



1           The Association for Pro Bono Counsel (“APBCo”) respectfully moves for  
2 leave to file an *amicus curiae* brief in the above-captioned matter. Plaintiffs and  
3 Defendant have been notified of APBCo’s request to file an *amicus curiae* brief, and  
4 all parties consent to APBCo’s request.

5           APBCo is a mission-driven membership organization of more than 260  
6 attorneys and practice group managers who manage and implement pro bono  
7 practices in over 130 of the world’s largest law firms. APBCo was founded in an  
8 effort to provide greater public access to justice through pro bono legal services.  
9 APBCo’s members manage pro bono practices that provide millions of hours to pro

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

IMMIGRANT DEFENDERS  
LAW CENTER, *et al.*,

Plaintiffs,

v.

CHAD WOLF, Acting Secretary,  
Department of Homeland  
Security, in his official capacity,  
*et al.*,

Defendants.

CASE NO.: 2:20-cv-9893-JGB-SHK

**[PROPOSED] ORDER GRANTING  
ASSOCIATION OF PRO BONO  
COUNSEL'S UNOPPOSED MOTION  
FOR LEAVE TO FILE *AMICUS  
CURIAE* BRIEF IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
PRELIMINARY INJUNCTION**

Hearing Date: December 14, 2020  
Hearing Time: 9:00 a.m.  
Courtroom: 1  
Judge:

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**TABLE OF AUTHORITIES**

Page(s)

**STATUTES**

8 U.S.C. § 1158(d)(4) ..... 2

8 U.S.C. § 1229a(b)(4)(A)..... 2

8 U.S.C. § 1362..... 71 / F.2468.18.024.757.56.ET. (2011)

**OTHER AUTHORITIES**

Laura Abel, *Language Access in Immigration Courts* (2011),  
[https://www.brennancenter.org/sitewg/694458q0.000qN3792reW\\*nBT6e/-0.499948](https://www.brennancenter.org/sitewg/694458q0.000qN3792reW*nBT6e/-0.499948)



1 Exec. Off. of Immigr. Rev., U.S. Dep't of Just., Memorandum: Operating Policies  
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1 Daniella Silva, *One Ye*  
 2 *and Instability*, NBC News (Jan. 29, 2020),  
 3 [https://www.nbcnews.com/news/us-news/one-year-remain-mexico-policy-](https://www.nbcnews.com/news/us-news/one-year-remain-mexico-policy-migrants-confront-danger-instability-n1124786)  
 4 [migrants-confront-danger-instability-n1124786](https://www.nbcnews.com/news/us-news/one-year-remain-mexico-policy-migrants-confront-danger-instability-n1124786) ..... 8  
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*Travel Restrictions Fact Sheet*, U.S. Embassy & Consulates Mex.,  
<https://mx.usembassy.gov/travel-restrictions-fact-sheet/> (last visited  
 Nov. 19, 2020) ..... 8

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**INTEREST OF AMICUS CURIAE**

The Association for Pro Bono Counsel (“APBCo”) is a mission-driven membership organization of more than 260 attorneys and practice group managers who manage and implement pro bono practices in over 130 of the world’s largest law firms. APBCo was founded in an effort to provide greater public access to justice through pro bono legal services. APBCo’s mission includes (1) promoting and encouraging the development of full-time law firm pro bono counsel, (2) augmenting the professional development of pro bono counsel, and (3) representing the greater law firm pro bono community. APBCo’s members manage pro bono practices that provide millions of hours to pro bono clients every year, collaborating with community-based legal aid agencies and private sector law firms across the nation. APBCo members

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1 undertaken by APBCo members at the United States-Mexico border, pro bono counsel  
2 nonetheless report a long series of hurdles that make it difficult to effectively represent  
3 their clients. These hurdles include extended waiting times to see clients, limited  
4 number or availability of rooms in which to meet with clients, inability to reach clients  
5 by telephone, and inability to bring basic equipment such as cell phones and laptops  
6 into detention centers, making representation of occupied individuals (at)-3(6)  
7 burdensome.<sup>8</sup>

8 While detention makes it difficult for attorneys to provide effective pro bono  
9 representation to status migrants, the current challenges now imposed by the Protocols  
10 have made a difficult situation demonstrably worse. Indeed, the MPP present  
11 APBCo's members with insurmountable impediments to pro bono representation.

12 **III. The Protocols Impose a Draconian Form of Detention That Exacerbates**  
13 **the Issues Facing Pro Bono Counsel and Asylum Seekers and Imposes**  
14 **Significant and Unprecedented Obstacles for Pro Bono Representation.**

15 By imposing the United States-Mexico international border between U.S.  
16 attorneys and potential pro bono clients, the Protocols have effectively eviscerated the  
17 statutory right to counsel for tens of thousands of asylum seekers. They have also  
18 undermined the private bar's efforts to offer effective and efficient representation on  
19 a pro bono basis.  
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1 cities, where they must wait indefinitely for their asylum hearings.<sup>9</sup> The Protocols

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kidnapping in the Tijuana area, many affecting individuals trapped under the MPP.<sup>12</sup>  
Furthermore, the global COVID-19 pandemic has resulted in the closing of 757.56 re424(t)-



1 need for pro bono representation from the private bar thus cannot be understated. Yet,  
2 rather than promoting the effective and efficient administration of justice, the  
3 Protocols are depriving tens of thousands of asylum seekers of access to counsel,  
4 putting “the mental and physical health of asylum seekers at great risk, [and] allowing  
5 harm to be inflicted upon a population that has already experienced severe levels of  
6 trauma.”<sup>18</sup>

7 **CONCLUSION**

8 For the foregoing reasons, APBCo respectfully requests that the Court grant  
9 Plaintiffs’ Motion for Preliminary Inju4 TfBT518.351W\*ñBT/F2 14.04 Tf1 0 0 1 214.13 518

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