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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 ALBERTO LUCIANO GONZALEZ
11 TORRES,

12 Plaintiff,

13 v.

14 U.S. DEPARTMENT OF
15 HOMELAND SECURITY; U.S.
16 CITIZENSHIP AND IMMIGRATION
SERVICES; U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT;
and U.S. CUSTOMS AND BORDER
PROTECTION,

17 Defendants.

CASE NO. 17cv1840 JM(NLS)

ORDER GRANTING MOTION FOR
PRELIMINARY INJUNCTION

18
19 Plaintiff Alberto Luciano Gonzalez Torres moves to enjoin the revocation of the
20 legal status he obtained through the Deferred Action for Childhood Arrivals (“DACA”)
21 program in order to permit him to apply for an extension of his DACA status.
22 Defendants U.S. Department of Homeland Security (“DHS”), U.S. Citizenship and
23 Immigration Services (“USCIS”), U.S. Immigration and Customs Enforcement (“ICE”),
24 and U.S. Customs and Border Protection (“USCBP”) oppose the motion. Having
25 carefully considered the matter presented, the court record, the arguments of counsel
26 and, for the reasons set forth below, the court grants the motion for preliminary
27 injunction.

28 ///

BACKGROUND

On September 11, 2017, Plaintiff commenced this declaratory and injunctive relief action seeking a declaration that the automatic termination of his DACA status, without notice or an opportunity to contest the termination, (1) failed to comply with the DACA Standard Operating Procedures (“DACA SOP”); (2) violated the arbitrary, capricious, and abuse of discretion standard of the Administrative Procedure Act (“APA”); and (3) violated Plaintiff’s Procedural Due Process rights under the Fifth Amendment.

Plaintiff Obtains DACA Status

Plaintiff is a 24-year-old citizen of Mexico who was brought to the United States by his family when he was eight years old. Plaintiff and his family entered the United States without authorization from the Attorney General. Since his entry into the United States, Plaintiff has lived in San Diego, California where he graduated from Altus Charter High School in 2011. From 2011 to 2013 Plaintiff was unable to obtain lawful employment due to his immigration status. Plaintiff has no criminal convictions and had never been arrested until the 2016 detention in this case.

In June 2012, the Obama Administration created a program which allowed certain immigrants to avoid deportation and obtain work permits for a period of two years, renewable upon good behavior. The contours of the DACA program were set out in a June 15, 2012 Memorandum from former Secretary of the DHS, Janet Napolitano, and which became known as the “Napolitano Memo.” The Napolitano Memo provided the criteria to be satisfied before an individual could be considered for an exercise of prosecutorial discretion. In broad brush, one qualified for DACA status upon showing that the individual:

- entered the United States before their 16th birthday and prior to June 2007;
- lived continuously in the United States during the previous five years;
- was currently in school, a high school graduate or was honorably discharged

1 from the military;

- 2 • was under the age of 31 as of June 15, 2012; and
- 3 • not have been convicted of a felony, significant misdemeanor, three other
- 4 misdemeanors, nor posed a threat to national or public safety.

5 The program did not, and still does not, provide lawful status or a path to
6 citizenship, nor, among other things, does it provide eligibility for federal welfare or
7 student aid. (Pls. Exh. B).

8 In early 2013, satisfying all prerequisites for DACA status, Plaintiff applied for,
9 and was granted, DACA status. Having obtained DACA status, Plaintiff was
10 considered “lawfully present” in the country and granted an Employment Authorization
11 Document (“EAD”) and Social Security Number, so that Plaintiff could be lawfully
12 employed. The approval letter issued by USCIS informed Plaintiff that “in the exercise
13 of its prosecutorial discretion, [USCIS] has decided to defer action on” his case for a
14 period of two years. “Deferred action does not confer or alter any immigration status.”
15 (Pl. Exh. I). In 2014, DHS renewed Plaintiff’s DACA status.

16 Upon receipt of DACA status, Plaintiff obtained full-time employment in the
17 airline food packaging industry and worked in that industry from 2013 until May 2016,
18 working the 7:00 p.m. to 4:00 a.m. shift. The hiring process involved interviews, drug
19 tests, background checks, and verification of employment authorization. Plaintiff used
20 a portion of his income to financially support his family. In May 2016, Plaintiff’s
21 DACA status was purportedly revoked by the USCIS in a Notice of Action. Plaintiff
22 informed his employer of the loss of DACA status and was terminated. The employer
23 informed Plaintiff that he could re-apply for employment once he obtains work
24 authorization.

25 Revocation of DACA Status

26 On May 6, 2016, Plaintiff declares that an acquaintance named Adolfo asked
27 him, as he had in the past, to look after his dogs while he was out of town. Plaintiff
28 went to Adolfo’s home, took care of the dogs, and encountered two other individuals

1 at the home. Plaintiff planned to have his sister pick him up from Adolfo's house and
2 drive him to work by 7:00 p.m., the shift start time. At 4:00 p.m., a few hours after
3 arriving at Adolfo's house, USCBP officers knocked on the door and asked Plaintiff
4 if they could search the premises. He informed the USCBP officers that they needed
5 a search warrant to enter the home as he did not believe he "had permission to let them
6 in because it was not my house." (Gonzalez Decl. ¶11). The Officers did not enter the
7 home, but remained outside.

8 Around 5:00 p.m. a man not known to Plaintiff arrived, represented that he was
9 the owner of the house, and asked Plaintiff to exit his home. Outside the home,
10 Plaintiff was interviewed by USCBP officers and informed them that he possessed
11 DACA status and a valid EAD. According to Plaintiff, he was then arrested,
12 handcuffed, and spent the next two days being "aggressively" interrogated by two
13 officers. The officers asked him about "wrongdoing at the house that I did not
14 understand. I kept asking them for details and telling them, 'I don't understand why
15 I'm being detained.'" (*Id.* ¶18). "No one interrogated [Plaintiff] after those first two
16 or three days," or after his release from custody.

17 After two or three days, Plaintiff was transferred to another facility. On June 1,
18 2016, Plaintiff was provided with a bond hearing before Immigration Judge
19 McSeveney, and released two days later on a \$5,000 bond. In the sixteen months since
20 his release, Plaintiff has not had any law enforcement contacts. At oral argument, the
21 court was advised the matter of Plaintiff's removal is still pending.

22 To provide additional context to Plaintiff's declaration, Defendants represent that
23 Plaintiff (and another individual arrested at the searched house) was arrested on May
24 6, 2016, for harboring illegal aliens in violation of 8 U.S.C. §1324(a)(1)(A)(iii) and
25 §1182(a)(6)(E)(i). Once the owner of the home arrived at Adolfo's residence, the
26 owner consented to permit USCBP agents to search the residence (the renters were not
27 at home). Inside, USCBP discovered 12 illegal aliens (five from China and seven from
28 Mexico) hiding in the attic. The record of Deportable/Inadmissible Alien documents

1 indicate that three material witnesses identified Plaintiff as the individual who told
2 them to hide in the attic.

3 On May 7, 2016, USCIS issued Plaintiff a Notice to Appear (“NTA”) charging
4 him as “inadmissible” to the United States (i.e. Plaintiff was deemed unlawfully
5 present in the country) pursuant to 8 U.S.C. §1182(a)(6)(A)(i). On May 23, 2016,
6 USCIS provided Plaintiff with a Notice of Action informing him that his DACA status
7 and employment authorization had been automatically terminated as of the date of the
8 NTA (May 7, 2016). The Notice of Action also informed Plaintiff that an appeal or
9 motion to reopen/reconsider “may not be filed.” (Pls. Exh. N).

10 The DACA SOP

11 The DACA SOP issued by DHS sets forth the procedures for adjudicating
12 DACA applications, renewals, and the termination of participation in DACA. In
13 pertinent part, the DACA SOP outlines four procedures to be followed upon
14 termination or revocation of DACA status. First, in the event an immigration officer
15 learns that DACA status was either erroneously or fraudulently issued to a DACA
16 recipient, the agency issues a Notice of Intent to Terminate (“NOIT”) to the recipient.
17 The NOIT provides notice that, upon termination of DACA status, the recipient will
18 lose employment authorization. The DACA SOP provides that the NOIT must inform
19 the recipient that he or she has “33 days to file a brief or statement contesting the
20 grounds cited in the” NOIT. (Pls. Exh.F at 136).

21 Second, the DACA SOP also provides that criminal offenses or public safety
22 concerns deemed to be Egregious Public Safety (“EPS”) cases, as defined in the
23 November 7, 2011 Memorandum for EPS cases (“2011 Memorandum”), may serve as
24 a basis to terminate DACA status. Once the underlying conduct is found to be an EPS
25 case, the officer then forwards the case to the Background Check Unit DACA Team
26 (“BCU”) who, in turn, forwards the case to ICE for application of the 2011
27 Memorandum. In the event ICE accepts the case and issues an NTA, the recipient will
28 automatically lose DACA status. Additionally, upon filing the NTA with EOIR

1 (Executive Office for Immigration Review), the recipient's employment authorization
2 terminates automatically. (Id. at 137).

3 Third, in the event ICE does not accept the EPS case, or the underlying offense
4 is non-EPS conduct, BCU DACA Team is instructed to reopen the case and issue a
5 NOIT. The individual then has 33 days to submit a brief contesting the grounds for
6 removal identified in the NOIT.

7 Fourth, in the event USCIS determines, after consulting with ICE, that exercising
8 prosecutorial discretion is not consistent with DHS's enforcement policies, and ICE
9 does not plan to issue an NTA, the officer refers the matter through the normal chain of
10 command to Headquarters Service Center Operations ("HSCO"). In the event HSCO
11 determines that the case warrants final termination, the DACA recipient must be
12 provided with DACA Form 603, and an opportunity to respond.

13 In short, except in EPS cases, the DACA SOP requires notice and an ability to
14 contest the NOIT before DACA status may be terminated. In EPS cases, DACA status
15 is automatically revoked once ICE accepts the case and issues a NTA. However, as set
16 forth in the November 7, 2011 Policy Memorandum, an NTA can only be issued by
17 USCIS under limited circumstances not applicable here (in cases involving modifying
18 conditions of residency, denial of Form I-829, termination of refugee status, adjustment
19 of status denials, and asylum). (Pls. Exh. G). It is undisputed that Defendants did not
20 comply with any of the specified DACA termination provisions, including the referral
21 of the case to ICE for a decision on the issuance of an NTA.

22 Recent DACA Related Events

23 On September 5, 2017, Defendant DHS announced a plan to eliminate DACA,
24 beginning in March 2018. Current DACA recipients whose status expires on or before
25 March 5, 2018, may apply for a two-year renewal, but renewal applications are due on
26 or before October 5, 2017.

27 In light of the numerous recent government issued memoranda concerning
28 modifications to immigration policies, laws, regulations and procedures, the court notes

1 that these memoranda preserve the DACA program. For example, on February 20,
2 2017, the Secretary of Homeland Security John F. Kelly issued an implementing
3 Memorandum stating that DHS “will no longer exempt classes or categories of
4 removable aliens from potential enforcement.” However, the memorandum specifically
5 left intact the DACA program. On June 15, 2017, Secretary Kelly issued a
6 memorandum rescinding the Deferred Action for Parents of Americans and Lawful
7 Permanent Residents (“DAPA”), but temporarily leaving the DACA program in place.
8 (Pls. Exh. A).

9 In light of the announced elimination of DACA, and the October 5, 2017 deadline
10 for renewals under DACA, Plaintiff seeks expedited relief to enjoin Defendants from
11 enforcing the termination of his DACA status in order to permit him to file a DACA
12 renewal application. On September 21, 2017, the court entered an Amended Scheduling
13 Order setting the matter for oral argument on September 28, 2017.

14 DISCUSSION

15 Legal Standards

16 To obtain preliminary or temporary injunctive relief, the party must satisfy one
17 of two tests: (1) a combination of probable success and the possibility of irreparable
18 harm, or (2) the party raises serious questions and the balance of hardship tips in its
19 favor. Arcamuzi v. Continental Air Lines, Inc., 819 F.2d 935, 937 (9th Cir. 1987).
20 "These two formulations represent two points on a sliding scale in which the required
21 degree of irreparable harm increases as the probability of success decreases." Id. Under
22 both formulations, however, the party must demonstrate a "fair chance of success on the
23 merits" and a "significant threat of irreparable injury." Id.; Miller v. California Pac.
24 Med. Ctr., 19 F.3d 449, 456 (9th Cir. 1994 (en banc)). The court also considers the
25 public interest in the issues raised by the parties. Winter v. NRDC, Inc., 555 U.S. 7, 20
26 (2008).¹

28 ¹ Pursuant to Fed.R.Civ.P. 65(a), the court treats Plaintiff's motion as one for preliminary injunctive relief.

1 **Subject Matter Jurisdiction**

2 Defendants contend that the jurisdictional stripping provision of the Immigration
3 and Naturalization Act prevents this court from reviewing Plaintiff's claim. The statute
4 provides:

5 Except as provided in this section and notwithstanding any other provision
6 of law (statutory or nonstatutory), including section 2241 of Title 28, or
7 any other habeas corpus provision, and sections 1361 and 1651 of such
8 title, no court shall have jurisdiction to hear any cause or claim by or on
behalf of any alien arising from the decision or action by the Attorney
General to commence proceedings, adjudicate cases, or execute removal
orders against any alien under this chapter.

9 8 U.S.C. §1252(g). The parties do not dispute that, as stated in the statute, this court
10 does not have jurisdiction to entertain claims "arising from the decision or action by the
11 Attorney General to commence proceedings, adjudicate cases, or execute removal orders
12 against any alien." Id. Under this provision, the court is stripped of jurisdiction to
13 entertain Defendants' ultimate discretionary determination as to Plaintiff's DACA
14 status. However, Defendants misconstrue §1252(g).

15 Section 1252(g) must be construed narrowly and "applies only to three discrete
16 actions. . . 'to commence proceedings, adjudicate cases, or execute removal orders.'" Wong v. United States, 373 F.3d 952, 963-64 (9th Cir. 2004); Coyotl v. Kelly, 2017 WL
18 2889681 (N.D. GA. June 12, 2017) (jurisdictional stripping provision does not bar the
19 exercise of jurisdiction over claim that termination of DACA status occurred without
20 following the non-discretionary termination provisions of the DACA SOP); (United
21 States v. Hovsepian, 359 F.3d 1144, 1155 (9th Cir. 2004) (district court may consider
22 "a purely legal conclusion that does not challenge the Attorney General's discretionary
23 authority, even if the answer . . . forms the backdrop against which the Attorney General
24 later will exercise discretionary authority"); Ramirez-Perez v. Ashcroft, 336 F.3d 1001,
25 1004 (9th Cir. 2003) (courts "retain jurisdiction to review constitutional claims, even
26 when those claim address [agency] discretion"). Accordingly, this provision does not
27 deprive the court of jurisdiction to entertain Plaintiff's claim that the termination of his
28 DACA status did not comply with the non-discretionary DACA SOP.

1 Similarly, the provision related to the review of orders of removal, 8 U.S.C.
2 §1252(b)(9), does not prevent the court from entertaining Plaintiff's claims. Here, there
3 is no final order of removal entered against Plaintiff and no proceedings have been
4 commenced against Plaintiff. As noted in Sing v. Gonzales, 499 F.3d 969, 978 (9th Cir.
5 2007), §1252(b)(9) "appl[ies] only to those claims seeking judicial review of orders of
6 removal." Here, Plaintiff brings a procedural challenge to termination of his DACA
7 status, an issue independent from any removal proceedings. Accordingly, this provision
8 does not deprive the court of jurisdiction to entertain Plaintiff's claim.

9 In sum, the court concludes that it possesses jurisdiction to entertain Plaintiff's
10 claims.

11 **Likelihood of Success on the Merits**

12 Both Counts One and Two in the complaint seek relief pursuant to the APA, 5
13 U.S.C. §702, based upon Defendants failure to comply with the DACA SOP when
14 terminating Plaintiff's DACA status. Under the APA, "[a] person suffering legal wrong
15 because of agency action, or adversely affected or aggrieved by agency action within
16 the meaning of a relevant statute, is entitled to judicial review." 5 U.S.C. §702. The
17 APA further states "[a]gency action made reviewable by statute and final agency action
18 for which there is no other adequate remedy in a court are subject to judicial review."
19 Id. § 704. Section 706 instructs the court reviewing agency action to "decide all
20 relevant questions of law, interpret constitutional and statutory provisions, and
21 determine the meaning or applicability of the terms of an agency action." Not only shall
22 the reviewing court compel agency action unlawfully withheld but shall also "hold
23 unlawful and set aside agency action, findings, and conclusions found to be – (A)
24 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."
25 Id. §§706(1) and (2)(A).

26 The court concludes that Defendants' failure to follow the termination procedures
27 set forth in the DACA SOP is arbitrary, capricious, and an abuse of discretion. See U.S.
28 ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 268 (1954) Alcaraz v. INS, 384 F.3d

1 1150, 1162 (9th Cir. 2004) (an agency's failure to follow its own procedures is a
2 sufficient ground to set aside agency action). Two of the four DACA SOP termination
3 procedures require the appropriate agency to provide the DACA recipient with a NOIT
4 identifying the grounds for termination and providing 33 days to file a brief or statement
5 contesting the grounds. (Pls. Exh. F at 136-37). Defendants did not comply with this
6 procedure in the DACA SOP. One other means of terminating DACA status is to refer
7 the matter to HSCO which then determines whether the case warrants final termination.
8 If so, the DACA recipient must be provided with DACA Form 603, and an opportunity
9 to respond. Defendants did not comply with this procedure in the DACA SOP. Lastly,
10 while DACA status may be terminated by ICE in an EPS case, the Notice received by
11 Plaintiff identified his presence in the United States without being admitted or paroled
12 in violation of 8 U.S.C. §1182(a)(6)(A)(i) as the grounds for removal. A violation of
13 that provision does not constitute an EPS case because the 2011 Memorandum
14 identifies only certain aggravated felony alien smuggling offenses (8 U.S.C.
15 §1001(a)(43)(N)) as disqualifying criminal conduct. Unlawful presence in violation of
16 §1182(a)(6)(A)(i) is not an aggravated felony. Accordingly, the court concludes that
17 Defendants have failed to follow their own procedures in terminating Plaintiff's DACA
18 status.

19 Defendants broadly argue that the DHS possesses such broad prosecutorial
20 discretion that they need not follow the DACA SOP in terminating the status of DACA
21 recipients. The court categorically rejects this proposition. While Defendants are
22 granted broad discretion to commence, adjudicate, and execute removal orders, a
23 fundamental principle of federal law is that a federal agency must follow its own
24 procedures. Morton v. Ruiz, 415 U.S. 199, 233-35 (1974) ("[W]here the rights of
25 individuals are affected, it is incumbent upon agencies to follow their own
26 procedures."); Nicholas v. INS, 590 F.2d 802, 809 (9th Cir.1979) (holding that INS
27 violated its own regulation in processing a non-citizen's request for immigration
28 records); United States v. Heffner, 420 F.2d 809 (4th Cir. 1969) (courts must overturn

1 agency actions which do not scrupulously follow the regulations and procedures
2 promulgated by the agency itself). In Accardi, 347 U.S. 260, the petitioner alleged that
3 the Board of Immigration Appeals (“BIA”) failed to exercise its discretion in
4 determining his application for suspension of deportation. Id. at 261. Petitioner alleged
5 that the BIA deferred to the decision of the Attorney General and, therefore, did not
6 exercise its own regulatory discretion in determining his application. The BIA denied
7 petitioner’s application allegedly because petitioner’s name was on a list of immigrants
8 the Attorney General wanted deported. The regulatory scheme required the BIA to
9 exercise its own judgment when considering immigration appeals, and not to rely upon
10 the Attorney General’s determinations. The Supreme Court reversed the BIA’s denial
11 of the application and remanded for further proceedings because the BIA allegedly
12 failed to exercise its own discretion as required by its own relevant regulations.

13 Defendants further contend, in essence, the NTA issued by USCBP in connection
14 with removal proceedings for Plaintiff was tantamount to ICE issuing a NTA
15 terminating DACA status pursuant to the DACA SOP. But this position is indefensible
16 for several reasons. First, as discussed elsewhere in this order, the NTA for removal
17 proceedings was predicated upon the “ground” of being illegally present, a charge that
18 is not an aggravated felony for purposes of EPS rules. See 8 U.S.C. §1001(a)(43)(N);
19 Pls. Exh. G at pp. 61-62. Second, contrary to defendants’ position that immigration
20 removal proceedings are the proper forum for Plaintiff to raise his DACA termination
21 status, an immigration judge has no jurisdiction to reinstate DACA status, or to
22 authorize an application for renewal of DACA status, as acknowledged by Defendants
23 at oral argument. Basically, Defendants’ argument that a USCBP issued NTA for
24 removal purposes is the equivalent of an ICE issued NTA for an EPS case under DACA
25 has no basis in law. The two NTAs are not fungible, or “flip sides of the same coin,”
26 as advanced by Defendants at oral argument.

27 Here, Defendants have failed to present any evidence that they complied with the
28 termination of DACA status provisions set forth in the DACA SOP. Moreover, Plaintiff

1 has made a strong showing that he is likely to prevail on his APA claim that Defendants
2 acted arbitrarily, capriciously, and abused their discretion by failing to follow the
3 DACA SOP.

4 In sum, the court concludes that Plaintiff has made a strong showing that he is
5 likely to prevail on the merits.

6 **Procedural Due Process**

7 Because the court resolved Plaintiff's claims based upon a statutory analysis, the
8 court does not reach the claim that Defendants violated his Fifth Amendment procedural
9 due process rights. In any event, the court notes that the remedy for violation of the
10 DACA SOP - - notice and an opportunity to contest administrative action - - is an
11 equivalent remedy available under the due process clause.

12 **Irreparable Harm**

13 The court concludes that Plaintiff will suffer significant irreparable harm in the
14 absence of an injunction by losing his DACA status and the ability to apply for renewal
15 of that status. The potential harm caused by Defendants' conduct includes the loss of
16 employment, a core benefit under DACA. The deprivation of employment impacts
17 Plaintiff's ability to financially provide for himself and his family. See Cleveland Bd.
18 Of Ed. v. Lauderhill, 470 U.S. 532, 543 (1985) (loss of livelihood is a severe harm).
19 The loss of DACA status also undermines one's sense of well-being and subjects
20 Plaintiff to a constant threat of apprehension and possible removal from the only
21 country he has called home. This threatened harm far exceeds any harm suffered by the
22 government. This court is simply requiring Defendants to follow their own procedural
23 dictates for termination of DACA status by essentially giving Plaintiff a meaningful
24 opportunity to be heard before any determination to terminate his DACA status is made.

25 Defendants argue that Plaintiff's pursuit of a legal remedy 16 months after his
26 DACA status was terminated undermines his claim of irreparable harm. This argument
27 is not persuasive. The precipitating event giving rise to the present action is the
28 September 5, 2017 announcement by DHS that the DACA program is being phased out

1 and any DACA renewals had to be filed on October 5, 2017. Under these
2 circumstances, Plaintiff's pursuit of this action is timely.

3 In sum, Plaintiff has demonstrated a significant threat of irreparable harm.

4 **The Public Interest**

5 The court concludes that the public interest consideration is multi-faceted and
6 difficult to assess in light of the current political situation. There is no doubt that there
7 is strong interest in enforcing U.S. immigration laws effectively and consistently. On
8 the other hand, the public has a strong interest in the fair and even-handed treatment of
9 immigrants. The court also notes that (1) DACA and DACA recipients have strong
10 national support as reflected in numerous public opinion polls, as well as broad political
11 support, and (2) the political process may comprehensively address the DACA program
12 in the foreseeable future.

13 In sum, at the present time, this factor neither strongly favors one side nor the
14 other.

15 **The Balance of Equities**

16 Applying the Arcamuzi balancing test, Plaintiff has made a strong showing of the
17 likelihood of success on the merits and irreparable harm such that entry of a preliminary
18 injunction is warranted under the circumstances.

19 **CONCLUSION**

20 For the reasons set forth herein, the court **Grants** Plaintiff's Motion for
21 Preliminary Injunction and

22 (1) **Orders** that Defendants' May 7, 2016 revocation of Plaintiff's DACA status
23 is vacated and Defendants are preliminary enjoined from enforcing the said revocation;

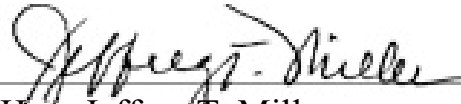
24 (2) **Orders** that Defendants' termination of Plaintiff's EAD is vacated and
25 Defendants are preliminarily enjoined from terminating Plaintiff's employment
26 authorization;

27 (3) **Orders** that Defendants shall fully comply with the DACA SOP should
28 Defendants elect to reconsider Plaintiff's DACA status; and

1 (4) **Orders** that Defendants accept Plaintiff's DACA renewal application.
2 Finally, this order is to remain in effect pending further Order of this court.

3 **IT IS SO ORDERED.**

4 DATED: September 29, 2017



Hon. Jeffrey T. Miller
United States District Judge

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