

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

S.A., et al.,
Plaintiffs,
v.
DONALD J. TRUMP, et al.,
Defendants.

Case No. 18-cv-03539-LB

**REQUEST FOR SUPPLEMENTAL
BRIEFING**

Re: ECF No. 24

The court asks the parties for additional supplemental briefing on the following issue.

To obtain a preliminary injunction, the plaintiffs must show that (among other things) “they are ‘likely to suffer irreparable harm in the absence of preliminary relief.’” *Nat’l Wildlife Fed’n v. Nat’l Marine Fisheries Serv.*, 886 F.3d 803, 817 (9th Cir. 2018) (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). The Ninth Circuit has held that “[t]here must be a ‘sufficient causal connection’ between the alleged irreparable harm and the activity to be enjoined, and showing that ‘the requested injunction would forestall’ the irreparable harm qualifies as such a connection.” *Id.* at 819 (citing *Perfect 10, Inc. v. Google, Inc.*, 653 F.3d 976, 981–82 (9th Cir. 2011)). “However, a plaintiff ‘need not further show that the action sought to be enjoined is the exclusive cause of the injury.’” *Id.* (quoting *M.R. v. Dreyfus*, 697 F.3d 706, 728 (9th Cir. 2012)). “It is not an abuse of discretion for a court to issue an injunction that does not completely prevent the irreparable harm that it identifies.” *Id.* at 823.

1 The court asks the parties' views as to how this irreparable-harm causal-connection
 2 requirement applies in this case. Among other things, the court asks the parties to address the
 3 following issues:

- 4 1. The plaintiffs argue that CAM Parole Program participants are suffering irreparable
 5 harm that "takes the form of prolonged separation from family members and exposure
 6 of minors to grave risks of physical danger."¹ How does the causal-connection
 7 requirement apply in a case where the plaintiffs are from the outset separated from their
 8 families and located in dangerous countries but the government did not affirmatively
 9 place them in those situations (as opposed to, e.g., a case where the government is
 10 threatening to affirmatively deport plaintiffs who are located in the United States to
 11 dangerous situations in other countries)?
- 12 2. How does the causal-connection requirement — including the option to satisfy this
 13 requirement by showing that "the requested injunction would forestall the irreparable
 14 harm" — apply if the plaintiffs "do not ask the Court to mandate a particular outcome
 15 in any given CAM application"?²
- 16 3. The plaintiffs argue that CASA is suffering irreparable harm because (among other
 17 things) "its reputation in the community — and corresponding ability to raise funds to
 18 maintain its operations — was damaged by the mass rescission, and its resources [that
 19 it had previously devoted to supporting the CAM Parole Program] were wasted and
 20 had to be further diverted."³ How does the causal-connection requirement apply to a
 21 government's decisions with respect to a government program and an organization's
 22 reputational harm or resource allocation?

23 The court asks the parties to submit supplemental briefs of no more than five pages addressing
 24 the causal-connection requirement by February 11, 2019, at 2:00 p.m. Alternatively, if the parties
 25

26 ¹ Pls. Suppl. Br. – ECF No. 58 at 2.

27 ² Pls. Suppl. Reply – ECF No. 67 at 3.

28 ³ Pls. Suppl. Br. – ECF No. 58 at 6.

1 would like more time, they may stipulate to continuing the February 14, 2019 hearing to February
2 21, 2019 at 9:30 a.m. (in which case the court asks the parties to submit their supplemental briefs
3 by February 15, 2019) or to any subsequent Thursday at 9:30 a.m. (in which case the parties may
4 propose alternative briefing schedules, including, should they choose, a proposed schedule and
5 proposed page limits for sequential opening/response/reply briefs as opposed to simultaneous
6 briefs).

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8 **IT IS SO ORDERED.**

9 Dated: February 6, 2019



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11 LAUREL BEELER
United States Magistrate Judge

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