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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FRESCIA GARRO PINCHI, JUANY GALO
SANTOS, and JOSE TELETOR SENTE, on
behalf of themselves and others similarly
situated,

Plaintiffs-Petitioners,

v.

SERGIO ALBARRAN, Field Office Director
of the San Francisco Immigration and
Customs Enforcement Office; KRISTI
NOEM, Secretary of the United States
Department of Homeland Security; TODD
LYONS, Acting Director of United States
Immigration and Customs Enforcement,
acting in their official capacities; U.S.
DEPARTMENT OF HOMELAND
SECURITY; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT,

Defendants-Respondents.

Case No. 5:25-cv-5632-PCP

**NOTICE OF MOTION AND MOTION
FOR PROVISIONAL CLASS
CERTIFICATION**

Hearing Date: November 20, 2025
Time: 10:00 a.m.

Date Filed: July 3, 2025

1 JUDY RABINOVITZ (pro hac vice forthcoming)
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NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on November 20, 2025, at 10:00 a.m., or as soon as this matter may be heard, in the Courtroom of the Honorable P. Casey Pitts at the Robert F. Peckham Federal Building & United States Courthouse, 280 South 1st Street, San Jose, California 95113, Plaintiffs Frescia Garro Pinchi, Juany Galo Santos, and Jose Waldemar Teletor Sente (collectively, “Plaintiffs”) hereby move this Court for an Order provisionally certifying the proposed class and subclass defined fully herein. Plaintiffs request provisional certification under Federal Rules of Civil Procedure 23(a) and (b)(2) to seek an interim stay of agency action under APA Section 705. Additionally, Plaintiffs ask the Court to provisionally appoint the American Civil Liberties Union Foundation of Northern California, Kekker, Van Nest & Peters LLP, American Civil Liberties Union Foundation, and Centro Legal de la Raza as class counsel under Rule 23(g).

This motion is based upon this Notice of Motion and Motion, the incorporated Memorandum of Law, the supporting Declarations of Bree Bernwanger, Erin E. Meyer, and Jesse Newmark, the Proposed Order filed herewith, the papers, evidence, and records on file in this action, and any other written or oral evidence or argument as may be presented at or before the time this motion is heard by the Court. This motion is also supported by the Amended Complaint, Dkt. No. 45, as well as the Plaintiffs’ Motion to Stay Effective Date of Agency Action or Preserve Status or Rights, and the supporting declarations, filed contemporaneously.

Dated: October 16, 2025

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By: /s/ Erin E. Meyer

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21 JUDY RABINOVITZ

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I. INTRODUCTION

This action arises from Defendants’ sweeping new policy (the “Re-Detention Policy”) that authorizes re-arrest and re-detention of noncitizens without any basis in—or individualized assessment of—their flight risk or danger to the community.

Plaintiffs seek to provisionally certify a class, including one subclass, in order to seek a stay of agency action with respect to the Re-Detention Policy. At this stage of the case, the class seeks to resolve two main issues of common fact and law, and the proposed subclass seeks to resolve an additional third question. **First:** Is Defendants’ Re-Detention Policy arbitrary and capricious because it upends longstanding agency policy without reasoned explanation or consideration of relevant factors? **Second:** Is Defendants’ Re-Detention Policy contrary to the Fourth Amendment right against unreasonable seizures? **Third,** for the proposed subclass: Is Defendants’ Re-Detention Policy contrary to the Immigration and Nationality Act (“INA”) and in excess of their statutory authority?

Defendants’ Re-Detention Policy both departs from longstanding prior policy without explanation or consideration of the reliance and due process interests at stake, and flouts the statutory authority and legal principles governing immigration detention. Am. Compl. ¶¶ 48, 87. This unlawful policy change poses current and imminent risks to Plaintiffs and proposed class members within the Area of Responsibility of the San Francisco ICE Field Office.¹ Defendants have arbitrarily re-arrested and re-detained dozens of individuals in the San Francisco Area of Responsibility in recent months, at least 40 of whom Plaintiffs have already confirmed were previously determined not to be a flight risk and whose material circumstances had not changed prior to their re-arrest. Defendants will continue to implement this unlawful policy absent court intervention.

Plaintiffs seek provisional certification of the following class and subclass:

Class: All noncitizens in the jurisdiction of the San Francisco ICE Field Office who (1) entered or will enter the United States without inspection; (2) have been or will be charged with inadmissibility under 8 U.S.C. § 1182 and have been or

¹ The San Francisco Field Office Area of Responsibility covers Northern and Central California, Hawai‘i, Guam, and Saipan. *See* <https://www.ice.gov/doclib/about/offices/ero/pdf/eroFieldOffices.pdf>.

will be released from DHS custody; and who (3) are in removal proceedings under 8 U.S.C. § 1229a, including any § 1229a proceedings that have been dismissed where the dismissal is not administratively final; and (4) are not subject to detention under 8 U.S.C. § 1226(c).

Bond/Release on Recognizance Subclass (“Bond/RoR Subclass”): All members of the Class whose release from DHS custody was or will be on bond, conditional parole, or their own recognizance under 8 U.S.C. § 1226(a) and/or 8 C.F.R. § 236.1(c)(8).

Plaintiffs propose three class representatives—Frescia Garro Pinchi, Juany Galo Santos, and Jose Waldemar Teletor Sente—who each seek to represent the Class and Bond/RoR Subclass. Each proposed representative shares the same injuries, and seeks the same relief, as the absent class members in the Class and Subclass.

The Proposed Class and Subclass meet the requirements of Federal Rules of Civil Procedure 23(a)(1)–(4) and 23(b)(2). *First*, the Class and Subclass are each sufficiently numerous that joinder would be impracticable. Even counting conservatively, the proposed Class comprises dozens of individuals, the majority of whom are Subclass members. *Second*, all class members in the Proposed Class and Subclass are bound together by common questions of fact and law focused on whether Defendants’ Re-Detention Policy is unlawful. *Third* and *fourth*, the proposed class representatives for the Class and Subclass are proper because their claims are typical of unnamed class members, and because the proposed representatives and class counsel will adequately represent the Class and Subclass. *Finally*, Defendants have acted and, absent relief, will continue to act on grounds that are generally applicable to the proposed Class and Subclass as a whole by carrying out a policy that violates proposed class members’ rights under federal law.

Additionally, courts have certified or provisionally certified classes like the Proposed Class and Subclass in other cases involving unlawful immigration detention and arrest. *See, e.g., Saravia v. Sessions*, 280 F. Supp. 3d 1168 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (certifying class of minor noncitizens who were re-detained by DHS after being previously released); *United Farm Workers v. Noem*, 785 F. Supp. 3d 672, 731 (E.D. Cal. 2025) (provisionally certifying class of individuals subjected to unlawful

stops and arrests by DHS); *Hernandez v. Lynch*, 2016 WL 7116611 (C.D. Cal. Nov. 10, 2016), *aff'd sub nom. Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017) (certifying class of detained noncitizens subjected to DHS's unlawful bond-setting policies and practices); *Gonzalez v. ICE*, 975 F.3d 788, 808, 812 (9th Cir. 2020) (upholding certification of class subjected to immigration detainers based on ICE's unlawful practice of making probable cause determinations based on "only a check of an online database"); *Immigrant Defs. L. Ctr. v. Mayorkas*, No. CV209893JGBSHKX, 2023 WL 3149243, at *36–54 (C.D. Cal. Mar. 15, 2023) (certifying class and subclasses of noncitizens subject to DHS policy requiring them to wait in Mexico during adjudication of their asylum applications); *Kidd v. Mayorkas*, 343 F.R.D. 428, 443 (C.D. Cal. 2023) (certifying classes challenging immigration enforcement policies relating to searches and seizures for detaining immigrants).

Plaintiffs seek urgent preliminary relief on a classwide basis because Defendants plan to continue acting on their policy of unlawful, indiscriminate re-arrest and re-detention of individuals previously released from immigration custody, posing a grave and immediate threat to all proposed class members. Accordingly, and for the reasons further set forth below, Plaintiffs respectfully request that the Court provisionally certify the Proposed Class and Subclass under Rules 23(a) and (b)(2).

II. BACKGROUND

A. Defendants' Re-Detention Policy is unlawful.

As set forth in the Amended Complaint, Defendants' policy of indiscriminately re-detaining individuals they previously released has deeply harmed proposed class members who have been or will be suddenly and indefinitely separated from their homes, families, and livelihoods. Am. Compl. ¶¶ 97-103; *see also* Declaration of Salam Maklad iso Mot. to Stay ("Maklad Decl.") ¶ 15; Declaration of Juany Galo Santos iso Mot. to Stay ("Galo Santos Decl.") ¶¶ 14-15; Declaration of Jose Waldemar Teletor Sente iso Mot. to Stay ("Teletor Sente Decl.") ¶ 12; Declaration of David Colon Solano iso Mot. to Stay ¶ 10; Declaration of Gabriela Alondra Vargas Plasencia iso Mot. to Stay ¶¶ 30-34; Declaration of Gerardo Roman Valencia Zapata iso Mot. to Stay ¶¶ 23, 25-28; Declaration of Carolina Ortiz Calderon iso Mot. to Stay ("Ortiz

Calderon Decl.”) ¶¶ 27-28. The policy should be set aside as unlawful under the Administrative Procedure Act (“APA”) on at least three grounds, as detailed in Plaintiffs’ contemporaneously filed Motion to Stay Agency Action. *See generally* Pltf’s Motion to Stay Effective Date of Agency Action or Preserve Status or Rights (“Mot. to Stay”).

First, the Re-Detention Policy is arbitrary and capricious and therefore unlawful under the APA. *See* 5 U.S.C. § 706(2)(A). The policy radically upends longstanding federal policies and practices without any reasoned explanation or consideration of the relevant factors—including fundamental constitutional principles. Am. Compl. ¶¶ 48-53; Mot. to Stay at 12-18. Defendants failed to provide a reasoned explanation before reversing course from decades of not re-arresting or re-detaining noncitizens absent a material change with respect to their flight risk or danger to the community. Am. Compl. ¶¶ 8, 87-96; Mot. to Stay at 12-14. Nor did Defendants explain how this policy shift can be squared with the significant reliance interests and due process principles that it implicates, including the inherent liberty interest in conditional freedom from custody, the requirement that civil detention serve a legitimate government interest, and the need for discretionary immigration custody determinations to be individualized. Am. Compl. ¶¶ 87, 116-17; Mot. to Stay at 14-18. With respect to the Bond/RoR Subclass, this shift further upends agency decisional precedent holding that the revocation of bond requires a material change in circumstances. *See Matter of Sugay*, 17 I&N Dec. 637, 640 (1981) (discussing the requirement for changed circumstances to justify revocation of a bond determination).

In fact, in numerous individual habeas challenges to re-arrests and re-detentions effected under this policy, Defendants have asserted—and courts have repeatedly rejected—the argument that they have absolute authority to re-arrest and re-detain any individual in pending removal proceedings without reason or because of general policy preferences, without consideration of any facts specific to the individual being re-detained. *See, e.g.*, Dkt. 33; *Singh v. Andrews*, No. 1:25-CV-00801-KES-SKO (HC), 2025 WL 1918679, at *7 (E.D. Cal. July 11, 2025) (summarizing and rejecting government’s position that it has the authority to re-detain noncitizens without any procedural protections or evaluation of a noncitizen’s individual circumstances); *Valdez v. Joyce*, No. 25 Civ. 4627 (GBD), 2025 WL 1707737, at *3 n.6

(S.D.N.Y. June 18, 2025) (rejecting government’s argument that the change in government administration and the current administration’s enforcement priorities were changes in circumstances sufficient to justify re-detention). The policy is therefore contrary to law and arbitrary and capricious in violation of the APA.

Second, the policy is unlawful under the APA as “contrary to constitutional right” because it violates the Fourth Amendment guarantee against unreasonable seizures, which prohibits re-arrest for the same probable cause without a material change in circumstances. 5 U.S.C. § 706(2)(B); *United States v. Holmes*, 452 F.2d 249, 261 (7th Cir. 1971). Pursuant to Defendants’ policy, immigration agents undertake unreasonable seizures by re-arresting Plaintiffs and proposed class members for the same civil immigration charges as their initial arrest without a material change in circumstances. Am. Compl. ¶¶ 127-131; Mot. to Stay at 18-19.

Third, with respect to the Bond/RoR Subclass, Defendants’ policy is unlawful under the APA because it is contrary to and in excess of their statutory authority under the INA. *See* 5 U.S.C. § 706(2)(C); 8 U.S.C. §§ 1225(b)(2), 1226(a)-(b). The policy is not authorized by and cannot be reconciled with the provisions of the INA governing the detention of noncitizens physically present in the United States or Defendants’ authority to revoke the release of such noncitizens from detention (or the regulations implementing those provisions). Defendants’ Re-Detention Policy depends on an interpretation of Section 1226(b), which governs revocation of release, that contradicts the INA and would raise serious constitutional concerns, and thus is unlawful under the APA. *See, e.g., Singh*, 2025 WL 1918679, at *7 (holding re-detention of previously released noncitizens without individualized determinations and without procedural protections is a violation of the Fifth Amendment); *see also* Am. Compl. ¶¶ 134-39; Mot. to Stay at 19-21.

B. Classwide relief is appropriate because DHS has harmed and will continue harming proposed class members by applying the Re-Detention Policy.

Classwide relief is necessary to protect the rights of the proposed class members, all of whom have been or will be subjected to Defendants’ illegal Re-Detention Policy. Since May 2025, Defendants have re-detained dozens of proposed class members pursuant to their

1 aggressive and arbitrary new policy. Additional proposed class members are being re-detained
 2 every day. As described in Plaintiffs' Amended Complaint, Defendants target noncitizens who
 3 attend their immigration court hearings, including at the San Francisco, Concord, and Sacramento
 4 Immigration Courts, for re-arrest and re-detention after they exit their hearings. Am. Compl. ¶¶ 4,
 5 51-52, 58. Defendants also similarly target noncitizens who are attending routine ICE check-ins at
 6 the San Francisco ICE Field Office and satellite locations within the Area of Responsibility. *Id.*
 7 ¶ 52. Proposed class members are overwhelmingly law-abiding citizens with no criminal record
 8 and with a history of compliance with ICE instructions and requirements. Declaration of Jordan
 9 Weiner iso Mot. to Stay ("Weiner Decl.") ¶¶ 18, 19; *see also* Am. Compl. ¶ 60.

10 Proposed class representative Frescia Garro Pinchi experienced this harm when
 11 Defendants re-detained her on July 3, 2025, at the San Francisco Immigration Court following her
 12 routine immigration hearing. During her detention, Ms. Garro Pinchi was denied access to her
 13 inhaler and PTSD medications, which caused her to experience shortness of breath and other
 14 withdrawal symptoms. Garro Pinchi Decl. ¶ 15. As a result of the trauma caused by her unlawful
 15 re-arrest and re-detention, Ms. Garro Pinchi now experiences difficulty sleeping and
 16 concentrating, and is fearful of leaving her home. *Id.* ¶ 23. Countless other proposed class
 17 members have likewise experienced enduring health consequences, as well as loss of
 18 employment, housing, and healthcare after being detained at routine immigration hearings or
 19 check-ins. Ortiz Calderon Decl. ¶¶ 14, 27; Declaration of Martha Ruch iso Mot. to Stay ("Ruch
 20 Decl.") ¶¶ 7-8, 10; Weiner Decl. ¶ 15.

21 As long as Defendants are allowed to continue this policy, proposed class members will
 22 be walking into a trap every time they comply with the law by attending their immigration court
 23 hearings or routine ICE check-ins. Proposed class representative Juany Galo Santos faces the
 24 imminent risk of being arbitrarily re-arrested and re-detained at her next ICE check-in, scheduled
 25 for January 16, 2026 at the San Francisco ICE Field Office. Galo Santos Decl. ¶ 14. Ms. Galo
 26 Santos is the sole care provider for her two daughters, one of whom has cerebral palsy and is
 27 completely dependent on Ms. Galo Santos for round-the-clock care. *Id.* ¶ 13. For these children,
 28 even brief separation from their mother risks devastating harm.

Proposed class representative Jose Waldemar Teletor Sente likewise faces the imminent risk of being arbitrarily re-arrested and re-detained at an upcoming immigration court hearing or check-in. Mr. Teletor Sente's immigration court hearing was initially scheduled for November 3, 2025, before being twice rescheduled. Teletor Sente Decl. ¶¶ 11-13. At the time the Amended Complaint was filed, Mr. Teletor Sente's hearing had been rescheduled to November 18, 2025. After the Amended Complaint was filed, he learned that his hearing had been moved again, this time to November 2027. Given this uncertainty, Mr. Sente fears that a court hearing or an ICE check-in could be scheduled at any time, subjecting him to the risk of re-detention. *Id.* ¶ 13. Should Mr. Teletor Sente be detained, his minor son will have no one to care for him, and Mr. Teletor Sente will risk losing his apartment (and leaving his son with nowhere to live). *Id.* ¶ 14.

The arbitrary, unexplained nature of Defendants' policy presents a risk of re-detention to all proposed class members. Declaration of Shira Levine iso Mot. to Stay ("Levine Decl.") ¶¶ 12, 18-19. As explained below, provisional certification of the Proposed Class and Subclass is necessary to protect proposed class members from violations of their legal rights.

III. LEGAL STANDARD

Courts in the Ninth Circuit routinely grant provisional class certification where plaintiffs seek interim relief. *See Maney v. Brown*, 516 F. Supp. 3d 1161, 1171 (D. Or. 2021) (quotations omitted).² Here, Plaintiffs seek preliminary relief in the form of a stay to preserve their status and rights pending this Court's review of Defendants' unlawful policy under APA Section 705. Plaintiffs seeking provisional class certification must satisfy the requirements of Federal Rule of Civil Procedure 23. *See Thakur*, 787 F. Supp. 3d at 997. Under Federal Rule of Civil Procedure 23, the party moving for provisional class certification must meet each of the four requirements of Rule 23(a) ((1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation)

² *See, e.g., Thakur v. Trump*, 787 F. Supp. 3d 955, 999 (N.D. Cal. 2025) (provisionally certifying class of university researchers asserting APA and First Amendment claims); *Doe #1 v. Trump*, 957 F.3d 1050, 1069 (9th Cir. 2020) (denying motion to stay district court's grant of nationwide preliminary injunction on behalf of a provisionally certified nationwide class); *Al Otro Lado v. Wolf*, 952 F.3d 999, 1005 n. 4 (9th Cir. 2020) (noting Ninth Circuit has "approved provisional class certification for purposes of preliminary injunction proceedings"); *Kingdom v. Trump*, No. 1:25-CV-691-RCL, 2025 WL 1568238 (D.D.C. June 3, 2025) (certifying class in action seeking to stay policy under APA Section 705).

1 and at least one subsection of Rule 23(b). “In resolving a dispute about whether class certification
 2 is proper, the district court may consider material beyond the pleadings.” *Maney*, 516 F. Supp. 3d
 3 at 1172.

4 Although the Court’s analysis under Rule 23 “may entail some overlap with the merits of
 5 the plaintiff’s underlying claim,” “Rule 23 grants courts no license to engage in free-ranging
 6 merits inquiries at the certification stage.” *Amgen Inc. v. Conn. Retirement Plans & Trust Funds*,
 7 568 U.S. 455, 465–66 (2013) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011)
 8 (internal quotation marks omitted)); *see also Willis v. City of Seattle*, 943 F.3d 882, 888 (9th Cir.
 9 2019) (“Whether a facial challenge is meritorious is . . . not a reason to deny class certification.”).
 10 “Merits questions may be considered to the extent—but only to the extent—that they are relevant
 11 to determining whether Rule 23 prerequisites for class certification are satisfied.” *Amgen* at 466.
 12 “[W]hether class members could actually prevail on the merits of their claims’ is not a proper
 13 inquiry in determining the preliminary question ‘whether common questions exist.’” *Stockwell v.*
 14 *City & Cnty. of San Francisco*, 749 F.3d 1107, 1112 (9th Cir. 2014) (alteration in original)
 15 (quoting *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 983 n.8 (9th Cir. 2011)).

16 **IV. ARGUMENT**

17 **A. The proposed Class and Subclass meet the requirements of Rule 23(a).**

18 Rule 23(a) requires plaintiffs to show that (1) the class is so numerous that joinder of all
 19 members is impracticable, (2) questions of law or fact exist that are common to the class, (3) the
 20 claims or defenses of the representative parties are typical of the claims or defenses of the class,
 21 and (4) the representative parties will fairly and adequately protect the interests of the class. Fed.
 22 R. Civ. P. 23(a). Here, the proposed Class and Subclass satisfy each of these requirements.

23 “When appropriate, a class may be divided into subclasses that are each treated as a class
 24 under [Rule 23].” Fed. R. Civ. P. 23(c)(5). “[E]ach subclass must independently meet the
 25 requirements of Rule 23 for the maintenance of a class action.” *Sandoval v. MI Auto Collisions*
 26 *Centers*, 309 F.R.D. 549, 562 (N.D. Cal. 2015) (internal quotation marks omitted) (quoting *Betts*
 27 *v. Reliable Collection Agency, Ltd.*, 659 F.2d 1000, 1005 (9th Cir. 1981)). Although there are
 28 factual distinctions among members of the Class and Subclass identified above, their claims are

legally identical: they both ask the Court to stay a generally applicable agency policy that violates the APA. Accordingly, the Rule 23 factors for the Class and Subclass are largely analyzed together, with discussion of separate considerations where relevant. *See Aldapa v. Fowler Packing Co., Inc.*, 323 F.R.D. 316, 326–27 (E.D. Cal. 2018) (noting that separate analysis of subclasses is not required where subclasses are based on causes of action involving substantially similar claims).

1. Numerosity

A class may be provisionally certified if it is “so numerous that joinder of all members is impracticable.” Fed. R. Civ. P. 23(a)(1). The standard is not “whether joinder is a literal impossibility. Rather, the question is whether joinder of all class members is *practicable*—i.e., *reasonably* capable of being accomplished.” *A.B. v. Haw. State Dep’t of Educ.*, 30 F.4th 828, 837 (9th Cir. 2022) (internal quotations and citations omitted); *see also Harris v. Palm Springs Alpine Estates, Inc.*, 329 F.2d 909, 913–14 (9th Cir. 1964) (impracticability is “only the difficulty or inconvenience of joining all members of the class”). “Joinder has been deemed impracticable in cases involving as few as 25 class members.” *Gilbert v. MoneyMutual, LLC*, 318 F.R.D. 614, 621 (N.D. Cal. 2016) (alterations in original) (internal quotation marks omitted); *see also Villalpando v. Exel Direct Inc.*, 303 F.R.D. 588, 605–06 (N.D. Cal. 2014) (noting courts “routinely” find numerosity where class comprises 40 or more members). Plaintiffs need only “show some evidence of or reasonably estimate the number of class members.” *Kincaid v. City of Fresno*, 244 F.R.D. 597, 601 (E.D. Cal. 2007) (internal quotation marks omitted).

Additionally, joinder may be impracticable considering the geographical location of class members, their financial resources, and their ability to institute separate suits. *Greko v. Diesel U.S.A., Inc.*, 277 F.R.D. 419, 425 (N.D. Cal. 2011). Where only equitable relief is sought, “the numerosity requirement is relaxed and plaintiffs may rely on [] reasonable inference[s] arising from plaintiffs’ other evidence that the number of unknown and future members” makes joinder impracticable. *C.R. Educ. & Enf’t Ctr. v. Hosp. Props. Tr.*, 317 F.R.D. 91, 100 (N.D. Cal. 2016), *aff’d*, 867 F.3d 1093 (9th Cir. 2017) (alterations in original) (internal quotation marks omitted) (citing *Sueoka v. United States*, 101 F. App’x 649, 653 (9th Cir. 2004)); *see also Kingdom v.*

1 *Trump*, No. 1:25-cv-691-RCL, 2025 WL 1568238, at *13 (finding numerosity satisfied on a
 2 motion for provisional class certification where plaintiffs sought relief in the form of a stay
 3 pursuant § 705, noting the “impracticality” of counting unknown future class members). This
 4 relaxed requirement recognizes that avoiding duplicative suits brought by other class members
 5 promotes judicial economy. *Pole v. Estenson Logistics, LLC*, No. CV 15-07196 DDP (Ex), 2016
 6 WL 4238635, at *5 (C.D. Cal. Aug. 10, 2016).

7 Here, the numerosity requirement is easily met. Defendants have re-detained dozens of
 8 noncitizens within the jurisdiction of the San Francisco ICE Field Office, at least 40 of whom
 9 Plaintiffs have confirmed are class members because they were deemed not to be a flight risk or
 10 danger upon initial release and whose material circumstances had not changed in the interim.³
 11 And this number is likely underinclusive because Defendants arrested over 100 people at
 12 immigration courts and check-in appointments in San Francisco, many of whom are also likely
 13 class members.⁴ The Berkeley Deportation Data Project, which obtains data directly from
 14 Defendants, further reflects that between May 1 and July 28, 2025 (the latest date for which data
 15 is available), Defendants arrested 706 individuals⁵ in the jurisdiction of the San Francisco Area of
 16 Responsibility who do not have a final order of removal.⁶ More broadly, news reports from
 17 August 2025 indicate that Defendants have arrested “roughly 2,640 people in its San Francisco
 18
 19
 20

21 ³ This number includes the 33 habeas clients represented by Jordan Weiner, *see* Weiner Decl.
 22 ¶ 11, Plaintiff Garro Pinchi, and the other relevant impacted individuals as set forth in the
 23 additional individual and practitioner declarations filed in support of Plaintiff’s Motion to Stay.

24 ⁴ *See* JunYao Yang, *Tracking Where and When ICE Arrests Happen in San Francisco*, Mission
 25 Local, (June 9, 2025) <https://missionlocal.org/2025/06/sf-ice-arrests-tracker/>.

26 ⁵ Berkeley Deportation Data Project, <https://deportationdata.org/data/ice.html> (using Explorer
 27 tool, filtering for arrests between May 1 and July 28, 2025 in San Francisco Area of
 28 Responsibility of individuals who are known not to have a final order of removal). Individuals for
 whom the Project was missing data in any of the filtered categories are excluded from this
 number; for example, 28 additional people were arrested in the jurisdiction of the San Francisco
 Area of Responsibility during the relevant timeframe for whom there is no data about whether
 they had been issued a final removal order.

⁶ Noncitizens who have a final order of removal at the time of re-arrest or re-detention would fall
 outside the proposed class definition because they would not have pending Section 240 removal
 proceedings.

1 ‘area of responsibility’” in 2025.⁷ The volume of habeas petitions filed in the Northern and
 2 Eastern Districts of California by individuals and groups of individuals who have been re-arrested
 3 and re-detained since May 2025 after previous release further corroborates the numerosity of the
 4 class. *See, e.g., Garro Pinchi v. Noem*, __ F. Supp. 3d __, 2025 WL 2084921 (N.D. Cal. July 24,
 5 2025); *Castellon v. Kaiser*, 2025 WL 2373425 (E.D. Cal. Aug. 14, 2025); *Pablo Sequen v.*
 6 *Kaiser*, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025); *Guillermo M. R. v. Kaiser*, 2025 WL
 7 1983677 (N.D. Cal. July 17, 2025); *Arzate v. Andrews*, 2025 WL 2230521 (E.D. Cal. Aug. 4,
 8 2025); *Singh*, 2025 WL 1918679; *Salcedo Aceros v. Kaiser*, 2025 WL 2637503, at *1 (N.D. Cal.
 9 Sept. 12, 2025); *Hinestroza v. Kaiser*, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025) (group
 10 petition for three petitioners); *Calderon v. Kaiser*, 2025 WL 2430609 (N.D. Cal. Aug. 22, 2025);
 11 *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025).

12 Indeed, these estimates almost certainly understate the size of the proposed Class and
 13 Subclass, which also include future members who will be subjected to the challenged policy. *See*
 14 *Saravia*, 280 F. Supp. 3d at 1203. When a “class’s membership changes continually over time,
 15 that factor weighs in favor of concluding that joinder of all members is impracticable.” *A.B.*, 30
 16 F.4th at 838; *see also J.D. v. Azar*, 925 F.3d 1291, 1322 (D.C. Cir. 2019) (observing “classes
 17 including future claimants generally meet the numerosity requirement due to the impracticality of
 18 counting such members, much less joining them” (internal quotation marks omitted)); *Rivera v.*
 19 *Holder*, 307 F.R.D. 539, 550 (W.D. Wash. 2015) (holding a class of 40 noncitizens was
 20 sufficiently numerous, “especially given the transient nature of the class and the inclusion of
 21 future class members”); *cf. Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 370 (C.D. Cal. 1982)
 22 (“Where the exact size of the class is unknown but general knowledge and common sense
 23 indicate that it is large, the numerosity requirement is satisfied.”).

24 Finally, the characteristics of these proposed class members also support the conclusion
 25

26 ⁷ Julie Zhu, *ICE Arrests of People with No Criminal Convictions Have Surged in Northern*
 27 *California*, S.F. Chron. (Aug. 18, 2025), [https://www.sfchronicle.com/bayarea/article/ice-arrests-](https://www.sfchronicle.com/bayarea/article/ice-arrests-deport-data-20818148.php)
 28 *Inside the Stats and Stories of Those Arrested by ICE from the S.F. Area*, Mission Local (July 30,
 2025), <https://missionlocal.org/2025/07/ice-data-immigrants-arrested-sf> (reporting 2,123
 noncitizens arrested in the San Francisco Area of Responsibility since January 20, 2025).

that joinder would be impractical. *Saravia*, 280 F. Supp. 3d at 1203. The class consists of “a changing population of noncitizen[s] . . . some of whom have limited English proficiency,” who are either at risk of being taken into or are currently in government custody. *Id.*; *see* Teletor Sente Decl. ¶ 11; Galo Santos Decl. ¶ 14; Declaration of Maidel Arostegui Castellon iso Mot. to Stay ¶ 9; Ortiz Calderon Decl. ¶ 19; Declaration of Keymaris Alvarez-Miranda iso Mot. to Stay ¶ 5. If re-detained, class members face obstacles obtaining and coordinating with counsel, and additional logistical difficulties when they are detained far from their homes or transferred to various facilities around the country. *Saravia*, 280 F. Supp. 3d at 1203; *see* Levine Decl. ¶ 17; Maklad Decl. ¶ 22.

Accordingly, the proposed Class and Subclass meet the numerosity requirement of Rule 23(a)(1).

2. Commonality

Rule 23(a)(2) requires that “there are questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). Plaintiffs’ claims “must depend upon a common contention.” *Wal-Mart Stores*, 564 U.S. at 350. A contention is common where “it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* “Even a single common question” will satisfy Rule 23(a)(2). *Id.* at 359 (cleaned up); *see Ellis*, 657 F.3d at 981 (construing Rule 23(a)(2) requirements “permissively”). Indeed, “[a]ll questions of fact and law need not be common to satisfy the commonality requirement. The existence of shared legal issues with divergent factual predicates is sufficient.” *Gonzalez*, 975 F.3d at 807 (internal quotation marks and alterations omitted). “Thus, ‘[w]here the circumstances of each particular class member vary but retain a common core of factual or legal issues with the rest of the class, commonality exists.’” *Parsons v. Ryan*, 754 F.3d 657, 675 (9th Cir. 2014).

In the Ninth Circuit, commonality is satisfied where, as here, Plaintiffs “challenge[] a system-wide practice or policy that affects all of the putative class members.” *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001), *abrogated on other grounds by Johnson v. California*, 543 U.S. 499, 504–05 (2005); *accord Gonzalez*, 975 F.3d at 808; *see also Kingdom*, 2025 WL

1 1568238, at *14 (commonality satisfied on motion for provisional certification for purposes of
 2 § 705 relief where plaintiffs challenged a “blanket policy” affecting class members); 7A Wright,
 3 Miller & Kane, Fed. Practice & Proc. § 1763, at 226 (4th ed. 2025) (“[C]lass suits for injunctive
 4 or declaratory relief by their very nature often present common questions satisfying Rule
 5 23(a)(2).”).⁸

6 Here, the proposed Class and Subclass satisfy the commonality requirements because they
 7 present common questions of law and fact for all members. In particular, each putative class
 8 member is now subject to re-detention pursuant to the same DHS policy. “A future determination
 9 as to the legality of those common policies will resolve classwide claims ‘in one stroke.’” *Cruz v.*
 10 *MM 879, Inc.*, 329 F.R.D. 639 at 646 (2019) (quoting *Wal-Mart Stores*, 564 U.S. at 350). Because
 11 each and every member of the proposed Class and Subclass are all at risk of being subjected to
 12 the same unlawful policy as other proposed class members, they raise identical legal claims
 13 against common defendants. *See Rodriguez v. Hayes*, 591 F.3d 1105, 1122–23 (9th Cir. 2010),
 14 *abrogation on other grounds recognized by Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir.
 15 2022). Defendants’ Re-Detention Policy applies equally and universally to the proposed Class
 16 and Subclass, and the Court’s determination of the legality of their policy will resolve the Class
 17 and Subclass’s legal claims with no need for a plaintiff-by-plaintiff assessment since the policy
 18 itself in no way accounts for a noncitizens’ individual circumstances.

19 For the proposed Class, the common questions of law and fact include:

- 20 • Whether Defendants’ Re-Detention Policy is arbitrary and capricious because it
 21 upends longstanding federal policy without reasoned explanation or consideration

22 ⁸ *See, e.g., Gonzalez*, 975 F.3d at 807–09 (affirming finding that commonality requirement was
 23 met where plaintiffs alleged the government had an unlawful policy and practice of basing
 24 probable cause determinations on “only a check of an online database”); *Hernandez*, 2016 WL
 25 7116611, at *17 (finding commonality among class of detained immigrants challenging the same
 26 bond determination policies and practices); *Doe #1 v. Trump*, 335 F.R.D. 416, 433–34 (D. Or.
 27 2020) (finding commonality requirement satisfied “in cases involving challenges to systemic
 28 immigration policies and procedures, even though immigration decisions ultimately involve
 discretionary decisions by consular officers”); *Ms. L v. U.S. Immigr. & Customs Enf’t*, 331 F.R.D.
 529, 539 (S.D. Cal. 2018) (finding commonality requirement satisfied where plaintiffs challenged
 government’s “practice of separating migrant parents and children and keeping them separate
 without a showing the parent is unfit”); *Rodriguez*, 591 F.3d at 1122–23 (finding commonality
 despite individualized differences because of common questions concerning constitutionality of
 prolonged immigration detention).

1 of relevant factors; and

- 2 • Whether Defendants' Re-Detention Policy is not in accordance with law because it
3 is contrary to the Fourth Amendment right against unreasonable seizures.

4 In addition to these questions common to the entire class, the Bond/RoR Subclass presents
5 an additional question capable of resolution for all members of that Subclass:

- 6 • Whether Defendants' Re-Detention Policy is contrary to the INA and exceeds
7 Defendants' statutory authority.

8 Accordingly, the proposed Class and Subclass satisfy the commonality requirement of
9 Rule 23(a)(2).

10 3. Typicality

11 Rule 23(a)(3) requires that the claims "of the representative parties [be] typical of the
12 claims . . . of the class." Fed. R. Civ. P. 23(a)(3). "The test of typicality is 'whether other
13 members have the same or similar injury, whether the action is based on conduct which is not
14 unique to the named plaintiffs, and whether other class members have been injured by the same
15 course of conduct.'" *Parsons*, 754 F.3d at 685. The inquiry "focuses on the nature of the claim"
16 the proposed class representative brings, and not "the specific facts from which it arose."
17 *Gonzalez*, 975 F.3d at 809 (internal quotation marks omitted); *see, e.g., Armstrong*, 275 F.3d at
18 868 (Typicality is "satisfied when each class member's claim arises from the same course of
19 events, and each class member makes similar legal arguments to prove the defendant's liability."
20 (internal quotation marks omitted)).

21 Like commonality, the typicality requirement "is permissive and requires nothing more
22 than that a class plaintiff's claims be reasonably coextensive with those of absent class members."
23 *Gonzalez*, 975 F.3d at 809 (internal quotation marks omitted). Typicality "is not primarily
24 concerned with whether each person in a proposed class suffers the same type of damages; rather,
25 it is sufficient for typicality if the plaintiff endured a course of conduct directed against the class."
26 *Just Film, Inc. v. Buono*, 847 F.3d 1108, 1118 (9th Cir. 2017).

27 Here, Plaintiffs' claims are typical of those of the members of the proposed Class and
28 Subclass because they all arise from Defendants' unlawful Re-Detention Policy as applied within

the jurisdiction of the San Francisco Area of Responsibility. Plaintiffs’ claims are also typical of those of the Subclass. The policy challenged in this suit is “not unique” to the individual Plaintiffs, *Parsons*, 754 F.3d at 685, as demonstrated by the abundance of habeas petitions being filed throughout the District, as well as media reports and the experiences of local practitioners. *See* Weiner Decl. ¶ 11; Am. Compl. ¶¶ 59-60; *see also* Garro Pinchi, 2025 WL 2084921; Castellon, 2025 WL 2373425; Pablo Sequen, 2025 WL 2650637; Guillermo M. R., 2025 WL 1983677; Arzate, 2025 WL 2230521; Singh, 2025 WL 1918679; (group petition); Salcedo Aceros, 2025 WL 2637503, at *1; Hinestroza, 2025 WL 2606983 (group petition); Calderon, 2025 WL 2430609; Ramirez Clavijo, 2025 WL 2419263.

All members of the proposed Class and Subclass that Plaintiffs seek to represent “have been,” or will be, “injured by the same course of conduct.” *Parsons*, 754 F.3d at 685; *Kingdom*, 2025 WL 1568238, at *14 (finding proposed class met typicality requirement where all putative class members faced injury under the same blanket policy). Even if proposed class members’ individual circumstances cause the consequences flowing from Defendants’ unlawful actions to vary somewhat, that factual variation does not defeat typicality because all class members suffer enduring harm flowing from the risk of application of the same policy: arbitrary re-detention. *See Just Film*, 847 F.3d at 1118. Plaintiffs, like all members of the proposed Class and Subclass, face potential arbitrary re-detention following their prior release from immigration custody. *See* Am. Compl. ¶¶ 71, 77, 81; Teletor Sente Decl. ¶ 11; Galo Santos Decl ¶ 14. Because all proposed class members suffered or will suffer this harm, Plaintiffs’ claims are typical of the claims of all members in the proposed Class and Subclass they seek to represent.

Accordingly, the proposed Class and Subclass satisfy the typicality requirement of Rule 23(a)(3).

4. Adequacy

Under Rule 23(a)(4), the Court must be satisfied that the “representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This factor is assessed by answering two questions: “(1) [D]o the named plaintiffs and their counsel have any conflicts of interest with other class members[,] and (2) will the named plaintiffs and their counsel

1 prosecute the action vigorously on behalf of the class?” *Evon v. Law Offs. of Sidney Mickell*, 688
 2 F.3d 1015, 1031 (9th Cir. 2012). This requirement “‘tend[s] to merge’ with the commonality and
 3 typicality criteria of Rule 23(a).” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 626 n.20 (1997)
 4 (alteration in original); *see Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982)
 5 (explaining that commonality and typicality “serve as guideposts” to ensure “the named
 6 plaintiff’s claim and the class claims are so interrelated that the interests of the class members
 7 will be fairly and adequately protected in their absence”).

8 ***Proposed class representatives.*** The individual Plaintiffs seeking to represent the
 9 proposed Class and Subclass satisfy both aspects of adequacy. *First*, there is no conflict between
 10 Plaintiffs and the proposed class members. All suffer the same injury, and all seek the same relief.
 11 *See Nightingale v. USCIS*, 333 F.R.D. 449, 462 (N.D. Cal. 2019) (finding plaintiffs to be
 12 adequate representatives where they had a “shared interest” or “mutual goal” with proposed class
 13 members to ensure lawful FOIA response practices); *Kingdom*, 2025 WL 1568238, at *14
 14 (finding plaintiffs satisfied the adequacy requirement where they all faced the same “legal injury”
 15 as the putative class members).

16 Frescia Garro Pinchi was released on her own recognizance by DHS on April 14, 2023,
 17 and Defendants arbitrarily re-detained her on July 3, 2025 at her immigration court hearing in San
 18 Francisco. Garro Pinchi Decl. ¶¶ 3, 13. Juany Galo Santos was released on her own recognizance
 19 by DHS in December 2023 and has a check-in at the San Francisco ICE Field Office scheduled
 20 for January 16, 2026, at which she reasonably fears that Defendants will re-arrest and re-detain
 21 her. Galo Santos Decl. ¶¶ 6, 14. Ms. Galo Santos also has an immigration court hearing scheduled
 22 for February 19, 2026. Galo Santos Decl. ¶14. Jose Waldemar Teletor Sente was released on his
 23 own recognizance by DHS in 2019 and, at the time the Amended Complaint was filed, he had a
 24 hearing at the San Francisco Immigration Court scheduled for November 18, 2025. Although Mr.
 25 Teletor Sente’s hearing has for now been rescheduled to a later date, he reasonably fears that
 26 Defendants will re-arrest and re-detain him at any time, including at check-ins or if his hearing is
 27 again rescheduled. Teletor Sente Decl. ¶ 11.

28 *Second*, the proposed class representatives will vigorously prosecute this action on behalf

of all class members and subclass members. *See* Garro Pinchi Decl. ¶ 15; Galo Santos Decl. ¶ 16; Teletor Sente Decl. ¶ 14. They seek preliminary relief on behalf of the proposed Class and Subclass as a whole, they share a common interest in ensuring the protection of their legal rights, and they have no interest that is actually or potentially antagonistic to other putative members of the proposed Class or Subclass. Accordingly, Plaintiffs meet the adequacy of representative requirement of Rule 23(a)(4).

Proposed class counsel. Counsel representing the Plaintiffs are experienced civil rights attorneys and practitioners in federal constitutional litigation, class actions, and complex litigation involving immigrants’ rights. *See* Declaration of Bree Bernwanger iso Mot. for Provisional Class Certification ¶¶ 3-16; Declaration of Erin E. Meyer iso Mot. for Provisional Class Certification ¶¶ 2-15; Declaration of Jesse Newmark iso Mot. for Provisional Class Certification ¶¶ 3-16. Plaintiffs’ counsel have adequately and thoroughly investigated the claims prior to bringing this suit, and they will vigorously prosecute this action on behalf of the proposed Class and Subclass. For these reasons, proposed class counsel also meet the requirements of Rules 23(a)(4) and 23(g).

In sum, the proposed Class and Subclass satisfy each requirement of Rule 23(a).

B. The proposed Class and Subclass meet the requirements of Rule 23(b)(2).

In addition to satisfying the requirements of Rule 23(a), the proposed Class and Subclass should be provisionally certified because Defendants have “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).

“[T]he primary role of [Rule 23(b)(2)] has always been the certification of civil rights actions.” *Parsons*, 754 F.3d at 686 (citing *Amchem Products, Inc.*, 521 U.S. at 614). “The key to [a] (b)(2) class is ‘the indivisible nature of the . . . declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.’” *Wal-Mart Stores*, 564 U.S. at 360. This standard is “unquestionably satisfied when members of a putative class seek uniform . . . declaratory relief from policies or practices that are generally applicable to the class as a whole.” *Parsons*, 754 F.3d at 688. Similarly, courts routinely certify or provisionally certify Rule 23(b)(2) classes seeking vacatur

1 relief under the APA. *See, e.g., Scholl v. Mnuchin*, 494 F. Supp. 3d 661, 692 (N.D. Cal. 2020)
 2 (certifying a Rule 23(b)(2) class and vacating a federal action); *Thakur*, 2025 WL 1734471, at
 3 *31 (same, granting provisional certification); *Kidd v. Mayorkas*, 734 F. Supp. 3d 967, 976, 987
 4 (C.D. Cal. May 15, 2024) (same); *Casa Libre/Freedom House v. Mayorkas*, No. 2:22-cv-01510-
 5 ODW (JPRx), 2023 WL 3649589, at *15 (C.D. Cal. May 25, 2023) (certifying Rule 23(b)(2)
 6 class seeking only APA vacatur relief); *Refugee & Immigr. Ctr. for Educ. & Legal Servs. v.*
 7 *Noem*, No. CV 25-306 (RDM), 2025 WL 1825431, at *49, 51 (D.D.C. July 2, 2025) (certifying
 8 Rule 23(b)(2) class, vacating federal guidance, and entering declaratory judgment). Rule 23(b)(2)
 9 does not require the Court to examine “the viability or bases of the class members’ claims for
 10 relief” nor find “that all members of the class have suffered identical injuries.” *Parsons*, 754 F.3d
 11 at 688. “It is sufficient if class members complain of a pattern or practice that is generally
 12 applicable to the class as a whole.” *Walters v. Reno*, 145 F.3d 1032, 1047 (9th Cir. 1998).

13 The proposed Class and Subclass in this suit are prototypical Rule 23(b)(2) classes. *First*,
 14 Defendants have acted on grounds generally applicable to the proposed Class and Subclass
 15 because they have subjected all members of the proposed Class and Subclass to the same
 16 unlawful Re-Detention Policy. *See* Am. Compl. ¶¶ 48, 84, 109. Courts have regularly certified
 17 Rule 23(b)(2) classes where, as here, plaintiffs challenge uniform policies and practices generally
 18 applicable to the class. *See, e.g., Walters*, 145 F.3d at 1047 (affirming certification of Rule
 19 23(b)(2) class where plaintiffs sought equitable relief against INS practices in document fraud
 20 proceedings); *Rodriguez*, 591 F.3d at 1125–26; *Ortega-Melendres v. Arpaio*, 836 F. Supp. 2d
 21 959, 990–91 (D. Ariz. 2011).

22 *Second*, the prospective relief that Plaintiffs request for the proposed Class and Subclass is
 23 appropriate for the classes as a whole because the requested relief addresses Defendants’ failure
 24 to comply with federal law on a systemic level. Plaintiffs request a stay of agency action to
 25 prevent Defendants from continuing to implement the Re-Detention Policy pending judicial
 26 review of its lawfulness. Because this remedy will provide preliminary relief to all members of
 27 the proposed Class and Subclass, provisional certification under Rule 23(b)(2) is appropriate. *See*
 28 *Parsons*, 754 F.3d at 689 (finding Rule 23(b)(2) requirements met where “every [person] in the

1 proposed class is allegedly suffering from the same (or at least a similar) injury and that injury
 2 can be alleviated for every class member by uniform changes in [the agency's] policy and
 3 practice"). Whether Plaintiffs are entitled to the requested relief is not the proper inquiry at this
 4 stage. "All the Court does at this time is observe that the lawfulness or unlawfulness of the
 5 [challenged actions] is capable of systemwide treatment by way of a declaration" *Casa*
 6 *Libre/Freedom House*, 2023 WL 3649589, at *10 (certifying Rule 23(b)(2) class in a challenge to
 7 the way DHS processed Special Immigrant Juvenile petitions); *see also* Advisory Committee's
 8 2003 Note on subd. (c) ¶ 1 of Fed. Rule Civ. P. 23 ("[A]n evaluation of the probable outcome on
 9 the merits is not properly part of the certification decision[.]").

10 Accordingly, Plaintiffs respectfully request that the Court provisionally certify the
 11 proposed Class and Subclass under Rule 23(b)(2).

12 V. CONCLUSION

13 For the foregoing reasons, the Court should provisionally certify the proposed Class and
 14 Subclass under Federal Rules of Civil Procedure 23(a) and 23(b)(2). Additionally, Plaintiffs
 15 request that the Court provisionally appoint the American Civil Liberties Union Foundation of
 16 Northern California, Kecker, Van Nest & Peters LLP, the American Civil Liberties Union
 17 Foundation, and Centro Legal de la Raza as class counsel pursuant to Rule 23(g).

18
 19 Dated: October 16, 2025

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