also complains about Plaintiff putatively being required to
2 sign documents that would be used against her in her removal proceedings, it may be
3 referring to her declination of signing the certificate of service for her NTA. That of
4 course would not be a document “used against her”—it is a notice of the immigration
5 proceedings having been commenced against her, and that she is obliged to appear for
6 them. More importantly, however, to the extent Plaintiff Zaiko may wish to argue that
7 the Immigration Court should not issue a removal order against her in reliance on some
8 as-yet unknown documents which she might claim she was coerced into signing, then
9 she and her counsel would be free to make such arguments before the Immigration
10 Court. If an IJ then issues a final removal order against her, she could try to appeal such
11 a future IJ removal order decision to the BIA and the Circuit Court. But there is no
12 jurisdiction to speculatively mount a collateral challenge to such a future IJ removal
13 order in District Court—and certainly not preemptively by a habeas petition.

14 Accordingly, the *Ex Parte* TRO Application should be denied. Respondents
15 further suggest that an OSC re: dismissal of this action should issue, on the grounds that
16 it is moot and lacking in subject matter jurisdiction.

17
18 Dated: September 13, 2025

Respectfully submitted,

19 BILAL A. ESSAYLI
20 Acting United States Attorney
21 DAVID M. HARRIS
22 Assistant United States Attorney
23 Chief, Civil Division
24 DANIEL A. BECK
25 Assistant United States Attorney
26 Chief, Complex and Defensive Litigation
27 Section

28 /s/ Daniel A. Beck
29 DANIEL A. BECK
30 Assistant United States Attorney

Attorneys for Respondents

CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 569 words, which complies with the word limit of L.R. 11-6.1.

Dated: September 13, 2025

/s/ Daniel A. Beck
DANIEL A. BECK
Assistant United States Attorney
Attorneys for Respondents

EXHIBIT A

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]
Event No: LOS2508000810

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

FINS: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: TATIANA ZAIKO

currently residing at:

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ You are an arriving alien.
- ☐ You are an alien present in the United States who has not been admitted or paroled.
- ☒ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of RUSSIA and a citizen of RUSSIA;
3. You were admitted to the United States at Newark, NJ on December 22, 2022, as a B2, nonimmigrant Visitor For Pleasure with authorization to remain in the United States for a temporary period not to exceed June 21, 2023;
4. You remained in the United States beyond June 21, 2023 without authorization from the Immigration and Naturalization Service or its successor the Department of Homeland Security.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(1)(B) of the Immigration and Nationality Act (Act), as amended, in that after admission as a nonimmigrant under Section 101(a)(15) of the Act, you have remained in the United States for a time longer than permitted, in violation of this Act or any other law of the United States.

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

10400 RANCHO RD, ADLanto C.A 92301

(Complete Address of Immigration Court, including Room Number, if any)

on 11/4/2025 at 8:00 AM to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

C 07267 COVARRUBIAS - SDDO

(Signature and Title of Issuing Officer)

Date: August 23, 2025

Los Angeles, Ca

(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

X

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on August 23, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- ☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail
☐ Attached is a credible fear worksheet.
☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the ENGLISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

X Decline

(Signature of Respondent if Personally Served)

A 9266 VILLALOBOS - Deportation
Officer

(Signature and Title of officer)

Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/eoir/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

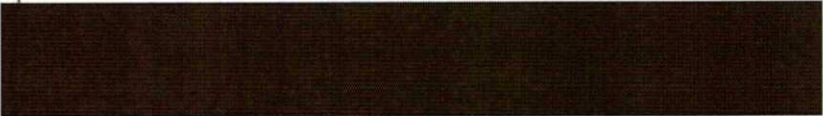
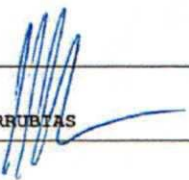
For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name ZAIKO, TATIANA		Date 08/23/2025
CURRENTLY RESIDING AT: ----- 		
Signature C 07247 COVARRUBIAS 	Title SDDO	

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