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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FRESCIA GARRO PINCHI; *et al.*,

Plaintiffs,

v.

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

Defendants.

No. 5:25-cv-05632-PCP

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR PROVISIONAL CLASS CERTIFICATION [ECF NO. 49]

Hearing Date: December 9, 2025
Hearing Time: 10:00 a.m.
Location: Courtroom 8
4th Floor

Hon. P. Casey Pitts
United States District Judge

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INTRODUCTION

Plaintiffs' Motion for Provisional Class Certification should be denied. Dkt. 49 ("Mot."). This case began as a single-petitioner habeas action challenging the Government's authority to detain Plaintiff Pinchi. After obtaining individualized relief, Plaintiffs now attempt to recast that narrow habeas dispute as a sweeping class action targeting perceived local and national immigration policies. But Congress has withdrawn jurisdiction over class-wide challenges to the Government's operation of 8 U.S.C. § 1225(b), and nothing in Plaintiffs' motion supplies a lawful path around that barrier. See 8 U.S.C. § 1252(e)(1)(B).

Nor does Article III permit the class Plaintiffs propose. Pinchi's claims were resolved through habeas relief, and the remaining named Plaintiffs identify no concrete, ongoing, or imminent injury. Their alleged fears of future detention are speculative, and the proposed class definition indiscriminately sweeps in individuals who face no actual threat of harm. A class action cannot proceed where most putative members lack standing or where the claims are moot or unripe.

The class definition is also overbroad and unworkable. It presumes the very violation at issue—treating every potential detention under § 1225(b) as unlawful—while conflating distinct statutory and procedural postures. That circular framing ensures that determining class membership would require individualized, fact-intensive inquiries and therefore is incompatible with class-wide adjudication.

Plaintiffs' showing under Rule 23 fares no better. Their numerosity theory rests on conjecture; their claims turn on highly individualized custody and enforcement decisions that foreclose commonality and typicality; and none of the named Plaintiffs can adequately represent a class of persons who are not currently detained and whose circumstances materially diverge. Nor could Plaintiffs obtain class-wide relief under Rule 23(b)(2), which demands a single, indivisible remedy capable of resolving the claims of all class members. Plaintiffs' proposed injunction cannot meet that standard.

Even if Rule 23 were otherwise satisfied, Congress has independently barred the class-wide injunctive and declaratory relief Plaintiffs seek. *See* 8 U.S.C. § 1252(f)(1). And to the extent Plaintiffs

cast their request as Administrative Procedures Act ("APA") vacatur, the Supreme Court's decision in *Trump v. CASA*, 145 S. Ct. 2540 (2025), forecloses an attempt to obtain universal or de facto class-wide remedies untethered to concrete injuries.

For all these reasons, and those set forth below, the Court should deny the motion.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiffs Frescia Garro Pinchi, Juany Galo Santos Frescia, and Jose Telefor Sente are nationals of Peru, Honduras, and Guatemala, respectively. Ex. 1 (Declaration of Deportation Officer Michael Silva Regarding Frescia Garro Pinchi and Juany Galo Santos) ¶¶ 7, 17; Ex. 2 (Declaration of Deportation Officer Michael Silva Regarding Jose Waldemar Teletor Sente), ¶ 7. Each entered the United States without admission or inspection and was charged as removable under 8 U.S.C. § 1182(a)(6)(A)(i). Ex. 1 ¶¶ 7, 9, 17, 19; Ex. 2 ¶ 7, 8. DHS served each with a Notice to Appear and placed them in removal proceedings under 8 U.S.C. § 1229a before the San Francisco Immigration Court. Ex. 1 ¶¶ 9, 11, 19, 21; Ex. 2 ¶¶ 8, 10. Those proceedings remain pending. Ex. 1 ¶¶ 12, 14, 21; Ex. 2 ¶ 10.

On July 3, 2025, after a scheduled master-calendar hearing, U.S. Immigration and Customs Enforcement ("ICE") executed a previously issued arrest warrant for Ms. Garro Pinchi and transferred her to the Mesa Verde ICE Processing Center. Ex. 1 ¶¶ 8, 12, 13. DHS released her two days later pursuant to a temporary restraining order. *Id.* ¶ 15. Ms. Galo Santos and Mr. Sente have not been taken into custody since their initial encounters with immigration officials. *Id.* ¶ 20; Ex. 2 ¶ 9. None of the named Plaintiffs have a criminal record alleged in the pleadings.

The Class Action Complaint asserts that recent enforcement actions reflect a broader "Re-Detention Policy." FAC at ¶ 6. Plaintiffs allege that DHS and ICE began treating all noncitizens who entered without inspection as subject to mandatory detention under 8 U.S.C. § 1225(b)(2), rather than discretionary custody under 8 U.S.C. § 1226. FAC at ¶ 4. Plaintiffs seek declaratory and injunctive relief under the Immigration and Nationality Act ("INA"), the APA, and the Fourth and Fifth Amendments, including a class-wide order restricting DHS's application of § 1225(b)(2) to such

individuals, and writs of habeas corpus prohibiting DHS from detaining such individuals under its § 1225(b)(2) authority unless a custody hearing is first held. FAC at at ¶¶ 119-145; Prayer for Relief at pp. 34-35.

LEGAL STANDARD

The class action is an exception to the usual rule that only individual named parties may litigate a dispute. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 348 (2011). To fall within this narrow exception, proposed class representatives must "affirmatively demonstrate" their compliance with Rule 23. *Id.* at 350. This is not just a "mere pleading standard." *Id.* "'[P]laintiffs must actually *prove*—not simply plead—that their proposed class satisfies each requirement of Rule 23 . . .' and must carry their burden of proof 'before class certification.'" *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651, 664 (9th Cir. 2022) (en banc) (emphasis and alteration in original) (quoting *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258, 275 (2014)). In assessing such proof, courts must rigorously analyze each of Rule 23's requirements. *See Wal-Mart*, 564 U.S. at 351-52.

To satisfy Rule 23(a), Plaintiffs must demonstrate that: (1) the class is so numerous that joinder is unrealistic ("numerosity"); (2) the claims raise common questions of law and fact ("commonality"); (3) the class representatives' claims must be typical of claims of other class members ("typicality"); and (4) the named representatives and counsel will fairly and adequately protect the interests of the class ("adequacy of representation"). *See* Fed. R. Civ. P. 23(a)(1)-(4). The proposed class must also qualify under a Rule 23(b) subset. *AmChem Prods. v. Windsor*, 521 U.S. 591, 614 (1997). Relevant here, Rule 23(b)(2) permits certification where "the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole." Fed. R. Civ. P. 23(b)(2).

ARGUMENT

I. 8 U.S.C. § 1252(e)(1)(B) Bars Class Certification.

Plaintiffs frame this case as a challenge to a "Re-Detention Policy," but the detention authority at issue arises from statute, not policy. Under 8 U.S.C. § 1225(b)(2), any noncitizen who is present in the United States without admission and placed in full removal proceedings "shall" be detained pending those proceedings. That statutory framework is reflected in longstanding statutes and regulations and predates this litigation by decades. Because Plaintiffs' proposed classes seek to restrict the Government's application of § 1225(b), Congress has expressly withdrawn jurisdiction for such class-wide challenges. See 8 U.S.C. § 1252(e)(1)(B).

Section 1252(e)(1)(B)'s plain text prohibits courts from certifying a class under Rule 23 when the proposed class challenges the implementation of § 1225(b). Section 1252(e)(1)(B) provides that "no court may . . . certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection." 8 U.S.C. § 1252(e)(1)(B). The subsequent paragraph in (e)(3) permits judicial review of "determinations under section 1225(b) of this title and its *implementation*"—i.e., review on challenges to the system—but only in the District Court for the District of Columbia. 8 U.S.C. § 1252(e)(3) (emphasis added); *see also Mendoza-Linares v. Garland*, 51 F.4th 1146, 1157 (9th Cir. 2022) (noting challenges to the validity of the system "must be brought exclusively as 'an action instituted in the United States District Court for the District of Columbia'" (quoting 8 U.S.C. § 1252(e)(3)(A))). Paragraph (e)(3) confines this limited review further; any challenge to the system is limited to (1) whether the section or implementing regulation is constitutional; or (2) whether a regulation or other written policy directive, guideline, or procedure implementing the section violates the law. *See* 8 U.S.C. § 1252(e)(3)(A)(i)-(ii); *see also*

M.M.V. v. Garland, 1 F.4th 1100, 1109 (D.C. Cir. 2021) (jurisdiction to challenge the implementation of § 1225(b) is conditioned on meeting these requirements).

To apply, enforce, and implement § 1225(b), Defendants must, among many things, arrest and detain aliens subject to detention and removal. Yet Plaintiffs challenge this policy by seeking to certify a class and subclass to enjoin or stay Defendants' "Re-Detention Policy." In other words, Plaintiffs seek certification of a class and subclass that directly infringe on Defendants' application, enforcement, and implementation of § 1225(b). *See* Mot. at 1. To the extent Plaintiffs' challenges arise out of Defendants' implementation of § 1225(b), they are barred. Because Congress provided only circumscribed judicial review of the Government's implementation of § 1225(b) under paragraph (e)(3), § 1252(e)(1)(B) bars this Court from certifying Plaintiffs' proposed class and subclass in their broad-based challenge to DHS's execution of its statutory detention authority.

II. The Named Plaintiffs Do Not Present a Live Article III Controversy and Thus Cannot Represent the Proposed Class.

Before the Court may consider Rule 23, it must ensure that at least one named plaintiff presents a live Article III controversy. *Lierboe v. State Farm Mut. Auto. Ins. Co.*, 350 F.3d 1018, 1022 (9th Cir. 2003). A class "does not have standing to sue if the named plaintiff does not have standing," *B.C. v. Plumas Unified Sch. Dist.*, 192 F.3d 1260, 1264 (9th Cir. 1999), and a class representative must "possess the same interest and suffer the same injury as the class members." *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 156 (1982). Article III requires a concrete and particularized injury that is actual or imminent, fairly traceable to the defendant, and redressable by judicial relief. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–61 (1992). Plaintiffs must establish standing for each form of relief they seek. *Friends of the Earth, Inc. v. Laidlaw Envt'l Servs.*, 528 U.S. 167, 185 (2000).

None of the named Plaintiffs meets these standards. All three admit they are not detained, and Plaintiff Pinchi has already obtained the only relief she sought in her habeas petition—release from custody. Mot. at 16. Plaintiffs Santos and Telefor likewise concede they have not been re-detained and identify no evidence suggesting imminent detention. *Id.* Their asserted fears of future enforcement are speculative and insufficient under Supreme Court precedent. *See City of Los Angeles v. Lyons*, 461 U.S. 95, 111 (1983); *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 409 (2013). Plaintiffs thus lack standing to pursue the prospective relief they seek for themselves or for any putative class.

Nor can Plaintiffs salvage jurisdiction through the "capable of repetition, yet evading review" or "inherently transitory" exceptions to mootness. These doctrines apply only in "exceptional situations" and require a "reasonable showing" that the same plaintiff will again face the challenged action. *Wallingford v. Bonta*, 82 F.4th 797, 801 (9th Cir. 2023) (quoting *Lyons*, 461 U.S. at 109). Plaintiffs make no such showing. Their declarations foreclose any "reasonable expectation" that they will again be detained under § 1225(b)(2). See *U.S. Parole Comm'n v. Geraghty*, 445 U.S. 388, 398–99 (1980); *Weinstein v. Bradford*, 423 U.S. 147, 149 (1975). That Plaintiff Pinchi pursued emergency habeas relief before seeking class certification only underscores that the controversy is no longer "live" as to any of them. *See Already, LLC v. Nike, Inc.*, 568 U.S. 85, 91 (2013).

Because none of the named Plaintiffs has a concrete and ongoing injury, they cannot represent the proposed class or subclass. The Court therefore lacks Article III jurisdiction and should deny class certification.

III. Plaintiffs' Proposed Class Lacks Clear, Workable Boundaries.

A class must be defined clearly enough that the court can determine who is included and who is not. Courts examine whether a proposed class can be identified using objective, administratively feasible criteria as part of the Rule 23 analysis. *See True Health Chiropractic, Inc. v. McKesson Corp.*, 896 F.3d

923, 929 (9th Cir. 2018). Plaintiffs' proposed class and subclass fail that requirement. Their definition turns on a series of merits-laden, individualized determinations—including whether a person will ever be arrested or detained, whether any detention would be lawful, and whether that detention would be attributable to the challenged "Re-Detention Policy." These inquiries require fact-intensive, case-by-case assessments of each individual's entry circumstances, release history, statutory posture, and the factual basis for any arrest or detention. No objective record would allow the Court to identify class members without mini-trials.

The definition is also overbroad and circular. Plaintiffs attempt to certify "all" noncitizens released from custody who will be subject to the alleged re-detention policy—even though many have never been detained, may never be detained, and face no credible threat of enforcement. Such a class sweeps in persons who could not have been injured, rendering it not only indefinite but incompatible with Article III. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 626 (1997). As this Court has already recognized, *see supra* Argument II, Plaintiffs cannot demonstrate any concrete or imminent injury for themselves, let alone for an undefined population that includes individuals who may never be arrested or detained.

In short, the proposed class lacks objective boundaries, requires individualized merits determinations, and encompasses persons with no cognizable injury. Rule 23 does not permit certification of such an indefinite and assumption-driven class.

IV. Plaintiffs Fail to Satisfy Rule 23(a)'s Requirements.

a. Plaintiffs Cannot Establish Numerosity.

Plaintiffs concede that the precise class size is unknown establishing a theoretical (but imprecise) number of aliens who *could* be subject to detention, *see* Mot. at 9-12, without making any distinction between lawful and allegedly unlawful detention. For example, Plaintiffs provide that the "volume of habeas petitions filed in the Northern and Eastern Districts of California by individuals and groups of individuals who have been re-arrested and re-detained since May 2025 after previous release

further corroborates the numerosity of the class." Mot. at 11. To the extent Plaintiffs contend this suffices, it does not. They provide no specific evidence of the number of putative class members. Between the named Plaintiffs' submissions, they cannot identify even three individuals with the same factual pattern—status, location, arrest and alleged re-detention—who would all be entitled to the same uniform injunction. And proving that any proposed class members merit relief, beyond those who have already submitted declarations or are named plaintiffs, would require fact-intensive inquiries into whether or not every single detention that was allegedly unsupported by reasonable cause was in fact unsupported.

Such speculation cannot satisfy Rule 23(a)(1). *Nguyen Da Yen v. Kissinger*, 70 F.R.D. 656, 661 (N.D. Cal. 1976). Courts require "some evidence of or reasonably estimate the number of class members with specificity." *Schwartz v. Upper Deck Co*., 183 F.R.D. 672, 680-81 (S.D. Cal. 1999). Plaintiffs' declarations support a class size ranging anywhere from the named representatives to some unknown, vast number. That indeterminacy underscores Plaintiffs' failure to satisfy their burden of proof.

b. Plaintiffs Cannot Establish Commonality.

Plaintiffs' proposed class and subclass lack commonality because they are overbroad. Rule 23(a)(2) requires Plaintiffs to identify questions of law and fact common to the class. *See Wal-Mart*, 564 U.S. at 351. Class claims must depend on a common contention that allows a court to resolve the central issue of each claim "in one stroke." *Id.* at 350. "What matters to class certification is not the raising of common questions—even in droves—but rather, the capacity of a class-wide proceeding to generate common *answers* apt to drive resolution of the litigation." *Id.* (cleaned up) (citations omitted). Courts must assess the dissimilarities within a proposed class that have the potential to impede the generation of common answers and explain why these dissimilarities do not defeat class certification. *See id.*

Here, Plaintiffs assert their proposed classes satisfy the commonality requirement because they will be subjected to Defendants' alleged policies and practices. Mot. at 13. Plaintiffs further argue that the proposed class raises the following common questions of law and fact: (1) Whether Defendants' "Re-Detention Policy" is arbitrary and capricious; and (2) Whether Defendants' "Re-Detention Policy" is not in accordance with law because it is contrary to the Fourth Amendment right against unreasonable seizures. Mot. at 13-14. Plaintiffs also assert that the proposed subclass raises the question as to whether Defendants' "Re-Detention Policy" is contrary to the INA and exceeds Defendants' statutory authority. Mot. at 14. But Plaintiffs' individual circumstances tell a different story.

Pinchi is the only named Plaintiff, who was detained this year, and the others have *never* been the subject of a detention or arrest this year. Mot. at 16. To the extent Plaintiffs challenge Defendants' application of immigration statutes, they ignore that such application is based on individualized circumstances. Indeed, whether a putative class member is in fact properly subject to detention hangs on circumstances particular to that individual. Based even on the record that Plaintiffs have advanced, arrest, the location of arrest, the basis of arrest, detention, the basis of detention, the length of detention, the location of detention, and the circumstances of detention vary by individual. These inquiries are fact-driven, cumulative, and highly individualized.

Where even the named Plaintiffs cannot show they face a likelihood of "re-detention" based on which they are trying to represent the alleged classes, the Court cannot generate common answers in "one stroke," and thus Plaintiffs' proposed class and subclass lack commonality.

c. The Named Plaintiffs' Injuries Are Not Typical of the Claims of the Proposed Class Members.

Beyond commonality, Rule 23 requires that "the claims or defenses of the representative parties are typical of the claims or defenses of the class." Fed. R. Civ. P. 23(a)(3). Typicality focuses on whether the class representatives' claims and interests are sufficiently aligned with the class's interest. *See Small v. Allianz Life Ins. Co. of N. Am.*, 122 F.4th 1182, 1201-02 (9th Cir. 2024). "Measures of typicality include whether other members have the *same or similar injury*, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct." *Id.* 1202 (emphasis added) (quoting *Torres v. Mercer Canyons, Inc.*, 835 F.3d 1125, 1141 (9th Cir. 2016)).

Plaintiffs assert that all class members "have been," or will be, injured by a single DHS "Re-Detention Policy," Mot. at 15, and that factual variation does not defeat typicality because the same policy allegedly drives all injuries. That framing is incorrect for multiple reasons.

First, the named Plaintiffs do not share a common injury. Only Pinchi was detained this year, while Santos and Telefor were not detained at all this year. Also, none of them describe an imminent risk of detention. Thus, their circumstances diverge sharply from one another, let alone from the sprawling set of individuals swept into the proposed class.

Second, the proposed class definition does not identify a uniform triggering event. It contains no reference to "re-detention," "arrest," "detention," a temporal boundary, a facility[1], or any common factual predicate. Because the class is defined without an injury-producing event, there is no shared factual foundation that could render the named Plaintiffs' claims typical of the whole. The only constant across the definition is the existence of removal proceedings—an ordinary statutory condition that applies to very different individuals for very different reasons.

Third, adjudicating whether any putative class member was or will be subject to unlawful detention would require individualized assessments of entry history, arrest circumstances, custody decisions, procedural posture, and statutory authority. Those inquiries turn on facts unique to each person, not on a common course of conduct suffered uniformly by all members. The named Plaintiffs therefore cannot be said to represent a cohesive group with aligned injuries or legal claims.

Because the named Plaintiffs' experiences and alleged injuries do not resemble those of the proposed class, their claims are not typical under Rule 23(a)(3).

d. The Named Plaintiffs Are Not Adequate Class Representatives.

Plaintiffs also fail to demonstrate they are adequate class representatives. Rule 23(a)(4) requires that the named parties be able to "fairly and adequately protect the interests of the class." *Amchem Prods. v. Windsor*, 521 U.S. 591, 625 (1997). "[A] class representative must be part of the class and

[1] Given that this case originated as a habeas petition, the other putative class members may choose to pursue habeas relief if detained under § 1225(b)(2)(A) or some other statutory detention provision applicable to their individual circumstances. The putative class members could be dispersed among different facilities within the jurisdiction of the San Francisco ICE Field Office, and potentially beyond the boundaries of this judicial District. Further, the proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2422. There is only one person with custody over a petitioner at a time, the immediate custodian. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). Under the immediate-custodian rule, the Court would thus have to fashion individual writs of habeas for the putative class members. In light of the immediate-custodian rule, it cannot be said that the claims are typical, nor would a single remedy be appropriate for the entirety of the putative class members of this class as Rule 23(b)(2) requires. *See Wal-Mart Stores, Inc.*, 564 U.S. at 360.

possess the same interest and suffer the same injury as the class members." *Id.* at 625-26 (cleaned up). No named Plaintiff currently has an injury in fact, and there is no evidence that they will have one for the foreseeable future. Most significantly, by having received habeas relief or seeking relief on their habeas claims in the future, named Plaintiffs have ensured that they will not suffer the same injury as the class members. They have already received relief or will receive relief at a different time and place than other putative class members. Thus, the named Plaintiffs' interests diverge from the class, and they are not adequate class representatives.

Finally, the record shows the declarants lack any understanding of their responsibilities as class representatives. *See* Mot. at 16-17. Each declaration recites, in nearly identical language and formatting, the same boilerplate statement: that the declarant understands he or she is a plaintiff in a class action, understands a duty to stay informed and consider the interests of absent class members, and is prepared to represent the class. *Id.; see* Garro Pinchi Decl. ¶ 24; Galo Santos Decl. ¶ 16; Teletor Sente Decl. ¶ 16. None explain what those responsibilities actually entail. Separately, the uniformity of these submissions calls into question whether the declarants themselves comprehend their asserted obligations. In such circumstances, the reliability of the declarations cannot be adequately assessed. *Cf. Mei Chai Ye v. U.S. Dep't of Justice*, 489 F.3d 517, 524 (2d Cir. 2007) (noting that "striking similarities between affidavits are an indication that the statements are 'canned'"). Courts have rejected adequacy where representatives do not comprehend their role. *Amchem Prods.*, 521 U.S. at 626-27.

In sum, because Plaintiffs cannot establish numerosity, commonality, typicality, or adequacy, they fail to carry their burden under Rule 23(a). The Court should deny certification on this basis alone.

V. Plaintiffs' Proposed Class and Subclass Fail to Satisfy Rule 23(b)(2).

Plaintiffs also fail to satisfy Rule 23(b)(2)'s requirements. Under Rule 23(b)(2), final injunctive or declaratory relief must be appropriate respecting the class as a whole. Fed. R. Civ. P. 23(b)(2). The

"key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them." *Wal-Mart*, 564 U.S. at 360 (citation omitted). But Plaintiffs fail to meet Rule 23(b)(2)'s requirements because 8 U.S.C. § 1252(f)(1) prohibits the Court from granting Plaintiffs the relief they seek, and any version of the relief sought that would not run afoul of § 1252(f)(1) would not address the alleged injuries of the proposed class and subclass.

a. Section 1252(f)(1) Prohibits Class-wide Relief Restraining the Government's Operations of Section 1225(b)'s Detention Authority.

The Court lacks jurisdiction to enjoin or restrain the Government from detaining individuals under 8 U.S.C. § 1225(b). Section 1252(f)(1) states that:

> Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, *no court (other than the Supreme Court)* shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of Part IV [of subchapter II of the INA], other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.

8 U.S.C. § 1252(f)(1) (emphasis added).

As the Supreme Court explained, § 1252(f)(1)'s reference to "the 'operation of' the relevant statutes is best understood to refer to the Government's efforts to enforce or implement them." *Garland v. Aleman Gonzalez*, 596 U.S. 543, 550 (2022). Section 1252(f)(1) "generally prohibits lower courts from entering injunctions that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out" the covered statutory provisions of the INA. *Id.* To the extent Plaintiffs' proposed class and subclass seek to restrain the Government from detaining aliens, § 1252(f)(1) applies because the statutory authority for the detention of aliens, like Plaintiffs, who are present in the United States without being admitted, is one of the covered provisions. *Id.*

The Supreme Court has weighed in on the issue of class-wide relief in the immigration context;

there can be no doubt that § 1252(f)(1)'s remedial bar applies here. In *Aleman Gonzalez*, the Supreme Court overturned injunctions entered by two district courts that had, as a matter of statutory interpretation, required the Government to provide bond hearings for noncitizens detained under 8 U.S.C. § 1231(a)(6). 596 U.S. at 550. The Court held that "[t]hose orders 'enjoin or restrain the operation' of § 1231(a)(6) because they require officials to take actions that (in the Government's view) are not required by § 1231(a)(6) and to refrain from actions that (again in the Government's view) are allowed by § 1231(a)(6)." *Id.* at 551. Because "[t]hose injunctions thus interfere with the Government's efforts to operate §1231(a)(6)" in its chosen manner, they were barred by § 1252(f)(1). *Id.*

Aleman Gonzalez proscribes the same result here—the Court lacks authority under § 1252(f)(1) to restrain Defendants from enforcing and implementing the INA as to Plaintiffs and other proposed class members including § 1225(b). As the Supreme Court affirmed, § 1252(f)'s remedial bar is not limited to the enumerated provisions "as *properly* interpreted." *Id.* at 552-54. Whether or not Plaintiffs' statutory arguments regarding § 1225(b) are reached, § 1252(f)(1) bars the Court from enjoining Defendants' operation of that statute on a class-wide basis. *See Al Otro Lado v. Exec. Off. for Immigr. Review*, 120 F.4th 606, 627 (9th Cir. 2024) (noting that "an injunction is barred even if a court determines that the Government's 'operation' of a covered provision is unlawful or incorrect") (citing *Aleman Gonzalez*, 596 U.S. at 552-54).

Plaintiffs argue that they meet the requirements of Rule 23(b)(2) because they seek declaratory relief in addition to injunctive relief. *See* Mot. at 17-19. But Plaintiffs still run afoul of § 1252(f)(1) because § 1252(f)(1) is not limited to injunctions. Instead, it prohibits lower-court orders that "enjoin or *restrain*" the Government's operation of the covered provisions. 8 U.S.C. § 1252(f)(1) (emphasis added). The common denominator of those terms is that they involve coercion. *See* Black's

Law Dictionary 529 (6th ed. 1990) ("Enjoin" means to "require," "command," or "positively direct" (emphasis omitted)); *id.* at 1314 ("Restrain" means to "limit" or "put compulsion upon" (emphasis omitted)). Together, they indicate that a court may not impose coercive relief that "interfere[s] with the government's efforts to operate" the covered provisions in a particular way. *Aleman Gonzalez*, 596 U.S. at 551. Though the Supreme Court did not indicate § 1252(f)(1) specifically prohibited other forms of relief that are similar to an injunction, including class-wide declaratory relief, the Court specified that lower courts cannot impose coercive relief that "interfere[s] with the government's efforts to operate" the covered provisions.[2] *Id.* at 551 n.2. Therefore, if the relief sought requires the Government to take steps to implement (or refuse to implement) a declaratory judgment regarding § 1225(b), that relief is barred by § 1252(f)(1). *See Hamama v. Adducci*, 912 F.3d 869, 880 n.8 (6th Cir. 2018) (holding that while "declaratory relief will not always be the functional equivalent of injunctive relief . . . in this case it is the functional equivalent").

Here, the requested declaratory relief is impermissibly coercive and violates § 1252(f)(1). Plaintiffs ask this Court to, among other things, declare that Defendants' alleged policies and practices violate the APA, INA, their Fifth Amendment and Fourth Amendment rights. *See* FAC Prayer for Relief, at pp. 34-35. Indeed, Plaintiffs and the putative classes "seek declaratory relief" challenging the Federal Government's application and implementation of the INA including its application of § 1225(b), and for the Court to find it unlawful. This necessarily restrains the Governments' operation of § 1225(b) because it stymies the Government's implementation of § 1225(b)(2) to detain and arrest putative class members including at courthouses. That is exactly what § 1252(f)(1) forbids.

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[2] The Supreme Court, in *Biden v. Texas*, left open the question of whether § 1252(f)(1) bars declaratory relief that is in effect coercive. 797 U.S. 785, 839 (2022) (Barrett, J., dissenting).

b. Individual Habeas Actions Are the Correct Vehicles to Resolve Plaintiffs' Claims, Not a Class Action.

Class actions exist to aggregate claims that turn on genuinely common legal or factual issues when individual litigation would be impracticable. *Dellums v. Powell*, 566 F.2d 216, 230 (D.C. Cir. 1977) (paraphrased). Habeas, by contrast, has always been an individualized remedy. See *Pinson v. Carvajal*, 69 F.4th 1059, 1069 (9th Cir. 2023). The Supreme Court has never recognized class-wide habeas relief, and members of the Court have repeatedly emphasized that the federal habeas statutes are structured around individual petitions rather than collective claims. *See A.A.R.P. v. Trump*, 145 S. Ct. 1034, 1036 (2025) (Alito, J., dissenting) (paraphrased).

That structure is evident from the statutory text. Section 2242 requires that a habeas application be signed and verified by "the person for whose relief it is intended" (or someone acting on that person's behalf) and that it allege the facts concerning "the applicant's commitment or detention" and "the person who has custody over him." 28 U.S.C. § 2242. Section 2243, in turn, directs issuance of the writ to "the person having custody of the person detained" and authorizes the court to require that the custodian produce "the body of the person detained." *Id.* § 2243. Those requirements presuppose a detainee-specific inquiry into custody, authority, and entitlement to release—an inquiry fundamentally incompatible with the Rule 23 framework.

The Ninth Circuit's description of core habeas claims confirms the point: they challenge the legality of a particular individual's confinement and seek that individual's release or a reduction in the duration of that individual's custody. *Pinson*, 69 F.4th at 1069. That kind of claim is not susceptible to class-wide resolution.

Plaintiffs' own conduct underscores why class treatment is inappropriate here. Pinchi pursued individualized habeas relief and obtained it; her release moots her habeas claims and eliminates any live

controversy requiring adjudication. Once habeas relief is granted to an individual petitioner, there is no continuing dispute the court must resolve. Plaintiffs cannot convert a resolved individual habeas petition into a vehicle for broad, district-wide policy challenges.

c. *CASA* Precludes Class Certification as a Vehicle for Universal Relief.

Plaintiffs argue that certifying the proposed class would follow other courts in certifying classes in cases where vacatur was sought pursuant to the APA. Mot. at 17-18 (collecting cases). Plaintiffs are mistaken as the authority they rely on predates *CASA*, 145 S. Ct. at 2540, and the specific proposed class definition in this case implicates the authority set out in *CASA*.

As currently defined, Plaintiffs' putative class casts too wide a net. While not blatantly seeking a nation-wide injunction, it is impossible to see how the proposed class would not have the same practical effect since the injunction Plaintiffs seek restrains Defendants as to everyone in the District rather than Plaintiffs themselves or even to a putative class. The equitable principles from the Supreme Court's recent decision in *CASA*, which held that district courts lack authority to issue universal injunctions, support denying class certification here, where the relief sought would constrict any ICE Field Office in the United States, not just the ICE San Francisco Field Office and its five detention facilities. *See CASA*, 145 S. Ct. at 2540.

Plaintiffs suggest that broad injunctions may be permissible to "protect" the Court's jurisdiction over putative class claims. But *CASA* forecloses that theory. *CASA* makes clear that universal relief cannot be achieved through Rule 23 without rigorous adherence to the Rule's requirements, and provisional certification cannot fill the gap. *See Wal-Mart*, 564 U.S. at 350-51. The suggestion that district-wide relief is necessary to preserve jurisdiction over absent class members is unfounded: the Court's jurisdiction remains intact without certifying a vague class, and nothing supports repackaging universal injunctions as class-wide remedies. The Supreme Court has explicitly cautioned against this: "[D]istrict courts should not view [*CASA*] as an invitation to certify nationwide classes without scrupulous adherence to the rigors of Rule 23. Otherwise, the universal injunction will return from the

grave under the guise of 'nationwide class relief[.]'" *CASA*, 145 S. Ct. at 2566 (Alito, J. concurring). In *CASA*, the Supreme Court addressed universal injunctions and held that "Congress has granted federal courts no such power," *id.* at 2550, as universal injunctions have no historical analogue in equity practice, *id.* at 2551. Instead, the governing principle is that a court granting equitable relief "may administer complete relief *between the parties*." *Id.* at 2557 (quotation omitted). "Under this principle, the question is not whether an injunction offers complete relief to everyone potentially affected by an allegedly unlawful act; it is whether an injunction will offer complete relief *to the plaintiffs before the court*." *Id.* (emphasis in original). Focusing on the "plaintiffs before the court" and not "everyone" is especially important because, "[w]hen a federal court enters a universal injunction against the Government, it 'improper[ly] intru[des]' on 'a coordinate branch of the Government' and prevents the Government from enforcing its policies against nonparties." *Id.* at 2561 (quoting *Immigr. & Naturalization Serv. v. Legalization Assistance Project of L.A. Cnty. Fed'n of Lab.*, 510 U.S. 1301, 1306 (1993) (O'Connor, J., in chambers)).

Plaintiffs' declarations recount only their own experiences and fears of future arrest or detention. They do not establish that the named Plaintiffs can represent every noncitizen who might be detained at any facility within the San Francisco Field Office's jurisdiction. And because the legality of an arrest or detention turns on individualized facts—entry history, removal posture, statutory authority, location, timing—no single determination could resolve those claims uniformly for all putative class members. Plaintiffs thus have not shown that the class is entitled to the kind of single, indivisible remedy that Rule 23(b)(2) requires. Nor may Rule 23(b)(2) be used to obtain what would function as a universal injunction: again, *CASA* makes clear that courts may not award class-wide relief that restrains the Government's operation of the immigration statutes for persons who have not demonstrated their own concrete injury. Plaintiffs' conclusory assurances that Rule 23 is satisfied fall well short of their obligation to "affirmatively demonstrate" compliance with each requirement. *See R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 180 (D.D.C. 2015).

Accordingly, this Court cannot properly provide preliminary relief to anyone beyond the named individuals before it.

CONCLUSION

For the reasons set out above, Plaintiffs cannot establish Article III standing, cannot define a coherent or objectively identifiable class, and cannot satisfy any requirement of Rule 23(a) or Rule 23(b)(2). In any event, § 1252(e)(1)(B), § 1252(f)(1), and *CASA* foreclose the class-wide relief they seek. The Court should deny the motion for provisional class certification in full.

Dated: November 14, 2025

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2025, 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.

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