Attorney Name **NON-DETAINED**

Human Rights First

3680 Wilshire Blvd. Ste. P04-414

Los Angeles, CA 90010

Email:

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*Pro Bono* Attorney for Respondent

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**IMMIGRATION COURT**

**LOS ANGELES, CALIFORNIA**

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| **In the Matter of:**  **REDACTED**  **Respondent** |
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Immigration Judge: Hon. Individual Hearing:

**MOTION TO CONTINUE**

Counsel, on behalf of Respondent, respectfully requests this Court continue the Individual Hearing scheduled for May 28, 2020. Due to exceptional circumstances beyond Respondent’s control, Counsel has been unable to properly meet with Redacted and prepare his case for the Individual Hearing due to the ongoing COVID-19 pandemic and national emergency.

The Center for Disease Control announced the COVID-19 “situation poses a serious public health risk.”[[1]](#footnote-1) This concern grew from a public health emergency, to a pandemic, and now is a declared national emergency. EOIR has already steps to protect Respondents in proceedings by canceling non-detained and MPP hearings.[[2]](#footnote-2)

To prepare Redacted’s asylum case requires at least two in-person client meetings. Another non-profit agency referred Respondent’s case to Counsel. Respondent retained current counsel on March 27, 2020 and Counsel promptly filed a Motion to Substitute. This Court recently granted Counsel’s Motion to Substitute Counsel on April 2, 2020. Since that time Counsel has not been able to meet with the client in person due to the COVID-19 pandemic. The State of California and Los Angeles County both issued Safer at Home Orders to protect community safety.[[3]](#footnote-3) Given these considerations, this Court has the authority to continue this matter until it is safe for Counsel and Respondent to meet in person.

If Counsel must meet with Respondent in person, she is responsible to provide her own Personal Protective Equipment (PPE). The first concern is access to suitable PPE and its effectiveness. The World Health Organization (WHO) has warned the global shortage of PPE leaves healthcare providers “dangerously ill-equipped” to care for COVID-19 patients.[[4]](#footnote-4) It would be imprudent and dangerous to healthcare workers for Counsel to deprive those who urgently require PPE and instead seek WHO-designated PPE to visit her office. Further, homemade PPE would not provide suitable protection and safety precautions for the Respondent, Counsel, nor the community. The CDC recommends the use of N95 respirators that provide an adequate seal to the face and filter out at least 95% of particles in the air for protection against infection and to prevent the spread of the COVID-19 illness. Facemasks, as opposed to respirators, are loose-fitting around the mouth and face, provide only a barrier protection against droplets like large respiratory particles, and “do not effectively filter small particles from the air and do not prevent leakage around the edge of the mask when the user inhales.”[[5]](#footnote-5) Makeshift or substitute facemasks do not provide suitable protection for the client nor Counsel to meet in person. Using informal facemasks, any meeting without the use of proper, WHO-approved PPE by everyone involved would only increase the risk of COVID-19 infection and community spread.

Counsel has the untenable choice to either 1) put herself and others at risk of harm by meeting in person with her client with inadequate protective gear, or 2) deprive the client of his due process right to legal representation and attorney-client confidentiality by preparing for the hearing telephonically or other means. This is not a choice that Counsel or Respondent can, in good conscious, make.

Therefore, Respondent, through Counsel, requests a continuance of the Individual Hearing scheduled for May 28, 2020 until the public health and national emergency created by the COVID-19 pandemic is lifted and until Counsel can meet safely and confidentially with her client. Failure to continue the proceedings will result in placing Counsel and Respondent at significant health and safety risk and will result in a serious and irreparable violation of Respondent’s Due Process Rights. It is not the intent of Respondent to unnecessarily delay this proceeding, and Counsel and Respondent came to this decision reluctantly, given that this will likely require Respondent’s ongoing waiting in proceedings despite the strength of his asylum claim. However, given the unusual and extraordinary circumstances of a pandemic, a request to continue is appropriate.

Dated Respectfully submitted,

Attorney Name

Human Rights First

3680 Wilshire Blvd. Ste. P04-414

Los Angeles, CA 90010

*Pro Bono*Attorney for Respondent

**UNITED STATES DEPARTMENT OF JUSTICE**

**EXECUTIVE OFFICE FOR IMMIGRATION REVIEW**

**IMMIGRATION COURT**

**LOS ANGELES, CA**

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| **In the Matter of:**  **REDACTED**  **Respondent** |
| **---------------------------------------------------** |

**ORDER OF THE IMMIGRATION JUDGE**

Upon consideration of the MOTION TO CONTINUE, it is HEREBY ORDERED that the motion be ❑ GRANTED ❑ DENIED because:

❑ DHS does not oppose the motion.

❑ The respondent does not oppose the motion.

❑ A response to the motion has not been filed with the court.

❑ Good cause has been established for the motion.

❑ The court agrees with the reasons stated in the opposition to the motion.

❑ The motion is untimely per \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

❑ Other:

Deadlines:

❑ The application(s) for relief must be filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

❑ The respondent must comply with DHS biometrics instructions by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

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Date Immigration Judge

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Certificate of Service

This document was served by: [ ] Mail [ ] Personal Service

To: [ ] Alien [ ] Alien c/o Custodial Officer [ ] Alien’s Atty/Rep [ ] DHS

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ By: Court Staff\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PROOF OF SERVICE**

I, Attorney Name, hereby certify that I did serve a copy Respondent’s **MOTION TO CONTINUE** on the Department of Homeland Security by delivering a copy to ICE Trial Attorney by eservice:

Department of Homeland Security

ICE- Office of Chief Counsel

606 S. Olive St. 8th Floor

Los Angeles, CA 90014

eservice@eservice.ice.gov

Date: \_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attorney Name

Human Rights First

*Pro Bono Counsel for Respondent*

1. <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html>. [↑](#footnote-ref-1)
2. “All non-detained hearings scheduled through May 1, 2020, have been postponed.” <https://www.justice.gov/eoir/eoir-operational-status-during-coronavirus-pandemic#non-detained>. [↑](#footnote-ref-2)
3. <https://covid19.ca.gov/img/EssentialCriticalInfrastructureWorkers.pdf>; <http://publichealth.lacounty.gov/media/Coronavirus/COVID-19_March%2021-HOOrder-7_00_FINAL2.pdf>. [↑](#footnote-ref-3)
4. World Health Organization, *Shortage of personal protective equipment endangering health workers worldwide*, March 3, 2020 available at <https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide>. [↑](#footnote-ref-4)
5. CDC, *Frequently Asked Questions about Personal Protective Equipment*, “Respirators”, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirator-use-faq.html>. [↑](#footnote-ref-5)