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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' REPLY IN SUPPORT OF
MOTION FOR FINAL CLASS
CERTIFICATION**

Judge: Hon. P. Casey Pitts

Trial Date: None Set

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I. INTRODUCTION

Defendants’ Opposition to Plaintiffs’ Motion for Final Class Certification (“Opposition” or “Opp.”) largely repeats arguments this Court has already considered and rejected in its order provisionally certifying the Courthouse Arrest and Detention Classes (the “November 25 Order”). ECF No. 138. Nothing in Defendants’ Opposition undermines the Court’s prior findings under Federal Rule of Civil Procedure 23 (“Rule 23”), and Defendants have identified no material change in law or fact that would justify denial of final certification.

II. DEFENDANTS’ IMPROPER REQUEST FOR A STAY SHOULD BE DENIED

As an initial matter, the Court should deny Defendants’ request for a stay of the *entire* proceedings pending appeal of the November 25 Order.¹ When Defendants moved to stay this Court’s preliminary injunction, they conspicuously did not seek a stay of the proceedings pending appeal. ECF No. 156. Now, almost two months later, they claim for the first time that the pending preliminary-injunction appeal divests this Court of jurisdiction over *the entire case*. Opp. at 2–3. Defendants’ belated contention that their interlocutory appeal stays the entire case below should be summarily rejected.

Defendants’ request does not square with their own affirmative conduct in litigating this case for months after filing their appeal, including by stipulating to a briefing schedule for Plaintiffs’ motions for partial summary judgment (ECF No. 167) and filing an Answer (ECF No. 178). The stay request also cannot be squared with well-established principles of appellate procedure, which hold that “an appeal from an interlocutory order does not divest the trial court of jurisdiction to continue with other phases of the case.” *Plotkin v. Pac. Tel. & Tel. Co.*, 688 F.2d 1291, 1293 (9th Cir. 1982). Defendants ignore this “well-recognized exception to the general rule” in *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). *See Am. Dev. Corp. v. Strack*, No. 95-55648,

¹ As an independent ground for denial, Defendants’ decision to embed a stay request into their Opposition is procedurally improper. Defendants’ request should have been filed in a motion for administrative relief, as with their previously denied stay request. *See* ECF No. 156; ECF No. 161 at 5 (denying stay of preliminary injunction and concluding Defendants failed to demonstrate a likelihood of success). Defendants never sought Plaintiffs’ consent for this relief and have failed to include “a declaration that explains why a stipulation could not be obtained.” Civ. L.R. 7-11.

1 1996 WL 134339, at *4 (9th Cir. Mar. 25, 1996) (citing *Plotkin*, 688 F.2d at 1293). Instead,
 2 Defendants cite *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 741 (2023), but that decision is entirely
 3 inapposite. By its own terms, the decision is limited to “whether a district court must stay its
 4 proceedings while the interlocutory appeal on arbitrability is ongoing.” *Id.* at 740. And the Ninth
 5 Circuit has expressly held that “Supreme Court precedent counsels in favor of limiting the *Coinbase*
 6 holding to the arbitration context.” *See California by & through Harrison v. Express Scripts, Inc.*,
 7 139 F.4th 763, 768 (9th Cir. 2025).² Thus, no rule requires a stay of proceedings in the district court.

8 Nor should the Court grant a stay in its discretion. Defendants do not even try to show that
 9 the *Landis* factors weigh in their favor, and for good reason. *See Landis v. North American Co.*, 299
 10 U.S. 248 (1936); *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (describing the
 11 factors). Defendants have made *no* showing of harm. They assert that their immigration enforcement
 12 operations will be “negatively impacted while their appeal is going,” *Opp.* at 3, but any effect on
 13 operations would not flow from class certification—indeed, as they acknowledge, the exact same
 14 class is provisionally certified right now. Conversely, Plaintiffs will be prejudiced by a stay of
 15 proceedings. While Plaintiffs have already briefed two partial summary judgment motions (on the
 16 schedule to which Defendants stipulated), Defendants have not even filed their opening brief in the
 17 Ninth Circuit yet, after obtaining an extension. It would not serve judicial economy to hold this fully
 18 briefed instant motion for an appellate review process that has not even begun. *See Dependable*
 19 *Highway Express, Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066 (9th Cir. 2007) (a “stay should
 20 not be granted unless it appears likely the other proceedings will be concluded within a reasonable
 21 time”). For all these reasons, the Court should deny the requested stay of proceedings.³

22 _____
 23 ² Moreover, it is not clear that Defendants’ appeal of the preliminary injunction encompasses this
 24 Court’s provisional class-certification ruling. The orders set out in 28 U.S.C. § 1292(a)(1) do not
 25 include class certification orders. *See Gardner v. Westinghouse Broad. Co.*, 437 U.S. 478, 480–82
 (1978). Defendants could have petitioned for review of provisional certification under Rule 23(f),
 but they chose not to.

26 ³ Defendants erroneously rely on the test in *Nken v. Holder*, 556 U.S. 418, 433–34 (2009), but that
 27 test only “is applicable when there is a request to stay a district court’s judgment or order pending
 28 an appeal,” while “*Landis* applies to the decision to stay proceedings.” *Kuang v. U.S. Dep’t of Def.*,
 No. 18-cv-03698-JST, 2019 WL 1597495, at *3 (N.D. Cal. Apr. 15, 2019) (collecting cases)
 (emphasis omitted). In any event, to the extent Defendants rely on their Opposition to class

III. DEFENDANTS' EVIDENTIARY OBJECTIONS ARE MERITLESS**A. News Articles**

Defendants' hearsay objections to the news articles referenced in Plaintiffs' motion have no bearing on the propriety of class certification. Nearly all the challenged citations (Mot. at 6, 14, 15) relate to numerosity, a Rule 23 factor that Defendants do not contest and is well-supported by the record, including by numerous declarations. Mot. at 13–14. The remaining citation to a video of statements made by White House Deputy Chief of Staff Stephen Miller (Mot. at 5; also quoted by the Ninth Circuit in *Vasquez Perdomo v. Noem*, 148 F.4th 656, 665 n.2 (9th Cir. 2025)) is not hearsay because it is an admission by an opposing party. Fed. R. Evid. 801(d)(2). Mr. Miller's statements also are factual background and unrelated to the requirements for class certification.

B. Blair Declaration

Defendants' objections to the Declaration of Graeme Blair are meritless and miss the point. Although Defendants never invoke *Daubert* or argue that his declaration should be excluded, they make broadside claims that Professor Blair “has not worked in the immigration system of the United States” and has not “worked in roles analyzing immigration policies or procedures.” Opp. at 4. Defendants do not explain why the first critique undermines his expertise, and the latter critique blatantly ignores Professor Blair's expertise in data analysis and role as “the Co-Director at the Deportation Data Project, which collects, analyzes, and posts public, anonymized U.S. government immigration enforcement datasets.” ECF No. 173 ¶¶ 1–2. His credentials make him more than qualified for the task of examining “how many noncitizens had been arrested at an immigration courthouse while appearing for a proceeding on a nondetained docket” and “whether individuals whose case started in immigration courts in the area of responsibility of the San Francisco ICE Field Office had been later transferred to immigration courts outside the area of responsibility.” ECF No. 173 ¶¶ 7, 15.

Defendants then claim that Professor Blair “does not explain his methodology in detail or

certification to establish a likelihood of success under *Nken*, they have failed for the reasons discussed herein. *See also* ECF No. 161 at 4–5.

1 explain what he considered ‘standard removal proceedings.’” Opp. at 4. Both statements are plainly
 2 false. Professor Blair’s declaration clearly describes his specific methodology. *See e.g.*, ECF No.
 3 173 at ¶¶ 4–6, 15–18. And “standard removal proceedings” refers to proceedings before immigration
 4 courts to decide whether a person should be ordered removed from the United States, as Professor
 5 Blair indicates in a footnote. *Id.* at ¶ 8, n.2. That perfectly aligns with the Courthouse Arrests Class
 6 and the policies they challenge.

7 In the end, Defendants openly concede that Professor Blair’s analysis “supports the
 8 conclusion” that class members’ cases can be, and in a number of cases are, transferred to other
 9 immigration court venues. Opp. at 5.⁴ That undisputed fact establishes simply that 630 Sansome-
 10 bound (or otherwise geographically bound) relief would fail to provide complete relief to the class.

11 **IV. ARGUMENT**

12 **A. 8 U.S.C. Section 1252(e)(1)(B) Has No Bearing On Class Certification**

13 Defendants once again argue that 8 U.S.C. § 1252(e)(1)(B) bars final certification of
 14 Plaintiffs’ provisionally certified classes. Opp. at 9. Defendants claim that section 1252(e)(1)(B)
 15 bars class certification because Plaintiffs’ claims effectively challenge the Government’s
 16 implementation of section 1225, and judicial review of such claims must proceed, if at all, under
 17 section 1252(e)(3). In their view, because the provisionally certified classes seek relief that would
 18 interfere with detention and enforcement authority exercised under section 1225, this Court lacks
 19 jurisdiction to certify the classes per section 1252(e)(1)(B). *See* 8 U.S.C. § 1252(e)(1)(B).

20 However, both Plaintiffs and the Court have made clear that Defendants’ reliance on Section
 21 1252(e)(1)(B) is entirely misplaced. ECF No. 115 at 3; ECF No. 138 at 20–21. The Ninth Circuit
 22 has held that section 1252(e)(3) provides only a “limited grant of jurisdiction to the D.C. district
 23 court” to decide challenges to “regulation[s] that [are] ‘entirely linked’ to the expedited removal
 24 process.” *Mendoza-Linares v. Garland*, 51 F.4th 1146, 1156–57 (9th Cir. 2022) (quoting *East Bay*
 25

26 ⁴ Professor Blair did not analyze why transfers of venue occur or draw any conclusions connecting
 27 them with enforcement actions, so Defendants’ claim that his analysis is “speculative and lacks
 28 foundation,” Opp. at 5, misapprehends the limited scope of his declaration and argues with a
 contention that neither he nor Plaintiffs are making.

1 *Sanctuary Covenant v. Biden*, 993 F.3d 640, 666–67 (9th Cir. 2021)). However, section 1252(e)(3)
 2 does not cover challenges to policies or regulations that are merely “collateral” to the expedited
 3 removal process — in other words, policies that affect both noncitizens subject to expedited removal
 4 and those entitled to full removal proceedings. *East Bay*, 993 F.3d at 667 (quoting *Martinez v.*
 5 *Napolitano*, 704 F.3d 620, 623 (9th Cir. 2012)). Here, the Courthouse Arrest Class comprises people
 6 who have court dates in standard removal proceedings, and the Detention Class challenges policies
 7 and practices that affect a detainees in various procedural postures, including many who are subject
 8 to processes completely unrelated to expedited removal. This Court’s own Order on the matter
 9 confirmed as much when it concluded that Plaintiffs’ class claims do not fall within the narrow
 10 scope of section 1252(e)(3). ECF No. 138 at 21.

11 Simply put, Plaintiffs’ lawsuit challenges policies and practices that clearly are not “entirely
 12 linked” to the expedited removal process. Thus, the Court should once again reject Defendants’
 13 renewed section 1252(e)(1)(B) argument.⁵

14 **1. Defendants’ Standing Arguments Are Meritless And Unsupported By** 15 **Legal Authority**

16 Defendants also renew their prior challenge to Plaintiffs’ standing—which the Court should
 17 reject for the same reasons in the November 25 Order—but make the additional argument that
 18 Plaintiffs do not have standing to challenge policies, practices, and procedures at any facility other
 19 than 630 Sansome. Opp. at 10. This argument fails for multiple reasons.

20 First, the Court already concluded that “at least one named plaintiff had standing to pursue
 21 each class claim when the amended complaint was filed.” ECF No. 138 at 25. The
 22 Court specifically found that Plaintiffs’ injuries were “fairly traceable” to the challenged 12-hour

23
 24 ⁵ Defendants include a discussion of detention authority on 8 U.S.C. § 1225. Opp. at 5–6. Even if,
 25 hypothetically and counterfactually, all class members were subject to detention under that
 26 provision, it would have no relevance to the disposition of the class claims. Moreover, although
 27 irrelevant to the instant motion, the lead plaintiffs’ habeas claims, arising from their re-detention
 28 long after having been released by DHS pursuant to section 1226(a), for myriad reasons will not
 necessarily be controlled by the disposition in *Rodriguez Vazquez v. Bostock*, No. 25-6842, Dkt.
 Entry No. 19 (9th Cir. 2026), which involves the distinct scenario in which ICE arrests an individual
 for the *first* time and subjects that person to detention under section 1225.

1 Waiver Memo and the Courthouse Arrest Policies (policies that do not apply solely to 630
 2 Sansome), and that the requested vacatur of those policies would redress Plaintiffs' injuries. ECF
 3 No. 138 at 25–26. Defendants offer no new factual evidence or legal authority undermining the
 4 Court's prior standing determination and thus, under the law-of-the-case doctrine, the Court should
 5 decline to revisit it. *See Ingle v. Cir. City*, 408 F.3d 592, 594 (9th Cir. 2005) ("Under the law of the
 6 case doctrine, a court is generally precluded from reconsidering an issue previously decided by the
 7 same court.") (citation omitted); *Lone Star Sec. & Video, Inc. v. City of L.A.*, 989 F. Supp. 2d 981,
 8 989 (C.D. Cal. 2013), *aff'd*, 827 F.3d 1192 (9th Cir. 2016) ("The doctrine can apply even when the
 9 issue arises from a preliminary-injunction ruling, particularly where legal conclusions have been
 10 made and no new evidence has been adduced.").

11 Second, Defendants' argument is also devoid of any legal support and is untethered to the
 12 well-established requirements of standing. Defendants do not dispute that Plaintiffs' injuries are
 13 fairly traceable to the challenged policies and would be redressed by vacatur of those policies. *See*
 14 *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561–62 (1990) (summarizing requirements of
 15 standing). Indeed, although the Supreme Court concluded in *Lujan v. National Wildlife Federation*
 16 that there was no final agency action in that case, it noted that, had there been final agency action,
 17 it could "of course be challenged under the APA by a person adversely affected," and the entire final
 18 agency action would "thereby be affected" by the challenge. *Lujan v. Nat'l Wildlife Federation*, 497
 19 U.S. 871, 890 n.2 (1990); *see also id.* at 913 (agreeing, in dissenting opinion, with the majority's
 20 view that, under the APA, "a single plaintiff, so long as he is injured by the rule, may obtain
 21 'programmatic' relief that affects the rights of parties not before the court.") (Blackmun, J.,
 22 dissenting). Defendants' contention that Plaintiffs lack standing to challenge the legality of extant
 23 uniform written policies because they were injured by those policies in only a specific location is
 24 unsupported by law or logic.

25 Defendants' argument instead appears to be a half-hearted attempt to "conflate[s] standing
 26 with the merits" by shoehorning scope of relief principles into the standing inquiry. *See Lazar v.*
 27 *Kroncke*, 862 F.3d 1186, 1198–99 (9th Cir. 2017). For the reasons set forth below in more detail,
 28 vacatur of the challenged policies is the presumptive remedy. *See infra*, section IV.E.

B. Defendants’ Novel Assertion That The Provisionally Certified Courthouse Arrest Class Should Not Be Certified Because It “Lacks Clear, Workable Boundaries” Is Unsupported.

Defendants assert for the first time that the Court should not grant final certification to the Courthouse Arrest Class because the class, as defined, lacks clear, workable boundaries. Opp. at 11–13. This Court should reject this novel argument, which conspicuously lacks any citation to Rule 23 or class-action precedent. *See id.*

Moreover, Defendants’ argument fails to show that the Courthouse Arrest class definition is “unworkable.” It consists of “[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.” ECF No. 174 at 2. “EOIR’s non-detained docket” clearly refers to immigrants with pending cases and who are not detained. EOIR itself uses this term in formal memoranda. *See, e.g.,* U.S. Dep’t of Justice, Exec. Office for Immigration Review, Policy Memorandum 25-31, *Addendum to Policy Memorandum 25-30* (May 9, 2025), available at <https://www.justice.gov/eoir/media/1399771/dl?inline>. The term “immigration court hearings” means hearings before an immigration court. Neither term is vague or unclear.

Defendants attempt to demonstrate the “unworkable” nature of the class definition by relying on four examples of situations where ICE ostensibly would have an interest in ultimately detaining an immigrant. Opp. at 11–13. But all four scenarios straightforwardly involve hypothetical class members who are required by law to show up for a hearing at a non-detained immigration court. All class members share an interest in not being subjected to an arbitrary and capricious policy of carte balance immigration courthouse arrests. Defendants’ examples, at best, are an attempt to justify some subset of immigration courthouse arrests pursuant to the challenged policies, but that again “conflate[s] standing with the merits.” *See Lazar*, 862 F.3d at 1198–99. It has nothing to do with whether Plaintiffs satisfy Rule 23’s requirements.

C. Plaintiffs’ Provisionally Certified Classes Satisfy Rule 23(a)’s Requirements

Plaintiffs’ provisionally certified classes undoubtedly meet Rule 23(a)’s four requirements of (1) numerosity, (2) commonality, (3) typicality and (4) adequacy. Fed. R. Civ. P. 23(a). Defendants’ Opposition does not challenge numerosity. *See generally* Opp.

1 **1. Plaintiffs’ Provisionally Certified Classes Continue To Meet Rule 23’s**
 2 **Commonality Requirement**

3 **a. Rule 23 Does Not Require Class Members To Have Identical**
 4 **Factual Circumstances and Plaintiffs’ Have Provided Sufficient**
 5 **Evidence To Conclusively Certify the Courthouse Arrest Class**

6 Defendants argue that the Courthouse Arrest Class (1) is overbroad because it includes
 7 immigrants at various stages of the immigration process, including immigrants whom Defendants
 8 must arrest and those whom Defendants might not want to arrest and (2) is not supported by
 9 sufficient evidence because Plaintiffs have not presented evidence regarding the impact of the
 10 Courthouse Arrest Policies on any other courthouse in the ICE San Francisco Office Area of
 11 Responsibility. Opp. at 14–15.

12 With respect to the first argument, Plaintiffs need only show that there is *one* common
 13 question of law or fact. *Small v. Allianz Life Ins. Co. of N. Am.*, 122 F.4th 1182, 1198 (9th Cir. 2024)
 14 (“To satisfy commonality, even a single common question is enough.”). As discussed below,
 15 Plaintiffs have satisfied this requirement. But more pertinently, Rule 23 does not require all of the
 16 class members to have identical factual circumstances. *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S.
 17 338, 350 (2011). “The existence of shared legal issues with divergent factual predicates is
 18 sufficient.” *Gonzalez v. U.S. Immigr. & Customs Enf’t*, 975 F.3d 788, 807 (9th Cir. 2020) (cleaned
 19 up); *see also Walters v. Reno*, 145 F.3d 1032, 1047 (9th Cir. 1998) (citing *Adamson v. Bowen*, 855
 20 F.2d 668, 676 (10th Cir. 1988) (“[A]lthough the claims of individual class members may differ
 21 factually, certification under Rule 23(b)(2) is a proper vehicle for challenging a common policy.”))
 22 (cleaned up). Thus, Defendants’ repeated emphasis on the potential differences between class
 23 members’ procedural postures does not defeat commonality.

24 Defendants’ second argument, that “Plaintiffs have not proffered any evidence that they have
 25 had any experience with Defendants’ challenged policies at any other courthouse in Northern
 26 California, Hawaii, Guam, or Saipan,” is simply incorrect. With their initial motion for provisional
 27 class certification, Plaintiffs filed declarations that described courthouse arrests at other courts in
 28 the San Francisco Office Area of Responsibility that are not in San Francisco. *See* ECF No. 33-9 at
 2 (“CIP is aware of at least 39 people who ICE arrested at the Sacramento immigration court. These

1 individuals were arrested after appearing at the Sacramento immigration court for a master calendar
 2 hearing.”); ECF No. 33-10 at 3 (declaration of Centro managing attorney describing that he and his
 3 organization’s staff have observed ICE agents conducting arrests “consistently at the Sansome and
 4 Montgomery immigration courts in San Francisco, and *at the Concord immigration court.*”) (emphasis added).

6 Besides, Defendants cite no law or authority stating that class certification requires
 7 comprehensive proof of injury at every single location that is covered by a class definition. In fact,
 8 the case law consistently states the opposite. The Ninth Circuit has made clear that for class actions
 9 challenging a systemic and uniform policy, plaintiffs can demonstrate commonality by showing that
 10 the policy in question exposes class members to a substantial risk of harm. *Parsons v. Ryan*, 754
 11 F.3d 657, 681 (9th Cir. 2014) (“numerous courts have concluded that the commonality requirement
 12 can be satisfied by proof of the existence of systemic policies and practices that allegedly expose
 13 inmates to a substantial risk of harm”); *Gonzalez*, 975 F.3d at 808 (“[I]n a civil-rights suit ...
 14 commonality is satisfied where the lawsuit challenges a system-wide practice or policy that affects
 15 all of the putative class members.”). Plaintiffs need only show that the policy in question has led to
 16 injury and can be applied to all class members – they are not required to show that every single class
 17 member was harmed by the policy. *Parsons*, 754 F.3d at 678 (“[A]lthough a presently existing risk
 18 may ultimately result in different future harm for different inmates—ranging from no harm at all to
 19 death—every inmate suffers exactly the same constitutional injury when he is exposed to a single
 20 statewide ADC policy or practice that creates a substantial risk of serious harm.”).

21 **b. Both Provisionally Certified Classes Have At Least One**
 22 **Common Question of Law Or Fact With a Common Answer**

23 Defendants argue that both provisionally certified classes lack commonality because any
 24 proceeding concerning either would fail to produce a common answer to the common legal question
 25 pertaining to each. Defendants support this argument by once again arguing that the various class
 26 members have different “individual circumstances” and are at “various stages of the immigration
 27 process.” Opp. at 15–16.

28 First, it is unclear how Defendants’ repetitive claim about how the various class members

1 have different factual circumstances and are at various stages of the immigration process relates to
 2 their primary argument that the proceedings would not generate common legal answers. Class
 3 members can have different factual circumstances and yet still be impacted by a common legal
 4 question, with a common legal answer, such as whether a nationwide government policy is arbitrary
 5 and capricious. That is most certainly the case here, as evidenced by the common questions Plaintiffs
 6 identify. Mot. at 17. The mere fact that the various class members have different factual
 7 circumstances does not defeat commonality. *Wal-Mart*, 564 U.S. at 350.

8 Second, as noted in the November 25 Order, each of the provisionally certified Courthouse
 9 Arrest Class’s APA claims turns on a common legal question: whether ICE and EOIR’s 2025
 10 courthouse-arrest guidance is arbitrary and capricious. ECF No. 138 at 32. The answer to that
 11 question “will resolve an issue that is central to the validity of each one of the [class member’s]
 12 claims in one stroke.” *Wal-Mart*, 564 U.S. at 350. And the Court has already rejected Defendants’
 13 arguments that class members find themselves “at various stages of the immigration process.”
 14 Opp. at 14. As the Court noted in the November 25 Order, the fact that the “class members may be
 15 arrested pursuant to different statutory provisions and some may not be arrested at all . . . [does]
 16 not bear on the ‘common issue, with a common answer, as to whether a sufficiently reasoned
 17 explanation was provided’ for the challenged guidance.” ECF No 138 at 32.

18 The same reasoning applies to the Detention Class. As the Court previously concluded,
 19 Plaintiffs have established that the Detention Class also shares common legal questions “as to
 20 whether the policies and practices governing conditions of confinement at 630 Sansome, to which
 21 all members of the class have been or will be subjected, are constitutional.” ECF No. 138 at 33. This
 22 class also shares common factual questions “concerning the intent and interests underlying ICE’s
 23 practice of leaving lights in hold cells on at all times and not providing detainees held overnight
 24 with mattress pads, pillows, or blankets.” *Id.* And the Court has also already rejected Defendants’
 25 argument that Detention Class members’ varying individual experiences defeat commonality. *Id.* at
 26 33-34 (“Plaintiffs challenge the overall conditions in which they were detained . . . [and] need not
 27 prove that every single class member was subjected to every single adverse condition to establish a
 28 custom or practice of unconstitutional conditions.”) (citing *Aichele v. City of Los Angeles*, 314

1 F.R.D. 478, 490 (C.D. Cal. 2013)).

2 **2. The Named Plaintiffs' Injuries and Claims Are Typical of The Injuries**
 3 **and Claims of the Provisionally Certified Class Members**

4 Defendants argue that the representative Plaintiffs do not meet the required standards for
 5 typicality under Rule 23. Defendants make three meritless arguments.

6 First, Plaintiff Yulisa Alvarado Ambrocio, who is representing the Courthouse Arrest Class,
 7 is allegedly not typical because she was not arrested at a courthouse. Opp. at 17. But at the time of
 8 the amended complaint and class certification motion, Ms. Ambrocio stood in the very shoes of the
 9 class she seeks to represent. Having narrowly avoided arrest, she faced the imminent prospect of
 10 arrest at her then-upcoming immigration court hearing at a non-detained immigration court. *See*
 11 ECF No. 138 at 35. Furthermore, Rule 23(a)(3) only requires the representative plaintiff's claims to
 12 "be 'typical' of the class, not that they be identically positioned . . . to every class member." *Id.*
 13 (citing *Parsons*, 754 F.3d at 686, and *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 985 n. 9 (9th
 14 Cir. 2011) ("Differing factual scenarios resulting in a claim of the same nature as other class
 15 members does not defeat typicality.")). Ms. Ambrocio's uncertainty as to whether she should go to
 16 future court hearings is a direct result of the Courthouse Arrests Policies, the same set of policies
 17 that has created similar injury in her fellow class members.

18 Second, Defendants assert that adjudicating whether a putative class member should be
 19 arrested at a courthouse requires an individualized assessment and therefore no single representative
 20 Plaintiff could properly represent the Courthouse Arrest Class. Opp. at 17. But this should be
 21 rejected for the same reasons as Defendants' first argument. While there is undoubtedly some
 22 variation in the experiences of each member of the Courthouse Arrests Class, each member,
 23 including Ms. Ambrocio, is impacted and injured by a single set of policies: the Courthouse Arrest
 24 Policies. Thus, "the action is based on conduct which is not unique to the named plaintiffs," namely
 25 Defendants' written policies that have uniform, nationwide effect. And as the Court has already
 26 concluded, differing factual scenarios among the class members do not defeat typicality. ECF No.
 27 138 at 35 (citing *Ellis*, 657 F.3d at 984).

28 Lastly, with respect to both classes, Defendants simply state that "Plaintiffs fail to

1 demonstrate typicality for any conduct being challenged other than that at 630 Sansome.” Opp. at
 2 17. Defendants’ third argument fails for many of the same reasons noted with regard to their
 3 commonality argument. Indeed, Defendants cite to no law or authority whatsoever that requires
 4 class representatives to have suffered an injury at every single location that is covered by a class
 5 definition to demonstrate typicality. Plaintiffs’ claims easily surpass the “permissive standard[]” for
 6 typicality because they are “reasonably coextensive with those of absent class members.” *Parsons*,
 7 754 F.3d at 685 (citation omitted).

8 3. The Named Plaintiffs Are Adequate Class Representatives

9 Defendants assert four reasons for why the named Plaintiffs are not adequate class
 10 representatives. Each reason fails.

11 First, presumably challenging Ms. Garcia as the Detention Class representative, Defendants
 12 claim that no named Plaintiff is currently detained at 630 Sansome and there is no evidence that
 13 they will be for the foreseeable future especially given the Court’s orders. Opp. at 17. The Court has
 14 already concluded that Ms. Garcia is still at risk of re-arrest in the future given that the Court’s
 15 Orders – which have temporarily prevented her re-confinement – apply only during the pendency
 16 of these proceedings. ECF No. 138 at 36. Thus, Ms. Garcia’s interests are similar to those of other
 17 class members.

18 Second, Defendants once again argue that Ms. Ambrocio is not an adequate representative
 19 because she was never arrested at a courthouse. Opp. at 17–18. But, as noted before, Ms. Ambrocio
 20 was suffering from the same injury as Courthouse Arrests Class members: uncertainty as to whether
 21 she should attend her hearing for fear of being detained by ICE.

22 Third, Defendants argue that since Ms. Sequen, Ms. Ambrocio and Ms. Garcia have sought
 23 habeas relief, they will not suffer the same injury as other members of the Detention Class. Opp. at
 24 18. This assertion is clearly erroneous and has been rejected by the Court – the only reason they
 25 cannot be arrested at the courthouse and detained at 630 Sansome at the moment is because of the
 26 Court’s orders that apply only during the pendency of these proceedings. ECF No. 138 at 36. And,
 27 as discussed above, Ms. Ambrocio’s situation at the time of the amended complaint and class
 28 certification motion was on all fours with the class she sought to represent.

1 Lastly, Defendants claim—with no authority in support—that Rule 23 adequacy is defeated
 2 if class representatives do not suffer injury in every single geographic location encompassed by the
 3 class. Opp. at 18. Defendants’ cursory argument is untethered to the requirements of Rule 23
 4 adequacy—Defendants do not identify any potential conflict, divergence in interests, or any
 5 differences in the class representatives’ and class members’ injuries. Like class members, Plaintiffs
 6 were injured by uniform written policies that apply with equal force throughout the San Francisco
 7 Area of Responsibility, and thus the fact that Plaintiffs were harmed by those policies in San
 8 Francisco does not defeat adequacy.

9 **D. 8 U.S.C. § 1252(f)(1) Does Not Bar Relief Under Rule 23(b)(2) And Plaintiffs**
 10 **Otherwise Satisfy This Rule.**

11 Defendants once again claim that the Provisionally Certified Classes fail to satisfy Rule
 12 23(b)(2). Defendants make several arguments, all of which were rejected in the November 25
 13 Order.

14 **1. 8 U.S.C. § 1252(f)(1) Does Not Bar the Relief Sought Under Rule**
23(b)(2).

15 As conceded by Defendants, the Court has already rejected Defendants’ 8 U.S.C. §
 16 1252(f)(1) argument. Defendants believe that Plaintiffs’ claims seek to enjoin or restrain them from
 17 detaining at least some individuals who are subject to section 1225(b), meaning that section
 18 1252(f)(1) would bar the Court from awarding the relief sought as to all class members. However,
 19 as the Court made clear in its November 25 Order, both the Supreme Court and Ninth Circuit have
 20 established that section 1252(f)(1) applies narrowly to “injunctive relief.” *Biden v. Texas*, 597 U.S.
 21 785, 798–99 (2022); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 481 (1999);
 22 *Immigr. Defs. L. Ctr. v. Noem*, 145 F.4th 972, 989–90 (9th Cir. 2025). At summary judgment,
 23 Plaintiffs are not seeking injunctive relief – they seek vacatur under the APA of the Courthouse
 24 Arrest Policies and the 12 Hour Waiver Memo. And given that the Ninth Circuit has concluded that
 25 “§ 1252(f)(1) does not bar [a] district court’s stay pursuant to § 705 of the APA” it follows that
 26 section 1252(f)(1) does not prohibit the Court from granting Plaintiffs’ request to permanently
 27 vacate the challenged policies. *Immigr. Defs. L. Ctr.*, 145 F.4th at 990; *Texas v. United States*, 40
 28 F.4th 205, 219–20 (5th Cir. 2022).

As for Plaintiffs’ constitutional claims, which seek injunctive relief, the Ninth Circuit has concluded that section 1252(f)(1) does not prohibit injunctions that are *not* imposing a judicial interpretation of a covered provision. *See Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 138 F.4th 1102, 1125–28 (9th Cir. 2025). None of Plaintiffs’ conditions of confinement claims seek to override the government’s interpretation of section 1225(b). Indeed, Plaintiffs’ claims in this context do not hinge at all on the statutory authority governing ICE’s detention of class members. Regardless of the applicable statutory authority, the conditions at 630 Sansome violate class members’ constitutional rights under the First and Fifth Amendments and their statutory right to consult counsel under 8 U.S.C. §§ 1229a and 1362. ECF No. 138 at 24.

2. Defendants’ Other Arguments Regarding Rule 23(b)(2) Misconstrue the Nature of the Relief Sought by Plaintiffs

Defendants also make three other arguments as to why Plaintiffs cannot satisfy Rule 23(b)(2). All three arguments rely on the same general theme: that class members face different procedural circumstances and encounter different experiences when detained, making certification under Rule 23(b)(2) inappropriate. *Opp.* At 19–20. And all three fail for the same reasons: these supposed individual distinctions are irrelevant to class certifications.

With respect to the Detention Class, Defendants conflate procedural and substantive due process claims to assert that the Court cannot resolve classwide Due Process claims for dissimilarly situated class members. *Opp.* at 19. But the Court has already rejected this conflation, recognizing that Plaintiffs “here assert only *substantive* due-process claims concerning the conditions of confinement at 630 Sansome” and that Defendants had offered “no authority ... suggesting that substantive due-process rights concerning confinement vary depending on the statutory basis for an individual’s detention.” ECF No. 138 at 37 (citation omitted).

Defendants’ procedural due process argument likewise has no bearing on certification of the Courthouse Arrest Class, which does not advance due process claims. Instead, the question is whether, under Rule 23(b)(2), a class can be certified where the defendant 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). That is

undoubtedly so here.

E. Trump v. CASA, Inc. Does Not Prohibit Vacatur Under APA § 706

Defendants’ tacked-on argument regarding *Trump v. CASA, Inc.* at the end of its Opposition is irrelevant to class certification. The scope and nature of the relief to which Plaintiffs are entitled is a common question capable of classwide resolution. It therefore cuts *in favor* of class certification.

In any event, Defendants’ arguments are meritless. For the most part, Defendants repeat the same unsupported assertions—i.e., that Plaintiffs must have representative Plaintiffs from every geographic region included in a class definition and that the class members are subject to varying procedural circumstances—addressed above that need not be addressed again. Defendants’ only new argument in this section appears to be the implicit assertion that universal vacatur of the 12 Hour Waiver Memo and the Courthouse Arrests Policies would violate the “complete relief” principle of *Trump v. CASA, Inc.*, which prohibits injunctions that are broader than necessary to provide complete relief to the parties. Opp. at 20 (citing *Trump v. CASA, Inc.*, 606 U.S. 831, 831 (2025)).

That is wrong. The Supreme Court expressly noted in *CASA* that nothing about its holding altered the courts’ authority to vacate agency rules under the APA. *See id.* at 847 n.10. And binding precedent makes clear that the “presumptive remedy” under APA section 706 for an unlawful policy is vacatur. *See All. for the Wild Rockies v. U. S. Forest Serv.*, 907 F.3d 1105, 1121 (9th Cir. 2018) (“vacatur of an unlawful agency action normally accompanies a remand” because “[o]rdinarily when a regulation is not promulgated in compliance with the APA, the regulation is invalid”); *Mont. Wildlife Fed’n v. Haaland*, 127 F.4th 1, 50 (9th Cir. 2025) (discussing how, in the Ninth Circuit, “[w]here a court holds an agency action unlawful, vacatur and remand is the default remedy under the APA”); *see also Corner Post, Inc. v. Bd. of Governors of the Fed. Rsrv. Sys.*, 603 U.S. 799, 830–31 (2024). Defendants cite no case even suggesting that *CASA*’s “complete relief” principle applies to APA final vacatur. *CASA* poses no obstacle to class certification here.

CONCLUSION

For these reasons, the Court should grant Plaintiffs’ motion and enter an order certifying the Courthouse Arrest and Detention Classes and appointing the undersigned as class counsel.

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DATED: February 19, 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: February 19, 2026

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