

INSTRUCTIONS FOR CATEGORY 2 CLASS MEMBERS FOR EMERGENCY MOTION FOR IMMEDIATE RELEASE AND TO APPEAR IN PRO PER

Disclaimer: This template motion is not a substitute for advice from an attorney about your case.

I. CAN I USE THIS MOTION?

You can only use this motion if ALL of the following things apply to you:

- ☐ You are a class member in the *Hamama v. Adducci* case, meaning you are an Iraqi national who has a final order of removal at any point between March 1, 2017 and June 24, 2017.
- ☐ You are currently detained by ICE.
- ☐ You did not violate your supervision conditions.
- ☐ You believe ICE does not have Iraqi travel documents for you.
- ☐ You are a Category 2 class member under the *Hamama* Settlement, meaning:
 - You either (1) do not have criminal convictions, or (2) you have criminal convictions but were released from criminal custody more than five years ago.
 - You are not a threat to national security.
 - You did not unlawfully enter the United States after November 1, 2020.

Note: If you are a detained *Hamama* class member who was released from criminal custody within the last five years, you are likely a Category 1 class member. A different motion packet that allows you to seek release after 90 days is available. Contact hamama@aclumich.org to ask for that motion, or you can get it at: https://www.aclumich.org/app/uploads/2024/05/hamama_settlement_sample_motion_packet.pdf.

II. WHAT TO DO BEFORE FILLING OUT THIS SAMPLE MOTION.

Before submitting this motion, you must first raise concerns about your detention with the government. You can do this by sending an email to: OIL-DCS.Hamama@usdoj.gov. We suggest you include the following language. (If you have a lawyer, your lawyer can reach out to the government; if you do not have a lawyer, a family member or other advocate can send it for you.)

I am a *Hamama* Class Member. Pursuant to Section VIII.C. of the Settlement Agreement, I am requesting a meet-and-confer with the government to discuss concerns about my continued detention. I believe that I am being detained in violation of Section IV.B. of the Settlement Agreement. I am a Category 2 Class Member who can only be detained if ICE has a travel document for me. I have not been shown a travel document. I am requesting that the government either meet with me regarding my detention or immediately release me.

The government has five business days (that is, do not count weekends or holidays) to respond to your email. They might respond to your email in a few different ways:

- (1) They may release you, in which case filing this motion will no longer be necessary.
- (2) They may say that they have decided to continue detaining you, in which case **you can**

proceed to filing this motion.

- (3) They may say that they are willing to meet with you and discuss your detention further, in which case you should meet with them before filing this motion. **If they still have not released you after that meeting, you can file this motion.**
- (4) They might not respond at all. If five business days have passed without a response from the government, **you can proceed to filing this motion.**

III. HOW TO FILL OUT THIS SAMPLE MOTION.

The attached motion is **incomplete**. It requires you to write in information about yourself. Please follow these instructions carefully. You should also cross out anything that is not accurate in your case. The motion is written from the perspective of the class member. If you are a lawyer representing a class member, you should adjust this language.

Here are step-by-step instructions for filling out the motion. Each place where you need to fill in information has a blank line, and a number with brackets for what you need to fill in (for example, “_____ [1. YOUR NAME]”). For each number, the instructions tell you what to fill in.

1. Write your full name.
2. Write the name of the facility/jail where you are currently detained.
3. This section asks you to check the box that most accurately reflects what happened when you requested to meet with the government. **Only check one item—the item you check should be the one that best explains ICE’s response to your request to meet and confer.**
4. Sign your name.
5. Print out your full name.
6. Write the date that you are submitting this motion.
7. Write the name and address of the facility/jail where you are currently detained.
8. Write the date you were detained by ICE.
9. Write the name of the facility/jail where you are currently detained.
10. This is in footnote 1. Write the date on which you sent an email to the government to request a meet-and-confer. **If you have not done this, please return to the first section of these instructions (“What to do before filling out this sample motion.”) before proceeding.**
11. This is in footnote 1 at the bottom of the page. If the government responded to your email, place a check mark in the box next to the first phrase (“my concerns regarding my continued detention have not been resolved”) and cross out the second phrase. If the government has not responded to your email in five business days, cross out the first phrase and instead place a check mark in the box next to the second phrase (“the government has not responded to my request for a meet and confer in the required five business days”).
12. If you do not have a criminal record, circle the first phrase and cross out the second phrase.

If you have a criminal record but were released from criminal custody more than five years ago, cross out the first phrase and circle the second phrase.

13. Write the date of the check-in appointment that you attended where ICE arrested you.
14. This section asks you to explain what happened at your ICE check-in. **Only check the items that happened as your check-in.** For example, if at your check-in, you or your immigration attorney explained that you are a Category 2 Class Member who can only be detained if ICE has a travel document, check box 1. If ICE refused to tell you whether they have a travel document for you, check box 4. If both happened, check box 1 and box 4.
15. You will see some blank lines. This blank space is for you to include any other information about why you think Iraq has not issued travel documents for you. For example, if the Iraqi consulate has told you that it will not issue documents, you can note that. Or if you have been granted protections under the Convention Against Torture (“CAT”) or withholding of removal so that you can’t be removed to Iraq, you can explain that.
16. Sign your name.
17. Print out your full name.
18. Write the date you are submitting this motion.
19. Sign your name.
20. Print out your full name.
21. Write the date you are submitting this motion.

Do NOT fill out the document titled “[Proposed] Order Granting Emergency Motion for Immediate Release and to Appear In Pro Per.

IV. HOW TO SUBMIT THIS MOTION.

Once you have finished filling in all of the blanks in the attached motion, and signed it, please review the motion to make sure everything you included is accurate. **Make a copy of everything to keep for your records.**

You can submit these documents via mail at the following address:

**Theodore Levin United States Courthouse
Clerk’s Office, Room 599
231 W. Lafayette Blvd.
Detroit, MI 48226**

If you are sending the motion in the mail, **please make sure that your full name and A number, as well as the case number (2:17-cv-11910), are written on the envelope.**

You can also submit these documents electronically using the Pro Se Document Upload Program

at <https://www.mied.uscourts.gov/index.cfm?pagefunction=ProSeDocs>. Put in your name and email, click “no” to the question “new case filing,” enter the case number 17-cv-11910, and then upload your documents.

A family member or other representative may also drop off your complete, signed motion packet to the Clerk’s Office at the same courthouse address provided above for mailing. Please bring a photo ID and leave any electronic devices in the car.

Finally, if your lawyer is preparing this motion for you, they can submit the motion through the PACER ECF system under the *Hamama* case.

V. WHAT HAPPENS NEXT.

Once you file your motion with the Court, the Court will decide the motion. The Court may ask the government to respond. The motion asks the Court to order the government to prove it has travel documents within 24 hours, but the Court may give ICE more time. If ICE responds, you can file a reply, which you must do within seven business days from the date that ICE filed their response.

ICE may argue that it has a travel document. If you have been in detention for more than 30 days, you can include the following in your response:

ICE has already detained me for 30 days or more. As a Category 2 class member, under Section IV.B.5.g of the Settlement Agreement, ICE cannot detain me for more than 30 days once they have obtained a travel document. My detention has already exceeded 30 days. Accordingly, ICE’s continued detention of me is unlawful, and I ask that this Court order my immediate release pursuant to Section IV.B.5.g of the Settlement Agreement.

If ICE has a travel document and you have *not* been in detention for more than 30 days, you can include the following in your response:

Because I am a Category 2 class member, under Section IV.B.5.g of the Settlement Agreement, ICE cannot detain me for more than 30 days once they have obtained a travel document. I ask the Court to order that I not be detained longer than 30 days.

ICE may also argue that you are not a Category 2 class member, for example by pointing to recent criminal history. You should explain why you think you are a Category 2 class member.

The Court will decide whether to release you. If the Court grants your request for release, ICE should release you shortly after they receive the order from the Court. If the Court denies your request for release, you will remain in detention. **Release from detention does not mean that ICE has stopped trying to deport you.** You should talk to an immigration attorney about your options.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

USAMA J. HAMAMA, et al.,
Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,
Respondents and Defendants.

Case No. 17-cv-11910

Hon. Mark A. Goldsmith
Mag. David R. Grand

**IMMEDIATE CONSIDERATION
REQUESTED**

**EMERGENCY MOTION FOR IMMEDIATE RELEASE AND
TO APPEAR IN PRO PER**

I, _____ [1. YOUR NAME/ (سمك)], respectfully
move this Court to (1) order my immediate release from immigration detention, and
(2) allow me to proceed with this motion in pro per. I am a member of the certified
class in this matter and am detained in Immigration and Customs Enforcement (ICE)
custody at _____ [2. NAME OF THE FACILITY
WHERE YOU ARE DETAINED / (اسم المنشأة التي تحتجزك)]. As required pursuant to
Section VIII.C of the Settlement Agreement in *Hamama v. Adducci*, prior to filing
this Emergency Motion for Release and to Proceed In Pro Per, I requested a meet
and confer with the government regarding my detention. When I requested a meet

and confer, the following occurred: [3. CHECK WHICH OF THE FOLLOWING OCCURRED / (قم بتحديد ما حدث مما يلي)]

- ☐ The government informed me that they have decided to continue detaining me. [أبلغتني الحكومة أنها قد قررت الاستمرار في احتجازي]
- ☐ The government met and conferred with me but did not release me after the meet and confer occurred. [قمت بالاجتماع والتشاور مع الحكومة ولكن الحكومة لم تفرج .
[عني بعد جلسة الاجتماع والتشاور .]
- ☐ The government did not respond to my request to meet and confer within five business days. [لم ترد الحكومة على مطالبتني بعقد جلسة الاجتماع والتشاور في غضون
[خمسة أيام عمل]

I am requesting immediate release pursuant to Section IV.B.5.g of the Settlement Agreement in this case. *See* ECF No. 717-2. Because I am a Category 2 Class Member, the Settlement Agreement prohibits ICE from detaining me with certain, limited exceptions. None of the exceptions are applicable here.

Given the emergency nature of this motion and the fact that I previously—and unsuccessfully—asked the government to release me, concurrence was not sought. *See* Local Rule 7.1(a)(2)(C).

Respectfully executed and submitted,

_____ [4. SIGNATURE / (التوقيع)]

_____ [5. YOUR NAME / (اسمك)]

_____ [6. TODAY'S DATE / (تاريخ اليوم)]

Currently detained at: _____

_____ [7. NAME & ADDRESS OF DETENTION

FACILITY / (اسمك وعنوان المنشأة التي تحتجزك)

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

USAMA J. HAMAMA, et al.,
Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,
Respondents and Defendants.

Case No. 17-cv-11910

Hon. Mark A. Goldsmith
Mag. David R. Grand

Class Action

**BRIEF IN SUPPORT OF EMERGENCY MOTION FOR
IMMEDIATE RELEASE AND TO APPEAR IN PRO PER**

INTRODUCTION

I am a member of the certified class in this matter and am detained in Immigration and Customs Enforcement (ICE) custody. I am requesting release because my detention violates Section IV.B.5.g. of the Settlement Agreement, ECF No. 717-2. Because I am a Category 2 Class Member, the Settlement Agreement prohibits ICE from detaining me with certain, limited exceptions. None of the exceptions are applicable here. I respectfully move this Court to (1) order my release from immigration detention, and (2) allow me to proceed with this motion in pro per.

BACKGROUND

On August 2, 2024, this Court approved a class-wide Settlement Agreement in this case. *See* Settlement Agreement, ECF No. 717-2; Order Approving

Settlement Agreement and Dismissing Case, ECF No. 728. The Settlement designates two groups of Class Members: Category 1 and Category 2, which are described at greater length *infra*. I believe I am a Category 2 Class Member.

Because I am a Category 2 Class Member, the Settlement Agreement places strict limits on the circumstances under which ICE can detain me. Section IV.B.5.g of the Settlement prohibits the detention of a Category 2 Class Member, unless ICE has a travel document for the Class Member, with some limited exceptions. In addition, detention of Category 2 Class Members cannot exceed 30 days. *Id.*

I was detained by ICE on _____ [8. DATE YOU WERE
DETAINED BY ICE/ [تاريخ اعتقالك من قبل إدارة الهجرة والجمارك] and am currently being
held at _____ [9. IMMIGRATION DETENTION
FACILITY NAME / [اسم منشأة الهجرة التي تحتجزك]]. However, upon information and
belief, ICE does not have a travel document for me and therefore my detention
violates Section IV.B.5.g of the Settlement.

ARGUMENT

I. The Court Has Jurisdiction to Hear My Motion for Release.¹

The Settlement Agreement covers a class of “all Iraqi nationals in the United States who had Final Orders of Removal at any point between March 1, 2017 and June 24, 2017.” Section I.B.6. I am an Iraqi national who is in the United States who had a final order of removal during that time period.

The Settlement Agreement gives this Court the authority to “[e]nforce the terms and conditions of this Agreement,” Section VIII.A.1.a, and specifically provides for the Court to review motions for release brought by individual Class Members challenging detention “based on limitations on detention specifically contained in this Agreement,” except those which the Settlement Agreement

¹ The Settlement Agreement requires me to attempt to meet and confer with the government. Section VIII.C.1. I reached out to the government’s attorneys on _____ [10. DATE YOU EMAILED THE GOVERNMENT / (تاريخ)] [10. DATE YOU EMAILED THE GOVERNMENT / (تاريخ)] via email, and as of the filing of this motion: [11. CHECK WHICH PHRASE BELOW APPLIES/ (حدد العبارة التي تنطبق على حالتك مما يلي)].

- ☐ My concerns regarding my continued detention have not been resolved / (لم تتم معالجة مخاوفي بشأن الاستمرار باحتجازي).
- ☐ The government has not responded to my request for a meet and confer in the required five business days/ (لم ترد الحكومة على طلبي لعقد جلسة اجتماع وتشاور في (خمسة أيام عمل كما هو مطلوب)).

specifies should go before the Special Master. Section VIII.A.2. My motion is not one that the Settlement Agreement specifies should go to the Special Master.² Accordingly, the Court has jurisdiction to adjudicate my Motion for Release. Under Section VIII.D.2.b.vi, the Parties can refer additional issues to the Special Master for resolution. If Defendants agree to have this issue decided by the Special Master, and the Court wishes to send this Motion to the Special Master, I agree to adjudication by the Special Master.

II. I am Entitled to Immediate Release Because ICE Does Not Have Grounds to Detain Me Under the Settlement.

A. I am a Category 2 Class Member.

The Settlement Agreement designates two categories of Class Members: Category 1 and Category 2. Section II.A defines a Category 1 Individual as “a Class Member who poses a threat to national security, or a current threat to border security or public safety[.]” Section II.B. of the Settlement defines a Category 2 Class Member as “a Class Member other than a Category 1 Individual.”

Upon information and belief, I am a Category 2 Class Member, as I am not a threat to national security or a threat to border security as defined at Sections II.A.1-

² I am challenging my detention as violating Section IV.B.5.g of the Settlement. The adjudication of claims under Section IV.B.5.g is not referenced in Section VIII.D of the Settlement, which sets out the authority of the Special Master. *See also* Amended Stipulated Order Appointing the Special Master, ECF No. 730.

ICE is only permitted to detain the Class Member “for up to thirty (30) days to effectuate removal.”

I reported to ICE on _____ [13. DATE OF YOUR CHECK-IN APPOINTMENT/(تاريخ موعد تسجيل حضورك)]. At my check in the following things

happened: [14. CHECK ALL THAT APPLY /(حدد كل ما ينطبق على حالتك)]

- ☐ 1) I and/or my immigration attorney explained that I am a Category 2 Class Member who can only be detained if ICE has a travel document./

أوضحت أنا و/أو محامي الهجرة الخاص بي بأنني أحد أعضاء الفئة الثانية من المجموعة والذين من الممكن احتجازهم فقط إذا كان لدى ICE وثائق سفر لهم.

- ☐ 2) I and/or my immigration attorney asked ICE to provide a copy of the travel document they had, but ICE did not show me a copy of a travel document. /

طلبت أنا و/أو محامي الهجرة الخاص بي من ICE تزويدي بنسخة عن وثيقة السفر التي لديهم، ولكن ICE لم تطلعني على وثيقة السفر.

- ☐ 3) ICE told me that they do not have a travel document for me. /

تم إبلاغي من قبل ICE بأنه ليس لديهم وثيقة سفر خاصة بي.

- ☐ 4) ICE refused to tell me whether they have a travel document for me /

رفضت ICE إبلاغي فيما إذا كان لديهم وثيقة سفر خاصة بي أم لا.

□

[15. ADD ANY OTHER INFORMATION SHOWING WHY YOU
BELIEVE THERE IS NO TRAVEL DOCUMENT / قم بإضافة أية معلومات أخرى

].(توضح سبب اعتقادك بأنه لا توجد وثيقة سفر خاصة بك

As of the filing of this motion, there is still no evidence that a travel document has issued, as ICE still has not shown me any travel documents. Accordingly, there is no justification for my detention under Section IV.B.5.g. Absent evidentiary support in response to this motion that a travel document has issued, I should be immediately released.

C. ICE Does Not Have Any Other Grounds to Detain Me Under the Settlement.

ICE does not have any other grounds under the Settlement that justify my detention. My detention is not authorized under Section IV.A.2 of the Settlement, as I have not violated an Order of Supervision from ICE. Further, upon information and belief, ICE is not detaining me for the purpose of conducting a consular interview pursuant to Section IV.B.5.b. ICE has not stated that I am being detained for a consular interview nor is detention necessary for a consular interview. I have not failed to appear for a previously scheduled consular interview, nor did I fail to

comply with any additional information requests from ICE related to my removal.³ Additionally, upon information and belief, ICE did not receive prior approval from the Special Master to detain me.

In sum, ICE does not have a basis to detain me under Section IV.A.2 or Section IV.B.5.b-c of the Settlement, and, absent evidentiary support to the contrary provided in response to this motion, must release me immediately.

D. Permission to Proceed in Pro Per.

Section VIII.G.1. of the Settlement Agreement provides that Class Members may appear in pro per with the Court's approval. I am currently unable to afford an attorney and have not been able to find *pro bono* legal representation to file this motion. In addition, Class Counsel is unable to represent me directly in filing this motion. Therefore, to ensure that I can access the relief provided by the Settlement Agreement, I am respectfully requesting that this Court allow me to file in pro per.

CONCLUSION

ICE has detained me in violation of the Settlement. There is no evidence that ICE has a travel document for me, as is required prior to detention of a Category 2

³ The Settlement Agreement prohibits the detention of a Category 2 Class Member for a consular interview unless detention is necessary to conduct the consular interview, the Class Member failed to appear for a previously scheduled consular interview, or the Class Member failed to make good faith efforts to comply with additional informational requests from ICE." Settlement, Section IV.B.5.b. In most instances pre-approval of the Special Master is required. *Id.*, Section IV.B.5.c.

Class Member. There are no other grounds under the Settlement under which ICE has the authority to detain me. I respectfully request that this Court:

1. Order that ICE must immediately release me pursuant to Section IV.B.5.g of the Settlement Agreement unless ICE produces a travel document for me or provides proof that I am a Category 1 Class Member within 24 hours; AND
2. Order that if ICE does produce a travel document for me but is unable to remove me within 30 days from when I was initially detained, ICE release me as required under Section IV.B.5.g of the Settlement Agreement unless ICE provides proof that I am a Category 1 Class Member; AND
3. Order that I be allowed to proceed in pro per.

A proposed order is attached.

In the alternative, if the Court requires further briefing on this motion, I respectfully ask that the Court order any response to be due within two business days. Because Section IV.B.5.g. only permits up to 30 days of detention, a regular briefing schedule for this motion would result in my unreasonably prolonged detention.

I declare under penalty of perjury that the foregoing information concerning me and my detention is true and correct to the best of my information and belief.

Respectfully executed and submitted,

_____ [16. SIGNATURE / (التوقيع)]

_____ [17. YOUR NAME / (اسمك)]

_____ [18. TODAY'S DATE / (تاريخ اليوم)]

Certificate of Service

This motion will be served on all counsel of record when it is filed in the ECF system.

_____ [19. SIGNATURE / (التوقيع)]

_____ [20. YOUR NAME / (اسمك)]

_____ [21. TODAY'S DATE / (تاريخ اليوم)]

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

USAMA J. HAMAMA, et al.,
Petitioners and Plaintiffs,

v.

REBECCA ADDUCCI, et al.,
Respondents and Defendants.

Case No. 17-cv-11910

Hon. Mark A. Goldsmith
Mag. David R. Grand

Class Action

**[PROPOSED] ORDER GRANTING EMERGENCY MOTION FOR
IMMEDIATE RELEASE AND TO APPEAR PRO PER**

On _____, Petitioner filed an Emergency Motion for Immediate Release and To Appear Pro Per (ECF No. __) pursuant to the Settlement Agreement approved by this Court on August 2, 2024. (ECF Nos. 717-2, 728). Under Section VIII.A.2 of the Settlement, this Court has the authority to review “challenges . . . based on limitations on detention specifically contained in this Agreement brought by individual Class Members.” (ECF No. 717-2, PageID.18959.)

Petitioner’s Emergency Motion for Immediate Release and To Appear Pro Per is **GRANTED**. ICE shall immediately release the Petitioner pursuant to Section IV.B.5.g of the Settlement Agreement unless ICE produces a travel document within 24 hours or provides proof that Petitioner is a Category 1 Class Member. If ICE

produces a travel document but is unable to remove the Petitioner within 30 days from the date Petitioner was originally detained, ICE shall release Petitioner pursuant Section IV.B.5.g of the Settlement Agreement absent a determination by this Court that the Petitioner is a Category 1 Class Member. Petitioner is also granted permission to proceed in pro per.

IT IS SO ORDERED.

Dated:
Detroit, Michigan

MARK A. GOLDSMITH
United States District Judge