

April 21, 2025

VIA ECF

The Honorable Paula Xinis, U.S.D.J.
United States District Court for the District of Maryland
6500 Cherrywood Lane
Suite 255
Greenbelt, MD 20770

Re: Case No.: 8:25-CV-00951-PX, *Abrego Garcia et al. v. Noem et al.*

We write on behalf of Plaintiffs in the above-captioned matter to respectfully request that the Court hold a conference tomorrow afternoon at 1 p.m. or as soon thereafter as the Court is available to address the Governments' failure to comply with the Court's April 15, 2025 Order Granting Expedited Discovery (Dkt. 79) (the "Order"), requiring the Government to, among other things, produce documents and respond to Plaintiffs' interrogatories.

Plaintiffs' Position

On the eve of the first Court-ordered deposition concerning the Government's failure to comply with this Court's orders, the Government responded to Plaintiffs' discovery requests by producing nothing of substance. Its document production consists entirely of public filings from the dockets, copies of Plaintiffs' own discovery requests and correspondence, and two non-substantive cover emails transmitting declarations filed in this case. Its interrogatory responses are similarly non-responsive.

This Court granted expedited discovery "to ascertain what, if anything, the Defendants have done to 'facilitate Abrego Garcia's release from custody in El Salvador and to ensure that his case is handled as it would have been had he not been improperly sent to El Salvador.'" Order at 6-7 (quoting *Noem v. Abrego Garcia*, 604 U.S.— (2025), slip op. at 2). The Court specifically stated that "Plaintiffs are entitled to explore the lawful basis—if any—for Abrego Garcia's continued detention in CECOT, including who authorized his initial placement there and who presently authorizes his continued confinement." Order at 6 n.3. The discovery responses Defendants served this afternoon establish that the Government intends to prevent Plaintiffs from developing the discovery ordered by this Court.

First, the Government artificially narrows the Court's Order to avoid complying with its obligations. For example, the Government refuses to respond to interrogatories it claims are "based on the false premise that the United States can or has been ordered to facilitate Abrego Garcia's release from custody in El Salvador," Ex. A at 3 (Interrogatory Responses), despite the Supreme Court's clear holding that "[t]he [O]rder properly requires the Government to 'facilitate' Abrego Garcia's **release from custody in El Salvador.**" *Abrego Garcia*, 604 U.S.—, slip op. at 2 (emphasis added). Likewise, the Government refuses to provide any information predating April 4, Ex. B at 2 (Responses to Document Requests), even though this Court held Plaintiffs "are

entitled to explore . . . who authorized” Abrego Garcia’s “initial placement” in El Salvador, which began on March 15. Order at 6 n.3. The Government refuses to provide any documents “concerning the legal basis for Abrego Garcia’s confinement.” Ex. B at 6. And the Government maintains that any information regarding the agreement between the United States and El Salvador to detain individuals in El Salvador is “irrelevant,” *id.* at 7, despite this Court’s finding that Plaintiffs “are entitled to explore the lawful basis—if any—for Abrego Garcia’s continued detention.” Order at 6 n.3. The Governments’ rights under any agreement governing Abrego Garcia’s transfer and detention in El Salvador are, without question, directly relevant to Plaintiffs’ ability to facilitate Abrego Garcia’s release from custody. Finally, the Government refuses to provide *any* information about the purported “diplomatic discussions with El Salvador regarding Abrego Garcia” in which it claims to have engaged (Ex. A), despite the Supreme Court’s direction that it must be prepared to explain the “steps it has taken.” *Abrego Garcia*, 604 U.S.—, slip op. at 2.

Second, the Government refuses to answer several interrogatories or provide documents based on categorical assertions of privilege—including deliberative process privilege, state secret privilege, and “governmental privilege”—without any foundation for doing so. Indeed, despite invoking “state secret” privilege 13 times in response to Plaintiffs’ 15 interrogatories, the Government has not submitted a “formal claim of privilege” or otherwise identified the particular bases for its assertion of privilege. *United States v. Zubaydah*, 595 U.S. 195, 205 (2022); *see also Rein v. U.S. Pat. & Trademark Off.*, 553 F.3d 353, 369 (4th Cir. 2009) (requiring the Government to provide sufficient “information by which the district court can independently assess the asserted privilege”). Plaintiffs met and conferred with the Government about Plaintiffs’ discovery requests on April 19, at which time the Government stated it had no issues to raise with respect to the substance of the discovery, and the parties scheduled depositions to occur on April 22 and 23, starting at 8:30 a.m. Plaintiffs invited the Government to meet and confer several times thereafter regarding the scope of discovery, including by describing the specific topics Plaintiffs intend to investigate in depositions, so as to identify and resolve any disputes in advance of the discovery deadline and depositions. Defendants declined. Defendants also rejected Plaintiffs’ proposed ESI protocol, refused to disclose their search parameters, refused to provide any documents or even “commit to a timeline” for doing so before the Court’s deadline of 5 p.m. today, and now—on the eve of depositions—have served incomplete and deficient responses. At Plaintiffs’ request, the parties met and conferred at 7 p.m. tonight, at which time the Government stood on its currently deficient discovery responses.

Third, Mr. Mazzara will be deposed tomorrow morning at 8:30 a.m. Plaintiffs respectfully request the Court hold a conference after his deposition, at approximately 1 p.m. or at the Court’s convenience thereafter, at which time Plaintiffs can address the discovery deficiencies and address any categorical issues that arose at Mr. Mazzara’s deposition.

Defendants’ Position

As an initial matter, the Defendants have, in all respects and in light of the expedited nature of this discovery, put forward a good-faith effort to provide appropriate responses to both Plaintiffs’ Interrogatories and Request for Production. Consistent with the Supreme Court’s

instructions and the questions posed by the Court, the discovery here is aimed at answering: (1) the current location and custody of Abrego; (2) steps taken to facilitate his return to the United States; and (3) what additional steps Defendants will take to that end. Plaintiffs' objections to the Defendants' initial expressions of objections based on scope and privilege are misplaced, as Defendants have appropriately incorporated the more general objections to the Plaintiffs' requests into more specific objections in relationship to each individual request where appropriate. *See, e.g.*, Plaintiffs' Ex. A at 3 (Defendants' Response to Interrogatory 1, citing attorney client privilege as being excluded from the appropriate scope). The suggestion that Defendants are required to disclose aspects of attorney-client privilege or other privileged information are not well received. Indeed, as Plaintiffs admit, the assertions of privilege were not equally applied to all requests. *See supra* at 2 (where Plaintiffs acknowledge not all privileges were invoked for each response). Further, there is no reason to believe that matters of attorney-client privilege would be responsive to the request, squarely placing those beyond the appropriate scope of the request. More to the point, Defendants nevertheless provided specific responses to the interrogatories and document production requests to the extent privileges were not directly applicable and the requests fell within the scope of discovery. Plaintiffs do not appear to challenge those specific applications as responsive to the Court's order or their interrogatories. Importantly, Defendants continue to prepare more specific invocations of privilege in a forthcoming privilege log, which, despite all efforts, could not be completed before the submission of this letter.

As to Plaintiffs' few complaints about the responses and production in light of the more appropriate scope of responses and production, their complaints fall short. The insistence on examining "legal basis for Abrego's confinement" (Ex. B at 6) is an absurdity. Upon Abrego's repatriation to El Salvador, his detention was no longer a matter of the United States' confinement, but a matter belonging to the government of El Salvador – which has been explained to the Plaintiffs repeatedly. *See Ex. A* at 8, 9, 11. Any requirement of a more detailed response by the Defendants would be wholly inappropriate and an invasion of diplomatic discussions. Plaintiffs' insistence on information regarding an agreement between the United States and El Salvador (Ex. B at 7) – even if the Court's order permits the inquiry -- begs the question on whether an agreement exists, and importantly, does not relate to the particular efforts undertaken by the Defendants to facilitate or effectuate Abrego's release. Indeed, their insistence on obtaining any information on "diplomatic discussions" is a facially unwarranted and inappropriate intrusion into the diplomatic process – a matter which the Supreme Court specifically reserved to the Government's province. *Abrego*, 604 U.S.—, slip op. at 2 (requiring "due regard for the deference owed to the Executive in the conduct of foreign affairs."). Nevertheless, the Defendants' responses duly report that it is in discussions with the Government of El Salvador, serving the purpose of the Court's requirements in discovery. Indeed, the Defendants, at appropriate moments, gave greater detail into the specific efforts undertaken to work with the Government of El Salvador to permit Abrego's return to the United States. *See, e.g.*, Ex. A at 10.

Next, the Plaintiffs suggest that the government has refused to answer interrogatories or produce document based on assertions of privilege. That statement is, at best, misleading. The Defendants provided specific responses to each interrogatory, and a forthcoming privilege log will provide more specific invocations as to document production. The Plaintiffs make no suggestion that the Defendants have not provided specific answers to interrogatories within the scope of discovery not protected by privilege.

We thank the Court for its attention to this matter.

Respectfully submitted,

By: /s/ Jonathan G. Cooper

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EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
Greenbelt Division

KILMAR ARMANDO ABREGO GARCIA, et al.,

Plaintiffs,

v.

KRISTI NOEM, Secretary of Homeland
Security, et al.,

Defendants.

No. 8:25-CV-00951-PX

**DEFENDANTS' OBJECTIONS AND RESPONSES TO PLAINTIFFS'
FIRST SET OF EXPEDITED INTERROGATORIES**

Defendants object and respond to Plaintiffs' First Set of Expedited Interrogatories ("Expedited Interrogatories") in accordance with Federal Rules of Civil Procedure 26 and 33, Local Rule 104, and the Court's Order Granting Expedited Discovery ("Order") (Dkt. 79).

PRELIMINARY STATEMENT

Defendants have made a diligent and good faith effort to obtain information that is responsive to the Expedited Interrogatories. Defendants' responses are based on their knowledge, information, and documents acquired and reviewed to date.

Defendants' objections and responses shall not be deemed to constitute admissions that (a) information or any document or thing exists or is relevant, non-privileged, or admissible in evidence; or (b) any statement or characterization by Plaintiffs in the Expedited Interrogatories is accurate or complete.

OBJECTIONS TO DEFINITIONS

“**You**” and “**Your.**” Defendants object to Plaintiffs’ definition of “You” and “Your” and will construe those words in the context of Plaintiffs’ Expedited Interrogatories as meaning the person(s) to whom the Expedited Interrogatories are addressed, and all that person’s agents and representatives. This objection is incorporated into each of Defendants’ responses to the Expedited Interrogatories.

OBJECTIONS TO INSTRUCTIONS

Timeframe. Defendants object to Plaintiffs’ proposed timeframe for the Expedited Interrogatories as inconsistent and partially outside the scope of expedited discovery authorized under the Order, to the extent it seeks information prior to the Court’s April 4, 2025, Order Granting Preliminary Injunction (Dkt. 21). Defendants will produce information related to matters occurring on or after April 4, 2025. This objection is incorporated into each of Defendants’ responses to the Expedited Interrogatories.

Privilege. Defendants object to the extent Plaintiffs demand that Defendants produce a privilege log on April 21, 2025, during expedited discovery. Defendants are willing to meet and confer with Plaintiffs regarding the appropriate time for providing a privilege log.

OBJECTIONS AND RESPONSES TO EXPEDITED INTERROGATORIES

Interrogatory No. 1: Describe with particularity each action You have already taken, and when, to Facilitate Abrego Garcia’s release from custody in El Salvador.

Defendants’ Response to Interrogatory No. 1: Defendants object to Interrogatory No. 1 as based on the false premise that the United States can or has been ordered to facilitate Abrego Garcia’s *release from custody* in El Salvador. *See Abrego Garcia*, 604 U.S.—, slip op. at 2 (holding Defendants should “take all available steps to facilitate the *return of Abrego Garcia to the United State*”) (emphasis added). Defendants further object to Interrogatory No. 1 as calling for information that is protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows: Before the Fourth Circuit’s decision of April 17 clarifying its understanding of “facilitate,” the United States took the position that the only steps needed to facilitate the return of Mr. Abrego Garcia involved removing domestic barriers. After the Fourth Circuit’s clarification, the State Department has engaged in appropriate diplomatic discussions with El Salvador regarding Abrego Garcia. However, disclosing the details of any diplomatic discussions regarding Mr. Abrego Garcia at this time could negatively impact any outcome.

Interrogatory No. 2: Describe with particularity each action You have already taken, and when, to Facilitate Abrego Garcia’s return to the United States.

Defendants’ Response to Interrogatory No. 2: Defendants object to Interrogatory No. 2 as calling for information that is protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the

governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows:

1. Before the Fourth Circuit’s decision of April 17 clarifying its understanding of “facilitate,” the United States took the position that the only steps needed to facilitate the return of Mr. Abrego Garcia involved removing domestic barriers. After the Fourth Circuit’s clarification, the State Department has engaged in appropriate diplomatic discussions with El Salvador regarding Abrego Garcia. However, disclosing the details of any diplomatic discussions regarding Mr. Abrego Garcia at this time could negatively impact any outcome.

2. Abrego Garcia is being held in the sovereign, domestic custody of the independent nation of El Salvador. DHS does not have authority to forcibly extract an alien from the domestic custody of a foreign sovereign nation.

Interrogatory No. 3: Describe with particularity each action You plan to take in the future, and when, to Facilitate Abrego Garcia’s release from custody in El Salvador.

Defendants’ Response to Interrogatory No. 3: Defendants object to Interrogatory No. 3 as based on the false premise that the United States can or has been ordered to facilitate Abrego Garcia’s *release from custody* in El Salvador. *See Abrego Garcia*, 604 U.S.—, slip op. at 2 (holding Defendants should “take all available steps to facilitate the *return of Abrego Garcia to the United State*”) (emphasis added).

Defendants further object to Interrogatory No. 3 as calling for information that is protected by the attorney-client privilege, the deliberative process privilege, the state secret privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows: Before the Fourth Circuit's decision of April 17 clarifying its understanding of "facilitate," the United States took the position that the only steps needed to facilitate the return of Mr. Abrego Garcia involved removing domestic barriers. After the Fourth Circuit's clarification, the State Department has engaged in appropriate diplomatic discussions with El Salvador regarding Abrego Garcia. However, disclosing the details of any diplomatic discussions regarding Mr. Abrego Garcia at this time could negatively impact any outcome.

Interrogatory No. 4: Describe with particularity each action You plan to take in the future, and when, to Facilitate Abrego Garcia's return to the United States.

Defendants' Response to Interrogatory No. 4: Defendants object to Interrogatory No. 4 as calling for information that is protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows:

1. Before the Fourth Circuit's decision of April 17 clarifying its understanding of "facilitate," the United States took the position that the only steps needed to facilitate the return of Mr. Abrego Garcia involved removing domestic barriers. After the Fourth Circuit's clarification, the State Department has engaged in appropriate diplomatic discussions with El Salvador regarding Abrego Garcia. However, disclosing the details of any diplomatic discussions regarding Mr. Abrego Garcia at this time could negatively impact any outcome.

2. DHS has established processes for taking steps to remove domestic obstacles that would otherwise prevent an alien from lawfully entering the United States. DHS is prepared to facilitate Abrego Garcia's presence in the United States in accordance with those processes if he presents at a port of entry. If Abrego Garcia does present himself at a port of entry, he would become subject to detention by DHS. In that case, DHS would take him into custody in the United States and either remove him to a third country or seek to terminate his withholding of removal because of his membership in MS-13, a designated foreign terrorist organization, and remove him to El Salvador.

Interrogatory No. 5: Identify and describe the role of each individual who has been involved, or whom You anticipate will become involved, in any of the actions responsive to Interrogatory Nos. 1–4 or in ordering or authorizing Abrego Garcia's removal to El Salvador, his initial placement in CECOT, or his continued confinement in CECOT.

Defendants' Response Interrogatory No. 5: Defendants object to Interrogatory No. 5 as outside the scope of expedited discovery authorized under the Order, to the extent it seeks information about Abrego Garcia's removal to El Salvador, his initial placement in CECOT, or his continued confinement in CECOT. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 5 as calling for information that is protected by the attorney-client privilege, attorney work product, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows:

The following individuals from DHS were involved in Abrego Garcia's removal to El Salvador or may be involved in facilitating Abrego Garcia's presence in the United States if he presents at a port of entry: (1) Robert L. Cerna II, Acting Field Office Director for Harlingen, was involved in Abrego Garcia's removal to El Salvador, but would not be involved in any meaningful way in his return to the United States, should that take place. (2) Evan C. Katz, Assistant Director for the Enforcement and Removal Operations Removal Division of U.S. Department of Homeland Security,

U.S. Immigration and Customs Enforcement (ICE). In Mr. Katz's current role, he oversees, among other things, return of certain aliens removed from the United States. He would become directly involved in this case only once ICE is advised that Abrego Garcia will come into ICE custody, following the success of diplomatic efforts, Abrego Garcia's release from Salvadoran detention, and, if necessary, Abrego Garcia being granted permission to leave El Salvador. At that point, AD Katz would be able to arrange travel options from El Salvador to the United States.

Abrego Garcia's confinement at CECOT or any other facility in El Salvador is at the discretion of El Salvador.

Interrogatory No. 6: Describe with particularity each request for Abrego Garcia's release from custody in El Salvador that You conveyed to anyone in the government of El Salvador or at CECOT, including when, in what form, by whom, and to whom.

Defendants' Response to Interrogatory No. 6: Defendants object to Interrogatory No. 6 as based on the false premise that the United States can or has been ordered to facilitate Abrego Garcia's *release from custody* in El Salvador. *See Abrego Garcia*, 604 U.S.—, slip op. at 2 (holding Defendants should “take all available steps to facilitate the *return of Abrego Garcia to the United State*”) (emphasis added). Defendants further object to Interrogatory No. 6 as calling for information that is protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows: Before the Fourth Circuit's decision of April 17 clarifying its understanding of "facilitate," the United States took the position that the only steps needed to facilitate the return of Mr. Abrego Garcia involved removing domestic barriers. After the Fourth Circuit's clarification, the State Department has engaged in appropriate diplomatic discussions with El Salvador regarding Abrego Garcia. However, disclosing the details of any diplomatic discussions regarding Mr. Abrego Garcia at this time could negatively impact any outcome.

Interrogatory No. 7: Describe with particularity each Communication You have had with anyone in the government of El Salvador or at CECOT concerning Abrego Garcia, including when, in what form, by whom, and to whom.

Defendants' Response to Interrogatory No. 7: Defendants object to Interrogatory No. 7 as outside the scope of expedited discovery authorized under the Order, to the extent it seeks information about Abrego Garcia's removal to El Salvador or initial placement in CECOT. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 7 as calling for information that is protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the

governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows: Regarding the location and custodial status of Mr. Abrego Garcia, on April 4, the U.S. Ambassador to El Salvador had a conversation with a representative of the Government of El Salvador who told the Ambassador Abrego Garcia was being held at CECOT. On April 17, a representative of the Government of El Salvador contacted the U.S. Ambassador to El Salvador to arrange a meeting between U.S. Senator Van Hollen and Abrego Garcia, as requested by Senator Van Hollen. Following several communications between the Ambassador and the representative of the Government of El Salvador regarding timing and logistics, the meeting occurred that same day. On April 20 and 21, the Ambassador requested an update on the physical location and custodial status of Mr. Abrego Garcia. The Salvadoran government responded on April 21 that he is being held at the Centro Industrial penitentiary facility in Santa Ana, in good conditions and in an excellent state of health. With respect to any other communications, disclosing any diplomatic discussions regarding Mr. Abrego Garcia could negatively impact any outcome.

Interrogatory No. 8: Describe with particularity the legal basis for Abrego Garcia's continued confinement in CECOT.

Defendants' Response to Interrogatory No. 8: Defendants object to Interrogatory No. 8 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their response to information concerning: (1) the current

physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 8 to the extent it calls for a legal conclusion. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows: Abrego Garcia is detained pursuant to the sovereign, domestic authority of El Salvador.

Interrogatory No. 9: Describe with particularity the terms of any agreement, arrangement, or understanding between the governments of the United States and El Salvador to confine in El Salvador individuals removed or deported from the United States or transported by You from the United States to El Salvador, including any rights the government of the United States possesses, retains or has exercised concerning any individual removed or deported from the United States.

Defendants' Response to Interrogatory No. 9: Defendants object to Interrogatory No. 9 as based on the premise that the United States may exercise authority over Salvadoran citizens detained by El Salvador within the sovereign territory and pursuant to the domestic law of El Salvador. Defendants object to Interrogatory No. 9 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any,

Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 9 as calling for information that is classified or otherwise protected by the state secrets privilege and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on the foregoing objections, Defendants are willing to meet and confer with Plaintiffs regarding Interrogatory No. 9.

Interrogatory No. 10: Identify and describe the role of each individual involved in negotiating or approving any agreement, arrangement, or understanding between the governments of the United States and El Salvador to confine in El Salvador individuals removed or deported from the United States or transported by You from the United States to El Salvador.

Defendants' Response to Interrogatory No. 10: Defendants object to Interrogatory No. 10 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 10 as calling for information that is protected by the state secrets privilege and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on the foregoing objections, Defendants are willing to meet and confer with Plaintiffs regarding Interrogatory No. 10.

Interrogatory No. 11: List each payment that has been, or will be, made or withheld in connection with the detention at CECOT of Abrego Garcia and other individuals removed or deported from the United States or transported by You from the United States to El Salvador, including when each payment was or will be made or withheld, in what amount, by whom, and to whom.

Defendants' Response to Interrogatory No. 11: Defendants object to Interrogatory No. 11 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 11 as calling for information that is protected by the state secrets privilege and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants respond as follows: The United States, through the White House spokesperson, has publicly stated that "approximately \$6 million" has been made available to the Government of El Salvador (GOES) to be used by the GOES for its law enforcement needs, including "for the detention of these [Venezuelan] foreign terrorists." The United

States has not provided any specific assistance with respect to the detention of Abrego Garcia or any other Salvadoran national.

Interrogatory No. 12: Describe with particularity each instance since 2015 in which You removed or deported a person to El Salvador and later undertook efforts to Facilitate that person's return to the United States (*e.g.*, ECF No. 31 at 5 n.7; Defendants' Status Update in *Grace v. Sessions*, No. 1:18-cv-01853-EGS (D.D.C. Jan. 11, 2019), ECF No. 113).

Defendants' Response to Interrogatory No. 12: Defendants object to Interrogatory No. 12 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 12 as unduly burdensome to the extent it calls for information dating back to 2015. Defendants further object to Interrogatory No. 12 as calling for information that is protected by the state secrets privilege and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on the foregoing objections, Defendants are willing to meet and confer with Plaintiffs regarding Interrogatory No. 12.

Interrogatory No. 13: Describe with particularity each instance since 2015 in which You undertook extraterritorial efforts to Facilitate the return to the United States of any removed or deported individual.

Defendants' Response to Interrogatory No. 13: Defendants object to Interrogatory No. 13 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 13 as unduly burdensome to the extent it calls for information dating back to 2015. Defendants further object to Interrogatory No. 13 as calling for information that is protected by the state secrets privilege and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on the foregoing objections, Defendants are willing to meet and confer with Plaintiffs regarding Interrogatory No. 13.

Interrogatory No. 14: Describe with particularity the complete factual basis for Your assertions that Abrego Garcia "is a member of MS-13" (*e.g.*, ECF No. 77-1 at 12), including by identifying the source of that information.

Defendants' Response to Interrogatory No. 14: Defendants object to Interrogatory No. 14 as outside the scope of expedited discovery authorized under the Order, to the extent it calls for information regarding Abrego Garcia's membership in

MS-13. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants incorporate their objections to definitions and objections to instructions.

Based on the foregoing objections, Defendants are willing to meet and confer with Plaintiffs regarding Interrogatory No. 14.

Interrogatory No. 15: Identify and describe the role of each United States official or employee who has personal knowledge of facts alleged in the Complaint (ECF No. 1) or of facts alleged in Your submissions to this Court, the Fourth Circuit, or the Supreme Court in this case.

Defendants' Response to Interrogatory No. 15: Defendants object to Interrogatory No. 15 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their response to information concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Interrogatory No. 15 as overly broad and unduly burdensome as it calls for Defendants to identify and describe all individuals with knowledge of every fact that Plaintiffs allege in their 99-paragraph complaint, regardless of the individuals' knowledge, connection, or involvement with the issues,

decisions, or actions at issue in this expedited discovery. Defendants further object to Interrogatory No. 15 as premature, to the extent that it calls for information not due until Defendants serve their initial disclosures under Federal Rule of Civil Procedure 26. Defendants further object to Interrogatory No. 15 as calling for information that is protected by the state secrets privilege and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on the foregoing objections, Defendants are willing to meet and confer with Plaintiffs regarding Interrogatory No. 15.

Respectfully submitted,

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Civil Division

/s/ Drew Ensign
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Deputy Director
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Dated: April 21, 2025

Counsel for Defendants–Appellant

VERIFICATION OF INTERROGATORY ANSWERS

I, Michael G. Kozak, am Senior Bureau Official in the Bureau of Western Hemisphere Affairs, United States Department of State. I believe, based on personal knowledge and reasonable inquiry, that the following Interrogatory answers—Defendants’ Responses to Interrogatory Nos. 1, 2.1, 3, 4.1, 6, 7, 8, 11—are true and correct to the best of my knowledge, information, and belief.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on April 21, 2025.

A handwritten signature in blue ink, appearing to read "Michael G. Kozak", is written over a horizontal line.

Michael G. Kozak

EXHIBIT B

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
Greenbelt Division

KILMAR ARMANDO ABREGO GARCIA, et al.,

Plaintiffs,

v.

KRISTI NOEM, Secretary of Homeland
Security, et al.,

Defendants.

No. 8:25-CV-00951-PX

**DEFENDANTS' OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST
SET OF EXPEDITED REQUESTS FOR PRODUCTION**

Defendants object and respond to Plaintiffs' First Set of Expedited Requests for Production ("Expedited Document Requests") in accordance with Federal Rules of Civil Procedure 26 and 34, Local Rule 104, and the Court's Order Granting Expedited Discovery ("Order") (Dkt. 79).

PRELIMINARY STATEMENT

Defendants have made a diligent and good faith effort to obtain documents in their possession, custody or control that are responsive to the Expedited Document Requests. Defendants' responses are based on their knowledge, information, and documents acquired and reviewed to date.

Defendants' objections and responses shall not be deemed to constitute admissions that (a) information or any document or thing exists or is relevant, non-privileged, or admissible in evidence; or (b) any statement or characterization by Plaintiffs in the Expedited Document Requests is accurate or complete.

OBJECTIONS TO DEFINITIONS

“Document.” To the extent Plaintiffs’ definition of “document” is broader than the definition contained in Appendix D to the Local Rules, Defendants object to that broader definition. Defendants will use the definition of “Document” reflected in Appendix D to the Local Rules. This objection is incorporated into each of Defendants’ responses to the Expedited Document Requests.

““You” and “Your.” Defendants object to Plaintiffs’ definition of “You” and “Your” and will construe those words in the context of Plaintiffs’ Expedited Documents Requests as meaning the person(s) to whom the Expedited Documents Requests are addressed, and all that person’s agents and representatives. This objection is incorporated into each of Defendants’ responses to the Expedited Document Requests.

OBJECTIONS TO INSTRUCTIONS

Timeframe. Defendants object to Plaintiffs’ proposed timeframe for the Expedited Document Requests as inconsistent and partially outside the scope of expedited discovery authorized under the Order, to the extent it seeks information prior to the Court’s April 4, 2025, Order Granting Preliminary Injunction (Dkt. 21). Defendants will produce information related to matters occurring on or after April 4, 2025. This objection is incorporated into each of Defendants’ responses to the Expedited Document Requests.

Privilege. Defendants object to the extent Plaintiffs demand that Defendants produce a privilege log on April 21, 2025, during expedited discovery. Defendants are

willing to meet and confer with Plaintiffs regarding the appropriate time for providing a privilege log.

OBJECTIONS AND RESPONSES TO EXPEDITED DOCUMENT REQUESTS

Document Request No. 1: All Documents concerning each action You have already taken, or plan to take in the future, to Facilitate Abrego Garcia’s release from custody in El Salvador.

Defendants’ Response to Document Request No. 1: Defendants object to Document Request No. 1 as based on the false premise that the United States can or has been ordered to facilitate Abrego Garcia’s *release from custody* in El Salvador. *See Abrego Garcia*, 604 U.S.—, slip op. at 2 (holding Defendants should “take all available steps to facilitate the *return of Abrego Garcia to the United State*”) (emphasis added). Defendants further object to Document Request No. 1 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 1 that are in their possession, custody and control and that can be located after a reasonable search.

Document Request No. 2: All Documents concerning each action You have already taken, or plan to take in the future, to Facilitate Abrego Garcia’s return to the United States.

Defendants’ Response to Document Request No. 2: Defendants object to Document Request No. 2 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 2 that are in their possession, custody and control and that can be located after a reasonable search.

Document Request No. 3: All Documents reflecting any request to release Abrego Garcia from custody in El Salvador, and any responses thereto.

Defendants’ Response to Document Request No. 3: Defendants object to Document Request No. 3 as based on the false premise that the United States can or has been ordered to facilitate Abrego Garcia’s *release from custody* in El Salvador. *See Abrego Garcia*, 604 U.S.—, slip op. at 2 (holding Defendants should “take all available steps to facilitate the *return of Abrego Garcia to the United State*”) (emphasis added). Defendants further object to Document Request No. 3 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 3 that are in

their possession, custody and control and that can be located after a reasonable search.

Document Request No. 4: All Communications to or from anyone in the government of El Salvador or at CECOT concerning Abrego Garcia.

Defendants' Response to Document Request No. 4: Defendants object to Document Request No. 4 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 4 as overly broad and unduly burdensome to the extent it seeks "All Documents" concerning every single communication Defendants have had with anyone in the government of El Salvador or at CECOT concerning Abrego Garcia. Defendants further object to Document Request No. 4 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 4 that are in their possession, custody and control and that can be located after a reasonable search.

Document Request No. 5: All Documents concerning the legal basis for Abrego Garcia's confinement in CECOT.

Defendants' Response to Document Request No. 5: Defendants object to Document Request No. 5 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 5 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on these objections, Defendants will not produce documents that may be responsive to this request. Defendants are willing to meet and confer with Plaintiffs regarding Document Request No. 5.

Document Request No. 6: All Documents concerning any agreement, arrangement, or understanding between the governments of the United States and El Salvador to confine in El Salvador individuals of any nationality who were removed or deported from the United States or transported by You from the United States to El Salvador, including (but not limited to) the memorandum issued by El Salvador's Ministry of Foreign Affairs referenced at ECF No. 31 at 6.

Defendants' Response Document Request No. 6: Defendants object to Document Request No. 6 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 6 as overly broad and unduly burdensome to the extent it seeks "All Documents" concerning every single agreement, arrangement, or understanding between the governments of the United States and El Salvador to confine in El Salvador individuals of any nationality who were removed or deported from the United States. Defendants object to Document Request No. 6 as irrelevant to the extent it calls for documents related to individuals other than Abrego Garcia. Defendants further object to Document Request No. 6 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 6 that are in their possession, custody and control and that can be located after a reasonable search.

Document Request No. 7: All Documents concerning the rights the government of the United States possesses, retains, or has exercised with respect to Abrego Garcia or other individuals of any nationality who were removed or deported from the United States or transported by You from the United States to El Salvador and who are detained at CECOT, including (but not limited to) Documents concerning the decision-making authority over the long term disposition of Abrego Garcia and the other removed or deported individuals.

Defendants' Response to Document Request No. 7: Defendants object to Document Request No. 7 as based on the premise that the United States may exercise authority over El Salvadorean citizens detained by El Salvador within the sovereign territory of El Salvador. Defendants further object to Document Request No. 7 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 7 as irrelevant to the extent it calls for documents related to individuals other than Abrego Garcia. Defendants further object to Document Request No. 7 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 7 that are in their possession, custody and control and that can be located after a reasonable search.

Document Request No. 8: All Documents reflecting payments You made (or payments that are to be made) in connection with the detention at CECOT of Abrego Garcia and other individuals of any nationality removed or deported from the United States or transported by You from the United States to El Salvador.

Defendants' Response to Document Request No. 8: Defendants object to Document Request No. 8 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants object to Document Request No. 8 as irrelevant to the extent it calls for documents related to individuals other than Abrego Garcia. Defendants further object to Document Request No. 8 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 8 that are in

their possession, custody and control and that can be located after a reasonable search.

Document Request No. 9: All Documents concerning each instance since 2015 in which You removed, deported or transported a person of any nationality to El Salvador and later undertook efforts to Facilitate that person's return to the United States (*e.g.*, ECF No. 31 at 5 n.7; Defendants' Status Update in *Grace v. Sessions*, No. 1:18-cv-01853-EGS (D.D.C. Jan. 11, 2019), ECF No. 113).

Defendants' Response to Document Request No. 9: Defendants object to Document Request No. 9 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 9 as irrelevant to the extent it calls for documents related to individuals other than Abrego Garcia. Defendants further object to Document Request No. 9 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on these objections, Defendants will not produce documents that may be responsive to this request. Defendants are willing to meet and confer with Plaintiffs regarding Document Request No. 9.

Document Request No. 10: All Documents concerning each instance since 2015 in which You undertook extraterritorial efforts to Facilitate the return to the United States of an individual of any nationality who was removed or deported from the United States or transported by You from the United States to a foreign country.

Defendants' Response to Document Request No. 10: Defendants object to Document Request No. 10 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 10 as overly broad and unduly burdensome to the extent it seeks "All Documents" concerning matters dating back to 2015. Defendants object to Document Request No. 10 as irrelevant to the extent it calls for documents related to individuals other than Abrego Garcia. Defendants further object to Document Request No. 10 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on these objections, Defendants will not produce documents that may be responsive to this request. Defendants are willing to meet and confer with Plaintiffs regarding Document Request No. 10.

Document Request No. 11: All Documents in the possession, custody, or control of Robert L. Cerna, Evan C. Katz, Michael G. Kozak, or Joseph N. Mazzara that relate to Abrego Garcia.

Defendants' Response to Document Request No. 11: Defendants object to Document Request No. 11 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 11 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Subject to and without waiving the forgoing objections, Defendants agree to produce non-privileged documents responsive to Document Request No. 11 that are in their possession, custody and control and that can be located after a reasonable search.

Document Request No. 12: All Documents reflecting non-privileged discussions about any court order in this case, including the Supreme Court's order dated April 10, 2025.

Defendants' Response to Document Request No. 12: Defendants object to Document Request No. 12 as outside the scope of expedited discovery authorized

under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 12 because it is not relevant to any claims or defenses at issue in this case. Defendants incorporate their objections to definitions and objections to instructions.

Based on these objections, Defendants will not produce documents that may be responsive to this request. Defendants are willing to meet and confer with Plaintiffs regarding Document Request No. 12.

Document Request No. 13: A Without regard for timeframe, all Documents that You contend support Your assertions that Abrego Garcia "is a member of MS-13" (*e.g.*, ECF No. 77-1 at 12).

Defendants' Response to Document Request No. 13: Defendants object to Document Request No. 8 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 13 as calling for information that is protected by the attorney-client privilege, the deliberative process

privilege, the state secrets privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on these objections, Defendants will not produce documents that may be responsive to this request. Defendants are willing to meet and confer with Plaintiffs regarding Document Request No. 13.

Document Request No. 14: All Documents You may rely on to support Your defenses.

Defendants' Response to Document Request No. 14: Defendants object to Document Request No. 14 as outside the scope of expedited discovery authorized under the Order. Defendants will limit their production to documents concerning: (1) the current physical location and custodial status of Abrego Garcia; (2) what steps, if any, Defendants have taken to facilitate Abrego Garcia's immediate return to the United States; and (3) what additional steps Defendants will take, and when, to facilitate his return. Defendants further object to Document Request No. 14 as vague and ambiguous because the meaning of "Your defenses" is unknown, seeing as Defendants have not yet had an opportunity to Answer Plaintiffs' factual allegations or asserted their defenses. Defendants further object to Document Request No. 14 as premature, to the extent it calls for documents not due until Defendants serve their initial disclosures under Federal Rule of Civil Procedure 26. Defendants further object to Document Request No. 14 as calling for documents that are protected by the attorney-client privilege, the deliberative process privilege, the state secrets

privilege, and the governmental privilege. Defendants incorporate their objections to definitions and objections to instructions.

Based on these objections, Defendants will not produce documents that may be responsive to this request. Defendants are willing to meet and confer with Plaintiffs regarding Document Request No. 14.

Respectfully submitted,

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Acting Assistant Attorney General
Civil Division

/s/ Drew Ensign

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Dated: April 21, 2025

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