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NORTHERN DISTRICT OF CALIFORNIA

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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA

C 07 44721

18 AMERICAN FEDERATION OF LABOR AND)
CONGRESS OF INDUSTRIAL ORGANIZATIONS;)
19 SAN FRANCISCO LABOR COUNCIL; SAN)
FRANCISCO BUILDING AND CONSTRUCTION)
20 TRADES COUNCIL; and CENTRAL LABOR)
COUNCIL OF ALAMEDA COUNTY,)

Case No. _____

**[PROPOSED] TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

21 Plaintiffs,)

22 v.)

23 MICHAEL CHERTOFF, Secretary of Homeland Security;)
24 DEPARTMENT OF HOMELAND SECURITY;)
JULIE MYERS, Assistant Secretary of Homeland)
25 Security; U.S. IMMIGRATION AND CUSTOMS)
ENFORCEMENT; MICHAEL ASTRUE, Commissioner)
26 of Social Security; and SOCIAL SECURITY)
ADMINISTRATION,)

27 Defendants.)
28

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and Central Labor Council of Alameda County*

1 Plaintiffs' application for (i) a Temporary Restraining Order, and (ii) an Order to Show
2 Cause why a preliminary injunction should not issue came before this Court for consideration on
3 August 31, 2007. Upon consideration of the application, and for good cause shown,

4 IT IS HEREBY ORDERED as follows:

5 Temporary Restraining Order

6 *raised serious questions as to whether*
The Court finds that Plaintiffs have ~~demonstrated a likelihood of success on the merits of~~
7 ~~their claims that~~ the new Department of Homeland Security rule is inconsistent with statute and
8 beyond the statutory authority of the Department of Homeland Security and the Social Security
9 Administration. The Court also finds that Plaintiffs have demonstrated that the balance of harms
10 *tips sharply in favor of a stay because* Plaintiffs and their members would suffer irreparable harm if
11 *the rule is implemented while Defendants would suffer no real harm from a delay in the*
12 implementation of the rule pending consideration of Plaintiffs' claims.

13 Accordingly, IT IS HEREBY ORDERED that, pending a hearing in whether a preliminary
14 injunction should issue, Defendants MICHAEL CHERTOFF, Secretary of Homeland Security;
15 DEPARTMENT OF HOMELAND SECURITY; JULIE MYERS, Assistant Secretary of Homeland
16 Security; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MICHAEL ASTRUE,
17 Commissioner of Social Security; and SOCIAL SECURITY ADMINISTRATION, and their
18 officers, agents, servants, employees, and attorneys, and upon those persons in active concert or
19 participation with them, are HEREBY ENJOINED AND RESTRAINED from giving any effect to
20 or otherwise taking any action to implement the Final Rule adopted by the Department of Homeland
21 Security entitled "Safe-Harbor Procedures for Employers Who Receive a No-Match Letter" that was
22 published at 77 Fed. Reg. 45611 (Aug. 15, 2007), including by mailing or otherwise causing to be
23 sent to employers the Social Security Administration no-match letter packets that include the
24 Department of Homeland Security guidance letter concerning the Final Rule.

25 Order to Show Cause

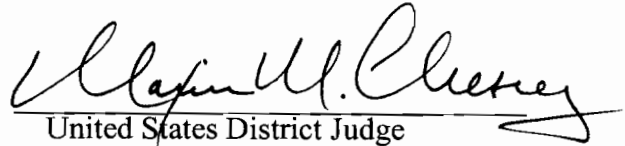
26 Defendants are ordered to show cause before this Court why a preliminary injunction should
27 not issue enjoining Defendants from giving effect to or otherwise taking any action to enforce or
28 implement the Final Rule adopted by the Department of Homeland Security entitled "Safe-Harbor

1 Procedures for Employers Who Receive a No-Match Letter” that was published at 77 Fed. Reg.
2 45611 (Aug. 15, 2007).

3 The hearing on the order to show cause will be held on October 1, 2007, at 2:30 p.m.
4 *will* Plaintiff's motion for preliminary injunction shall be filed and served by September 11, 2007.
5 Defendants' opposition papers shall be filed and served on September 18 2007, and Plaintiffs'
6 reply papers shall be filed and served on September 25, 2007.

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8 SO ORDERED.

9 Dated: 8/31/07

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United States District Judge