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February 11, 2026

By ECF

Hon. Hector Gonzalez
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Martinez de la Cruz v. Russo et al.*, 26-cv-629 (HG)
Notice of Forthcoming Amended Petition

Dear Judge Gonzalez:

We represent the Petitioner, Mr. Jose Martinez de la Cruz, in the above-referenced habeas corpus matter. We write respectfully to inform the Court that Petitioner intends to submit an amended petition by February 25, 2026. *See* Fed. R. Civ. P. 15(a)(1)(A). Because Petitioner will submit an amended petition, we respectfully ask the Court to suspend the current briefing schedule set on February 5, 2026. Moreover, the parties have conferred, and Respondents do not object to the filing of an amended petition.

Mr. Martinez de la Cruz is currently detained by ICE at 26 Federal Plaza in Manhattan, New York. In his amended petition, Petitioner will add a deliberate indifference claim as to his conditions of confinement and serious unmet medical needs. *See Charles v. Orange Cnty.*, 925 F.3d 73, 85 (2d Cir. 2019) ("[P]ursuant to the Due Process Clause of the Fourteenth Amendment, the Supreme Court has extended to civil detainees *Estelle* [*v. Gamble*, 429 U.S. 97 (1976)]'s protection for prisoners under the Eighth Amendment . . . . Thus, those in civil detention, as were Plaintiffs in this case, are also afforded a right to be free from deliberate indifference to their serious medical needs."); *see also Mercado v. Noem*, 800 F. Supp. 3d 526, 579 (S.D.N.Y. 2025) ("Defendants have chosen to use the 26 Fed as a de facto

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medium term detention facility while failing to comply with the Constitution and their own nationwide standards governing detention facilities."). Our office is arranging for an independent medical doctor to evaluate Mr. Martinez de la Cruz.

Finally, Mr. Martinez de la Cruz respectfully requests that this Court continue to order Respondents to keep Petitioner in this District or the Southern District of New York, because of "his interest in participating in further proceedings before this Court and maintaining adequate access to legal counsel throughout these proceedings." Feb. 5, 2026, Order.

Thank you to the Court for its time and consideration of this letter.

Respectfully,

/s/ Nhu-Y Ngo
Nhu-Y Ngo
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**pro hac vice motion pending*

cc: Counsel of Record (by ECF)