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20 **UNITED STATES DISTRICT COURT**
 21 **SOUTHERN DISTRICT OF CALIFORNIA**

22 AL OTRO LADO, INC., *et al.*,
 23 Plaintiffs,
 24 v.
 25 ALEJANDRO N. MAYORKAS, *et al.*,
 26 Defendants.

Case No.: 3:23-cv-01367-AGS-BLM

Hon. Andrew G. Schopler

**PLAINTIFFS' NOTICE OF
 SUPPLEMENTAL FACTS**

28

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1 Plaintiffs submit the attached declarations and this notice of supplemental facts
2 describing events that occurred after the filing of Plaintiffs’ Motion for Preliminary
3 Injunction (Dkt. 39). These supplemental facts support Plaintiffs’ claim that CBP has
4 a policy of turning back asylum seekers who are in the process of arriving at Class A
5 ports of entry on the U.S.-Mexico border (“POEs”) and confirm that the policy
6 continues to be enforced against individuals arriving at the border.

7 On August 17, 2023, Defendants provided appointments for Individual
8 Plaintiffs and their family members to present at the San Ysidro POE to be inspected
9 and processed. Plaintiffs Luisa Doe, Somar Doe, and Guadalupe Doe and their family
10 members were scheduled to present at the PedWest Entrance to the San Ysidro POE
11 on August 18, 2023, at 8 p.m. Ex. 1 ¶ 4; Ex. 2 ¶ 2. Plaintiffs Diego Doe, Laura Doe,
12 and Michelle Doe and their family members were scheduled to present at the San
13 Ysidro POE on August 19, 2023, at noon. Ex. 1 ¶ 15; Ex. 3 ¶ 2. Defendants’ counsel
14 confirmed these appointments and assured Plaintiffs’ counsel that no additional
15 documentation was needed. Ex. 1 ¶ 4.

16 On August 18, 2023, around 7:30 p.m., Plaintiffs Luisa Doe, Somar Doe, and
17 Guadalupe Doe and their family members arrived at the San Ysidro Chaparral (Ped
18 West) POE. Ex. 1 ¶ 5. They were accompanied by Nicole Ramos, the Border Rights
19 Project Director of Al Otro Lado. *Id.* ¶¶ 2, 5. When they presented themselves, CBP
20 refused to inspect and process them despite Defendants’ counsel’s agreement and
21 assurances that they would be processed. *Id.* ¶ 6; Ex. 2 ¶ 4.

22 After CBP turned back those Plaintiffs and their family members at the
23 PedWest entrance to the San Ysidro POE, Ms. Ramos accompanied them as they
24 walked to the PedEast entrance to the San Ysidro POE, a distance of approximately
25 one kilometer. Ex. 1 ¶ 8. At the PedEast entrance, a CBP officer turned back the
26 Plaintiffs again, after consulting with a supervisor. *Id.* ¶ 9. The CBP officer advised
27 the Individual Plaintiffs that they had to return to the PedWest entrance to the San
28 Ysidro POE to be inspected and processed. *Id.*; Ex. 2 ¶ 5.

1 Plaintiffs, accompanied by Ms. Ramos, then returned to the PedWest Entrance
2 to the San Ysidro POE. Ex. 1 ¶ 10. When they arrived, a Mexican private security
3 guard stationed near the POE told Plaintiffs and their families that no one was
4 available to take them to the U.S. side of the POE, so they would have to return the
5 next day. *Id.* Ms. Ramos then called the CBP supervisor telephone line. *Id.* ¶¶ 11-12.
6 CBP confirmed that no one was available to escort the families from the Mexican
7 side to the U.S. side of the POE and advised that Plaintiffs should return to the
8 PedEast entrance to the San Ysidro POE. *Id.* ¶ 12.

9 Pursuant to these instructions, Plaintiffs and their family members returned to
10 the PedEast entrance to the San Ysidro POE. *Id.* ¶ 13. Initially, a CBP officer
11 indicated that they would need to return to the PedWest Entrance to the San Ysidro
12 POE. *Id.* However, after Ms. Ramos explained that a CBP supervisor had directed
13 them to return to the PedEast entrance to the San Ysidro POE, CBP finally inspected
14 and processed the Plaintiffs. *Id.* ¶¶ 13-14; Ex. 2 ¶ 7. This ordeal took nearly four
15 hours. Ex. 1 ¶ 14.

16 The next morning, August 19, 2023, counsel for Plaintiffs communicated with
17 counsel for Defendants about the events of the previous night. Plaintiffs' counsel
18 asked Defendants' counsel to communicate with CBP officials at the POE to ensure
19 the same issues did not recur when three additional plaintiffs and their family
20 members had appointments at noon that day. Defendants' counsel relayed that CBP
21 officials at the San Ysidro POE were made aware of plaintiffs' appointments and did
22 not anticipate any issues.

23 Shortly before their appointments at noon, Ms. Ramos accompanied Plaintiffs
24 Diego Doe, Michelle Doe, Laura Doe and their family members to the PedWest
25 Entrance to the San Ysidro POE. Ex. 1 ¶ 15; Ex. 3 ¶ 2. CBP refused to process the
26 Plaintiffs and directed them to go to the PedEast Entrance to the San Ysidro POE
27 because that is where CBP processes "special cases." Ex. 1 ¶ 16.

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1 After being turned back at the PedWest entrance to the San Ysidro POE, the
2 Plaintiffs and their family members then made the one-kilometer walk to the PedEast
3 entrance to the San Ysidro POE. Ex. 1 ¶ 17. At the PedEast entrance to the San Ysidro
4 POE, CBP again refused to process Plaintiffs, directing them to return to the PedWest
5 Entrance to the San Ysidro POE. *Id.* After Ms. Ramos intervened, a CBP supervisor
6 confirmed that the Plaintiffs would have to return to the PedWest entrance to the San
7 Ysidro POE for processing. *Id.* ¶¶ 17-18; Ex. 3 ¶ 4.

8 Following their return to the PedWest entrance to the San Ysidro POE, the
9 Plaintiffs and their families were eventually processed. Ex. 1 ¶ 19. This ordeal took
10 about 2 ½ to 3 hours. *Id.* ¶ 20.

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