

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Charlotte N. Sweeney**

Civil Action No. 1:24-cv-00762-CNS

SAMANTHA MOODY, *et al.*,

Plaintiffs,

v.

KRISTI NOEM, *in her official capacity as
Secretary*, United States Department of
Homeland Security; *et al.*,

Defendants.

PLAINTIFFS' NOTICE OF NEW REGULATORY AUTHORITY

In its opposition brief, ECF 26, the agency argued that the United States Citizenship and Immigration Service ("USCIS") was not unlawfully diverting funds from the Immigration Examination Fee Account ("IEFA") to support the "bucket of 'investigations' work in 6 U.S.C. § 251" because USCIS did not have a role, or contribute fees, to law enforcement activities. *Id.* at 40.

On October 6, 2005, USCIS amended 8 C.F.R § 287 via a Final Rule, *Codification of Certain U.S. Citizenship and Immigration Services Law Enforcement Authorities*, 90 Fed. Reg. 42797 (Sept. 5, 2025). Exhibit 1 - FDNS Rule 2025-16978. The purpose and language of the new rules explicitly contradict the agency's statements made in this Court regarding the "bucket of investigations work" USCIS would fund using the IEFA. ECF 26, at pg. 40. For instance, USCIS now asserts that the

rule “amends the following regulations to codify USCIS law enforcement authorities commensurate with those authorities previously only delegated to ICE and CBP regarding the enforcement of immigration laws.” 90 Fed. Reg. 42797, 42800. Thus, the new rule to codify authority USCIS claims already existed undermines the litigation position of USCIS here that there is a distinction between the authorities of Immigration and Customs Enforcement (“ICE”) and USCIS Fraud Detection and National Security (“FDNS”) officers in direct violation of the Homeland Security Act.

Dated: October 22, 2025,

Respectfully submitted,

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