

CRAIG H. MISSAKIAN (CABN 125202)
United States Attorney

PAMELA T. JOHANN (CABN 145558)
Chief, Civil Division

DOUGLAS JOHNS (CABN 314798)
Assistant United States Attorney

60 South Market Street, Suite 1200
San Jose, California 95113
Telephone: (415) 846-8947
FAX: (408) 535-5081
Douglas.Johns@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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

Plaintiffs,

v.

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

Defendants.

CASE NO. 25-cv-06487-PCP

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR FINAL
CLASS CERTIFICATION**

Date: March 26, 2026
Time: 10:00 a.m.
Courtroom: Courtroom 8 – 4th Floor

Honorable P. Casey Pitts
United States District Judge

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1 I. INTRODUCTION

2 Defendants appealed to the Ninth Circuit the Court's order provisionally certifying the same two
 3 classes for which Plaintiffs now seek final certification, and that appeal is pending. But Plaintiffs' motion
 4 fails to mention this appeal, much less explain how the Court can certify their proposed two classes when
 5 those same two classes are the subject of an ongoing appeal. Under Supreme Court precedent, the Court
 6 should stay the case pending the outcome of Defendants' appeal.

7 Even if the Court does not stay the proceedings pending appeal, Plaintiffs' motion for final class
 8 certification should be denied. First, the proposed classes are overbroad, lack specificity, and are
 9 unworkable. For example, Plaintiffs' proposed Courthouse Arrest Class, as written, includes aliens with a
 10 final removal order and aliens who might be legitimately dangerous. *See* Pls.' Mot. for Final Class
 11 Certification ("Mot.") at 2, ECF No. 172. Plaintiffs' proposed classes also assume that all aliens are
 12 similarly situated, and attend the same unspecified "immigration court hearing" on the same undefined
 13 "non-detained docket." Not so. The complex immigration system of the United States includes aliens with
 14 countless backgrounds at different procedural stages. In addition, Plaintiffs only ever experienced
 15 Defendants' challenged conduct at 630 Sansome Street, San Francisco, California 94111 ("630
 16 Sansome"). There is no evidence before the Court that the named Plaintiffs experienced policies and
 17 conditions at any other location within U.S. Immigration and Customs Enforcement's ("ICE") San
 18 Francisco Field Office Area of Responsibility, which includes Northern California, Hawaii, Guam, and
 19 Saipan.

20 Second, Plaintiffs cannot satisfy the requirements of Rule 23. Plaintiffs' claims turn on highly
 21 individualized custody and enforcement decisions that foreclose commonality and typicality. They are not
 22 adequate class representatives. And Plaintiffs cannot obtain class-wide relief under Rule 23(b)(2), which
 23 demands a single, indivisible remedy capable of resolving the claims of all class members. For these
 24 reasons, and the reasons expressed in Defendants' opposition to Plaintiffs' motion for provisional class
 25 certification, the Court should deny the motion.¹

26
 27 ¹ Plaintiffs requested that the Court issue an order without oral argument pursuant to the Civil
 28 Local Rules. *See* Mot. at 1 n.1. Defendants support that request. Unless the Court believes that oral
 argument is necessary or would be helpful, Defendants also request that the Court issue an order without
 DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR FINAL CLASS CERTIFICATION
 25-CV-06487-PCP

II. THIS COURT SHOULD STAY PROCEEDINGS PENDING APPEAL

“The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982); *see also Rodriguez v. Cnty. of L.A.*, 891 F.3d 776, 790 (9th Cir. 2018) (same). This principle espoused in *Griggs* “requires an automatic stay of district court proceedings that relate to *any aspect* of the case involved in the appeal.” *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 741 (2023) (emphasis added). In *Coinbase v. Bielski*, the United States Supreme Court considered whether a district court should stay the proceedings after an appeal is filed if “the entire case is essentially ‘involved in the appeal.’” *See id.* at 741 (quoting *Griggs*, 459 U.S. at 58). As the Supreme Court recognized, where the issue on appeal is whether the case belongs in district court at all, “the entire case is essentially ‘involved in the appeal.’” *See id.* (citing *Griggs*, 459 U.S. at 58).

Notwithstanding the “power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *see also Clinton v. Jones*, 520 U.S. 681, 706 (1997). To determine whether the case should be stayed, the district court must consider four factors: “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *See Cal. by and through Harrison v. Express Scripts*, 139 F.4th 763, 768 (9th Cir. 2025) (quoting *Nken v. Holder*, 556 U.S. 418, 434 (2009)). “The first two factors are the most critical.” *Id.*

On November 25, 2025, this Court issued an order provisionally certifying Plaintiffs’ two proposed classes. *See* Order Provisionally Certifying Classes, Granting Prelim. Inj., and Denying Stay (“Provisional Class Order”) at 1, 31, ECF No. 138. On December 23, 2025, Defendants appealed that order. *See* Defs.’ Notice of Appeal at 2, ECF No. 154. On January 29, 2026, and during the pendency of Defendants’ appeal, Plaintiffs moved for final class certification of the same two classes at issue in the appeal. *See* Pls.’ Mot. for Final Class Certification, ECF No. 172. This Court should stay the proceedings

oral argument. *See* Civil L.R. 7-1(b).

1 in district court pertaining to final class certification while its prior order provisionally certifying the same
2 classes is being appealed for the two separate reasons set forth below.

3 First, the Court should stay this case pending the resolution of Defendants' appeal under Supreme
4 Court precedent including *Griggs* and *Coinbase*. Consistent with the Supreme Court's decision in
5 *Coinbase*, this Court should stay this case while the Court of Appeals considers the threshold question of
6 whether Plaintiffs' proposed classes should have been certified at all. *Compare* Provisional Class Order,
7 ECF No. 138 *with* Notice of Appeal, ECF No. 154. Because Defendants have a filed a notice of appeal of
8 this Court's order provisionally certifying the same two classes that Plaintiffs are now seeking final
9 certification of, "the entire case is essentially 'involved in the appeal.'" *Coinbase*, 599 U.S. at 741 (citing
10 *Griggs*, 459 U.S. at 58).

11 Second, the Court should stay this case as a matter of discretion. Defendants' appeal implicates
12 important legal issues that the parties and the Court will have to address in future proceedings including:
13 whether the Court had jurisdiction to provisionally certify Plaintiffs' two proposed classes; whether
14 Defendants have detention authority under 8 U.S.C. § 1225 and the scope of that authority; whether 8
15 U.S.C. § 1252(e)(1)(B) precludes certification of Plaintiffs' proposed classes; and whether certification of
16 Plaintiffs' two proposed classes was appropriate. An appellate decision on those issues will thus provide
17 the Court and the parties guidance on the ultimate resolution of this case. Plaintiffs will not suffer hardship
18 if this Court stays proceedings. The Court has already issued an order enjoining conditions at the facility
19 at issue in the litigation. *See* Provisional Class Order at 50-51. The Court also has already issued an order
20 staying Defendants' courthouse arrest guidance. *See* Order Staying Agency Action, ECF No. 155. And
21 this Court's order in a related case further limits Defendants' detention operations. *See Frescia Garro*
22 *Pinchi v. Noem*, No. 25-cv-05632-PCP, 2025 WL 3691938, at *34 (N.D. Cal. Dec. 19, 2025) (staying the
23 re-detention policy of the U.S. Department of Homeland Security). Conversely, Defendants will be
24 harmed absent a stay because their law enforcement operations to enforce the immigration laws of the
25 United States would continue to be negatively impacted while their appeal is going. Lastly, a stay of
26 proceedings promotes judicial efficiency and economy. If Plaintiffs' proposed classes should not have
27 been certified, or cannot be certified, it would be inefficient for the Court and the parties to brief and argue
28

the two partial motions for summary judgment and motion for final class certification. For these reasons, the Court should exercise its discretion and stay the proceedings in this case pending appeal.

III. OBJECTIONS TO EVIDENTIARY SUBMISSIONS

A. Objections to News Articles.

To support their motion, Plaintiffs submit five news articles about Defendants' immigration policies. *See* Mot. at 5, 6, 14, 15. Newspaper articles are hearsay by their very nature and inadmissible if offered to prove the truth of the matter asserted. *See Larez v. City of L.A.*, 946 F.2d 630, 642 (9th Cir. 1991); *see also AFMS LLC v. United Parcel Service Co.*, 105 F.Supp.3d 1061, 1070 (C.D. Cal. 2015) (same). The content of newspaper articles is inadmissible hearsay. *See Larez v. City of L.A.*, 946 F.2d 630, 642-44 (9th Cir. 1991). Plaintiffs offer no argument on why the proffered news articles qualify under an exception to the evidentiary rules precluding hearsay. *See* Fed. R. Evid. 802 (stating that hearsay is not admissible unless it qualifies under an exception). All five articles are inadmissible hearsay and, thus, should be disregarded.

B. Objections to Speculative Expert Opinions that Lack Foundation.

To further support their motion, Plaintiffs rely on the declaration of Graeme Blair ("Blair"). *See* Mot. at 5, 9; *see also* Decl. of Graeme Blair in Supp. of Mot. for Final Class Certification ("Blair Decl."), ECF No. 173. Blair is a professor of political science. *See* Blair Decl. ¶ 1. Based on his declaration, Blair has not worked in the immigration system of the United States. *See generally* Blair Decl. Nor has he worked in roles analyzing immigration policies or procedures. *See generally* Blair Decl. Blair does not claim to be an expert in the policies, practices, and procedures of the immigration system of the United States.

In his declaration, Blair purports to analyze the transfer of immigration cases within, and out of, the San Francisco ICE Field Office. *See* Blair Decl. ¶¶ 15-18. Blair does not explain his methodology in detail or explain what he considered "standard removal proceedings." *See id.* ¶ 16. Importantly, Blair does not offer an explanation for his analysis on the transfer of cases. *See* Blair Decl. ¶¶ 15-18. He only concludes that some cases were transferred to two of the largest metropolitan areas of the United States, Los Angeles and New York City. *See* Blair Decl. ¶ 17. Based on Blair's own analysis for cases on or after

January 20, 2025, less than 2% of the “newly initiated cases” were transferred. *See* Blair Decl. ¶ 18 (explaining that of the “8,641 cases originating in the ICE San Francisco Field Office . . . 143 were transferred to a court in another area of responsibility at some point later in 2025”). Blair never explains that immigration transfers can occur for a variety of reasons including at the request of the alien or based on the address of the alien. Transfers can occur because of actions taken by aliens that Blair does not consider.

Plaintiffs then rely on Blair’s analysis to try and make a connection between transfers and courthouse enforcement actions. *See* Mot. at 9 (citing Blair Decl. ¶¶ 15-18)). Put simply, there is no connection between the transfer of immigration cases, the venue of immigration cases, and courthouse enforcement actions. Blair’s analysis is speculative and lacks foundation. To the extent Plaintiffs are relying on Blair’s analysis to expand the alleged class beyond 630 Sansome, their conclusions are not supported. Blair’s analysis only supports the conclusion that aliens move to population centers, and their immigration cases follow them there.

IV. LEGAL BACKGROUND OF NATIONAL IMMIGRATION POLICIES

In their opposition to Plaintiffs’ motion for provisional class certification, Defendants set forth the multi-layered statutory scheme for the civil detention of aliens during an initial inspection, pending removal proceedings, and post removal proceedings. *See* Defs.’ Opp’n to Pls.’ Mot. for Provisional Class Certification at 1-4, ECF No. 109 (discussing 8 U.S.C. §§ 1225, 1226, 1231). Defendants acknowledge this Court’s prior rulings in this case rejecting their analysis of 8 U.S.C. § 1225. For brevity, and given the Court’s prior rulings, Defendants will not set forth the detailed statutory scheme for mandatory detention again in this opposition. But Defendants reserve all of their rights on appeal concerning the government’s detention authority under 8 U.S.C. § 1225, and the right to raise any prior argument in any future appeal.

However, Defendants note that on February 6, 2026, the United States Court of Appeals for the Fifth Circuit concluded that the government’s interpretation of 8 U.S.C. § 1225 is “correct.” *See Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, 2026 WL 323330, at *1 (5th Cir. Feb. 6, 2026). The Fifth Circuit recently addressed the same issue of statutory interpretation presented here, and it agreed with Defendants’ interpretation of 8 U.S.C. § 1225. *See id.* Relying on the plain text of the statute, the

Fifth Circuit concluded that 8 U.S.C. § 1225 applies to every “applicant for admission” who is present but not admitted to the United States. *See id.* at *6. In other words, it applies to aliens who have not been admitted to the United States but who are “seeking admission.” *See id.* The Fifth Circuit reversed the orders of two district courts that concluded 8 U.S.C. § 1225 did not apply to the petitioners. *See id.* at *3. To the extent the Court wants further briefing on 8 U.S.C. § 1225 or the Fifth Circuit’s decision, Defendants can provide it.²

V. FACTUAL BACKGROUND

A. Prior Briefing of Facts and Defendants’ Reservation of Their Rights.

In their oppositions to Plaintiffs’ motion for provisional class certification and Plaintiffs’ motion for stay of agency action, Defendants set forth the comprehensive history of courthouse arrests through multiple presidential administrations. *See* Defs.’ Opp’n to Pls.’ Mot. for Provisional Class Certification at 5-7, ECF No. 109; Defs.’ Opp’n to Mot. for Stay of Agency Action at 3-8, ECF No. 113. Defendants recognize that the Court rejected their analysis of the history of courthouse arrests. *See* Order Staying Agency Action, ECF No. 155. Accordingly, for brevity, and given the Court’s prior order, Defendants will not provide the comprehensive history of courthouse arrests in the United States again. However, Defendants reserve all of their rights including the right to raise any prior argument they made arising under the history of courthouse arrests in the United States. *See* Defs.’ Opp’n to Pls.’ Mot. for Provisional Class Certification at 5-7, ECF No. 109; Defs.’ Opp’n to Mot. for Stay of Agency Action at 3-8, ECF No. 113. By not providing the comprehensive history of courthouse arrests again, Defendants are not waiving any of their rights.

In the same vein, in both of their oppositions to Plaintiffs’ motion for provisional class certification and Plaintiffs’ motion for a preliminary injunction and stay of agency action, Defendants explained their Detention Policy and the actual conditions at 630 Sansome. *See* Defs.’ Opp’n to Pls.’ Mot. for Provisional Class Certification at 7-11, ECF No. 109; *see also* Defs.’ Opp’n to Mot. for Prelim. Inj. and Stay of Agency Action at 3-7, ECF No. 111; *see also* Decl. of Supervisory Detention and Deportation officer

² Defendants recognize that as for the Ninth Circuit, there is currently an appeal pending on this issue, and it has been set for oral argument in March of 2026. *See Rodriguez Vazquez v. Bostock*, No. 25-6842, Dkt. Entry No. 18 (9th Cir. 2026).

Andrew Kaskanlian, ECF No. 110. Defendants also analyzed President Trump’s prior declaration of a national emergency and two applicable Executive Orders: (1) Executive Order 14159, “Protecting the American People Against Invasion”; and (2) Executive Order 14165, “Securing Our Borders.” *See* Defs.’ Opp’n to Pls.’ Mot. for Provisional Class Certification at 7-11, ECF No. 109; *see also* Def.’s Opp’n to Mot. for Prelim. Inj. and Stay of Agency Action at 3-7, ECF No. 111. Defendants reserve all of their rights to raise any prior argument about their Detention Policy, the actual conditions at 630 Sansome, President Trump’s declaration of a national emergency, and President Trump’s two applicable Executive Orders in any future appeal. Defendants are not waiving any of their rights including their appellate rights by not including the same information from prior oppositions into this opposition.

B. Additional Relevant Factual Background.

Plaintiffs are aliens who entered the United States without being inspected or admitted. *See* Pls.’ Am. Compl. (“FAC”) at 34-40, ECF No. 32. The U.S. Department of Homeland Security (“DHS”) initiated removal proceedings against Plaintiffs charging them with being present in the United States without admission. Plaintiffs’ individual circumstances are different. *See id.* at 34-40. Plaintiff, Yulisa Alvarado Ambrocio (“Ambrocio”), has never been arrested by ICE or detained at 630 Sansome. *See* FAC at ¶¶ 204-205. There is no evidence that Ambrocio will be arrested or detained at 630 Sansome and especially given the Court’s order granting a preliminary injunction. *See* Order Granting Prelim. Inj. at 24, ECF No. 90.

The named Plaintiffs’ connections to Defendants’ challenged policies are limited to 630 Sansome. *See* Decl. of Carmen Aracely Pablo Sequen ¶ 3-14, ECF No. 70 (describing experiences exclusively at 630 Sansome); Decl. of Ligia Garcia ¶ 5-16, ECF No. 77 (describing experiences exclusively at 630 Sansome); Decl. of Yulisa Alvarado Ambrocio ¶ 6-9, ECF No. 33-11 (describing experienced at 630 Sansome); Pls.’ Am. Compl. and Pet. for Writ of Habeas Corpus ¶ 18 (describing Yulisa Alvarado Ambrocio’s experiences exclusively at 630 Sansome). However, Plaintiffs’ proposed Courthouse Arrest Class includes “[a]ll 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.” *See* Mot. at 2. ICE’s San Francisco Field Office Area of Responsibility includes multiple facilities in Northern California, Hawaii, Guam, and Saipan.

VI. PROCEDURAL BACKGROUND

The procedural history of this case is well documented. Defendants only include the relevant procedural background for Plaintiffs’ motion for final class certification. On September 18, 2025, and less than 48 hours after the Court issued a preliminary injunction exclusively as to Plaintiff, Carmen Aracely Pablo Sequen, Plaintiffs joined 12 new parties in an amended complaint and filed, among other motions, their motion for provisional class certification. Pls.’ Mot. for Provisional Class Certification, ECF No. 33. Plaintiffs failed to serve Defendants properly and noticed their motion for provisional class certification to be heard before Defendants were even required to respond to the amended complaint under the Federal Rules of Civil Procedure. The Court later corrected Plaintiffs’ error and extended Defendants’ time to respond to the motion for provisional class certification. *See* Order, ECF No. 102. On October 24, 2025, Defendants filed their opposition to Plaintiffs’ motion for provisional class certification. *See* Defs.’ Opp’n to Pls.’ Mot. for Provisional Class Certification, ECF No. 109.

On November 25, 2025, and after a hearing, the Court granted Plaintiffs’ motion for provisional class certification. *See* Provisional Class Order at 1, 49. The Court provisionally certified Plaintiffs’ two proposed classes. *See id.* at 19. Defendants appealed that order. *See* Defs.’ Notice of Appeal at 2, ECF No. 154. Plaintiffs moved for final class certification of the same two classes at issue in Defendants’ appeal while the appeal is pending with the Ninth Circuit. *See* Pls.’ Mot. for Final Class Certification, ECF No. 172.

VII. LEGAL STANDARD FOR CLASS ACTIONS

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).

VIII. ARGUMENT

A. 8 U.S.C. § 1252(e)(1)(B) Bars Class Certification, and the Court Continues to Lack Jurisdiction Over Plaintiffs’ Claims.

While acknowledging the Court’s prior ruling, Defendants maintain that 8 U.S.C. § 1252(e)(1)(B) bars final certification of Plaintiffs’ two proposed classes. *See* Provisional Class Order at 20-21. 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 8 U.S.C. § 1225(b). *See* 8 U.S.C. § 1252(e)(1)(B). Plaintiffs’ proposed classes and especially their Courthouse Arrest Class challenge Defendants’ mission to apply, enforce, and implement the Immigration and Nationality Act (“INA”) including, but not limited to, 8 U.S.C. § 1225. *See* Mot. at 2 (defining the Courthouse Arrest Class as any alien who has an “immigration court hearing” on the “non-detained docket”). Defendants rely on their prior arguments under 8 U.S.C. § 1252(e)(1)(B) to oppose final class certification and to preserve them for appeal. Similarly, Defendants rely on their prior jurisdictional arguments pertaining to standing, mootness, and ripeness to oppose final class certification and to preserve those arguments for appeal. *See* Defs.’ Opp’n to Pls.’ Mot. for Provisional Class Certification at 14-15, ECF No. 109. (arguing that Plaintiffs lack standing, their claims are moot, and their claims are not ripe for adjudication).

Notwithstanding, Plaintiffs lack standing to challenge policies, practices, and procedures at any facility other than 630 Sansome. A plaintiff “must demonstrate standing for each claim that they press and for each form of relief that they seek (for example, injunctive relief and damages”). *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). The plaintiffs “must demonstrate standing ‘with the manner and degree of evidence required at the successive stages of the litigation.’” *Id.* (citing *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992)). More recently, and although in the context of a damages class action, the Ninth Circuit affirmed the importance of standing. *See Healy v. Milliman*, 164 F.4th 701, 705 (9th Cir. 2026) (concluding that unnamed members of a certified class for money damages must demonstrate standing at summary judgment). The Ninth Circuit confirmed that at least one named plaintiff must have standing before a class is certified. *See id.*

Here, the named Plaintiffs lack standing to pursue relief beyond their challenges of policies and practices at 630 Sansome. The three named Plaintiffs have not had any interaction with Defendants’ policies and practices other than at 630 Sansome in San Francisco. *See* Decl. of Carmen Aracely Pablo Sequen ¶ 3-14 (describing experiences exclusively at 630 Sansome); Decl. of Ligia Garcia ¶ 5-16 (describing experiences exclusively at 630 Sansome); Decl. of Yulisa Alvarado Ambrocio ¶ 6-9 (describing experienced at 630 Sansome). However, Plaintiffs are challenging Defendants’ policies and practices at ICE’s San Francisco Field Office Area of Responsibility, which includes all of Northern California, Hawaii, Guam, and Saipan.

The United States immigration system is complex. For example, courts within the Executive Office for Immigration Review (“EOIR”) are administratively organized pursuant to the Federal Regulations. With respect to EOIR, the Federal Regulations state as follows:

An administrative control Immigration Court is one that creates and maintains Records of Proceedings for Immigration Courts within an assigned geographical area. All documents and correspondence pertaining to a Record of Proceeding shall be filed with the Immigration Court having administrative control over that Record of Proceeding and shall not be filed with any other Immigration Court. A list of the administrative control Immigration Courts with their assigned geographical areas will be made available to the public at any Immigration Court.

8 C.F.R. § 1003.11.³ For EOIR, the immigration court in San Francisco is separate from the immigration court in Honolulu. *See id.*; *see also* U.S. Department of Justice Executive Office for Immigration Review, “Immigration Court List – Administrative Control,” <https://www.justice.gov/eoir/immigration-court-administrative-control-list#Honolulu> (last visited Feb. 12, 2026). The immigration court in Honolulu has administrative control of Guam and Saipan. *See id.*

Plaintiffs do not allege that they have ever experienced any challenged conduct in Hawaii, Guam, or Saipan. Nor have Plaintiffs demonstrated that their experiences at 630 Sansome would be the same in Hawaii, Guam, or Saipan. Indeed, with respect to the named Plaintiffs for the Courthouse Arrest Class, their experiences were significantly different even at 630 Sansome. *Compare* Decl. of Carmen Aracely Pablo Sequen (describing courthouse enforcement action at 630 Sansome) *with* Decl. of Yulisa Alvarado Ambrocio ECF No. 33-11 (describing ICE declining to execute a courthouse enforcement action at 630 Sansome). Plaintiffs lack standing to challenge conduct other than at 630 Sansome.

B. Plaintiffs’ Proposed Courthouse Arrest Class Lacks Clear, Workable Boundaries.

Plaintiffs’ proposed Courthouse Arrest 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.” Mot. at 1, 2. Plaintiffs fail to define “EOIR’s non-detained docket.” *See generally* Mot. Plaintiffs fail to articulate the types of “immigration court hearings” at issue in their proposed Courthouse Arrest Class. *See generally* Mot. Plaintiffs’ inclusion of the broad phrases “immigration court hearings” and “non-detained docket” will lead to unworkable and potentially dangerous situations.

To illustrate, Plaintiffs’ Courthouse Arrest Class includes aliens who should be arrested to enforce the laws of the United States and protect the community. As one example, the Courthouse Arrest Class includes aliens who are subject to an expedited removal order. Aliens subject to an expedited removal order may be: (a) found to have a credible fear, released from custody pending or after referral to an

³ The public website can be found on EOIR’s website on the page entitled “Immigration Court List – Administrative Control.” *See* U.S. Department of Justice Executive Office for Immigration Review, “Immigration Court List – Administrative Control,” <https://www.justice.gov/eoir/immigration-court-administrative-control-list#Honolulu> (last visited Feb. 12, 2026).

immigration judge, and later appear at an “immigration court hearing” at an immigration courthouse related to his or her application for asylum, 8 U.S.C. § 1225(b)(1)(B)(ii); or (b) found to have a negative credible fear and seeking review of that determination before an immigration judge. *See* 8 U.S.C. § 1225(b)(1)(B)(IV); *see also, e.g., Feng Gui Lin v. Holder*, 588 F.3d 981, 983-84 (9th Cir. 2009) (analyzing subsequent asylum-related proceedings after an alien was ordered removed). For the latter category, if the immigration judge affirms the negative credible fear determination, Defendants have a legitimate interest in arresting the alien to effectuate removal. And if the asylum application is denied, Defendants have an interest in detaining the alien to timely effectuate removal after an appeal, if any, is resolved or the time to file an appeal has elapsed. In some cases, and even with the granting of asylum that is appealed, Defendants may wish to detain or continue detaining the alien if they are a flight risk or a danger to the community. Plaintiffs’ Courthouse Arrest Class does not account for any of those situations.

As a second example, consider a non-detained alien who appears for a pre-deprivation hearing⁴ at an immigration courthouse pursuant to an order from a district court to determine whether the alien is a flight risk or a danger to the community. *See* Order Granting Prelim. Inj. at 16, ECF No. 27 (ordering the Federal Government not to detain Plaintiff, Carmen Aracely Pablo Sequen, “without providing her with a pre-detention bond hearing”). If the immigration judge who conducts the hearing concludes that the alien is a flight risk or a danger to the community, Defendants must arrest the alien to protect the community. Even Plaintiffs would concede that Defendants cannot allow a dangerous alien to walk out of a hearing at an immigration courthouse and into the community if an immigration judge has concluded that the alien is dangerous. Plaintiffs’ Courthouse Arrest Class includes those non-detained aliens who should be arrested at a courthouse based on the findings of an immigration judge.

⁴ There is no statutory or regulatory requirement in the INA that entitles any alien to a pre-deprivation hearing under the Due Process Clause. *See generally* 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4. The Supreme Court has warned courts against reading additional procedural requirements into the INA. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 582 (2022) (declining to read a specific bond hearing requirement into 8 U.S.C. § 1231(a)(6) because “reviewing courts . . . are generally not free to impose [additional procedural rights] if the agencies have not chosen to grant them”) (quoting *Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, Inc.*, 435 U.S. 519, 524 (1978) (cleaned up)).

1 As a third example, consider an alien who is not detained but subsequently commits an offense that
2 would qualify the alien for mandatory detention. *See, e.g.*, 8 U.S.C. § 1226(c)(1)(E)(ii) (describing certain
3 offenses that mandate detention including those “which constitute the essential elements of any burglary,
4 theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in
5 death or serious bodily injury to another person”). The alien’s appearance at an immigration courthouse
6 for an immigration proceeding may be the best, safest, or only opportunity to conduct an arrest. Plaintiffs’
7 Courthouse Arrest Class and the relief they are seeking would prevent that arrest even if it was in the best
8 interest of the community and permitted by statute. Similarly, if an alien admits to conduct that would
9 render him or her subject to mandatory detention, Plaintiffs’ Courthouse Arrest Class and the relief they
10 are seeking would prevent the arrest of that alien based on the alien’s admissions.

11 As a fourth example, suppose an alien who is not detained but in removal proceedings under 8
12 U.S.C. § 1229a proceeds into an “immigration court hearing” and is ordered removed by an immigration
13 judge. Then, the alien can decide to waive his or her right to appeal the immigration judge’s order of
14 removal. At that point, the removal order becomes administratively final, and the alien is subject to
15 mandatory detention under 8 U.S.C. § 1231(a)(2)(A). Under Plaintiffs’ Courthouse Arrest Class,
16 Defendants could not comply with the law and arrest the alien at the courthouse pursuant to 8 U.S.C. §
17 1231(a)(2)(A). Plaintiffs’ Courthouse Arrest Class would nullify Defendants’ ability under 8 U.S.C. §
18 1231 to detain aliens despite the plain language of an immigration statute.

19 In sum, the experiences of aliens within the immigration system vary significantly and are based
20 on the circumstances of each alien. Plaintiffs’ Courthouse Arrest Class is overbroad, lacks specificity, and
21 not workable within the current immigration system. The proposed class assumes that all non-detained
22 aliens are the same and appear for the same unspecified “immigration court hearing” and for the same
23 undefined “non-detained docket.” *See* Mot. at 2. As the examples throughout this opposition demonstrate,
24 that is not the case. Plaintiffs’ Courthouse Arrest Class fails to consider that the immigration system of the
25 United States includes countless types of aliens in different stages of the immigration process. The Court
26 should not certify the Courthouse Arrest Class for that reason alone.

C. Plaintiffs' Proposed Classes Fail to Satisfy Rule 23(a)'s Requirements.

In addition to Defendants' arguments about Plaintiffs' proposed Courthouse Arrest Class, the Court should deny Plaintiffs' motion for final class certification because they have failed to *prove* that their proposed classes meet Rule 23(a)'s requirements to certify a class.

1. Plaintiffs Cannot Establish Commonality.

(a) Plaintiffs' Proposed Classes Are Overbroad and Not Supported by Sufficient Evidence.

A class definition may be fatally overbroad if it "sweeps within it persons who could not have been injured by the defendant's conduct." *Ross v. Lockheed Martin Corp.*, 267 F. Supp. 3d 174, 191 (D.D.C. 2017) (quoting *Kohen v. Pac. Inv. Mgmt. Co. LLC*, 571 F.3d 672, 677 (7th Cir. 2009)). An inadequately defined or overbroad class often implicates multiple Rule 23 requirements beyond commonality, including typicality and the standards for certifying an injunctive-relief class under Rule 23(b)(2).

As a starting point, Plaintiffs' proposed classes lack commonality because they are overbroad. Notably, as set forth above, Plaintiffs' proposed Courthouse Arrest Class potentially includes aliens at various stages of the immigration process. For example, the Courthouse Arrest Class potentially includes aliens who are subject to an administratively final order (for example, if an immigration judge denies relief and the alien waives appeal or the alien is in withholding-only proceedings), whose removal orders may soon become administratively final following an unsuccessful appeal or the end of the appeal period if no appeal is filed, or who may have engaged in conduct during release that renders them subject to mandatory detention. In addition, the Courthouse Arrest Class includes aliens whom an immigration judge might conclude are either a flight risk or a danger to the community who Defendants also must arrest to protect the community. Finally, and as demonstrated by the case of Ambrocio, Plaintiffs' Courthouse Arrest Class includes aliens who Defendants do not arrest based on their discretion. Plaintiffs' proposed classes include too many different categories of aliens at different stages of the immigration process to satisfy commonality.

Moreover, Plaintiffs’ proposed Courthouse Arrest Class is not supported by sufficient evidence. Plaintiffs are three aliens who have exclusively interacted with Defendants’ challenged policies at 630 Sansome. *See* Decl. of Carmen Aracely Pablo Sequen; Decl. of Ligia Garcia; Decl. of Yulisa Alvarado Ambrocio. Plaintiffs have not proffered any evidence that they have had any experience with Defendants’ challenged policies at any other courthouse in Northern California, Hawaii, Guam, or Saipan. Put simply, there is no evidence to support that Plaintiffs’ Courthouse Arrest Class should include aliens within “ICE’s San Francisco Field Office Area of Responsibility,” which includes all of Northern California, Guam, and Saipan. *See* Mot. at 2 (describing Plaintiff’s proposed Courthouse Arrest Class).

(b) Plaintiffs’ Proposed Classes Lack Commonality Because Factual Distinctions Between Class Members Do Not Generate Common Answers.

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) (emphasis in original). 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.* Plaintiffs must “affirmatively demonstrate” their compliance with the commonality requirement, which demands not only “common questions . . . but, rather the capacity of a classwide proceeding to generate common *answers* apt to drive the resolution of the litigation.” *Id.* at 350 (emphasis in original).

Plaintiffs’ individual circumstances demonstrate why they cannot establish commonality. Ambrocio seeks to represent the Courthouse Arrest Class, but she has *never* been subject to a courthouse arrest. *See* FAC ¶¶ 201-206. Plaintiffs concede that ICE exercised its discretion and did not arrest Ambrocio. *See id.* Moreover, and for the Detention Class, Plaintiffs’ other evidentiary submissions confirm that experiences at 630 Sansome vary based on individual circumstances. Based on Plaintiffs’ supporting declarations, several detainees were detained at 630 Sansome far less than 12 hours. *See*

1 Declaration of David Solano at 2, ECF No. 71 (transferred within six hours); Declaration of Jacqueline
2 Nunez at 2, ECF No. 72 (transferred within 5.5 hours); Declaration of Kaymaris Miranda at 2, ECF No. 76
3 (transferred within 4.5 hours); Declaration of Yessica Torres at 2, ECF No. 82 (transferred within 6.5
4 hours).

5 Even more significant, to the extent Plaintiffs challenge Defendants' policy and practice of
6 applying immigration statutes, they ignore that application is based on individualized circumstances.
7 Indeed, whether a putative class member is in fact properly subject to mandatory detention overlooks
8 obvious differences between purported class members, and provides different answers depending on
9 individualized circumstances. Once again, Plaintiffs' proposed classes and especially the Courthouse
10 Arrest Class includes aliens in various stages of the immigration process. It includes aliens whom an
11 immigration judge may have concluded are already dangerous or a flight risk and those with a final
12 removal order. Regarding both proposed classes, Plaintiffs have failed to prove that all putative class
13 members suffer the same injury and that the basis for that injury is the same for each person. Thus,
14 Plaintiffs cannot establish commonality.

15 Plaintiffs summarily conclude that they satisfy commonality without specifying the "common
16 questions of law and fact." *See* Mot. at 17. Plaintiffs never acknowledge that their proposed classes
17 include multiple categories of aliens who may be in different stages of the immigration process.
18 The record before the Court demonstrates that certification of Plaintiffs' proposed classes is improper
19 because each alien's circumstances pertaining to courthouse arrests and detention at 630 Sansome are
20 individualized. The named Plaintiffs did not even experience most of the conditions for which they are
21 trying to represent the alleged classes. Because the Court cannot generate common answers in "one
22 stroke," Plaintiffs' proposed classes lack commonality.

2. 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)).

For many of the same reasons already expressed, Plaintiffs fail to demonstrate typicality and especially in light of the Court’s orders prohibiting their further detention. *See Orders*, ECF Nos. 7, 27, 36, 90. First, Plaintiffs do not share a common injury. Although Ambrocio is a class representative of the Courthouse Arrest Class, she has never been arrested at a courthouse. Second, adjudicating whether a putative class member should be arrested at a courthouse requires an individualized assessment. Those assessments turn on facts unique to each person, not a common course of conduct suffered uniformly by all members. Therefore, Plaintiffs cannot represent a cohesive group with aligned injuries or legal claims. Finally, Plaintiffs fail to demonstrate typicality for any conduct being challenged other than that at 630 Sansome.

3. The Named Plaintiffs Are Not Adequate Class Representatives.

Rule 23(a)(4) requires that the named parties be able to “fairly and adequately protect the interests of the class.” *Anchem Prods. v. Windsor*, 521 U.S. 591, 625 (1997). “[A] class representative must be part of the class and possess the same interest and suffer the same injury as the class members.” *Id.* at 625-26 (cleaned up).

Plaintiffs fail to demonstrate they are adequate class representatives for several reasons. First, no named Plaintiff is currently detained at 630 Sansome, and there is no evidence that they will be for the foreseeable future especially given the Court’s orders. *See Orders*, ECF Nos. 7, 27, 36, 90. Second, Ambrocio is not an adequate class representative of the Courthouse Arrest Class because she has never

1 been subject to a courthouse arrest. Third, by seeking relief on their habeas claims, Sequen, Ambrocio,
 2 and Garcia have ensured that they will not suffer the same injury as the class members. *See* Orders, ECF
 3 Nos. 7, 27, 36, 90. They have already received relief.

4 Fourth, and notwithstanding the preceding arguments, Plaintiffs are not adequate class
 5 representatives for ICE's San Francisco Field Office Area of Responsibility. *See* Mot. at 2. Plaintiffs are
 6 challenging alleged conduct that occurred across all of Northern California, Hawaii, Guam, and Saipan.
 7 There is no evidence that Plaintiffs have ever been to Hawaii, Guam, Saipan, or any facility in Northern
 8 California other than 630 Sansome. Plaintiffs cannot adequately represent a class of people in multiple
 9 territories and facilities when they have never been to those territories and facilities.

10 **D. Plaintiffs' Proposed Classes Fail to Satisfy Rule 23(b)(2).**

11 Plaintiffs also fail to satisfy Rule 23(b)(2)'s requirements. Under Rule 23(b)(2), final injunctive or
 12 declaratory relief must be appropriate respecting the class as a whole. Fed. R. Civ. P. 23(b)(2). The "key
 13 to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion
 14 that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or
 15 as to none of them." *Wal-Mart*, 564 U.S. at 360 (citation omitted).

16 Defendants' position is that 8 U.S.C. § 1252(f)(1) prohibits classwide relief for the reasons already
 17 expressed in their opposition to Plaintiffs' motion for provisional class certification. *See* Defs.' Opp'n to
 18 Pls.' Mot. for Provisional Class Certification at 20-23, ECF No. 109. Defendants acknowledge that the
 19 Court previously rejected their arguments under 8 U.S.C. § 1252(f)(1). *See* Provisional Class Order at 22-
 20 25. While Defendants respectfully disagree with that analysis, in the interest of judicial economy and to
 21 conserve judicial resources, Defendants rely on all of their prior arguments explaining why 8 U.S.C.
 22 § 1252(f)(1) prohibits classwide relief. *See* Defs.' Opp'n to Pls.' Mot. for Provisional Class Certification
 23 at 20-23, ECF No. 109. Defendants reserve all rights, including the right to appeal, and the right to raise
 24 any prior argument they made arising under 8 U.S.C. § 1252(f)(1) in any future appeal.

1 For the reasons previously expressed, the relief that Plaintiffs seek will not appropriately address
 2 the alleged injuries. First, as explained above, the class definitions do not make any individualized
 3 distinctions for aliens such that a single judgment would cover all putative class members. Defendants’
 4 application and implementation of the INA requires individualized determinations. Based on Plaintiffs’
 5 own submissions, a detainee’s circumstances at 630 Sansome also vary significantly based on experience
 6 and the time spent in detention.

7 Second, because Plaintiffs allege Defendants’ policies violate their rights under the Due Process
 8 Clause of the Fifth Amendment, the Court should hesitate to resolve such claims via a Rule 23(b)(2) class
 9 action. *See generally* FAC. As the Supreme Court has cautioned, courts should consider “whether a Rule
 10 23(b)(2) class action litigated on common facts is an appropriate way to resolve [Petitioners’] Due Process
 11 Clause claims. [D]ue process is flexible, we have stressed repeatedly, and it calls for such procedural
 12 protections as the particular situation demands.” *Jennings v. Rodriguez*, 583 U.S. 281, 314 (2018) (internal
 13 quotation makes omitted) (second alteration in original); *see also Diaz v. Garland*, 53 F.4th 1189, 1213
 14 (9th Cir. 2022) (noting that “the Due Process Clause does not mandate procedures that reduce the risk of
 15 erroneous deprivation to zero” and that “[d]ue process is a flexible concept that varies with the particular
 16 situation”). Because Plaintiffs’ proposed classes, as defined, include dissimilarly situated individuals, the
 17 Court could not enter a single declaratory judgment to resolve classwide Due Process claims.

18 Third, not all putative class members are entitled to the same due process protections, as Plaintiffs’
 19 proposed classes include aliens with: (1) administratively final orders of removal ; (2) expedited removal
 20 orders having gone through expedited removal proceedings under 8 U.S.C. § 1225 and, for the detention
 21 class, aliens who can be ordered removed by an immigration officer without a hearing before an
 22 immigration judge; and (3) reinstated removal orders. *See* 8 U.S.C. §§ 1225(b)(1)(B) (provisions
 23 governing expedited procedures and detention), 1231(a)(2), (5), (6). (addressing reinstated orders of
 24 removal and detention pending removal for any aliens subject to administratively final orders of removal).
 25 Because commonality “requires the plaintiff to demonstrate that the class members ‘have suffered the
 26 same injury,’” that the members of the putative class possess differing levels of due process protections is
 27 necessarily fatal to their ability to demonstrate the requisite commonality for class certification. *Wal-Mart*,

1 564 U.S. at 349-50.

2 **E. CASA Precludes Class Certification as a Vehicle for Universal Relief and at Locations**
 3 **Other Than 630 Sansome.**

4 Plaintiffs argue that courts regularly certify classes under the APA. *See* Mot. at 16. However,
 5 Plaintiffs fail to acknowledge that the cases they rely on predate *Trump v. CASA, Inc.*, 606 U.S. 831
 6 (2025). As currently defined, Plaintiffs' proposed Courthouse Arrest Class casts too wide a net. While not
 7 blatantly seeking a nation-wide injunction, it is impossible to see how the proposed class would not have
 8 the same practical effect since the injunction Plaintiffs seek restrains Defendants' immigration
 9 enforcement across multiple jurisdictions and states. More significantly, Plaintiffs' declarations recount
 10 only their own experiences at one location, 630 Sansome. *See* Decl. of Carmen Aracely Pablo Sequen;
 11 Decl. of Ligia Garcia; Decl. of Yulisa Alvarado Ambrocio. Plaintiffs fail to establish that they can
 12 represent aliens in multiple jurisdictions at different stages of the immigration process including those
 13 who have never been to 630 Sansome. And because the legality of an arrest or detention turns on
 14 individualized facts—entry history, removal posture, statutory authority, location, timing—no single
 15 determination could resolve those claims uniformly for all putative class members. Plaintiffs thus have not
 16 shown that the class is entitled to the kind of single, indivisible remedy that Rule 23(b)(2) requires.

17 **IX. CONCLUSION**

18 The Court should deny Plaintiffs' motion for final class certification. For the reasons set forth
 19 above and the reasons previously expressed, Plaintiffs cannot define a coherent or objectively identifiable
 20 class, and cannot satisfy any requirement of Rule 23(a) or Rule 23(b)(2). In any event, § 1252(e)(1)(B), §
 21 1252(f)(1), and *CASA* foreclose the class-wide relief they seek.

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Respectfully submitted,

23 CRAIG H. MISSAKIAN
 24 United States Attorney

25 /s/ Douglas Johns
 26 DOUGLAS JOHNS
 Assistant United States Attorney

27 *Attorneys for Defendants*