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15 **UNITED STATES DISTRICT COURT**

16 **NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION**

17 CARMEN ARACELY PABLO SEQUEN,
18 YULISA ALVARADO AMBROCIO, and
LIGIA GARCIA,

19 Plaintiffs,

20 v.

21 SERGIO ALBARRAN, MARCOS
22 CHARLES, THOMAS GILES, MONICA
BURKE, KRISTI NOEM, U.S.
23 DEPARTMENT OF HOMELAND
SECURITY, TODD M. LYONS, SIRCE E.
24 OWEN, PAMELA BONDI, U.S.
IMMIGRATION AND CUSTOMS
25 ENFORCEMENT, UNITED STATES
DEPARTMENT OF JUSTICE, EXECUTIVE
26 OFFICE FOR IMMIGRATION AND
REVIEW, UNITED STATES OF AMERICA

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Case No. 5:25-CV-06487-PCP-NC

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR FINAL CLASS
CERTIFICATION; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

*[Filed concurrently with the Declaration of
Graeme Blair in Support]*

Judge: Hon. P. Casey Pitts
Date: March 26, 2026
Time: 10:00 a.m.
Crtrm.: 8

Trial Date: None Set

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NOTICE OF MOTION AND MOTION FOR FINAL CLASS CERTIFICATION**TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**

Plaintiffs Carmen Aracely Pablo Sequen, Yulisa Alvarado Ambrocio and Ligia Garia, on behalf of themselves and those similarly situated (the Plaintiffs”) respectfully request that the Court issue a final certification order, based on the submitted proposed order, certifying the Courthouse Arrest and Detention classes that were provisionally certified on November 25, 2025 (the “Provisionally Certified Classes”).¹

First, Plaintiffs seek to certify the Courthouse Arrest class: This class consists of all persons who have an immigration court hearing in a proceeding on EOIR’s non-detained docket in an immigration courthouse in ICE’s San Francisco Field Office Area of Responsibility.

Second, Plaintiffs seek to certify the Detention class: This class consists of all persons who are now or will be detained in a holding cell in ICE’s San Francisco Field Office.

The two Provisionally Certified Classes meet the requirements of Federal Rule of Civil Procedure 23(a) and 23(b)(2). First, each class is sufficiently numerous. Each class contains at least 40 known, unknown, and future members, which renders joinder impracticable. Second, all class members in both Provisionally Certified Classes share common questions of fact or law focused on the legality of Defendants’ policies and uniform practices. Third and fourth, the class representatives for each Provisionally Certified Class are proper because their claims are typical of unnamed class members and because the class representatives and class counsel will adequately represent the classes. Finally, Defendants have acted and, absent relief, will continue to act on grounds that are generally applicable to each Provisionally Certified Class as a whole.

This motion is based on the Notice of Motion and Motion, the Memorandum of Points and Authorities, the Declarations filed herewith, all pleadings and papers on file in this action, any matters of which the Court may take judicial notice, any evidence or argument presented at the hearing on the motion, and any other matters the Court deems proper

¹ Although Plaintiffs have noticed the motion for hearing on March 26, 2026, they intend to request pursuant to Civil Local Rule 7-1(b) that the Court rule on the motion without oral argument.

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1 DATED: January 29, 2026

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Beginning in May 2025, ICE initiated a sweeping campaign of arresting immigrants at immigration courts, including in Northern California. Immigrants arrested in San Francisco were held at a makeshift jail at ICE's San Francisco Field Office—often for days—in small, dirty, freezing, brightly lit cells with no place to sleep and no access to medical care. This regime of seizing immigrants when they dutifully appear for court and detaining them in terrible conditions was all in service of the Trump administration's mass deportation agenda.

Abandoning years of well-reasoned policy and practice, Immigration and Customs Enforcement (ICE) and the Executive Office of Immigration Review (EOIR) transformed immigration courts into hunting grounds. For decades, the government had a longstanding practice and policy to refrain from conducting immigration arrests at immigration court in recognition of the obvious paradox that such arrests create for litigants pursuing their immigration cases. In a series of well-reasoned policies, the government outlined the harms—including the chilling effect, safety risks, and impact on the fair administration of justice—of arresting immigrants when they appear for required immigration hearings.

Immediately after President Trump's inauguration, however, the current administration replaced those established policies with a flurry of policies that permit arrests at immigration court under any circumstances. The new policies evince no consideration of the numerous reasons why such arrests were previously prohibited, let alone an explanation for the radical change. Notably, it is not just ICE that changed its policy to permit courthouse arrests. EOIR, which administers the immigration courts, also executed an about-face, inexplicably permitting arrests in its courthouses. As a result of these policy changes, immigration court is now a trap. Masked ICE agents lurk in the halls, forcibly arresting immigrants when they step out of their hearings. Arrests appear unrelated to the circumstances, procedural posture, or merits of an individual's immigration proceedings—ICE has arrested immigrants with pending asylum cases, immigrants without criminal histories, immigrants with work authorizations, and even immigrants who already have agreed to leave the country voluntarily. Immigrants with upcoming court dates are forced to

1 decide whether to attend their mandatory hearings and risk arrest, or miss court and receive an *in*
2 *absentia* removal order.

3 Individuals arrested at San Francisco immigration court—one of the busiest in the
4 country—are detained in small, cold holding cells in ICE’s San Francisco Field Office. ICE
5 holding cells are designed to detain people for a matter of hours and lack basic amenities, like beds
6 or basic hygiene supplies. However, faced with a nationwide dearth of long-term detention space
7 resulting from its ill-conceived mass arrest campaign, ICE has resorted to holding recently-
8 arrested immigrants in these spare holding cells for days. ICE waived its prior policy limiting the
9 use of these rooms for a maximum of 12 hours; under ICE’s new policy, immigrants may be held
10 in these barebones cells for up to three days.

11 Plaintiffs seek to conclusively certify the Provisionally Certified Classes to obtain
12 appropriate relief from Defendants’ hasty policy changes and the punitive conditions of detention
13 at ICE’s San Francisco Field Office. Plaintiffs’ present motion is substantially similar to the
14 previously granted motion for provisional class certification, as Plaintiffs merely seek to convert
15 provisional certification of the Classes to final certification.

16 The Classes, respectively, seek to resolve common issues of fact and law, including: *First*,
17 are Defendants’ policies authorizing courthouse arrests arbitrary and capricious; *Second*, is
18 Defendants’ policy permitting the use of hold rooms for up to 72 hours arbitrary and capricious;
19 and *Third*, are the enumerated conditions in the hold rooms unlawful under the Fifth Amendment?

20 Plaintiffs seek final certification of the two Provisionally Certified Classes:

21 ***Courthouse Arrest Class:*** All persons who have an immigration court hearing in a
22 proceeding on EOIR’s non-detained docket in an immigration courthouse in ICE’s San Francisco
23 Field Office Area of Responsibility.

24 ***Detention Class:*** All persons who are now or will be detained in a holding cell in ICE’s
25 San Francisco Field Office.

26 Pursuant to the Court’s November 25, 2025 Order (ECF No. 138), Plaintiffs Carmen
27 Aracely Pablo Sequen, Yulisa Alvarado Ambrocio, and Ligia Garcia provisionally represent the
28 provisionally certified Courthouse Arrest class, and Plaintiff Ligia Garcia provisionally represents

1 the provisionally certified Detention class. Each class representative shares the same injuries, and
 2 seeks the same relief, as absent class members in the respective class.

3 The Provisionally Certified Classes meet the requirements of Federal Rule of Civil
 4 Procedure 23(a) and 23(b)(2). *First*, each class is sufficiently numerous. Each class contains at
 5 least 40 known, unknown, and future members, which renders joinder impracticable. *Second*, all
 6 class members in the Provisionally Certified Classes share common questions of fact or law
 7 focused on the legality of Defendants’ policies and uniform practices. *Third* and *fourth*, the
 8 provisional class representatives for each Provisionally Certified Class are proper because their
 9 claims are typical of unnamed class members and because the provisional class representatives
 10 and class counsel will adequately represent the Provisionally Certified Classes. *Finally*,
 11 Defendants have acted and will continue to act on grounds that are generally applicable to each
 12 Provisionally Certified Class as a whole.

13 **II. BACKGROUND**

14 **A. DHS and EOIR Reverse Their Policies on Courthouse Arrests, Resulting in** 15 **Mass Arrests at Immigration Courts**

16 Since January, ICE and EOIR have dramatically upended their longstanding policy and
 17 practice of refraining from conducting civil immigration arrests at immigration courts. ECF No.
 18 155 at 1–4. For decades, the government did not conduct civil immigration arrests at immigration
 19 courts, except in extreme circumstances, because such arrests would deter attendance at
 20 immigration hearings and disrupt the proper functioning of the courts. ECF No. 146, AR-25; ECF
 21 No. 163 at 12. In 2021, DHS codified this well-established practice in a memorandum titled “Civil
 22 Immigration Enforcement Actions in or near Courthouses” (2021 DHS Memorandum). ECF No.
 23 146, AR-25–27. In recognition of the principle that civil immigration enforcement at or near
 24 courthouses “may chill individuals’ access to courthouses, and as a result, impair the fair
 25 administration of justice,” the 2021 DHS Memorandum allowed ICE agents to conduct civil
 26 immigration enforcement action in or near courthouses in only extremely limited circumstances,
 27 such as an imminent risk of death, violence, or physical harm to a person. *Id.* at AR-26–27.

28 EOIR, which conducts immigration court proceedings, issued a similar document titled

1 “Operating Policies and Procedures Memorandum (OPPM) 23-01” (2023 EOIR Memorandum).
 2 ECF No. 163 at 7–9. It adopts the principles and policies in the 2021 DHS Memorandum and
 3 details the “chilling effect,” safety risks, increased absenteeism, and infringement upon the
 4 separate role of immigration court that would result from courthouse arrests. *Id.*

5 For years, these two reasoned policies, which codified longstanding practices, remained in
 6 effect.

7 Then, in a flurry of documents issued between January and May 2025, DHS and EOIR
 8 upended their prior positions on courthouse arrests without explanation. On inauguration day,
 9 DHS rescinded prior guidelines that limited civil immigration arrests near immigration courts.
 10 ECF No. 146 at AR-50. The next day, ICE issued interim guidance that superseded the 2021 DHS
 11 Memorandum (ICE Interim Arrest Guidance). *Id.* at AR-51–53. The ICE Interim Arrest Guidance
 12 gave ICE agents broad authority to conduct civil immigration arrests in or near immigration courts
 13 and other courthouses. *Id.* The interim guidance did not address the concerns outlined in the 2021
 14 DHS Memorandum about the chilling effect that courthouse arrests could have on court
 15 attendance or the fair administration of justice. *Id.*

16 A week later, EOIR issued OPPM 25-06 (2025 EOIR Memorandum), rescinding EOIR’s
 17 prior OPPM on courthouse arrests. ECF No. 107 at 29-31. OPPM 25-06 summarily dismisses the
 18 prior longstanding concern that courthouse arrests would have a chilling effect as “vague,
 19 unspecified” and “contrary to logic,” and inexplicably asserts that individuals with valid
 20 immigration claims have “no reason to fear any enforcement action by DHS.” *Id.*

21 In May 2025, ICE issued a final version of ICE’s Interim Arrest Guidance (ICE Final
 22 Arrest Memorandum), which is nearly identical to the interim guidance. ECF No. 146 at AR-1–3,
 23 ECF No. 32 (“Am. Compl.”) ¶ 47. Both the 2025 EOIR Memorandum and the ICE Final Arrest
 24 Memorandum remain in effect. Am. Compl. ¶¶ 47, 50.

25 In the aftermath of these abrupt, unexplained policy changes, ICE began a sweeping
 26 campaign of arresting immigrants attending their immigration court hearings, in service of DHS’s
 27
 28

1 self-imposed target of 3,000 arrests per day.² *Id.* ¶ 52. A familiar pattern has emerged since this
2 campaign began:

3 First, attorneys representing DHS in immigration hearings orally request that immigration
4 judges dismiss the immigration proceeding. To the extent the government attorneys support these
5 oral dismissal requests at all, the proffered reasons are generic and not particular to the individual
6 immigrant. For example, the government attorney may assert—without substantiation—that it is in
7 the best interest to dismiss the proceeding. The apparent purpose of the dismissal is simply to clear
8 the way for the ICE agents to make an arrest.

9 Second, irrespective of whether the immigration judge grants the government’s requested
10 dismissal, masked federal agents hovering just outside immigration courtrooms arrest immigrants
11 when they step out of their hearings. *Id.* ¶¶ 61, 64. Those arrests are generally forceful, and often
12 violent. *Id.* ¶ 65. Onlookers report ICE agents pushing and shoving the arrestee, their family
13 members, and even bystanders in the process of effectuating these arrests. ICE’s courthouse
14 arrests are not isolated incidents; between May and September 2025, ICE arrested at least 35
15 immigrants at immigration courts in the Bay Area, and at least 39 immigrants at immigration court
16 in Sacramento. *See Pablo Sequen v. Albarran*, No. 5:25-cv-06487-PCP, Declaration of Nikolas de
17 Bremaeker ¶ 13, Dkt. 33-10 (N.D. Cal. Sept. 18, 2025) (“de Bremaeker Decl.”); *Pablo Sequen v.*
18 *Albarran*, No. 5:25-cv-06487-PCP, Declaration of Nicole Zanardi ¶ 14, Dkt. 33-9 (N.D. Cal. Sept.
19 18, 2025) (“Zanardi Decl.”); *see also* Declaration of Graeme Blair (“Blair Decl.”) ¶ 13, Figure 1
20 (Estimated number of courthouse arrests in the SF Area of Responsibility by month from 2014
21 through September 2025).

22 **B. ICE Hastily Waives the 12-Hour Limit on Holding Cells to Accommodate Its**
23 **Mass Arrest Campaign**

24 Because of the overnight change in policy, ICE lacked the detention infrastructure to
25 absorb the surge in arrestees resulting from Defendants’ mass arrest campaign; ICE’s long-term

26 ² *Vasquez Perdomo v. Noem*, 148 F.4th 656, 665 n.2 (9th Cir. 2025); *see also* Sean
27 Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US*
28 *History*, Fox News (May 28, 2025, 6:29 pm PT), available at
<https://www.foxnews.com/video/6373591405112>.

1 detention facilities were at or above capacity. Am. Compl. ¶ 70. Accordingly, ICE detained
 2 recently-arrested immigrants indefinitely in facilities not meant for prolonged detention, until bed
 3 space opens up in a long-term detention facility. *Id.* ¶ 71. Those waits were extensive. *Id.* ¶¶ 72–
 4 73.

5 For more than a decade, ICE had a 12-hour limit on the use of ICE “hold rooms” for
 6 detention of arrestees. *Id.* ¶¶ 76–77. However, faced with the overcrowding resulting from its mass
 7 arrest campaign, ICE abruptly waived that limit. In June 2025, ICE issued a Memorandum titled
 8 “Nationwide Hold Room Waiver” (the 12-Hour Waiver Memo). ECF No. 145 at 8–9. Pursuant to
 9 that Memo, individuals who were recently detained or are being transferred may be confined in
 10 hold rooms for up to *seventy-two* hours—a sixfold increase in detention time from the previous
 11 policy. *Id.* at 8. The 12-Hour Waiver Memo applies to all hold rooms nationwide. *Id.* at 8–9

12 As described below, the conditions in the hold rooms were inhumane. ICE nevertheless
 13 issued the 12-Hour Waiver Memo without explaining why holding people for days in barebones
 14 cells expressly *not* designed for overnight detention was the only viable option for addressing its
 15 capacity issues. *Id.* ICE also issued the 12-Hour Waiver Memo without making changes to the
 16 conditions of confinement in the hold rooms to account for the fact that they would now be used to
 17 hold people for up to three days. *Id.*

18 C. ICE Holds Recently-Arrested Immigrants in Inhumane Conditions

19 As a direct consequence of ICE’s ill-conceived waiver of the 12-hour limit on hold rooms,
 20 recently-arrested immigrants in San Francisco were held in squalid conditions at ICE’s San
 21 Francisco Field Office at 630 Sansome Street (630 Sansome). Between January 20 and July 30,
 22 2025, public reports indicate that ICE detained at least 433 people in the San Francisco Field
 23 Office.³ These detentions regularly last overnight or even for days.

24 Prior to the issuance of the preliminary injunction in this case⁴, the detention conditions at

25 _____
 26 ³ Kelly Waldron and Frankie Solinsky Duryea, *2,123 lives: Inside the stats and stories of those*
 27 *arrested by ICE from the S.F. Area*, Mission Local (July 30, 2025), available at
<https://missionlocal.org/2025/07/ice-data-immigrants-arrested-sf/>.

28 ⁴ See ECF No. 138.

630 Sansome were punitive, dangerous, and inhumane. The rooms were small, maintained at an extremely cold temperature, and generally contain only an open toilet and metal benches. ECF No. 138 at 8–12, 40–41. There were no beds, and immigrants detained there overnight or for multiple days reported being forced to sleep directly on the floor, with (at most) a thin sheet of plastic or aluminum and a yoga mat. *Id.* ICE kept the lights on twenty-four hours a day and the combination of constant illumination, cold temperatures, and the lack of beds made it nearly impossible to get enough sleep. *Id.*

Detainees’ medical needs were disregarded because ICE does not conduct a standardized medical assessment at 630 Sansome until after detainees were transferred to a long-term detention facility, and there were no medical support, supplies, or infrastructure at 630 Sansome⁵. *Id.* at 12–15, 41. Because ICE often grabbed people after their immigration hearing with no warning, many detainees did not have their prescription medications with them, and ICE did not attend to those needs. *Id.* There were *no* medical services available to detainees on-site at 630 Sansome. *Id.* ICE did not provide written translated materials to detainees and has neglected to implement any system of translation to communicate with or field medical requests from detainees. *Id.* Therefore, when medical issues arose, ICE agents routinely ignored the complaint and would respond only if it is made in English, which many detainees did not speak. *Id.*

ICE’s policies and practices also obstructed detainees’ access to counsel. ICE’s policy was to refuse to allow attorneys into 630 Sansome to meet with their detained clients on weekends and holidays, or after 3pm on weekdays. Am. Compl. ¶ 162; ECF No. 138 at 15–16. When they were able to meet, counsel and clients were separated by Plexiglas and forced to communicate through a rudimentary landline system with such poor audio quality that it was difficult to convey even basic information. ECF No. 138 at 15–16. There was no confidential way for attorneys and clients to review documents together; they either had to hold papers up to the glass or ask the facility staff to gopher paperwork back and forth (staff often refused). Am. Compl. ¶¶ 164–65; ECF No. 138 at

⁵ In the ongoing case of *Garro Pinchi v. Noem*, Defendants conceded that “ICE does not employ a medical professional at the Holding Facility.” *Garro Pinchi v. Noem*, No. 5:25-cv-05632-PCP, Decl. of Liza Bolaños ¶ 7, Dkt. 88 (N.D. Cal. Jan. 8, 2026).

1 15–16. The only other way for counsel and clients to communicate was through a landline in the
2 holding cell that required payment from either the caller or the recipient. Am. Compl. ¶ 161.

3 **D. Defendants’ Abrupt Policy Changes and the Ensuing Punitive Conditions of**
4 **Confinement are Unlawful**

5 Defendants’ abrupt reversal of established policies and practices flouts even the most basic
6 requirements for an agency’s change in position and is arbitrary and capricious under the
7 Administrative Procedures Act (“APA”). Changes in agency positions must be supported by
8 “good reasons for the new policy” and balance those good reasons against “engendered serious
9 reliance interests.” *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221–22 (2016) (internal
10 quotations omitted). Neither the ICE Interim Arrest Guidance, the ICE Final Arrest Memorandum,
11 the 2025 EOIR Memorandum (collectively, “2025 Courthouse Arrest Policies”), nor the 12-Hour
12 Waiver Memo can meet this bar.

13 The ICE Interim Arrest Guidance and the Final ICE Arrest Memorandum offer at most
14 three conclusory statements in purported justification for reversing the decades-long practice of
15 refraining from courthouse arrests. ECF No. 155 at 20–21. None of ICE’s barebones reasons
16 mention, let alone account for, the core concerns articulated in the 2021 DHS Memorandum,
17 including the chilling effect, the disruption of the functioning of the courts, or the impact on the
18 fair administration of justice. *Id.* The 2025 EOIR Memorandum similarly includes only cursory
19 dismissals of the reasoning of the prior EOIR policy, which are unsubstantiated by any
20 explanation or recognition of the longstanding reliance interests implicated by the policy change.
21 *Id.* at 27–34.

22 ICE’s 12-Hour Waiver Memo is also arbitrary and capricious. To address a self-inflicted
23 issue—the lack of detention space caused by its own mass arrest campaign—ICE elected to
24 summarily waive a decade-old policy without any consideration of either the significant legal and
25 humanitarian implications of holding human beings for days in cells meant only for short-term
26 detention, or the viable alternatives that would alleviate overcrowding and lack of detention space.

27 Finally, the inhumane conditions of confinement at ICE’s San Francisco Field Office—
28 where individuals are now held for up to 72 hours or even longer—flout the basic constitutional

1 requirements of civil immigration confinement. Forcing detainees to sleep on the floor and
2 denying them access to medical care and counsel violates their due process rights. ECF No. 138 at
3 40–46.

4 **E. Defendants’ Unlawful Policies and Practices Harm Plaintiffs and Provisionally**
5 **Certified Class Members**

6 Classwide relief is necessary to protect the rights of the provisionally certified class
7 members, who are or will be subjected to Defendants’ unlawful policies and the punitive
8 conditions in the holding cells at 630 Sansome Street.

9 ICE’s courthouse arrests have had a dramatic chilling effect. Before ICE initiated
10 widespread courthouse arrests, immigrants felt comfortable attending their immigration hearings,
11 and were eager to receive their day in court and an opportunity to pursue any avenues of
12 immigration relief available to them. When ICE began arresting people at immigration court, there
13 was a marked decline in the number of people appearing for their immigration hearings; on some
14 dockets, not one person appears for their hearing. ECF No. 98 at ¶¶ 43–48. Courthouse Arrest
15 class members faced a Hobson’s choice: attend their hearings and risk arrest, detention, and
16 deportation, simply for dutifully appearing for court, or miss their court hearings and receive an *in*
17 *absentia* removal order. ECF No. 155 at 34–36. Moreover, a significant number of Courthouse
18 Arrest class members’ cases will be re-venued during the pendency of the proceedings, resulting
19 in their eventual hearings taking place in immigration courts outside of ICE’s San Francisco Area
20 of Responsibility. *See* Blair Dec. at ¶¶ 15-18 (explaining that thousands of cases now pending
21 *outside* of ICE’s San Francisco Area of Responsibility were previously venued within the San
22 Francisco Area of Responsibility). Because the 2025 Courthouse Arrest Policies apply nationwide,
23 Courthouse Arrest class members whose cases are re-venued outside of ICE’s San Francisco Area
24 of Responsibility will face the same Hobson’s choice in the new venue.

25 ICE’s 12-Hour Waiver Memo and the ensuing use of short-term holding cells for long-
26 term detention have forced immigrants arrested by ICE to withstand unsafe and appalling
27 conditions that risk their health and wellbeing. Individuals held at 630 Sansome reported being
28 forced to sleep on metal benches or the floor due to lack of beds, harsh 24/7 lighting, extremely

1 cold temperatures, and no systemic way to address medical ailments and pain, all while attorneys
2 struggled to reach them to provide timely legal services. ECF No. 138 at 15–16, 40–41. These
3 unlawful conditions result from uniform policies and practices that applied, and risked harm to,
4 the entire Detention Class.

5 Final certification of the Provisionally Certified Classes is necessary to definitively protect
6 all provisionally certified class members from further violations of their rights. Absent final class
7 certification, Defendants’ unlawful policies and practices would evade judicial review through
8 mootness. The harms challenged here are inherently transitory: individuals subjected to courthouse
9 arrest or detention in ICE holding cells are routinely arrested, detained, transferred, released, or
10 removed before the Court can fully adjudicate the legality of Defendants’ policies on the merits.
11 As a result, no single individual plaintiff is likely to maintain a personal stake long enough for
12 merits review absent class certification, even though it is certain that Defendants’ conduct will
13 continue to affect other similarly situated individuals. *See* ECF No. 138 at 29 (concluding that
14 “plaintiffs’ claims are ‘inherently transitory’ because they ‘will certainly repeat as to the
15 [proposed] class.”) (citing *Pitts v. Terrible Herbst, Inc.*, 653 F.3d 1081, 1090 (9th Cir. 2011)).

16 **III. PROCEDURAL HISTORY**

17 On September 18, 2025, Plaintiffs filed their Motion for Provisional Class Certification,
18 seeking provisional certification of the Courthouse Arrest and Detention classes. ECF No. 33.
19 Defendants did not initially oppose the motion by the original deadline, and on October 17, 2025,
20 the Court entered a text order extending Defendants’ time to respond and continuing the class-
21 certification hearing to November 10, 2025. ECF No. 102. Defendants thereafter filed their
22 Opposition to Provisional Class Certification on October 24, 2025. *See* ECF No. 109. Plaintiffs
23 filed both a Reply and a Supplemental Reply in further support of certification. *See* ECF No. 60,
24 115. The Court held a hearing on November 10, 2025, after full briefing by both sides, and granted
25 Plaintiffs’ motion for provisional class certification, concluding that the proposed classes satisfied
26 Rule 23(a) and Rule 23(b)(2). ECF No. 138.

27 Plaintiffs now move for final class certification under Rule 23(b)(2). Plaintiffs’ present
28 motion is largely identical to the previously granted motion for provisional class certification: it

1 relies on the same class definitions, the same core factual record, and the same Rule 23 analysis
 2 that the Court has already found sufficient. The legal and factual predicates for certification
 3 remain unchanged, and Defendants’ challenged policies and practices remain in effect.
 4 Accordingly, Plaintiffs seek final certification of the same classes that the Court has already
 5 provisionally certified, converting that provisional ruling into final class certification for purposes
 6 of merits adjudication and permanent relief.

7 **IV. LEGAL STANDARD**

8 Under Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs must satisfy four
 9 requirements to certify a class:

- 10 (1) the class is so numerous that joinder of all members is impracticable (“numerosity”);
- 11 (2) there are questions of law or fact common to the class (“commonality”);
- 12 (3) the claims or defenses of the representative parties are typical of the claims or defenses
- 13 of the class (“typicality”);
- 14 (4) the representative parties will fairly and adequately protect the interests of the class
- 15 (“adequacy”).

16 Fed. R. Civ. P. 23(a). Rule 23(b)(2) requires the court to also find that the Defendants have
 17 “acted or refused to act on grounds that apply generally to the class, so that final injunctive relief
 18 or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P.
 19 23(b)(2). “[T]he primary role of [Rule 23(b)(2)] has always been the certification of civil rights
 20 class actions.” *Parsons v. Ryan*, 754 F.3d 657, 686 (9th Cir. 2014).

21 The analysis for determining whether final certification for a class under Rules 23(a) and
 22 23(b)(2) is appropriate is identical to that conducted by a court when determining whether
 23 provisional certification is appropriate. A court can convert provisional certification into final
 24 certification when the opposing party offers no new arguments to counter the provisional
 25 certification. *See e.g., Scholl v. Mnuchin*, 494 F. Supp. 3d 661, 691 (N.D. Cal. 2020); *Roman v.*
 26 *Wolf*, No. ED CV 20-00768 TJH, 2020 WL 6261318, at *2 (C.D. Cal. Sept. 22, 2020)
 27 (“Petitioners-Plaintiffs properly relied on the Court’s issuance of the provisional class certification
 28 order to support the instant motion. Moreover, the Petitioners-Plaintiffs’ motion for provisional

1 class certification provided a sufficient factual and legal basis to support class certification on a
 2 non-provisional basis.”).

3 **V. ARGUMENT**

4 Both Provisionally Certified Classes still meet the Rule 23(a) and Rule 23(b)(2)
 5 requirements for final class certification.

6 **A. Requirements of Rule 23(a) Are Met**

7 **1. The Provisionally Certified Classes Are Sufficiently Numerous**

8 The Court should conclusively certify the Provisionally Certified Classes because they are
 9 each “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a). “[T]his
 10 numerosity requirement requires examination of the specific facts of each case and imposes no
 11 absolute limitations.” *A. B. v. Haw. State Dep’t of Educ.*, 30 F.4th 828, 835 (9th Cir. 2022) (citing
 12 *General Tel. Co. of the NW., Inc. v. EEOC*, 446 U.S. 318, 318 (1980)). “Impracticability does not
 13 mean impossibility, but only the difficulty or inconvenience of joining all members of the class.”
 14 *Harris v. Palm Springs Alpine Ests., Inc.*, 329 F.2d 909, 913-14 (9th Cir. 1964) (cleaned up).

15 “In general, courts find the numerosity requirement satisfied when a class includes at least
 16 40 members.” *Rannis v. Recchia*, 380 F. App’x 646, 651 (9th Cir. 2010). Importantly, however,
 17 “the size of the class is not the sole determining factor” in numerosity. *A.B.*, 30 F.4th at 835
 18 (citation omitted). For smaller classes, “the number of class members does not weigh as heavily in
 19 the analysis, and other factors bearing upon the feasibility and convenience of joinder may assume
 20 more significance.” *Id.* (citation omitted). “These potentially countervailing factors include . . . the
 21 ability of individual claimants to institute separate suits, and whether injunctive or declaratory
 22 relief is sought, as well as the ability to identify and locate class members.” *Id.* (citation omitted);
 23 *see also Rodriguez v. Bostock*, 349 F.R.D. 333, 352 (W.D. Wash. 2025) (“The Court may still
 24 certify the class even if it contains fewer than 40 members. Relatively small class sizes have been
 25 found to satisfy this requirement where joinder is still found impractical.”) (citation omitted).

26 Further, multiple district courts have concluded that “the presence of future class members
 27 renders joinder inherently impractical, thus satisfying the numerosity requirement’s fundamental
 28 purpose.” *Inland Empire-Immigrant Youth Collective v. Nielsen*, No. EDCV 17-2048 PSG

(SHKx), 2018 WL 1061408, at *7 (C.D. Cal. Feb. 26, 2018) (citing *Sueoka v. United States*, 101 F. App'x 649, 653 (9th Cir. 2004) (“Because plaintiffs seek injunctive and declaratory relief, the numerosity requirement is relaxed and plaintiffs may rely on the reasonable inference arising from plaintiffs’ other evidence that the number of unknown and future members of proposed [class] is sufficient to make joinder impracticable.”)); *see also Nat’l Ass’n of Radiation Survivors v. Walters*, 111 F.R.D. 595, 599 (N.D. Cal. 1986) (“‘[W]here the class includes unnamed, unknown future members, joinder of such unknown individuals is impracticable and the numerosity requirement is therefore met,’ regardless of class size.”); *Smith v. Heckler*, 595 F. Supp. 1173, 1186 (E.D. Cal. 1984) (“Joinder in the class of persons who may be injured in the future has been held impracticable, without regard to the number of persons already injured.”) (citing *Newberg on Class Actions*, Section 1105g). Courts in the Ninth Circuit have certified classes with less than 20 identified members when the class “might also include unknown present and future class members.” *Inland Empire*, 2018 WL 1061408, at *8 (collecting cases).

The Ninth Circuit also has “recognized that when, as here, a class’s membership changes continually over time, that factor weighs in favor of concluding that joinder of all members is impracticable.” *A.B.*, 30 F.4th at 838 (citation omitted). The Ninth Circuit favorably cited a D.C. Circuit decision that noted that “this factor weighs in favor of impracticability of joinder *even if current class members are relatively fewer in number.*” *Id.* (citing *J.D. v. Azar*, 925 F.3d 1291, 1322 (D.C. Cir. 2019) (emphasis added). In *J.D.*, the D.C. Circuit noted that a proposed class composed of pregnant unaccompanied minors in Office of Refugee Resettlement (ORR) custody posed non-numerical considerations that make joinder impracticable, including the fluidity of ORR custody and the class members’ limited resources. *J.D.*, 925 F.3d at 1322 (collecting cases in which classes of less than 20 known members certified in similar circumstances); *see also Rodriguez*, 349 F.R.D. at 352 (“Relatively small class sizes have been found to satisfy this requirement where joinder is still found impractical.”) (citations omitted).

While it is impossible to identify with certainty the precise number of people in the Provisionally Certified Classes, the available evidence makes clear that both the Courthouse Arrest Class and the Detention Class meet the numerosity requirement. First, both provisionally

1 certified classes contain unknown and future class members, rendering joinder inherently
 2 impracticable. *See Inland Empire*, at *7 (noting that presence of future class members makes
 3 joinder impracticable); *Nat’l Ass’n of Radiation Survivors*, 111 F.R.D. at 599 (same); *Smith*, 595
 4 F. Supp. at 1186 (same).

5 Further, the available evidence certainly supports the “reasonable inference” that each class
 6 contains at least 40 unknown and future class members, which is sufficient to make joinder
 7 impracticable. *See Sueoka*, 101 F. App’x at 653. Between May 2025 and September 9, 2025, ICE
 8 arrested at least 74 people at immigration courthouses in the San Francisco Field Office’s Area of
 9 Responsibility (SF AOR). *See de Bremaeker Decl.* ¶ 13; *Zanardi Decl.* ¶ 14. Immigration hearings
 10 continue to proceed at immigration courts within the SF AOR, with approximately 20–30
 11 immigrants scheduled to appear for a hearing each day at 630 Sansome. ECF No. 98 ¶ 43. Legal
 12 services providers who worked in the immigration courts expected courthouse arrests would
 13 continue, at least prior to the Court’s preliminary stay of Defendants’ 2025 Courthouse Arrest
 14 Policies. *See de Bremaeker Decl.* ¶¶ 7, 43; *Pablo Sequen v. Albarran*, No. 5:25-cv-06487-PCP,
 15 Declaration of Jordan Weiner ¶¶ 4, 25, Dkt. 33-2 (N.D. Cal. Sept. 18, 2025) (“Weiner Decl.”).
 16 Given the number of recent arrests, the number of individuals with upcoming immigration court
 17 hearings, and the ongoing ICE and EOIR policies authorizing courthouse arrests, it is reasonable
 18 to infer that the number of unknown and future Courthouse Arrests class members will exceed 40
 19 and render joinder impracticable. *See Rivera v. Holder*, 307 F.R.D. 539, 550 (W.D. Wash. 2015)
 20 (finding it “highly plausible” that future class members exceeded 40 based on plaintiffs’
 21 evidence).

22 Similarly, in the first six months of 2025, public reports indicated that ICE had detained at
 23 least 433 people in the San Francisco Field Office.⁶ In light of Defendants’ public statements
 24 vowing to continue their mass arrest campaign⁷—as well as ongoing constraints on longer-term
 25

26 ⁶ Kelly Waldron and Frankie Solinsky Duryea, *2,123 lives: Inside the stats and stories of those*
 27 *arrested by ICE from the S.F. Area*, Mission Local (July 30, 2025), available at
<https://missionlocal.org/2025/07/ice-data-immigrants-arrested-sf/>.

28 ⁷ Connor Greene, *The Trump Administration Escalates Its Battles with Sanctuary Cities: What to*

1 bed space⁸—it is reasonable to infer that the number of unknown and future Detention class
2 members will exceed 40 and render joinder impracticable. *See also*, ECF No. 138 at 32.

3 Finally, joinder is also impracticable because of the composition and characteristics of the
4 provisionally certified classes. Many class members are unable to bring individual litigation
5 because they are unrepresented by counsel and lack sufficient resources to retain counsel.
6 Members of the provisionally certified Detention Class face additional barriers to seeking counsel
7 resulting from their detention and the limits placed by Defendants on their access to counsel. The
8 makeup of the provisionally certified Detention class also changes continually over time, as
9 individuals are arrested, detained, and subsequently released or transferred to long-term detention.
10 *See Rivera*, 307 F.R.D. at 550 (finding joinder impractical based in part on “transient nature of the
11 class”); *J.D.*, 925 F.3d at 1323 (noting non-numerical considerations that make joinder
12 impracticable, including “fluidity of ORR custody”).

13 Because both of the Provisionally Certified Classes contain at least 40 known, unknown, or
14 future members and given many non-numerical considerations that render joinder impracticable,
15 both classes surpass the “relaxed” threshold for numerosity⁹. *See Sueoka*, 101 F. App’x at 653.

16 2. Commonality

17 Rule 23(a)(2) requires that “there are questions of law or fact common to the class.” Fed.
18 R. Civ. P. 23(a)(2). “Even a single common question” will satisfy the commonality requirement.
19 *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011) (cleaned up); *see Ellis v. Costco*
20 *Wholesale Corp.*, 657 F.3d 970, 981 (9th Cir. 2011) (construing Rule 23(a)(2) requirements
21 “permissively”). Indeed, “all questions of fact and law need not be common to satisfy the
22

23 _____
24 *Know*, Time Magazine (September 8, 2025), available at <https://time.com/7315444/trump-immigration-crackdown-ice-sanctuary-cities/>.

25 ⁸ Andrea Castillo and Gabrielle LaMarr LeMee, *‘It’s happening everywhere’: 1 in 3 ICE detainees*
26 *held in overcrowded facilities, data show*, Los Angeles Times (August 29, 2025), available at
27 <https://www.latimes.com/politics/story/2025-08-29/as-ice-detainees-top-60000-some-detention-centers-stack-mattresses-on-the-floor>.

28 ⁹ *See* ECF No. 138 at 31–32.

1 commonality requirement. The existence of shared legal issues with divergent factual predicates is
 2 sufficient.” *Gonzalez v. United States Immigration & Customs Enforcement*, 975 F.3d 788, 807
 3 (9th Cir. 2020) (cleaned up internal quotation marks and alterations omitted). “Thus, ‘[w]here the
 4 circumstances of each particular class member vary but retain a common core of factual or legal
 5 issues with the rest of the class, commonality exists.’” *Parsons*, 754 F.3d at 675.

6 Commonality is satisfied where, as here, plaintiffs are “challeng[ing] a system-wide
 7 practice or policy that affects all of the putative class members.” *Armstrong v. Davis*, 275 F.3d
 8 849, 868 (9th Cir. 2001), *abrogated on other grounds by Johnson v. California*, 543 U.S. 499,
 9 504–05 (2005); *see also* 7A Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal*
 10 *Practice and Procedure* § 1763, at 226 (3d ed. 2005) (“[C]lass suits for injunctive or declaratory
 11 relief by their very nature often present common questions satisfying Rule 23(a)(2).”). Indeed,
 12 courts in the Ninth Circuit routinely hold that commonality is satisfied in cases challenging
 13 systemic deficiencies in detention conditions. *See, e.g., Parsons*, 754 F.3d at 676 (certifying class
 14 of state prisoners challenging policies and practices that exposed all inmates to a substantial risk of
 15 serious harm); *Zepeda Rivas v. Jennings*, 445 F. Supp. 3d 36, 38-9 (N.D. Cal. 2020) (provisionally
 16 certifying class of ICE detainees because they have suffered the same injury from the lack of
 17 social distancing in the detention facilities and would benefit from the same remedy); *Unknown*
 18 *Parties v. Johnson*, 163 F. Supp. 3d 630, 637 (D. Ariz. 2016) (certifying class of detainees in
 19 Customs and Border Patrol detention because they were subject to the same set of overall
 20 conditions); *Hernandez v. Cnty. of Monterey*, 305 F.R.D. 132, 156-57 (N.D. Cal. 2015) (certifying
 21 class of jail inmates challenging systemwide healthcare policies and practices that exposed class
 22 members to a common “substantial risk of serious future harm”).

23 Courts also regularly certify classes challenging agency action under the APA because they
 24 “present a common issue, with a common answer, as to whether a sufficiently reasoned
 25 explanation was provided.” *Thakur v. Trump*, 787 F. Supp. 3d 955, 1003 (N.D. Cal. 2025); *see,*
 26 *e.g., Scholl v. Mnuchin*, 489 F. Supp. 3d 1008, 1044 (N.D. Cal. 2020) (provisionally certifying
 27 class of incarcerated people with APA challenge); *Jane Doe I v. Nielsen*, 357 F. Supp. 3d 972,
 28 992 (N.D. Cal. 2018) (certifying class of refugee applicants with APA challenge).

Here the class claims satisfy the commonality requirement because they present common questions of law and fact.¹⁰ For the provisionally certified Courthouse Arrest class, each class member has been, or will be, subjected to the same policies, which Plaintiffs allege are arbitrary and capricious. Common questions of law and fact for the provisionally certified Courthouse Arrest class include:

- Whether the ICE Final Arrest Memorandum violates APA Section 706; and
- Whether the 2025 EOIR Memorandum violates APA Section 706.

For the provisionally certified Detention class, each class member has been, or will be, subjected to the 12-Hour Waiver Memo and the same conditions and practices. Common questions of law and fact for the provisionally certified Detention class include:

- Whether the 12-Hour Waiver Memo violates APA Section 706;
- Whether the ICE Defendants’ policy and practice of forcing Plaintiffs and class members to sleep overnight on metal benches or on the floor, with constant illumination and in cold temperatures, violates the Fifth Amendment;
- Whether the ICE Defendants’ policy and practice not to conduct a medical intake or evaluation or give detainees access to their prescription medication violates the Fifth Amendment; and
- Whether the ICE Defendants’ policy and practice of depriving detainees of effective access to counsel violates the First Amendment, the Fifth Amendment, and 8 U.S.C. §§ 1362 and 1229a.

Plaintiffs’ arbitrary and capriciousness challenges to the 2025 Courthouse Arrest Policies and 12-Hour Waiver Memo are unquestionably common; they “present a common issue, with a common answer, as to whether a sufficiently reasoned explanation was provided,” which will apply to the entire class. *See Thakur*, 787 F. Supp. 3d at 1003. If Defendants failed to adequately justify their abrupt change in position, that is a “shared legal issue[]” common to the entire class. *See Gonzalez*, 975 F.3d at 807.

¹⁰ *See* ECF No. 138 at 32–34.

Further, as the Ninth Circuit recognized in *Parsons*, class treatment is appropriate for claims challenging systemic deficiencies in the conditions of confinement. *Parsons*, 754 F.3d at 678 (“[P]olicies and practices are the ‘glue’ that holds together the putative class and putative subclass; either each of the policies and practices is unlawful as to every inmate or it is not.”). Like in *Parsons*, the conditions Plaintiffs challenge—such as forcible floor-sleeping in cells that do not contain beds—are systemic and readily capable of classwide resolution because they have a common answer: either floor-sleeping in hold rooms is “unlawful as to every [detainee] or it is not.” *See Parsons*, 754 F.3d at 678. Because the legality of any given policy or practice “can be answered in a single stroke,” commonality is satisfied. *Id.* at 679.

3. Typicality

Rule 23(a)(3) 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). “Under the rule’s permissive standards, representative claims are typical if they are reasonably coextensive with those of absent class members; they need not be substantially identical.” *Parsons*, 754 F.3d at 685 (citation omitted). “The test of typicality is 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.* (citation omitted). “Thus, typicality refers to the nature of the claim . . . and not to the specific facts from which it arose or the relief sought.” *Id.* (citation omitted). “[T]he commonality and typicality requirements of Rule 23(a) tend to merge,” as both consider “whether the named plaintiff’s claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence.” *Wal-Mart Stores, Inc.*, 564 U.S. at 350 n.5.

Plaintiffs’ claims easily surpass the “permissive standard[]” for typicality. *See Parsons*, 754 F.3d at 685. The APA claims challenging Defendants’ 2025 Courthouse Arrest Policies are coextensive for the provisionally certified Courthouse Arrest Class. Defendants’ conduct in issuing the challenged policies is not unique to the named plaintiffs. Moreover, Plaintiffs and the provisionally certified Courthouse Arrest class members have the “same or similar injury” resulting from “the same course of conduct”—i.e., the chilling effect created by the risk of arrest

1 simply for attending a mandatory court hearing. As a result of Defendants’ impulsive policy
2 change, each class member faces the same impossible choice between pursuing their immigration
3 case and risking arrest, or missing court, foregoing their opportunity for immigration relief, and
4 receiving an *in absentia* removal order. *See also* ECF No. 138 at 34–35.

5 Similarly, the APA claim challenging the 12-Hour Waiver Memo is coextensive for the
6 provisionally certified Detention class. As with the 2025 Courthouse Arrest Policies, Defendants’
7 conduct in issuing the waiver is not unique to the named plaintiffs, and Plaintiffs and Detention
8 class members’ injury is the same—the risk of three days’ detention in a holding cell made only
9 for a few hours’ use. *Id.* For example, on September 18, 2025, Plaintiff Ligia Garcia, one of the
10 Detention Class representatives, was detained at ICE’s San Francisco Field Office. *Pablo Sequen*
11 *v. Albarran*, No. 5:25-cv-06487-PCP, Declaration of Ligia Garcia ¶ 3, Dkt. 33-5 (N.D. Cal. Sept.
12 18, 2025) (“Garcia Decl.”). She ultimately was detained at ICE’s San Francisco Field Office for
13 over twelve hours and was only released due to a temporary restraining order issued by the Court.
14 ECF No. 138 at 18–19.

15 Finally, Plaintiffs and Detention class members are or will be subjected to the same
16 conditions, i.e., cold temperatures, constant illumination, a lack of beds, all of which are a result
17 from Defendants’ uniform practices in the detention rooms at 630 Sansome Street. Accordingly,
18 typicality is met because class members have the “same or similar injury,” as named plaintiffs and
19 the claims are “based on conduct which is not unique to the named plaintiffs.”¹¹

20 4. Adequacy

21 Under Rule 23(a)(4), the Court must be satisfied that the named plaintiffs “will fairly and
22 adequately protect the interests of the class” Fed. R. Civ. P. 23(a)(4). This requires considering
23 two questions: “(1) do the named plaintiffs and their counsel have any conflicts of interest with
24 other class members and (2) will the named plaintiffs and their counsel prosecute the action
25 vigorously on behalf of the class?” *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1031
26 (9th Cir. 2012) (citation omitted). The adequacy of representation requirement tends to merge with
27

28 ¹¹ *See* ECF No. 138 at 34–35.

1 the commonality and typicality requirement. *Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157
2 n.13 (1982).

3 ***Individual Plaintiffs.*** The Individual Plaintiffs that provisionally represent the
4 Provisionally Certified Classes meet both aspects of adequacy. Plaintiffs Carmen Aracely Pablo
5 Sequen, Yulisa Alvarado Ambrocio, and Ligia Garcia provisionally represent the Courthouse
6 Arrest class, and Plaintiff Ligia Garcia provisionally represents the Detention class.

7 First, there is no conflict between the Individual Plaintiffs and the Provisionally Certified
8 Class Members. The Individual Plaintiffs are part of the class or classes they provisionally
9 represent and share an interest and injury with the respective class. *Evon*, 688 F.3d at 1031.

10 Second, the class representatives will vigorously prosecute this action on behalf of all class
11 members. The class representatives understand the claims asserted, the relief sought, and their role
12 as class representatives, and they are prepared to fulfill their duties as class representatives.¹²
13 *Pablo Sequen v. Albarran*, No. 5:25-cv-06487-PCP, Declaration of Carmen Aracely Pablo Sequen
14 ¶¶ 7–9, Dkt. 33-1 (N.D. Cal. Sept. 18, 2025) (“Sequen Decl.”); *Pablo Sequen v. Albarran*, No.
15 5:25-cv-06487-PCP, Declaration of Yulisa Alvarado Ambrocio ¶¶ 12–15, Dkt. 33-11 (N.D. Cal.
16 Sept. 18, 2025) (“Ambrocio Decl.”); Garcia Decl. ¶¶ 8–11.

17 ***Provisionally Certified Class Counsel.*** Counsel representing the Individual Plaintiffs
18 include experienced attorneys and practitioners in federal constitutional litigation, class actions,
19 and complex litigation, including involving immigrants’ rights. *See Pablo Sequen v. Albarran*, No.
20 5:25-cv-06487-PCP, Declaration of Jordan Wells ¶¶ 4–15, Dkt. 33-3 (N.D. Cal. Sept. 18, 2025)
21 (“Wells Decl.”); *Pablo Sequen v. Albarran*, No. 5:25-cv-06487-PCP, Declaration of Neil K.
22 Sawhney ¶¶ 3–7, Dkt. 33-8 (N.D. Cal. Sept. 18, 2025) (“Sawhney Decl.”); *Pablo Sequen v.*
23 *Albarran*, No. 5:25-cv-06487-PCP, Declaration of Mark L. Hejinian ¶¶ 3–11, Dkt. 33-6 (N.D. Cal.
24 Sept. 18, 2025) (“Hejinian Decl.”); *Pablo Sequen v. Albarran*, No. 5:25-cv-06487-PCP,
25 Declaration of Laura Victoria Sanchez ¶ 6, Dkt. 33-4 (N.D. Cal. Sept. 18, 2025) (“Sanchez
26 Decl.”). Plaintiffs’ counsel have adequately and thoroughly investigated the claims prior to
27

28 ¹² See ECF No. 138 at 36.

1 bringing this lawsuit, and they will vigorously prosecute this action on behalf of the Provisionally
 2 Certified Class members.¹³ *See* Wells Decl. ¶ 18; Sawhney Decl. ¶ 8; Hejinian Decl. ¶ 14.
 3 Plaintiffs’ counsel do not have any conflicts with the class members. *See* Wells Decl. ¶ 17;
 4 Sawhney Decl. ¶ 10; Hejinian Decl. ¶ 13; Sanchez Decl. ¶ 12. For these reasons, class counsel also
 5 meet the requirements of Rules 23(a)(4) and 23(g).¹⁴

6 In sum, the Provisionally Certified Classes still satisfy the requirement of Rule 23(a).

7 **B. Requirements of Rule 23(b)(2) Are Met**

8 Under Rule 23(b)(2), a class can be certified where the defendant has acted or refused to
 9 act on grounds that apply generally to the class, so that final injunctive relief or corresponding
 10 declaratory relief is appropriate respecting the class as a whole. Fed. R. Civ. P. 23(b)(2). “These
 11 requirements are unquestionably satisfied when members of a putative class seek uniform
 12 injunctive or declaratory relief from policies or practices that are generally applicable to the class
 13 as a whole.” *Parsons*, 754 F.3d at 688. Rule 23(b)(2) “does not require an examination of the
 14 viability or bases of the class members’ claims for relief, does not require that the issues common
 15 to the class satisfy a Rule 23(b)(3)-like predominance test, and does not require a finding that all
 16 members of the class have suffered identical injuries.” *Id.* The fact that some class members may
 17 have suffered different injuries—or even no injuries—from the challenged practice does not
 18 prevent Rule 23(b)(2) certification. *Walters v. Reno*, 145 F.3d 1032, 1047 (9th Cir. 1988).

19 This civil rights lawsuit is a paradigmatic Rule 23(b)(2) class action. Plaintiffs and
 20 provisionally certified class members seek uniform relief from policies and practices that apply to
 21 the class as a whole; there is no individualized or differentiated remedy sought. Thus, under
 22 *Parsons*, the requirements of Rule 23(b)(2) are “unquestionably satisfied.”¹⁵ *Parsons*, 754 F.3d at
 23 688.

24 _____
 25 ¹³ This is evidenced by the fact that provisionally certified class counsel has already obtained a
 26 preliminary injunction and APA § 705 stay on behalf of the class members. *See generally* ECF
 No. 138; ECF No. 155.

27 ¹⁴ *See* ECF No. 138 at 35–36.

28 ¹⁵ *See* ECF No. 138 at 36–37.

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1 **VI. CONCLUSION**

2 For the foregoing reasons, Plaintiffs respectfully request that the Court conclusively certify
3 the Provisionally Certified Classes under Federal Rules of Civil Procedure 23(a) and 23(b)(2).

4 DATED: January 29, 2026

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ATTESTATION

I, Mark L. Hejinian, am the ECF user whose identification and password are being used to file the foregoing document. In compliance with LR 5-1(i)(3), I hereby attest that all parties have concurred in this filing.

DATED: January 29, 2026

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