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11 UNITED STATES DISTRICT COURT
 12
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 14
 15 SAN JOSE DIVISION

16 FRESCIA GARRO PINCHI; *et al.*,
 17
 Plaintiffs,
 18
 v.
 19 KRISTI NOEM, in her official capacity as
 20 Secretary of Homeland Security; *et al.*,
 21
 Defendants.

No. 5:25-cv-05632-PCP

**REPLY IN SUPPORT OF DEFENDANTS’
 MOTION TO SEVER, TRANSFER, AND
 CONSOLIDATE [ECF NO. 87]**

Hearing Date: January 22, 2026
 Hearing Time: 10:00 a.m.
 Location: Courtroom 8
 4th Floor

Hon. P. Casey Pitts
 United States District Judge

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Rules

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INTRODUCTION

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2 Petitioners use their opposition to claim that Defendants have taken an unreasonable
3 position on consolidation that Defendants are not asserting. Defendants do not seek to
4 consolidate the localized conditions of confinement claims raised in *Sequen* with the instant case.
5 Rather, Defendants believe that consolidation is prudent with respect to the similar legal claims
6 made under the Administrative Procedures Act (“APA”), particularly with respect to the alleged
7 re-detention policy and the courthouse arrest policies where the final judgment in *Pinchi* may
8 render a final judgment on the courthouse arrests claims duplicative. Moreover, Plaintiffs raise
9 no argument or opposition to consolidation of the cases for purposes of case management, nor do
10 they show that the Court should not exercise its broad discretion to do so. Thus, the Court should
11 grant consolidation of the APA-based claims raised in *Pinchi* and *Sequen*, or, even if the Court
12 determines that such consolidation is not warranted, consolidate the cases for purposes of case
13 management.¹
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ARGUMENT

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16 **I. The Court Should Consolidate the APA-Based Legal Claims in *Pinchi* and *Sequen*.**

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18 The Court should consolidate *Pinchi* and *Sequen* to the extent both cases raise identical
19 legal claims—that an alleged policy or agency action violates the APA—and seek identical legal
20 relief—vacatur of the policy or action. Federal Rule of Civil Procedure 42(a) permits
21 consolidation of “actions involving a common question of law or fact.” To determine whether to
22 consolidate, a court weighs the interest in judicial convenience against the potential for delay,
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26 ¹ Defendants continue to maintain that this Court should transfer the consolidated cases to the
27 District Court for the District of Columbia pursuant to 8 U.S.C. § 1252(e)(3). *See* Mtn. to Sever,
28 Transfer, and Consolidate, Dkt. 76, at 10-11.

1 confusion, and prejudice caused by consolidation. *See Southwest Marine, Inc. v. Triple A*
2 *Machine Shop, Inc.*, 720 F. Supp. 805, 807 (N.D. Cal. 1989).

3 Contrary to Plaintiffs' assertions, it cannot be seriously disputed that *Pinchi* and *Sequen*
4 involve common legal questions. *See* Plaintiffs' Opposition to Defendants' Motion to Sever,
5 Transfer, and Consolidate, Dkt. 87 at 2-6. The core challenge in the APA-based claims is
6 identical. Plaintiffs in *Pinchi* assert that the Defendants have employed an immigration
7 detention-related policy that is arbitrary and capricious and therefore violates the APA. *Pinchi*
8 Class Action Complaint and Amended Petition for Writ of Habeas Corpus, Case No. 5:25-cv-
9 05632, Dkt. 76 at 30-31 (first claim for relief regarding alleged re-detention policy). Similarly,
10 Plaintiffs in *Sequen* assert that Defendants have employed immigration detention-related policies
11 that are arbitrary and capricious and therefore violate the APA. *Sequen* Amended Complaint and
12 Petition for Writ of Habeas Corpus, Case No. 5:25-cv-06487, Dkt. 32 at 52 (prayer for relief
13 requesting that the Court "[d]eclare that the [EOIR Courthouse Arrest Memo/ICE Interim Arrest
14 Guidance and the Final ICE Arrest Memorandum] are arbitrary and capricious and are set
15 aside"). Likewise, the APA-based claims in both cases challenge Defendants' attempt and
16 mission to apply, enforce, and implement the Immigration and Nationality Act ("INA"),
17 including, but not limited to, 8 U.S.C. § 1225, as this Court has already recognized in addressing
18 and interpreting the detention statutes in both cases. *See Pinchi* Order Provisionally Certifying
19 Class and Staying Agency Action, 5:25-cv-05632, Dkt. 85 at 2-4, 37-61; *Sequen* Order Staying
20 Agency Action, 5:25-cv-06487, Dkt. 155 at 22-23; *Sequen* Order Provisionally Certifying
21 Classes, Granting Preliminary Injunction, and Denying Stay, 5:25-cv-06487, Dkt. 138 at 20-24.
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25 Moreover, the practical impacts of this Court's orders substantially overlap. Indeed,
26 according to the Assistant Field Office Director for Immigration and Customs Enforcement
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1 (“ICE”), Enforcement and Removal Operations, for the San Francisco Field Office, the
2 “cumulative effect” of the certified classes and orders has “effectively render ICE unable to carry
3 out its enforcement responsibilities in the San Francisco area.” Declaration of Liza Bolanos,
4 Exhibit A ¶ 8. The overlap in practical impact is particularly apparent regarding the Court’s stay
5 of the alleged re-detention policy in *Pinchi* and stay of the courthouse arrest policies in *Sequen*.
6 The *Pinchi* stay prohibits ICE from implementing its legal interpretation of § 1225(b)(2)(A) and
7 re-detaining aliens it believes to be subject to mandatory detention without first considering
8 flight risk or danger to the community. *See* Dkt. 85. Meanwhile, the *Sequen* stay prohibits ICE
9 and the Executive Office for Immigration Review (“EOIR”) from conducting courthouse arrests
10 consistent with certain policy and guidance documents issued in 2025. *See Sequen*, 5:25-cv-
11 06487, Dkt. 155. As the *Pinchi* Plaintiffs’ pleadings reflect, a very common location of re-
12 detentions is courthouses. *See, e.g.*, Dkt. 45 at 1-2 ¶¶4-5, 12-13 ¶¶50-52, 14-15 ¶¶58 (alleging that
13 ICE officers began to re-arrest aliens at immigration courts); *id.* at 18-19 ¶¶69-72 (alleging that
14 named-Plaintiff Garro Pinchi was re-arrested at the San Francisco Immigration Court); *id.* at 21
15 ¶¶81-82 (alleging that named-Plaintiff Teletor Sente feared re-arrest at his scheduled immigration
16 proceeding at an immigration courthouse); *id.* at 22-23 ¶¶86 (class member re-arrested at
17 immigration courthouse); Dkt. 87 at 3 (“while this Policy is most visible in recent enforcement
18 activities at courthouses...”). Further, by definition, nearly every *Sequen* courthouse arrest class
19 member would only be subject to re-arrest or re-detention, as ordinarily an alien would not
20 otherwise “have an immigration court hearing in a proceeding on EOIR’s non-detained docket in
21 an immigration courthouse in ICE’s San Francisco Area of Responsibility.” *See Sequen*, 5:25-cv-
22 06487, Dkt. 138. Thus, the Court’s resolution of *Pinchi* will directly impact courthouse arrest
23 class members in *Sequen*. In fact, given the above, the Court’s stay of the alleged re-detention
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1 policy in *Pinchi* has, as a practical matter, rendered its stay of the courthouse arrest policies
2 duplicative.

3 Accordingly, because the class definitions overlap, the allegations stem from similar legal
4 issues, and the cases are presently before the same judge and the parties are represented by the
5 same counsel, consolidation of the APA-based legal claims in *Pinchi* and *Sequen* serves the
6 interests of judicial economy, promotes efficiency and conservation of party resources, and
7 prevents any risk of inconsistent and duplicative judgments.
8

9 **II. The Court Should Consolidate *Pinchi* and *Sequen* for Case Management Purposes.**

10 Even if the Court does not consolidate the like legal claims in *Pinchi* and *Sequen*, it
11 should exercise its broad discretion to consolidate the cases for case management purposes. *See*
12 *In re Adams Apple, Inc.*, 829 F.2d 1484, 1487 (9th Cir. 1987) (“consolidation is within the broad
13 discretion of the district court”). Federal Rule of Civil Procedure 42(a) expressly permits the
14 Court, in actions involving a common question of law or fact, to “join for hearing or trial any or
15 all matters at issue in the actions” and “issue any other orders to avoid unnecessary cost or
16 delay.” Given the closely-related natures of *Pinchi* and *Sequen*, this Court should, as a matter of
17 convenience in administration, keep them together by setting identical briefing schedules,
18 hearing dates, and, if necessary, trial dates. Additionally, while Defendants contend that
19 discovery outside of the certified administrative record is not warranted for these APA claims,
20 should the Court order discovery, those deadlines and orders should also be kept together.
21 Notably, Plaintiffs have raised no specific objection to such consolidation for case management
22 purposes. *See* Dkt. 87 at 2-7. Nor have Plaintiffs shown that this Court should not exercise its
23 discretion to consolidate the cases in this manner. *Accord* Order Granting Motion to Sever, Dkt.
24 84 at 1; Order to Show Cause Re: Motion to Sever, Dkt. 82, at 4-7. Thus, even if this Court does
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1 not consolidate the APA-based legal claims, it should exercise its discretion to consolidate
2 *Pinchi* and *Sequen* for case management purposes.

3 **CONCLUSION**

4 Consistent with the foregoing, Defendants respectfully request that, should the Court
5 deny Defendants' motion to dismiss, the Court transfer the remaining claims to the District Court
6 for the District of Columbia and/or consolidate *Pinchi* and *Sequen*.

7
8 Dated: January 8, 2026

Respectfully Submitted,

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11 Civil Division

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EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

FRESCIA GARRO PINCHI, et. al.,

Plaintiff,

v.

KRISTI NOEM, et al.

Defendants.

Case No. 25-cv-05632- PCP

DECLARATION OF LIZA BOLAÑOS

I, Liza Bolaños, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am competent to testify in these matters in that I am over the age of majority, and I am familiar with the subjects discussed herein. I provide this declaration based on my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, and other DHS employees, and information portals maintained and relied upon by DHS in the regular course of business. The following statements are true and correct to the best of information, knowledge, and belief.

2. I am an Assistant Field Office Director (“AFOD”) in the San Francisco Field Office of Enforcement and Removal Operations (“ERO San Francisco”) at U.S. Immigration and Customs Enforcement (“ICE”) within the U.S. Department of Homeland Security (“DHS”). As the AFOD, I am responsible for, among other things, oversight of the civil immigration arrest and

detention of aliens in the San Francisco area. In my role as the AFOD, I have access to records maintained in the ordinary course of business by ICE, including documentary records concerning ERO San Francisco and the alien detainees who fall within its area of responsibility.

3. I have read and am familiar with the Memorandum Opinion and Order in *Pinchi v. Noem*, No. 25-05632 (N.D. Cal. Jul. 3. 2025), ECF no. 85 as well as the Memorandum Opinion and Order in *Sequen v. Albarran*, No. 25-06487 (N.D. Cal. Sept. 18. 2025), ECF No. 155.

4. The Court in *Pinchi v. Noem* certified a class consisting of all aliens within the jurisdiction of the San Francisco ICE Field Office who: (1) have entered or will enter the United States without inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have been or will be released from DHS custody; (3) are currently in removal proceedings under 8 U.S.C. § 1229a, including cases where proceedings under § 1229a have been dismissed but the dismissal is not administratively final; and (4) are not subject to mandatory detention under 8 U.S.C. § 1226(c). The Court also certified a subclass of all class members whose release from DHS custody was or will be on bond, conditional parole, or their own recognizance pursuant to 8 U.S.C. § 1226(a) and/or 8 C.F.R. § 236.1(c)(8).

5. This class definition encompasses all aliens who can be detained because it includes aliens who have entered the United States without inspection, have been charged with inadmissibility, and are currently in removal proceedings, regardless of whether those proceedings have been dismissed but not administratively finalized. By specifying those who have been or will be released from DHS custody and excluding only those subject to mandatory detention under 8 U.S.C. § 1226(c), the definition covers all noncitizens within the jurisdiction who are eligible for discretionary detention or release. The subclass further clarifies that it includes those released on bond, conditional parole, or their own recognizance, ensuring that all possible detention scenarios under the relevant statutes and regulations are addressed.

6. Additionally, the Court granted the Plaintiffs' motion to stay DHS's re-detention policy while their APA claims are resolved and postponed the implementation of ICE's re-detention policy within the San Francisco area of responsibility until a final judgment is entered in the case. As a result, ICE is temporarily prohibited from carrying out immigration-related enforcement actions in the San Francisco area. This restriction significantly impairs ICE's ability to fulfill its mission of enforcing immigration laws, as it prevents officers from re-detaining individuals who may pose a risk to public safety or who are subject to removal proceedings. The inability to enforce re-detention policies also limits ICE's capacity to ensure compliance with immigration requirements and maintain the integrity of the removal process, thereby undermining the agency's operational effectiveness in the region.

7. The Court in *Sequen v. Albarran* certified a class of all individuals currently detained or who will be detained in a holding cell at ICE's San Francisco Field Office. The Court also imposed several requirements on ICE, including conducting a basic medical screening by a medical professional for each class member before placement in a hold room. This screening must be sufficient to identify and initiate treatment for mental or physical illness and injury, ensure uninterrupted access to prescription medication, identify, segregate, and treat communicable diseases, provide medically necessary special diets, and recognize and provide necessary services to individuals with physical disabilities. However, ICE does not employ a medical professional at the Holding Facility, making it impossible to comply with the preliminary injunction's requirement for medical screenings prior to placing individuals in the Holding Facility. As a result, the preliminary injunction effectively prevents ICE from using its Holding Facility, as the order prohibits ICE from utilizing the Field Office hold rooms, which are not equipped or intended to function as detention facilities for extended stays. This limitation severely restricts ICE's operational capacity in the San Francisco area, as it removes a critical resource for temporarily

holding individuals during processing and enforcement actions. Furthermore, the Court's additional requirement to dim the lights in the hold room between 9 p.m. and 7 a.m. is not feasible because the Holding Facility does not have an existing mechanism to adjust lighting levels. The lighting in all cells is interconnected, making it impossible to dim lights in individual rooms. Implementing such changes would require modifications to the facility's electrical wiring, which may necessitate further authorization and permits due to the building's designation as a historical site. These constraints make compliance with the Court's order impractical and further limit ICE's ability to utilize the Holding Facility for its intended operational purposes.

8. The cumulative effect of the classes and subclasses certified by the Court in both *Pinchi v. Noem* and *Sequen v. Albarran*, along with the associated requirements and injunctions, effectively render ICE unable to carry out its enforcement responsibilities in the San Francisco area. The broad class definitions restrict ICE's ability to detain or re-detain noncitizens, while the subclass provisions further limit options for release and supervision. Additionally, the operational restrictions imposed by the Court such as mandatory medical screenings by professionals not employed at the facility and impractical requirements for facility modifications prevent ICE from utilizing its Holding Facility for temporary detention. Together, these judicial actions eliminate ICE's capacity to process, detain, or supervise individuals in accordance with its statutory mandate, leaving the agency unable to fulfill its mission and rendering its enforcement operations in the San Francisco area effectively inoperative.

9. The classes and subclasses established by the Court in *Pinchi v. Noem* and *Sequen v. Albarran* include nearly every individual whom ICE is authorized to detain in the San Francisco area. These definitions cover all aliens who entered the country without inspection, are facing inadmissibility charges, and are involved in removal proceedings, as well as anyone currently or potentially held in ICE's Field Office holding cells. By also including those released on bond,

conditional parole, or their own recognizance, the scope of these classes and subclasses encompasses almost all categories of noncitizen detainees. Consequently, the Court's orders extend to virtually everyone ICE could detain or process, severely limiting the agency's ability to perform its enforcement and detention duties in the area.

Dated: 01/08/2026

LIZA M BOLANOS Digitally signed by LIZA M
BOLANOS
Date: 2026.01.08 16:15:21 -08'00'

Liza Bolaños
Assistant Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

CERTIFICATE OF SERVICE

I hereby certify that on January 8, 2026, I electronically filed the foregoing with the Clerk of the Court for the United States District Court, Northern District of California, by using the CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

Respectfully Submitted,

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