

**UNITED STATES DEPARTMENT OF JUSTICE  
OFFICE OF ATTORNEY GENERAL**

In the Matter of:

A#XXXXXXXXXX

M-S-

27 I & N Dec. 476 (A.G. 2018)

Order Dated October 12, 2018

In Removal Proceedings.

**BRIEF OF *AMICUS CURIAE*  
AMERICAN IMMIGRATION LAWYERS ASSOCIATION**

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## **INTEREST OF AMICUS CURIAE**

The American Immigration Lawyers' Association (AILA) is a national association with more than 15,000 members throughout the United States, including lawyers and law school professors who practice and teach in the field of immigration and nationality law. AILA seeks to advance the administration of law pertaining to immigration, nationality, and naturalization; to cultivate the jurisprudence of the immigration laws; and to facilitate the administration of justice and elevate the standard of integrity, honor, and courtesy of those appearing in a representative capacity in immigration and naturalization matters. AILA's members practice regularly before the Department of Homeland Security (DHS), immigration courts, and the Board of Immigration Appeals, as well as before the United States District Courts, Courts of Appeals, and the Supreme Court of the United States.



**I. THERE ARE FATAL FLAWS (A LACK OF TRANSPARENCY, PROCEDURAL IRREGULARITIES, AND A RUSH TO DECISION) IN THE ATTORNEY GENERAL’S CERTIFICATION PROCESS, INCLUDING MATTER OF M-S-.**

On September 10, 2018, Attorney General Sessions made formal remarks to a group of forty-four newly-sworn immigration judges, inspiring them to “uphold the integrity of the [Immigration and Nationality Act (INA)]” as “their most serious duty.”<sup>1</sup> By contrast, he referred to the immigration bar as “good lawyers, using all of their talents and skill . . . like water seeping through an earthen dam – to get around the plain words of the INA to advance their clients’ interests.”<sup>2</sup> This follows the Attorney General’s categorization of lawyers as “dirty immigration lawyers” for simply helping refugees apply for the protection offered to them by statute and treaty.<sup>3</sup> The American Immigration Lawyers’ Association (AILA), with a membership of over 15,000 immigration attorneys across the country, works vigorously to ensure that the government upholds the immigration laws, including the U.S. Constitution, and that qualified applicants receive the immigration benefits they are entitled to under the law. AILA offers this *amicus curiae* brief, in the true spirit of a “friend of the court,” to express our concern that the current process by which the Attorney General certifies cases to himself for decision-making has significant cracks and breaks which cannot rightly hold the water as intended.

The Attorney General’s certification process in immigration matters violates fundamental fairness and Procedural Due Process when that process is not transparent, veers from usual

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<sup>1</sup> See <https://www.justice.gov/opa/speech/attorney-general-sessions-delivers-remarks-largest-class-immigration-judges-history>.

<sup>2</sup> *Id.*

<sup>3</sup> See <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-executive-office-immigration-review>. That this remark was made to the very immigration judges who must decide life or death issues involving respondents represented by these so-called “dirty” immigration lawyers is troubling and raises questions about the fairness of this process.

procedure, rushes to judgement, and seeks answers to questions that are not developed, or even mentioned, in the record below. The Attorney General's certification of *Matter of M-S-*, 27 I & N Dec. 476 (A.G. 2018), to himself for review and decision on the question presented in the Order of October 12, 2018 is premature and should be withdrawn.

**A. THE ATTORNEY GENERAL IMPROPERLY SEEKS TO ANSWER A QUESTION ON REVIEW WHICH WAS NEITHER RAISED NOR DEVELOPED IN THE PROCEEDINGS BELOW.**

In *M-S-*, the Attorney General presents a question for review that is not properly before him. The regulations that govern the certification process for the Attorney General do not authorize him to refer such a matter to himself under these circumstances. 8 C.F.R. § 1003.1(h).

The facts in *M-S-* are simple. The respondent was granted a custody redetermination by an immigration judge pursuant to INA § 236(a), 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d); 8 C.F.R. § 1003.19(a)-(c); *Matter of A-W-*, 25 I & N Dec. 45, 46 & n.2 (A.G. 2009). He was ordered to post a \$17,500 bond and to present a valid passport as preconditions to his release. He appealed these two conditions to the Board of Immigration Appeals (BIA). It does not appear that the Department of Homeland Security (DHS) appealed the immigration judge's setting of bond, presumably because it felt that the bond amount was sufficient to ensure *M-S-*' appearance at future hearings. The BIA dismissed the appeal in three paragraphs, finding that the respondent did not present any financial information which would indicate the bond amount was too high and noting that the respondent did not present a valid passport. While it appears that respondent was represented by counsel before the immigration judge, it is unclear if he was represented by counsel on appeal to the BIA. The reasoned and detailed decision by the immigration judge makes no mention of any argument by the government that respondent was ineligible for a bond redetermination under INA § 236(a).

The question certified by the Attorney General in *M-S-* is “[w]hether *Matter of X-K-*, 23 I & N Dec. 731 (BIA 2005), which held that immigration judges may hold bond hearings for certain aliens screened from expedited removal proceedings under section 235(b)(1) of the [INA], 8 U.S.C. § 1225(b)(1), into removal proceedings under section 240, 8 U.S.C. § 1229a, should be overruled in light of *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).” The BIA did not decide, or even mention, this issue in its’ ruling. Neither did the immigration judge.

There is no authority for the Attorney General to reach beyond the prosecutor to try the matter himself and, at the same time, act as ultimate agency-adjudicator on the same matter. The plain language of the regulations determine his authority. 8 C.F.R. § 1003.1(d)(1). He lacks the authority to reach beyond the record below in order to fashion an answer to a question that was never asked. *Thomas Jefferson Univ. v Shalala*, 512 U.S. 504, 512 (1994). The Attorney General may certify a BIA decision for review at his direction, at the request of the BIA, or at the request of the DHS Secretary or some other designated DHS official. 8 C.F.R. § 1003.1(h)(1); *Matter of Farias-Mendoza*, 21 I & N Dec. 269, 269 (BIA 1997).

A matter must be within the BIA’s jurisdiction under 8 C.F.R. § 1003.1(b) for the Attorney General to certify the case and review the underlying decisions. This is true for the BIA and it remains true for the AG. *Matter of Sano*, 19 I & N Dec. 299 (BIA 1985). The only issue appealed to the BIA from the Immigration Judge’s Decision was the amount of the bond, not the grant of the bond itself. The respondent appealed to the BIA that the bond of \$17,500 was too high. There is no evidence that the government argued before the Court or the BIA that the Court lacked authority to review custody and impose bond. Therefore, the underlying BIA decision properly limited its discussion to the amount of the bond. *See Matter of Leon-Orosco*



and *Rodriguez-Colas*, 19 I&N Dec. 136 (BIA 1983; A.G. 1984) (affirming the BIA's decision not to reach a question not necessary to resolve the matter on appeal).

The Attorney General's function in this certification process should be a decision-making opinion that relies upon the record below. Furthermore, the Attorney General function in this certification process should not result in an advisory opinion based on whatever question he would like addressed. *Id.* (counselling against issuing advisory opinions); *Matter of Luis*, 22 I&N Dec. 747, 764 (BIA 1999) (Vacca and Rosenberg, dissenting). Immigration law is far too complex to wholly render changes in the law without a fair consideration of all the issues below.

**B. PROCEDURAL IRREGULARITIES IN THE ATTORNEY GENERAL'S CERTIFICATION PROCESS RAISE CONCERN THAT THE PROCESS IS BEING ABUSED.**

The absence of transparency in the Attorney General's certification process, eight times this year alone, raises the specter that this process is being abused. There are grave concerns that this process disregards Procedural Due Process and is fundamentally unfair. Similar arguments were made by retired Immigration Judges and BIA Board Members in *Matter of A-B-*, 27 I & N Dec. 316 (A.G. 2018).<sup>4</sup>

There is a lack of transparency in this Attorney General's certification process which frustrates those *amicus curiae*, trying in good faith, to offer guidance on a relevant issue as a "friend of the court." The Attorney General's Certification Orders have not provided the underlying decisions at issue nor a mechanism for obtaining them.<sup>5</sup> There is no opportunity to identify who the parties are, who their attorneys are (if any), or in which federal circuit the case

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<sup>4</sup> See AILA Doc. No. 18043060, p 8-21 at <https://www.aila.org/infonet/amicus-brief-matter-of-a-b->.

<sup>5</sup> AILA submitted a motion to the AG requesting a redacted copy of the underlying decisions on October 22, 2018. In his decision denying the request, the AG represented that a redacted copy was already available on the EOIR website. On or about November 5, 2018, the underlying BIA decision was available on the EOIR website. As of this writing, however, the underlying IJ decision does not appear to be publicly available on the EOIR website.



sits. In certain instances, AILA members might discover the underlying decisions and/or the parties and their counsel, without the aid of the Attorney General. This can take a great expense of time and is not always successful. When such information is learned, little time is left to formulate an *amicus curiae* brief on point. The briefing schedules are short and extensions are not readily granted. *Amicus curiae* groups often collaborate to avoid duplication of legal arguments before the decision-maker. This provides for a more efficient use of the agency's decision-makers' time, the parties' time, and the *amici's* time. Such efforts have been frustrated this year by the Attorney General's certification process. Even with federal appellate matters, contact information for the parties and certain documents are available on PACER.

There is a serious concern that the Attorney General may be selecting cases for certification in which the respondent is not represented by counsel. The use of *pro se* cases favors the government in that the record below is usually poorly developed and reflects an imbalance of a seasoned government counsel against a respondent with the limits of lack of legal training and often communicating through an interpreter. Of the eight cases the Attorney General has certified this year, AILA believes that only three cases, *Negusie*, *A-B-*, and *M-S-* (before immigration judge only), involved respondents who were represented by counsel. *M-G-G-* and *Castro-Tum*, a minor, was not represented by counsel. It is unclear if *L-A-B-R-*, *et. al*, *E-F-H-L-*, *S-O-G-* or *F-D-D-* were represented by counsel before the immigration judge and BIA because the Attorney General has not provided this information and it has not been ascertained otherwise. If there is a case significant enough to merit the attention of the Attorney General on review, there is no reason for a government official to avoid transparency. Given the statutorily-complex nature of the immigration laws and regulations, the trauma that many respondents face while detained during the removal process, and the fact that *pro se* respondents must face a

trained government lawyer, this lack of transparency in the Attorney General's certification process raises concerns that the process is being abused. If the BIA can conduct its certified appeals in a transparent manner, there is no reason that the Attorney General cannot do the same.

There is a "perfect storm" of deficiencies in the Attorney General's certification in *M-S*: (1) an artificially-created need to rush to judgment,<sup>6</sup> (2) a mismatch between the actual factual and legal development of the underlying decisions and the question presented by the Attorney General on Certification, *INS v Cardozo-Fonseca*, 480 US 421, 448 (1987); *Hormel v Helvering*, 312 U.S. 552, 556 (1941), (3) the failure of the government to properly preserve this issue of custody redetermination on appeal to the BIA, (4) the impermissible role of the Attorney General as both prosecutor and adjudicator within the same matter, and (5) a respondent on appeal who is not represented by counsel. This "perfect storm" renders any Attorney General decision in this matter premature and exposes this Certification Process as one which is ripe for abuse.

**C. AILA IS NOT THE FIRST GROUP TO RAISE CONCERNS THAT THIS ATTORNEY GENERAL'S CERTIFICATION PROCESS IS FATALY FLAWED.**

This is not the first time that AILA has raised procedural due process concerns with the eight cases certified for review and decisions by the Attorney General this year alone. In three

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<sup>6</sup> The President of the United States gave a speech at the White House on November 1, 2018 that foresaw the decision the Attorney General has yet to make when he stated, "Big change as a couple of days ago. . . . They're going to stay with us until the deportation hearing or the asylum hearing takes place. So we're not releasing them into the community." This speech was made on the same day that the BIA notified AILA that our request for an extension of time for filing our amicus brief (beyond the initial deadline of November 9, 2018) was denied. See <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-illegal-immigration-crisis-border-security>. This raises a concern that the outcome of *M-S* is foreordained.



prior cases this year, *Matter of L-A-B-R*<sup>7</sup>, *Matter of A-B*<sup>8</sup>, *Matter of Castro-Tum*<sup>9</sup>, AILA joined with other organizations in amicus curiae before the Attorney General and argued Procedural Due Process concerns. In two cases, *Matter of E-F-H-L*<sup>10</sup> and *Matter of S-O-G- and Matter of F-D-D*<sup>11</sup>, the Attorney General failed to invite any briefing by the parties or other interested parties; instead, he simultaneously referred and decided the case within the same order. In one case, *Matter of M-G-G*<sup>12</sup>, the Attorney General withdrew the case from certification because the respondent had since been removed to his native country. Two cases, the instant case - *Matter of M-S*<sup>13</sup> - and *Matter of Negusie*<sup>14</sup>, remain pending as of this writing.

In *Matter of L-A-B-R-, et. al*, AILA submitted a joint *amicus* brief, noting “[AG] notice did not make available the referral decisions or names of respondents or their counsel.”<sup>15</sup> In *Matter of A-B-*, AILA submitted a joint *amicus* brief, noting “[a]mici share respondent and other amici’s concern about the limitations of the procedural posture of this case, the deficiencies in the question presented, and the danger that issuing an adverse decision on the merits will violate respondent’s due process rights. (citations to those briefs) Amici accordingly urge the Attorney

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<sup>7</sup> *Matter of L-A-B-R-, et. al.*, certified on March 22, 2018 at 27 I & N Dec. 245 (A.G. 2018), decided on August 16, 2018 at 27 I & N Dec. 405 (A.G. 2018). See *amicus* brief at AILA Doc. No. 18082102 at <https://aila.org/infonet/amicus-brief-continuances-sufficient-relief>.

<sup>8</sup> *Matter of A-B-*, certified on March 7, 2018 at 27 I & N Dec. 227 (A.G. 2018), additional order on March 30, 2018 at 27 I & N Dec. 247 (A.G. 2018), decided on June 11, 2018 at 27 I & N Dec. 316 (A.G. 2018). See *amicus* brief at AILA Doc. No. 18043042 at <https://aila.org/infonet/aila-files-amicus-brief-with-attorney-general>.

<sup>9</sup> *Matter of Castro-Tum*, certified on January 4, 2018 at 27 I & N Dec. 187 (A.G. 2018), decided on May 17, 2018 at 27 I & N Dec. 271 (A.G. 2018). See *amicus* brief at AILA Doc. No. 18032634 at <https://aila.org/infonet/aila-submits-amicus-brief-administrative-closure>.

<sup>10</sup> *Matter of E-F-H-L-*, certified and decided on March 5, 2018 at 27 I & N Dec. 226 (A.G. 2018).

<sup>11</sup> *Matter of S-O-G- and Matter of F-D-D-*, certified and decided on September 18, 2018 at 27 I & N Dec. 462 (A.G. 2018).

<sup>12</sup> *Matter of M-G-G-*, certified on September 18, 2018 at 27 I & N Dec. 469 (A.G. 2018), withdrawn on October 12, 2018 at 27 I & N Dec. 475 (A.G. 2018).

<sup>13</sup> *Matter of M-S-*, certified on October 12, 2018 at 27 I & N Dec. 476 (A.G. 2018), decision pending.

<sup>14</sup> *Matter of Negusie*, certified on October 18, 2018 at 27 I & N Dec. 481 (A.G. 2018), decision pending.

<sup>15</sup> See AILA Doc. No. 18082102, page 1, footnote 1 (*supra* note 7).



General to heed respondent's request that he not take action in this case. . . ."<sup>16</sup> AILA shared similar concerns in a formal statement to the Senate Judiciary Subcommittee on Border Security and Immigration Hearing on April 18, 2018.<sup>17</sup>

AILA is not the first to raise these Procedural Due Process concerns with this year's Attorney General's certification process with immigration cases. Retired immigration judges and Board of Immigration Appeal judges have thrice done so, in *Matter of L-A-B-R-, et. al.*, *Matter of A-B-*, and *Matter of Castro-Tum*.<sup>18</sup> Other organizations did so in *Matter of Castro-Tum* and in *Matter of A-B-*.<sup>19</sup> The Attorney General's own judges have done so.<sup>20</sup> Even the government's own attorneys have requested that the Attorney General pause in his pursuit to certify a case to himself for decision, in *Matter of A-B-*.<sup>21</sup> Counsel for Immigration & Custom Enforcement within the Department of Homeland Security requested that the Attorney General (1) suspend the briefing schedule to permit the Board of Immigration Appeals to act on a certification request to them by the Immigration Judge, (2) clarify the question presented by the Attorney General for briefing, and, (3) in the alternative, extend the deadlines for briefing.<sup>22</sup> The

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<sup>16</sup> See AILA Doc. No. 18043042, page 5, footnote 1 (*supra* note 8).

<sup>17</sup> See AILA Doc. No. 18041646, p 3-4 at <https://aila.org/advo-media/aila-correspondence/2018/aila-statement-on-strengthening-and-reforming>.

<sup>18</sup> See AILA Doc. No. 18081776 at <https://aila.org/infonet/retired-ijs-former-bia-statement-matter-of-l-a-b-r-> (in *Matter of L-A-B-R-, et al.*). See AILA Doc. No. 18043060, p 14-19 (*supra* note 4) (in *Matter of A-B-*). See AILA Doc. No. 18073027 at <https://aila.org/infonet/retired-ijs-former-bia-mems-attack-on-jud-independ> (in *Matter of Castro-Tum*).

<sup>19</sup> See AILA Doc. No. 18022034, pages 8-35 at <https://aila.org/infonet/aic-submits-amicus-brief-on-administrative-closure> (in *Matter of Castro-Tum*). See [https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2018-04/NIJC-Amicus-Brief\\_Matter-of-A-B\\_27%26NDec227\\_AG2018\\_final.pdf](https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2018-04/NIJC-Amicus-Brief_Matter-of-A-B_27%26NDec227_AG2018_final.pdf) p 4-16 (in *Matter of A-B-*).

<sup>20</sup> See National Association of Immigration Judges (NAIJ) Formal Grievance over Department of Justice's Interference with Judicial Independence and Violation of the Due Process Rights of those Appearing Before the Immigration Courts, dated August 8, 2018 at AILA Doc. No. 18080800 at <https://aila.org/infonet/judges-uncon-grievance-violation-due-process-right>.

<sup>21</sup> See 27 I & N Dec. 247 (A.G. 2018) for reference to DHS' counsel motions to pause consideration of the matter by the Attorney General.

<sup>22</sup> *Id.*

Attorney General rejected the government's first two motions and granted the parties' and amici an extension of time to file their briefs.

#### **D. PRACTICES SHOULD BE INSTITUTED TO ENSURE TRANSPARENCY IN RULEMAKING BY CERTIFICATION AND MEANINGFUL PUBLIC PARTICIPATION**

A more transparent method is necessary if the Attorney General is interested in obtaining thoughtful briefs on matters of great importance, especially where a *pro se* respondent is detained, likely lacking in English-language proficiency, and lacking in the legal sophistication necessary to address these issues. AILA recommends increasing access to counsel for *pro se* litigants; automatic access to the underlying record and decisions; notice and communication with parties; and sufficient time for *amicus* submission and/or generous policies regarding requests for extensions.

Federal courts already have many of these practices in place. 90% of federal district courts had at least one service available to appoint or encourage *pro bono* representation of litigants without counsel.<sup>23</sup> The BIA already has a *pro bono* program<sup>24</sup> that can and should be utilized for unrepresented respondents in certified cases.

Access to the underlying record and decision in a certified case is essential to ensure well-developed arguments by all sides. The BIA has previously made redacted records available.

<sup>25</sup> Underlying case records should be redacted and posted to the Executive Office of Immigration Review's web site immediately upon certification.

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<sup>23</sup> Donna Stienstra, Hared Bataillon and Jason A. Cantone, *Assistance to Pro Se Litigants in U.S. District Courts: A Report on Surveys of Clerks of Court and Chief Judges*, FEDERAL JUDICIAL CENTER (2011), available at <https://www.fjc.gov/sites/default/files/2012/ProSeUSDC.pdf>.

<sup>24</sup> Information about the BIA Pro Bono Project is available at <https://www.justice.gov/eoir/bia-pro-bono-project>.

<sup>25</sup> See e.g. BIA's Amicus Invitation No. 18-02-14 on Removability & Aggravated Felony Definitions, <https://www.justice.gov/eoir/page/file/1033856/download>.



Coordination of potential *amicus* and the litigants in the matter can avoid non-duplicative and thorough briefing. The BIA has also previously identified an *amicus* clerk to serve as a point of contact.<sup>26</sup> Such clerk has contacted respondent and/or their counsel to determine if their contact information may be shared with interested *amici*. The clerk can also timely respond to extension requests and other *amicus* inquiries leading to a more deliberative and open process. These Procedural Due Process practices lend a fundamental fairness to the appellate process that has not been available in matters certified by the Attorney General.

**II. IF AN ACTING ATTORNEY GENERAL IS NOT CONFIRMED BY THE SENATE, HE IS NOT CONSTITUTIONALLY EMPOWERED TO TAKE ACTION UNDER 8 C.F.R. § 1003.1(h)**

An Acting Attorney General of the United States is ineligible to act under 8 C.F.R. § 1003.1(h) until he or she is confirmed by the Senate. U.S. CONSTITUTION, Art. II, Section 2, Clause 2. On November 7, 2018, amidst the writing of this *amicus* brief (which is due November 9, 2018), the President announced his intention to name Matthew Whitaker as Acting Attorney General after Attorney General Jeff Sessions resigned. The Attorney General's Order certifying *M-S-* to himself for review and decision, at 27 I & N Dec. 476 (A.G. 2018), was issued by then-Attorney General Jeff Sessions on October 12, 2018. There should be no decision in *Matter of M-S-* until the President of the United States obtains the Advice and Consent of the Senate to appoint such a "principal officer," in accordance with the Appointments Clause. *Id.* If an Acting Attorney General is not confirmed by the Senate, in accordance with the Appointments Clause, he is not constitutionally empowered to take action under any federal regulations, especially 8 C.F.R. § 1003.1(h). *Id.*; *National Labor Relations Board v SW General*,

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<sup>26</sup> *Id.*



*Inc. dba Southwest Ambulance*, 580 U.S. \_\_\_, 137 S. Ct. 929, 197 L. Ed. 2. 263 (2017); *Lucia v SEC*, 138 S. Ct. 2044, 201 L. Ed. 2d. 464 (2018). 8 C.F.R. § 1003.1(h) sets forth powers held only by the Attorney General and cannot be delegated.

Even a withdrawal of the Certification Order in *M-S-* may not be possible until Constitutional mandates are met. As set forth in the first section of this brief, it is unknown if *M-S-* is represented by counsel and, if so, who that counsel is. It is unknown if *M-S-* was able to meet the pre-release conditions set by the immigration judge prior to the BIA's decision. It is unknown if he still sits in detention. A stay of the BIA decision may present *M-S-* an undue hardship and is fundamentally unfair. *Matter of E-L-H-*, 23 I & N Dec. 700 (A.G. 2004).

The question presented by the Attorney General in *M-S-* seeks to revisit a precedent decision issued by the Board of Immigration Appeals 13 years ago – *Matter of X-K-*, 23 I & N Dec. 731 (BIA 2005). The certification order states that the decision in *M-S-* is automatically stayed pending his review; however, that does not stay BIA precedence in *Matter of X-K-*. In *E-L-H-*, *supra*, the BIA held that all BIA precedent decisions remain in force pending review by the Attorney General.

There should be no further decision in this matter until the President obtains the Advice and Consent of the Senate to appoint a successor-Attorney General.

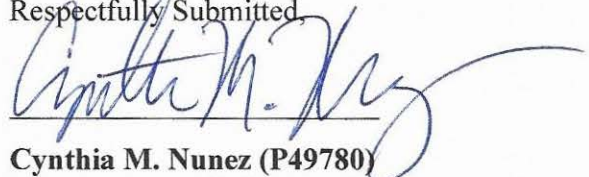
## CONCLUSION

The American Immigration Lawyers Association, as *amicus curiae* in this matter, respectfully request that the Attorney General withdraw this matter from consideration. AILA urges the Attorney General to institute policies to ensure transparency and the opportunity for

meaningful public engagement in the certification process before any further certifications are made.

Dated: November 9, 2018

Respectfully Submitted

A handwritten signature in blue ink, appearing to read "Cynthia M. Nunez", with a long, sweeping flourish extending to the right.

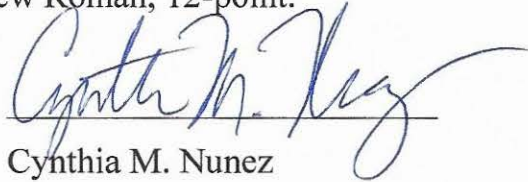
**Cynthia M. Nunez (P49780)**

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**CERTIFICATE OF COMPLIANCE**

This brief complies with the word limitation of the Attorney General Order.

It is 4,499 words. The type-face is Times New Roman, 12-point.



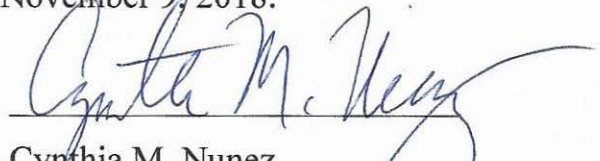
Cynthia M. Nunez

Attorney for *Amicus Curiae*

Dated November 9, 2018

**CERTIFICATE OF SERVICE**

I, Cynthia M. Nunez, certify that I served “Brief of Amicus Curiae American Immigration Lawyers Association” in triplicate to United States Department of Justice, Office of Attorney General, Room 5114, 950 Pennsylvania Avenue, NW Washington, DC 20530 through affixing First Class Postage and delivering to United States Postal Service for delivery on November 9, 2018.



Cynthia M. Nunez

Attorney for *Amicus Curiae*

Dated November 9, 2018