

**No. 19-15716**

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**IN THE UNITED STATES COURT OF  
APPEALS FOR THE NINTH CIRCUIT**

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**INNOVATION LAW LAB, *et al.*,**

*Plaintiffs-Appellees,*

v.

**KEVIN K. MCALEENAN, Acting Secretary of Homeland Security, *et al.***

*Defendants-Appellants.*

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*On Appeal from the United States District Court  
for the Northern District of California  
No. 3:19-cv-00807-RS*

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**APPELLEES' MOTION TO EXPEDITE HEARING**

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## **CORPORATE DISCLOSURE STATEMENT**

Appellees are non-profit entities that do not have parent corporations. No publicly held corporation owns 10 percent or more of any stake or stock in Appellees.

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Plaintiffs/Appellees respectfully request an expedited hearing on this preliminary injunction appeal on the first available argument calendar following completion of briefing. Defendants have informed Plaintiffs that they take no position on this motion.

Expedited hearings are granted in the Ninth Circuit upon a showing of “good cause.” Cir. R. 27-12; *cf.* Cir. R. 3-3 (expediting briefing schedules and noting the power to expedite hearings in preliminary injunction appeals). Good cause includes, but is not limited to, showing “in the absence of expedited treatment, irreparable harm may occur[.]” Cir. R. 27-12(3).

In this case, Plaintiffs are eleven asylum-seekers from Central America who fled death threats and violence in their home countries, only for Defendants to force them to endure dangerous conditions and extreme economic insecurity in Mexico, where they must wait while they pursue their asylum cases in U.S. immigration courts. Plaintiffs also include organizations whose work helping migrants has been upended and harmed by Defendants’ new policy. The District Court granted a preliminary injunction stopping Defendants’ policy. *Innovation Law Lab v. Nielsen*, 366 F. Supp. 3d 1110, 1123, 1126, 1130 (N.D. Cal. 2019). It found that “there is no real question” Plaintiffs are likely to face irreparable injury sufficient to warrant interim relief. *Id.* at 1129.

A motions panel of this Court then stayed that injunction pending appeal. *Innovation Law Lab v. McAleenan*, 924 F.3d 503, 510 (9th Cir. 2019). Two out of the three judges on the motions panel held that Defendants’ policy is clearly unlawful, but in different ways—Judge Fletcher found the entire policy “clearly” and “flagrantly” unauthorized by statute, *id.* at 512; Judge Watford found “glaring” problems in defendants’ methods for determining to whom their forced-return policy would be applied, making it “virtually guaranteed” to violate the United States’ obligation not to return refugees to danger, *id.* at 511. Nonetheless, Judge Watford wrote that a narrower injunction would be more appropriate. *Id.* at 511-12.

Thus, Defendants’ policy remains in effect and is expanding, Dkt. No. 34 at 2-3, despite the District Court, Judge Fletcher, and Judge Watford all finding aspects of the program unlawful. Defendants continue to force asylum seekers into limbo in Mexico, where they struggle to meet basic needs and face widespread danger. *Id.* 43-44 (citing kidnapping and death threats experienced by Individual Plaintiffs and citing reports from Amnesty International, Médecins sans Frontières, the Congressional Research Service, and others, all highlighting systemic dangers to migrants). Although the motions panel recognized the harm to Plaintiffs, it found that this harm was ameliorated “somewhat” by its assumption that Mexico would “honor its international-law obligations and . . . grant humanitarian status and work permits to individuals returned.” *Innovation Law Lab*, 924 F.3d at 510.

This assumption is wrong, *see* Amicus Brief of Amnesty Int’l, et. al, Dkt. No. 44 at 26-28 (noting that returnees to Mexico do not receive work authorization), and it does not address the actual dangers experienced by returned migrants.

As just one example of the irreparable injury that the policy is causing, one recently returned asylum-seeker was separated from his pregnant common-law wife and forcibly returned to Mexico, despite the couple having been kidnapped and ransomed by the Zetas cartel while traveling through Mexico. Amicus Brief of Human Rights First, Dkt. No. 49 at 31. He had explained this to an asylum officer but was still returned to Juarez, where he is terrified to leave his temporary housing. *Id.*

Another person recently forcibly returned to Mexico was seized by federal police after they learned she had fled Honduras. Amicus Brief of Amnesty Int’l, et. al, Dkt. No. 44 at 21. She recounted what police did next: “They grab my head, bend me over, and take me out of the house and put me in a black car. They covered my eyes with gray tape.” *Id.* Her kidnappers raped her repeatedly and then ransomed her. *Id.*

An expedited hearing will help to speedily resolve whether Defendants’ policy is lawful before more migrants are harmed. Plaintiffs therefore respectfully request that the Court schedule a hearing on this preliminary injunction appeal on the first available argument calendar following the completion of briefing. *See,*

*e.g.*, *Isaacson v. Horne*, 2012 WL 3126829, at \*1 (9th Cir. 2012) (expediting hearing of civil rights litigants’ appeal by “plac[ing] [it] on the first available argument calendar following the completion of briefing”).

Dated: July 8, 2019

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 8, 2019, I electronically filed the foregoing with the Clerk for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the appellate CM/ECF system. There are no unregistered participants.

/s/ Judy Rabinovitz

Judy Rabinovitz

Dated: July 8, 2019

**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing motion complies with the type-volume limitation of Fed. R. App. P. 27 because it contains 721 words. This brief complies with the typeface and the type style requirements of Fed. R. App. P. 27 because this brief has been prepared in a proportionally spaced typeface using Word 14-point Times New Roman typeface.

/s/ Judy Rabinovitz

Judy Rabinovitz

Dated: July 8, 2019