

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

**Case No.: SACV 18-00316-CJC(GJSx)**

**HOANG TRINH, VU HA, LONG  
NGUYEN, NGOC HOANG, DAI  
DIEP, BAO DUONG, and SIEU  
NGUYEN, on behalf of themselves and  
all of those similarly situated,**

**Petitioners,**

**v.**

**THOMAS D. HOMAN, KIRSTJEN M.  
NIELSEN, JEFFERSON B. SESSIONS  
III, DAVID MARIN, SANDRA  
HUTCHENS, and DOE 1,**

**Defendants.**

**ORDER DENYING WITHOUT  
PREJUDICE PETITIONERS'  
MOTION FOR A PRELIMINARY  
INJUNCTION AND FOR  
PROVISIONAL CLASS  
CERTIFICATION**

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1 Before the Court is Petitioners' motion for a preliminary injunction and for  
2 provisional class certification. (Dkt. 22.) For the following reasons, the motion is  
3 DENIED WITHOUT PREJUDICE.<sup>1</sup>  
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5 Petitioners are citizens of Vietnam who immigrated to the United States before  
6 1995. Petitioners are subject to orders of removal to Vietnam based on criminal  
7 convictions, and were recently placed in immigration detention pursuant to those removal  
8 orders. On February 22, 2018, four named Petitioners, Hoang Trinh, Vu Ha, Long  
9 Nguyen, and Ngoc Hoang, initiated this habeas class action petition. (Dkt. 1.)  
10 Petitioners alleged that their continued detention was unlawful because Vietnamese  
11 nationals who immigrated before 1995 are protected from removal proceedings under an  
12 agreement between the United States and Vietnam. (*See generally id.*)  
13

14 On April 25, 2018, Petitioners filed their motion for a preliminary injunction and  
15 for provisional class certification. (Dkt. 22.) On April 30, 2018, Respondents filed a  
16 motion to dismiss. (Dkt. 24.) Respondents explained that all four Petitioners named in  
17 the habeas petition have since been released from immigration detention, so their claims  
18 were moot. (*Id.*) In response, Petitioners filed a First Amended Habeas Petition and  
19 Complaint on May 11, 2018. (Dkt. 27.) In their amended pleading, Petitioners allege  
20 that the original four named Petitioners have been released from detention. (*Id.* ¶¶ 11–  
21 14.) But the amended pleading adds three named Petitioners, Sieu Nguyen, Dai Diep,  
22 and Boa Duong, who are currently in detention. (*Id.* ¶¶ 15–17.)  
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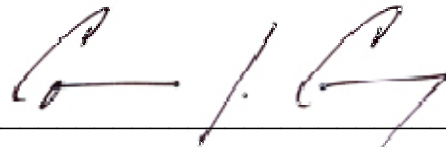
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28 <sup>1</sup> Having read and considered the papers presented by the parties, the Court finds this matter appropriate  
for disposition without a hearing. *See* Fed. R. Civ. P. 78; Local Rule 7-15. Accordingly, the hearing set  
for June 11, 2018, at 1:30 p.m. is hereby vacated and off calendar.

1 On May 14, 2018, Respondents withdrew their motion to dismiss in light of  
2 Petitioners' amended petition. (Dkt. 28.) Respondents now contend that Petitioners'  
3 motion for a preliminary injunction and provisional class certification should be denied  
4 because it is based on the original habeas petition. (Dkt. 37 at 10–12.) The Court agrees  
5 with Respondents.

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7 In order to warrant a grant of injunctive relief, Petitioners must show a relationship  
8 between “the injury claimed in the motion for injunctive relief and the conduct asserted in  
9 the underlying complaint.” *Pac. Radiation Oncology, LLC v. Queen’s Med. Ctr.*, 810  
10 F.3d 631, 636 (9th Cir. 2015). Petitioners’ motion is based on conduct and claims  
11 asserted in their original petition with respect to the original four named Petitioners and  
12 their continued detention. But Petitioners have since amended their petition indicating  
13 that the original four Petitioners have been released from custody. Petitioners’ motion is  
14 therefore based on claims that no longer have legal effect. *Doe v. Unocal Corp.*, 27 F.  
15 Supp. 2d 1174, 1180 (C.D. Cal. 1998), *aff’d and adopted*, 248 F.3d 915 (9th Cir. 2001)  
16 (“It is hornbook law that an amended pleading supersedes the original, the latter being  
17 treated thereafter as non-existent. Once amended, the original no longer performs any  
18 function as a pleading.”) (citations and quotations omitted). Without a nexus between  
19 operative claims and the injury claimed in a motion for injunctive relief, the Court may  
20 not grant the requested injunctive relief. *Pac. Radiation Oncology, LLC*, 810 F.3d at 636.

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23 DATED: May 23, 2018



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25 CORMAC J. CARNEY  
26 UNITED STATES DISTRICT JUDGE  
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