



March 25, 2026

Via ECF

The Honorable P. Kevin Castel
United States District Judge
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

Re: *African Communities Together et al. v. Lyons et al.*, 25-cv-06366-PKC
Response to ECF 77

Dear Judge Castel:

We represent Plaintiffs African Communities Together and The Door, and their members, in this case challenging the government’s policies of targeting noncitizens at their immigration court proceedings, depriving them of their right to seek relief from removal in regular proceedings, and subjecting them to immediate arrest. We write in response to the government’s extraordinary letter dated March 24, 2026, revealing a “material mistaken statement of fact” at the core of the government’s defense of its Immigration Court Arrest Policy, ECF 77 at 1—months after the conclusion of summary judgment briefing in this litigation, and after that false statement of fact was relied upon by this Court to deny Plaintiffs preliminary relief on their challenge to that policy.

Specifically, the government now concedes the May 2025 ICE memorandum—which it previously asserted authorized arrests at immigration courthouses, provided guidance minimizing the harms of such arrests, and explained the agency’s reasoning for abandoning a prior policy largely prohibiting such arrests—in fact has *never applied* to such arrests. *See id.* Accordingly, it further concedes the government’s primary defense to Plaintiffs’ claim that the Immigration Court Arrest Policy is arbitrary and capricious in violation of the Administrative Procedure Act must be “withdraw[n],” and it states that the portion of this Court’s order denying Plaintiffs’ motion to stay the policy, “which relied on the Government’s prior [false] representations regarding the applicability of” the memorandum, will “need to be reconsidered.” *Id.* at 1-2 (citing government briefs filed at ECF 39, 66, 70, and 74; the government’s Sept. 2, 2025, oral argument, ECF 62; and this Court’s Sept. 12, 2025, opinion and order, ECF 51).

The implications of this development are far-reaching. In the months since the Court relied on the government’s representation to deny Plaintiffs preliminary relief, Defendants have continued arresting noncitizens at their immigration court hearings, resulting in their detention—often in facilities hundreds of miles away. *See, e.g.*, Declaration of Maria Tumba Huamani, ECF 68-13 (describing the violent arrest of a young person and her eventual transfer to a detention center in Louisiana).

As the government notes, Plaintiffs were informed of this development at 5pm on March 24, 2026. Given what is at stake, Plaintiffs respectfully request fourteen (14) days, until April 8, 2026, to file a response. Plaintiffs propose that the parties use this time to confer regarding next steps, including a possible motion for reconsideration of ECF 51 and any other appropriate motions, and that Plaintiffs' response will state if the parties have come to agreement on jointly proposed next steps, or, if not, will include the parties' respective positions. The government consents to this request. In addition, or in the alternative, Plaintiffs are of course prepared to appear before the Court or make any submissions the Court deems appropriate.

We thank the Court for its consideration of this request.

Respectfully submitted,

NEW YORK CIVIL LIBERTIES UNION
FOUNDATION

/s/ Amy Belsher

Amy Belsher
Elizabeth Gyori
Wafa Junaid
Claire Molholm
Thomas Munson
M. Porter*
Robert Hodgson
125 Broad Street, 19th Floor
New York, NY 10004
Tel: (212) 607-3300

EMERY CELLI BRINCKERHOFF ABADY WARD &
MAAZEL LLP

Katherine Rosenfeld
Samuel Shapiro
Emily Wanger
One Rockefeller Plaza, 8th Floor
New York, NY 10020
Tel: (212) 763-5000

* Admitted *pro hac vice*

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Noor Zafar
125 Broad Street, 18th Floor
New York, NY 10004
Tel: (212) 549-2500

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Michael K.T. Tan
Hannah Steinberg*
Oscar Sarabia Roman*
425 California Street, Suite 700
San Francisco, CA 94104
Tel: (415) 343-0770

MAKE THE ROAD NEW YORK

Harold Solis
Paige Austin
301 Grove Street
Brooklyn, NY 11237
Tel: (718) 418-7690

Counsel for Plaintiffs