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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

Carmen Aracely PABLO SEQUEN, Yulisa
ALVARADO AMBROCIO, Martin
HERNANDEZ TORRES, and Ligia GARCIA,

Case No. 5:25-cv-06487-PCP

CLASS ACTION

Plaintiffs-Petitioners,

**AMENDED COMPLAINT AND
PETITION FOR WRIT OF HABEAS
CORPUS**

v.

JURY DEMANDED

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

Trial Date:

Defendants-Respondents.

INTRODUCTION

1
2 1. For years, the federal government has recognized that noncitizens in removal
3 proceedings are entitled to fundamental constitutional and statutory protections, including the right
4 to a fair hearing, the right to counsel at their own expense, and the ability to appear before an
5 immigration judge without fear of reprisal. To safeguard those rights, the Department of
6 Homeland Security (“DHS”) and the Department of Justice (“DOJ”) maintained policies
7 restricting civil immigration arrests in and around immigration courts, recognizing that such
8 arrests undermine the fair administration of justice and foster a climate of fear that deters
9 individuals from attending their hearings. In the opening days of the Trump Administration,
10 however, Defendants abruptly rescinded those protections without providing any coherent
11 rationale for doing so.

12 2. In recent months, immigrants dutifully attending their immigration court hearings
13 have been under siege, including in San Francisco. Masked federal agents lurk outside of
14 courtrooms, violently ambush immigrants, shackle their hands and feet, and immediately whisk
15 them away to detention. These arrests have caused widespread fear among immigrant
16 communities. The unprecedented carte blanche policies driving these arrests create a sudden
17 predicament for immigrants who were looking forward to presenting their case in what they
18 previously expected would be a neutral forum: Now, they must either risk immediately and
19 arbitrarily losing their freedom or lose their opportunity to pursue their lawful claims to remain in
20 the United States. Converting required hearings into a trap in this manner undermines the public’s
21 basic expectations of a fair day in court before a neutral body. The effects of Defendants’ new
22 courthouse arrest policies were both predicted (in Defendants’ own explanations of previous
23 policies limiting courthouse arrests) and predictable: Absenteeism rates, and resulting *in absentia*
24 removal orders, have increased sharply since Defendants’ inexplicable about-face.

25 3. For many immigrants arrested by Immigration and Customs Enforcement (“ICE”)
26 in the Bay Area, the terrifying experience only gets worse. Because of ICE’s zeal to maximize the
27 number of immigrants the agency arrests, the agency claims it is no longer able to limit detention
28 in temporary “Hold Rooms” to 12 hours—a limit that existed in nationwide ICE policies for over

1 a decade.

2 Instead, in June 2025, ICE waived the 12-hour limit nationwide and extended it to 72 hours—
3 more than six times the acceptable limit of previous policies—without making changes to its
4 operational procedures and practices necessary for longer-term incarceration consistent with
5 constitutional requirements, such as providing people with a place to sleep, access to hygiene
6 products, or access to prescribed medication. The announcement of the nationwide waiver, which
7 took immediate effect, did not evince any consideration, let alone evaluation, of whether it was
8 possible to safely convert short-term holding facilities into longer-term holding facilities

9 4. One location where ICE now detains recently-arrested immigrants is a squalid,
10 makeshift jail on the sixth floor of ICE’s San Francisco Area of Responsibility (“SF AOR”) Field
11 Office at 630 Sansome Street (“630 Sansome”). Many detainees have been held at 630 Sansome
12 for over twelve hours, and sometimes for up to six days.

13 5. The detention center at 630 Sansome was originally intended for temporary custody
14 lasting only a matter of hours while immigrants awaited transfer or processing for release.
15 However, ICE is arresting people at such unprecedented rates that long-term detention facilities
16 seemingly do not have the immediate space to accept them. Rather than conform its rate of arrests
17 to its capacity to maintain appropriate conditions of detention, ICE is forcing immigrants to spend
18 prolonged periods at 630 Sansome—a facility that is not designed for overnight detention—while
19 ICE waits to find a transfer location for them, usually in California, Arizona, Washington, Texas,
20 or Hawaii.

21 6. The conditions at 630 Sansome are punitive and inhumane; immigrants are held in
22 small, cold rooms, sometimes with hardly enough space to sit, let alone sleep. They are kept for
23 days without basic hygiene supplies, access to bathing facilities, a change of clothes, or prescribed
24 medications. Despite some immigrants spending multiple nights at 630 Sansome, there are no
25 beds—they are forced to sleep on metal benches or directly on the floor, including next to the
26 toilet, with nothing more than a thin plastic or foil blanket or a thin mat. Defendants leave the
27 lights on at all hours and maintain bitterly cold temperatures, forcing immigrants into sleep
28 deprivation.

1 7. There is no medical support at 630 Sansome, and ICE agents have no practice of
2 conducting even a basic medical intake for people brought to the detention center and held for
3 days at a time. Immigrants experiencing medical emergencies are ignored while they beg for
4 assistance, and ICE officers generally will not acknowledge them unless they are able to ask for
5 medical assistance in English. Many have fallen ill in these conditions.

6 8. ICE impedes access to counsel for individuals detained in 630 Sansome. ICE's
7 policy and practice is to refuse to let attorneys into 630 Sansome to meet with their detained
8 clients after 3:00 PM or on the weekends, and ICE requires even in-person meetings to take place
9 through a phone line with poor audio quality. To call their legal representatives, or even seek legal
10 representation, detainees must navigate a cumbersome phone system that requires payment. When
11 detainees are able to place a call, the audio quality is poor, making it difficult for attorneys and
12 clients to communicate. Clients often lack privacy during these phone calls, because other
13 detained people or ICE officers are in the room, doors are open, or other circumstances make it
14 such that clients may not be comfortable to share the oftentimes private information necessary for
15 attorneys to provide fulsome representation, particularly for asylum seekers fleeing violence and
16 persecution.

17 9. The cruel, dangerous, and excessive conditions at 630 Sansome are the subject of
18 daily protests, publicly documented, and well-known to Defendants. Defendants nonetheless have
19 been intentionally indifferent to these conditions, the ill-conceived policy change to permit the use
20 of 630 Sansome for long-term detention, and the significant harm they cause. Defendants have
21 made no attempts to remedy the inhumane conditions at 630 Sansome. Court intervention is
22 therefore required to prevent violations of federal law and the Constitution.

23 10. Plaintiffs Carmen Aracely Pablo Sequen, Martin Hernandez-Torres, and Ligia
24 Garcia are immigrants who were arrested by ICE and detained at 630 Sansome. Ms. Pablo Sequen
25 is an asylum seeker from Guatemala and has no criminal record anywhere in the world. She was
26 arrested after her immigration court hearing on July 31, 2025, and forced to stay in detention at
27 630 Sansome overnight. Mr. Hernandez-Torres is a noncitizen who was arrested by ICE after his
28 reasonable fear interview on September 17, 2025, and at the time of the filing of this Complaint,

1 has been in custody at 630 Sansome for well over 12 hours. ICE is processing Ms. Garcia's arrest
 2 following her immigration court hearing on September 18, 2025, the date of this Complaint.

3 11. Plaintiff Alvarado Ambrocio is an asylum seeker from Guatemala and a mother to a
 4 nine-month-old infant who is breastfeeding. Ms. Alvarado Ambrocio has no criminal record
 5 anywhere in the world. ICE agents sought to arrest Ms. Alvarado Ambrocio after her September
 6 11, 2025, hearing at the San Francisco Immigration Court, but because she had her baby with her,
 7 bystander lawyers were able to convince ICE to hold off on the arrest. Ms. Alvarado Ambrocio
 8 has another court date set in San Francisco for October 16, 2025.

9 12. Plaintiffs Hernandez-Torres and Garcia seek to represent a class of people who are
 10 or will be subjected to inhumane and punitive conditions at 630 Sansome and ICE's arbitrary and
 11 capricious policy permitting the detention of immigrants in temporary hold rooms for up to 72
 12 hours.

13 13. Plaintiffs Alvarado Ambrocio, Pablo Sequen, and Garcia seek to represent a class
 14 of people who are or will be subjected to Defendants' arbitrary and capricious policies permitting
 15 arrests at immigration courthouses.

16 **JURISDICTION AND VENUE**

17 14. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction),
 18 28 U.S.C. § 2201 *et seq.* (Declaratory Judgment Act), 5 U.S.C. §§ 701–706 (Administrative
 19 Procedure Act), Art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 1651
 20 (All Writs Act), 28 U.S.C. § 2241 (habeas corpus), and Fed. R. Civ. P. 65 (injunctive relief).

21 15. Sovereign immunity does not bar claims against federal officials seeking to prevent
 22 or enjoin violations of federal law, rather than claims seeking monetary relief. *See, e.g., Larson v.*
 23 *Domestic & Foreign Com. Corp.*, 337 U.S. 682, 697–99 & nn.18–19 (1949). In addition, the
 24 federal government has waived its sovereign immunity and permitted judicial review of agency
 25 actions under 5 U.S.C. § 702. *See Presbyterian Church (U.S.A.) v. United States*, 870 F.2d 518,
 26 525 (9th Cir. 1989).

27 16. Venue is proper in the Northern District of California under 28 U.S.C. § 1391(b)(2)
 28 and (e)(1) because the acts and omissions giving rise to this action occurred in this judicial district,

1 at least one Defendant resides in this district, at least one Plaintiff resides in this district, a
2 substantial part of the events or omissions giving rise to claims in this case occurred in this
3 district, and each Defendant is an officer or agency of the United States sued in their official
4 capacity.

5 **PARTIES**

6 **Plaintiffs-Petitioners**

7 17. Carmen Aracely Pablo Sequen is a 30-year-old asylum seeker from Guatemala. She
8 timely filed an application for asylum, which remains pending. She has no criminal history and
9 has been compliant with her legal obligations since being released by ICE following her
10 apprehension at the southern border. She was summarily arrested after her immigration court
11 hearing at the San Francisco Immigration Court at 630 Sansome Street on July 31, 2025, held in a
12 holding cell at the ICE San Francisco Field Office, and released on August 1, 2025, only after the
13 Court granted a temporary restraining order on her petition for a writ of habeas corpus.

14 18. Yulisa Alvarado Ambrocio is a 24-year-old asylum seeker from Guatemala. She
15 timely filed an application for asylum, which remains pending. She is the mother of a nine-month-
16 old baby who is still breastfeeding. She has no criminal record anywhere in the world. Ms.
17 Alvarado Ambrocio appeared at the San Francisco Immigration Court at 630 Sansome Street on
18 September 11, 2025, for her master calendar hearing. ICE agents waited for her outside of her
19 hearing. She narrowly avoided arrest because two bystander attorneys intervened on her behalf
20 and convinced ICE agents not to arrest her because she had her nine-month-old child with her. Ms.
21 Alvarado Ambrocio has another hearing scheduled at the San Francisco Immigration Court on
22 October 16, 2025.

23 19. Ligia Garcia is an asylum seeker from Colombia. She timely filed an application
24 for asylum in February 2025, which remains pending. She has no criminal history and has
25 attended both of her two immigration court hearings. She appeared at the San Francisco
26 Immigration Court at 630 Sansome Street on September 18, 2025, for her master calendar hearing.
27 She was summarily arrested by ICE upon exiting the hearing and is currently being held in a
28 holding cell at the same address. She suffers from high blood pressure, which the stress of her

1 arrest and detention has exacerbated.

2 20. Plaintiff Martin Hernandez-Torres is a noncitizen who has lived in the United
3 States for over thirty years with his family, including his children who are United States Citizens.
4 Mr. Hernandez has complex and overlapping medical needs; he has cancer and high blood
5 pressure. On September 17, 2025, he was arrested at his reasonable fear interview at the USCIS
6 office at 630 Sansome Street and is currently detained in the hold rooms at 630 Sansome. He was
7 detained overnight, and at the time of the filing of this Complaint he has been detained in the hold
8 rooms for approximately 22 hours.¹

9 **Defendants-Respondents**

10 21. **Defendant Sergio Albarran**, sued in his official capacity, is the Field Office
11 Director for the San Francisco Enforcement and Removal Operations (“ERO”) field office. ERO is
12 a division of the U.S. office of Immigration and Customs Enforcement (“ICE”). Defendant
13 Albarran is responsible for all enforcement and removal operations in the San Francisco area.

14 22. **Defendant Marcos Charles**, sued in his official capacity, is the Acting Executive
15 Associate Director of ICE’s ERO. Defendant Charles is responsible for administering and
16 enforcing all ICE ERO policies and procedures challenged in this action.

17 23. **Defendant Thomas Giles**, sued in his official capacity, is the Assistant Director
18 for ICE ERO Field Operations.

19 24. **Defendant Monica Burke**, sued in her official capacity, is the Acting Assistant
20 Director of ICE’s Custody Management Division.

21 25. **Defendant Todd M. Lyons**, sued in his official capacity, is the Acting Director of
22 ICE. As the highest-ranking officer for ICE, Defendant Lyons has authority over all policies
23 challenged in this action.

24 26. **Defendant Kristi Noem**, sued in her official capacity, is the Secretary of the
25 Department of Homeland Security. As the highest-ranking officer for DHS, Defendant Noem has
26

27 ¹ Shortly before filing this pleading in the afternoon of September 18, 2025, Plaintiffs’ counsel
28 received notice that Mr. Hernandez-Torres was taken to the Emergency Room at San Francisco
General Hospital with apparent symptoms of a stroke. He remains in the custody of ICE ERO
while there.

1 ultimate statutory authority over all of the policies challenged in this action. *See* 6 U.S.C. § 557
2 (transferring functions from the Attorney General).

3 27. **Defendant U.S. Immigration and Customs Enforcement** is a component agency
4 of DHS. ICE is an “agency” within the meaning of 5 U.S.C. § 551(1). ICE’s mission includes the
5 enforcement of civil laws related to immigration. Among other things, ICE is responsible for
6 arrest and detention related to civil immigration charges in the interior of the United States and is
7 responsible for administering and enforcing all of the policies challenged in this action.

8 28. **Defendant U.S. Department of Homeland Security** is a cabinet-level department
9 of the Executive Branch of the federal government and is an “agency” within the meaning of 5
10 U.S.C. § 551(1). DHS includes various component agencies, including ICE and Customs and
11 Border Patrol. DHS, together with all of its component agencies, is responsible for administering
12 and enforcing all of the policies challenged in this action.

13 29. Defendants Albarran, Charles, Giles, Burke, Noem, Lyons, ICE and DHS are
14 collectively referred to herein as “**DHS Defendants.**”

15 30. **Defendant Sirce E. Owen** is the Acting Director of the Executive Office for
16 Immigration Review (“EOIR”). She is sued in her official capacity. In that capacity, Defendant
17 Owen is responsible for setting EOIR policy and for overseeing the immigration courts.

18 31. **Defendant Pamela Bondi** is the Attorney General of the United States. She is sued
19 in her official capacity. In that capacity, Defendant Bondi is charged with overseeing the United
20 States Department of Justice (DOJ) and EOIR.

21 32. **Defendant Executive Office for Immigration Review (EOIR)** is the sub-agency
22 within DOJ that houses the immigration courts. It is responsible for adjudication of immigration
23 cases, which includes developing and maintaining the rules and standards governing the national
24 system of immigration courts and the Board of Immigration Appeals.

25 33. **Defendant United States Department of Justice (DOJ)** is a cabinet-level
26 department of the Executive Branch of the federal government and is an “agency” within the
27 meaning of 5 U.S.C. § 551(1).

28 34. Defendants Owen, Bondi, DOJ, and EOIR are collectively referred to herein as

1 “DOJ Defendants.”

2 35. Defendant United States of America includes all other government agencies and
3 departments responsible for the implementation, administration, enforcement, and change-in-
4 policy concerning all of the policies challenged in this action.

5 FACTUAL BACKGROUND

6 I. Defendants Reverse Longstanding Policies Limiting Civil Immigration Arrests 7 in or Near Immigration Courts

8 36. For decades, the government largely refrained from conducting civil immigration
9 arrests at immigration courts (and other courthouses), because conducting such arrests would deter
10 noncitizens from attending proceedings and disrupt the proper functioning of courts.

11 37. These policies recognized that permitting civil arrests at courthouses deter
12 attendance, chill access to courts, and otherwise impairs the fair administration of justice. As DHS
13 explained in its 2021 Memorandum titled “*Civil Immigration Enforcement Actions in or near*
14 *Courthouses*,” arrests at courthouses were disfavored in recognition of the “core principle” that
15 “[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals’
16 access to courthouses, and as a result, impair the fair administration of justice.”² 2021 DHS
17 Memorandum at 1. DHS therefore limited courthouse arrests “so as to not unnecessarily impinge
18 upon the core principle of preserving access to justice.” *Id.*

19 38. Although in practice civil arrests at immigration court were virtually non-existent
20 prior to spring 2025, as a formal matter ICE agents were permitted to conduct “civil immigration
21 enforcement action . . . in or near a courthouse” only in extremely limited circumstances. Arrests
22 were permitted on the basis of “a national security threat,” “an imminent risk of death, violence, or
23 physical harm to any person,” the “hot pursuit of an individual who poses a threat to public
24 safety,” or the “imminent risk of destruction of evidence material to a criminal case.” *Id.* at 2.

25 39. EOIR previously recognized the very same concerns as DHS with respect to arrests
26

27 ² Memorandum from Tae Johnson, Acting Director of U.S. Immigration and Customs
28 Enforcement & Troy Miller, Acting Comm’r of U.S. Customs and Border Protection, on Civil
Immigration Enforcement Actions in or near Courthouses to ICE & CBP (Apr. 27, 2021),
available at <https://perma.cc/KJJ2-7JNW> (“2021 DHS Memorandum”).

1 at immigration courts. On December 11, 2023, EOIR issued Operating Policies and Procedures
 2 Memorandum (“OPPM 23-01”), which formally adopted the principles and policies in the 2021
 3 DHS Memorandum.³ EOIR articulated a variety of policy rationales, including the need to avoid a
 4 “chilling effect” on noncitizens appearing in immigration courts, inefficiencies that would be
 5 created through absenteeism resulting from fear of arrest at court, safety risks for others attending
 6 immigration court who are present during enforcement actions, and that the prohibition on
 7 enforcement actions would “reinforce the separate and distinct roles of DHS and [EOIR] in the
 8 eyes of the public. OPPM 23-01, at 2.

9 40. Accordingly, in OPPM 23-01, EOIR adopted a parallel policy to DHS’s policy that,
 10 absent exigent circumstances, civil immigration enforcement actions could not be taken in or near
 11 an immigration court. *Id.* at 2–3.

12 41. Those policies and practices were in keeping with a practice with a centuries-old
 13 pedigree: the common-law privilege against courthouse arrests, which prohibits civil arrest in or
 14 around courthouses and protects against civil arrest while an individual is traveling to or from a
 15 required court appearance. Dating to its origins in British common law, the purpose of the
 16 privilege is two-fold: (1) to protect courts’ ability to administer justice and (2) to protect witnesses
 17 and parties and avoid deterring them from attending to their business before the court. *See*
 18 Christopher N. Lasch, *A Common-Law Privilege to Protect State and Local Courts During the*
 19 *Crimmigration Crisis*, 127 Yale L.J.F. 410, 410 (2017). As the U.S. Supreme Court observed long
 20 ago, this common-law privilege was “well settled” and incorporated into federal common law. *See*
 21 *Stewart v. Ramsay*, 242 U.S. 128, 129 (1916); *see also, e.g., New York v. U.S. Immigration &*
 22 *Customs Enf’t*, 431 F. Supp. 3d 377 (2019) (American courts including state courts and the U.S.
 23 Supreme Court “confirmed that th[e] privilege was part of... the law.”).

24 42. Within approximately one week of Trump retaking office in January 2025, both
 25 DHS and EOIR issued new guidance radically shifting their stances on courthouse arrests. These
 26

27 ³ Memorandum from Sheily McNulty, Chief Immigration Judge, on Operating Policies and
 28 Procedures Memorandum 23-01: Enforcement Actions in or Near OCIJ Space to All Assistant
 Chief Immigration Judges, Immigration Judges, Court Administrators, and Court Personnel (Dec.
 11, 2023), available at <https://perma.cc/5J3Z-Q5ZZ>.

1 policy documents collectively authorized federal immigration officers to arrest noncitizens in or
 2 around immigration courthouses—including noncitizens who are appearing, as required by federal
 3 immigration law, at their own removal proceedings.

4 43. First, on January 20, 2025, then-acting DHS Secretary Benjamine Huffman
 5 directed DHS agencies to “rescind[] the Biden Administration’s guidelines . . . that thwart law
 6 enforcement in or near so-called ‘sensitive’ areas.” *Statement from a DHS Spokesperson on*
 7 *Directives Expanding Law Enforcement and Ending the Abuse of Humanitarian Parole* (Jan. 21,
 8 2025);⁴ *see also Enforcement Actions in or Near Protected Areas* (Jan. 20, 2025).⁵ This brief
 9 directive did not contain substantive reasoning or engage with the rationales that informed prior
 10 policy and practices.

11 44. Then, on January 20, 2025, then-acting ICE Director Caleb Vitello issued interim
 12 guidance to ICE that superseded the 2021 DHS Memorandum. Caleb Vitello, Acting Director,
 13 U.S. Immigration & Customs Enforcement, Policy Number 11072.3, *Interim Guidance: Civil*
 14 *Immigration Enforcement Actions in or near Courthouses* (“ICE Interim Arrest Guidance”).⁶ The
 15 ICE Interim Arrest Guidance broadly authorized ICE agents to conduct civil immigration
 16 enforcement actions—including arrests, interviews, and searches—in or near courts, including
 17 immigration courthouses. *Id.* at 2.

18 45. The ICE Interim Arrest Guidance stated that civil immigration enforcement actions
 19 in or near courthouses could “include actions against targeted [noncitizens].” *Id.* The ICE Interim
 20 Arrest Guidance lists certain categories of potential “targets” but expressly states that enforcement
 21 conduct is “not limited to” the listed groups. *Id.*

22 46. The ICE Interim Arrest Guidance also expressly condoned enforcement against
 23

24 ⁴ Press Release, Homeland Security, *Statement from a DHS Spokesperson on Directives*
 25 *Expanding Law Enforcement and Ending the Abuse Humanitarian Parole* (Jan. 21, 2025),
 available at <https://perma.cc/D8BR-6U2H>.

26 ⁵ Memorandum from Benjamine C. Huffman, Acting Secretary, on *Enforcement Actions in or*
 27 *Near Protected Areas to Caleb Vitello, Acting Director of ICE & Pete R. Flores, Senior Official*
Performing the Duties of the Comm’r of CBP (Jan. 20, 2025), available at [https://perma.cc/935P-](https://perma.cc/935P-UKBK)
 UKBK.

28 ⁶ Memorandum from Caleb Vitello, Acting Director of ICE on *Interim Guidance: Civil*
Immigration Enforcement Actions in or near Courthouses to All ICE Employees (Jan. 21, 2025),
 available at <https://perma.cc/AGN9-24UK>

1 “family members or friends accompanying the target [noncitizen] to court appearances or serving
 2 as a witness in a proceeding.” *Id.* The ICE Interim Arrest Guidance stated that such arrests should
 3 be made “on a case-by-case basis considering the totality of the circumstances,” but it provided no
 4 details as to relevant considerations. *Id.* This carte blanche authority to arrest witnesses and family
 5 members attending court proceedings constituted a marked reversal of ICE’s longstanding
 6 policies, in place for at least a decade, prohibiting such arrests or strictly limiting them to special
 7 circumstances. *See, e.g.,* U.S. Immigration & Customs Enforcement, Directive Number 11072.1,
 8 *Civil Enforcement Actions Inside Courthouses* (Jan. 10, 2018) (noting that such individuals “will
 9 not be subject to civil immigration enforcement action, absent special circumstances, such as
 10 where the individual poses a threat to public safety or interferes with ICE’s enforcement
 11 actions”);⁷ Philip T. Miller, Assistant Director for Field Operations, ICE Enforcement and
 12 Removal Operations, *Enforcement Actions at or Near Courthouses* (Mar. 19, 2014) (authorizing
 13 courthouse arrests only for “specific, targeted” individuals in the highest level of enforcement
 14 priority, and expressly prohibiting the arrest of “collaterally present” individuals).

15 47. On May 27, 2025, Defendant Lyons issued a final version of the ICE Interim Arrest
 16 Guidance. Todd M. Lyons, Acting Director, U.S. Immigration & Customs Enforcement, Policy
 17 Number 11072.4, *Civil Immigration Enforcement Actions in or Near Courthouses* (May 27, 2025)
 18 (“Final ICE Arrest Memorandum”).⁸ The Final ICE Arrest Memorandum remains in effect and is
 19 identical to the ICE Interim Arrest Guidance in almost all material respects. The sole exception is
 20 that the Final ICE Arrest Memorandum removes a provision of the Interim Arrest Guidance
 21 preventing courthouse arrests where such arrests would violate local law. *Compare* ICE Interim
 22 Arrest Guidance, at 2, *with* Final ICE Arrest Memorandum, at 2.

23 48. The Final ICE Arrest Memorandum did not address the core concerns articulated in
 24 the 2021 DHS Memorandum with respect to the chilling effect that enforcement actions could
 25

26 ⁷ Policy Directive from ICE on Civil Immigration Enforcement Actions Inside Courthouses (Jan.
 27 10, 2018), available at <https://perma.cc/2S3S-CVXE> (“ICE Interim Arrest Guidance”).

28 ⁸ Memorandum from Todd M. Lyons, Acting Director of ICE on Civil Immigration Enforcement
 Actions In or Near Courthouses to All ICE Employees (May 27, 2025), available at
<https://perma.cc/94F8-QGXG>.

1 have on the fair administration of justice. Instead, the Final ICE Arrest Memorandum claimed
 2 without support that courthouse arrests “can reduce safety risks” because individuals entering
 3 courthouses are screened for weapons and other contraband. Final ICE Arrest Memorandum at 1.
 4 The ICE Interim Arrest Guidance also sought to justify courthouse enforcement as a necessity in
 5 “jurisdictions [that] refuse to cooperate with ICE.” ICE Interim Arrest Guidance, at 1.

6 49. The Final ICE Arrest Memorandum specifically addresses “Non-Criminal or
 7 Specialized Courts” but does not even mention immigration courthouses, let alone explain the
 8 agency’s dramatic shift in practice related to immigration courthouses.

9 50. One week later, on January 28, 2025, EOIR changed its own courthouse arrests
 10 policy when Defendant Owen issued OPPM 25-06, rescinding OPPM 23-01 regarding
 11 immigration courthouse arrests. Sirce E. Owen, Acting Director, EOIR, OPPM 25-06,
 12 Cancellation of Operating Policies and Procedures Memorandum 23-01 (Jan. 28, 2025) (“EOIR
 13 Courthouse Arrest Memo”).⁹ Failing “to appreciate the full scope of [its] discretion,” *Dep’t of*
 14 *Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 26 (2020)--that is, EOIR’s
 15 independent authority and obligation to set immigration court policy--the EOIR Courthouse Arrest
 16 Memo summarily asserted that, because ICE had changed its general policy regarding courthouse
 17 arrests at any type of court, “there is no longer a basis to maintain” the prior EOIR policy limiting
 18 immigration enforcement actions in or near immigration courts. *Id.* at 1. The memo dismissed the
 19 prior policy’s core concern that courthouse arrests would chill the exercise of the right to seek
 20 relief in immigration court, offering only the cursory assertion that this concern was “vague,”
 21 “unspecified,” and “contrary to logic.” *Id.* The memo instead stated, with no explanation, that
 22 individuals with valid immigration claims have “no reason to fear any enforcement action by
 23 DHS.” *Id.* at 2.

24 51. Even beyond the defects within the EOIR Courthouse Arrest Memo’s reasoning,
 25 the memo entirely “failed to address whether there was ‘legitimate reliance’ on” the agencies’
 26 prior policies that afforded immigrants their day in court without having to be concerned (absent
 27

28 ⁹ Memorandum from Sirce E. Owen, Acting Director of EOIR on the Cancellation of Operating Policies and Procedures to All of EOIR (Jan. 28, 2025), available at <https://perma.cc/S9CB-FP96>.

exigent circumstances) that they would be summarily arrested. *Regents*, 591 U.S. at 30.

II. The Trump Administration's Sweeping Mass Arrest Campaign

A. The White House and DHS Demand as Many Immigration Arrests as Possible, Regardless of Legal Status or Any Wrongdoing

52. Defendants' abrupt change in courthouse arrest policies appears to effectuate the Trump administration's broader, systemwide objectives of dramatically increasing immigration arrests, detention, and deportations. The White House and the Department of Homeland Security reportedly imposed an expectation of 3,000 immigration-related arrests per day on ICE agents¹⁰—an explosion in such arrests, which averaged fewer than 300 per day in 2024.¹¹ In a May 28, 2025 interview with Fox News, White House Deputy Chief of Staff Stephen Miller stated, “under President Trump’s leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day.”¹²

53. Miller’s instructions to high-level ICE officials regarding arrests were understood to be “all about the numbers, not the level of criminality.”¹³ Immigration agents, according to Miller, should no longer conduct targeted operations based on investigations and instead should “just go out there and arrest [unauthorized noncitizens]” by rounding up people in public spaces like “Home Depot” and “7-Eleven” convenience stores.¹⁴

54. Between January and May of 2025, two thirds of deportations were of people with

¹⁰ José Olivares, *Trump Administration Sets Quota to Arrest 3,000 People a Day in Anti-Immigration Agenda*, The Guardian (May 29, 2025), available at <https://www.theguardian.com/us-news/2025/may/29/trump-ice-arrest-quota>

¹¹ Albert Sun, *Immigration Arrests Are Up in very State. Here Are the Numbers*, The New York Times (June 27, 2025), available at <https://www.nytimes.com/interactive/2025/06/27/us/ice-arrests-trump.html>

¹² *Vasquez Perdomo v. Noem*, No. 25-4312, 2025 WL 2181709, at *1 n.2 (9th Cir. Aug 1, 2025); see also Hannity, *Stephen Miller says the admin wants to create the strongest immigration system in US History*, Fox News (May 28, 2025, 6:29 pm PT), available at <https://www.foxnews.com/video/6373591405112>.

¹³ Ted Hesson & Kristina Cooke, *ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets*, Reuters, (June 10, 2025), available at <https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/>; Alayna Alvarez & Brittany Gibson, *ICE Ramps Up Immigration Arrests in Courthouses Across the U.S.*, Axios, (June 12, 2025), available at <https://www.axios.com/2025/06/12/ice-courthouse-arrests-trump>

¹⁴ *Id.*

1 no criminal record at all. For the remaining third, the vast majority of them had only minor
 2 offenses on their criminal record, including strictly-immigration crimes such as unauthorized entry
 3 to the U.S.¹⁵

4 55. In a display of its commitment to hitting the aggressive arrest targets demanded by
 5 the Trump Administration, ICE issued a nationwide offer to its agents on August 5, 2025, which
 6 provided a \$200 cash bonus for each arrest that results in deportation within seven days.¹⁶ Several
 7 hours later, the agency followed up with an email simply stating, “please disregard.”

8 56. The August 5, 2025, cash bonus email is not the only indicator that federal agents
 9 are being incentivized to carry out immigration arrests focused on quantity rather than public
 10 safety. For example, on May 2, 2025, an 18-year-old U.S. citizen filmed himself being pulled over
 11 and detained by Customs and Border Patrol. During the arrest, the agents can be heard bragging
 12 about the number of arrests they are making and stating that they can “smell that . . . \$30,000
 13 bonus.”¹⁷

14 57. Government officials have also suggested their motivation in their sweeping arrest
 15 campaign is deterrence, rather than mitigating flight risk or danger to the community—the only
 16 two constitutionally permissible bases for detention. For instance, in early 2025, Defendant Noem
 17 released an official “Domestic Warning” video addressing immigrants stating: “if you are here
 18 illegally, we will find you and deport you. You will never return. But if you leave now, you may
 19 have an opportunity to return and enjoy our freedom and live the American Dream.”¹⁸ Regarding
 20

21 ¹⁵ Christie Thompson and Anna Flagg, *ICE Is Deporting Thousands with Minor Offenses—from*
 22 *Traffic Violations to Weed Possession*, The Marshall Project, (August 15, 2025), available at
 23 <https://www.themarshallproject.org/2025/08/15/ice-georgia-traffic-stop-arrest-immigration>

24 ¹⁶ Hamed Aleaziz & Nicholas Nehamas, *Ice Offers, then Quickly Withdraws, Cash Bonuses for*
 25 *Swiftly Deporting Immigrants*, New York Times, (August 5, 2024), available at
 26 <https://www.nytimes.com/2025/08/05/us/politics/ice-bonuses-immigrants-deportations.html#:~:text=Immigrants%20Rights-,ICE%20Offers%2C%20Then%20Quickly%20Withdraws%2C%20Cash%20Bonuses%20for%20Swiftly%20Deporting,President%20Trump's%20aggressive%20deportation%20targets.>

27 ¹⁷ Clare Considine, *Immigration Agents Told a US Citizen: ‘You’ve Got No Rights.’ He secretly*
 28 *Recorded his Brutal Arrest*, The Guardian, (July 25, 2025), available at
<https://www.theguardian.com/us-news/2025/jul/25/florida-teen-immigration-arrest>

¹⁸ Dept. Of Homeland Security Media Library, “Warning – Domestic,” available at
<https://www.dhs.gov/medialibrary/assets/video/58918#:~:text=Transcript,nation%20is%20a%20safe%20nation.>

1 unsanitary and inhumane conditions in ICE temporary detention facilities, Defendant Noem
 2 claimed in an August 2025 interview, “there definitely is a message that it sends,” and that being
 3 held in such conditions serves as a deterrent because “overwhelmingly, what encourages people to
 4 go back home voluntarily is the consequences.”¹⁹

5 58. As a result of this campaign focused on arresting as many people as possible—
 6 regardless of their length of residency in the U.S., the merits of their immigration cases, or their
 7 lack of threat to public safety—ICE arrests of immigrants with no criminal record have increased
 8 more than 800% compared to the period before January 2024.²⁰ In California, ICE arrests in total
 9 have increased 123% since January 2024.²¹

10 **B. Immigration Arrests Occur in Courthouses and Historically-Protected**
 11 **Spaces, Including Immigration Courts in Downtown San Francisco,**
Concord, and Sacramento

12 59. ICE’s San Francisco Area of Responsibility encompasses Northern California,
 13 Hawaii, Guam, and Saipan. The immigration courts in San Francisco, Concord, and Sacramento
 14 fall within the SF AOR.

15 60. San Francisco’s immigration court, located on the fourth floor of 630 Sansome
 16 Street, is one of two immigration courts in the city and one of the busiest immigration courts in the
 17 country. It handles thousands of new and ongoing cases a year, including for people seeking
 18 asylum from persecution and violence in Central America.²²

19 61. Every week since May 2025, ICE agents have waited in the halls outside the San
 20 Francisco immigration court to systematically conduct arrests.

21 62. In less than two months’ time, public reports indicate that ICE made more than 30
 22

23 ¹⁹ Nicole Sganga, *Kristi Noem says “Alligator Alcatraz” to be model for ICE state-run detention*
 24 *centers*, CBS News (Aug. 4, 2025), available at <https://www.cbsnews.com/news/alligator-alcatraz-model-kristi-noem-homeland-security/>.

25 ²⁰ José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under*
Trump, The Guardian (June 14, 2025), available at [https://www.theguardian.com/us-](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures)
 26 [news/2025/jun/14/ice-arrests-migrants-trump-figures](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures).

27 ²¹ Nisa Khan, *When ICE is Waiting at Immigration Court, What can Advocates do?*, KQED
 (July 7, 2025), available at [https://www.kqed.org/news/12047018/how-legal-experts-advocates-](https://www.kqed.org/news/12047018/how-legal-experts-advocates-are-responding-to-the-detention-of-asylum-seekers)
 28 [are-responding-to-the-detention-of-asylum-seekers](https://www.kqed.org/news/12047018/how-legal-experts-advocates-are-responding-to-the-detention-of-asylum-seekers).

²² Daniela Blei, *A Federal Immigration Building with a Dark Past*, Smithsonian Magazine,
 (May 12, 2017), available at [https://www.smithsonianmag.com/history/federal-immigration-](https://www.smithsonianmag.com/history/federal-immigration-building-180963265/)
[building-180963265/](https://www.smithsonianmag.com/history/federal-immigration-building-180963265/)

1 arrests after court hearings in San Francisco.²³ On a single day in July, ICE arrested every single
 2 immigrant who appeared for court without an accompanying child.²⁴

3 63. Similarly, ICE agents have arrested immigrants appearing for court in other
 4 immigration courthouses within the SF AOR; since late May 2025, ICE has arrested at least 39
 5 people at the Sacramento immigration court and at least 16 people at or in the immediate vicinity
 6 of the Concord immigration court.

7 64. The courthouse arrests happen no matter the outcome of the immigrant's hearing.
 8 ICE has arrested individuals who still have active asylum cases with pending deadlines, and even
 9 those who agree to self-deport immediately and are accompanied into the hallway by a judicial
 10 clerk with an order of voluntary removal.

11 65. These arrests are often traumatic and needlessly violent. Immigrants leaving court
 12 are shackled and thrown to the floor while their families watch helplessly. ICE agents often
 13 become physical with bystanders.

14 66. ICE's courthouse arrests have had a dramatic chilling effect on the immigration
 15 court system. Legal service providers who have worked in immigration courts in the SF AOR for
 16 years report a marked increase in absenteeism, as immigrants grapple with the impossible choice
 17 of attending court and risking arrest or missing their mandatory hearings and receiving an *in*
 18 *absentia* removal order. Immigrants who used to routinely attend court hearings without fear to
 19 pursue avenues for immigration relief now worry that dutifully appearing for court could result in
 20 a violent arrest and detention.

21 67. Meanwhile, legal service providers who historically have been present in
 22 immigration court to provide information and resources to unrepresented litigants have been
 23 forced to abandon their longstanding service delivery model in the wake of violent arrests which
 24 create chaos and tumult in the hallways of immigration court. Instead of offering methodical
 25

26 ²³ Margaret Kadifa, *Three more immigrants arrested by ICE at S.F. immigration court*, Mission
 27 Local, (July 18, 2025), available at [https://missionlocal.org/2025/07/sf-immigration-court-three-](https://missionlocal.org/2025/07/sf-immigration-court-three-more-arrested/)
 28 [more-arrested/](https://missionlocal.org/2025/07/sf-immigration-court-three-more-arrested/)

²⁴ Margaret Kadifa, *ICE arrests all adults without children at S.F. immigration court today*,
 Mission Local, (July 25, 2025), available at [https://missionlocal.org/2025/07/hed-ice-steps-up-](https://missionlocal.org/2025/07/hed-ice-steps-up-arrests-at-s-f-immigration-court/)
[arrests-at-s-f-immigration-court/](https://missionlocal.org/2025/07/hed-ice-steps-up-arrests-at-s-f-immigration-court/)

1 consultations about an individual’s immigration options, legal services providers are scrambling to
 2 meet the immediate needs of immigrants who have been—or are about to be—detained without
 3 warning after their hearings.

4 68. ICE will continue to arrest people who appear for their immigration hearings in
 5 service of its self-imposed target of 3,000 arrests per day.

6 **C. ICE Detains Recently Arrested Immigrants for Days in Facilities Not Meant**
 7 **for Overnight Detention**

8 69. ICE’s detention infrastructure was not designed to handle the sudden and extreme
 9 increase of arrestees resulting from Defendants’ mass arrest campaign.

10 70. As a result, ICE long-term detention centers are at or above capacity. A recent
 11 report on ICE detention levels notes that as of April 2025, ICE detentions have far exceeded the
 12 number of available beds, resulting in immigrants “being held in conditions that would be
 13 unacceptable in high-security prisons.”²⁵ An August 2025 analysis of public data shows that
 14 “more than a third of ICE detainees have spent time in an overcapacity dedicated detention center
 15 this year.”²⁶ Since January 2025, at least thirteen immigrants have died in ICE detention.²⁷

16 71. On information and belief, ICE detains immigrants without any known transfer
 17 destination. Instead, ICE detains people and holds them indefinitely until bed space becomes
 18 available up in a long-term detention facility.

19 72. Because ICE detains immigrants faster than it can find a place to transfer them,
 20 detainees spend far longer periods in preliminary detention than they would if they were simply
 21 being held while processed for transfer to a known transfer location. And, as alleged herein,
 22

23 ²⁵ Douglas MacMillan, *Immigrants forced to sleep on floors at overwhelmed ICE detention*
 24 *centers*, The Washington Post (April 20, 2025), available at
 25 [https://www.washingtonpost.com/business/2025/04/18/immigrant-detention-overcrowding-](https://www.washingtonpost.com/business/2025/04/18/immigrant-detention-overcrowding-trump-crackdown/)
[trump-crackdown/](https://www.washingtonpost.com/business/2025/04/18/immigrant-detention-overcrowding-trump-crackdown/)

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

28 ²⁷ Marina Dunbar, *Two More ICE Deaths Puts U.S. on Track for One of the Deadliest Years in*
Immigration Detention, The Guardian (June 30, 2025), available at
<https://www.theguardian.com/us-news/2025/jun/30/us-ice-detention-deaths>

1 detainees are subject to inadequate conditions at 630 Sansome because the facility is not designed
2 or equipped for preliminary detention for such long periods.

3 73. ICE detains immigrants without a pending transfer destination, holds them
4 indefinitely, and only processes them for transfer days after their initial detention.

5 74. Given ICE's self-imposed target of 3,000 arrests per day, and the existing
6 overcrowding at ICE detention facilities, ICE will continue to detain immigrants overnight and for
7 days in facilities not meant for prolonged detention.

8 75. These extended detentions have been made possible by ICE's recent change in
9 policy regarding how many hours people can be detained at Enforcement and Operations ("ERO")
10 temporary holding facilities.

11 **III. ICE Purportedly Extends the Allowable Period of Detention from 12 Hours to 72** 12 **Hours—A Sixfold Increase**

13 **A. For Over a Decade, ICE Policy Limited "Hold Room" to 12 Hours**

14 76. On September 22, 2014, ICE issued Directive 11087.1, titled "Operations of ERO
15 Holding Facilities." It defined a holding facility as one "that contains hold rooms that are
16 primarily used for the short-term confinement of individuals who have recently been detained, or
17 are being transferred to or from a court, detention facility, other holding facility, or other
18 agency."²⁸

19 77. Directive 11087.1 required that "[a]bsent exceptional circumstances, no detainee
20 should be housed in a holding facility for longer than 12 hours."²⁹

21 78. On January 31, 2024, the 12-hour limit was reaffirmed in an updated and
22 superseding policy titled Directive 11087.2. The updated policy continued to define holding
23 facility as one "that contains hold rooms that are primarily used for the short-term confinement of
24 individuals who have recently been detained, or are being transferred to or from a court, detention
25 facility, other holding facility, or other agency." It noted that "[s]hort-term is defined as a period
26

27 ²⁸ U.S. Immigration & Customs Enforcement, Office of Enforcement and Removal Operations,
11087.1: Operations of ERO Holding Facilities 1 (Sept. 22, 2014), available at
28 <https://perma.cc/3L3E-G5BU>.

²⁹ *Id.* at 4.

1 not to exceed 12 hours, absent exceptional circumstances.”³⁰

2 79. Directive 11087.2 also stated that “[a]bsent exceptional circumstances, no detainee
3 should be housed in a holding facility for longer than 12 hours.”³¹

4 80. Indeed, pursuant to the Directive 11087.2 policy, ERO officers were expected to
5 “empty holding facilities upon the conclusion of daily operations” for field office locations
6 operating on a daily schedule.³²

7 81. 630 Sansome is classified as a holding facility subject to Directive 11087.2.

8 82. ICE’s 12-hour limit on holding facilities endured without change for over a decade.

9 83. As recently as March 2025, ICE ERO field directors displayed an understanding
10 that they were bound to comply with the 12-hour detention limit for ERO Hold Rooms. For
11 example, on March 12, 2025, William P. Joyce, Acting Field Office Director for the New York
12 City ERO Field Office, executed a declaration under penalty of perjury in the New York habeas
13 case of Mr. Mahmoud Khalil, *Khalil v. Joyce*, 1:25-cv-01935, ECF No. 48 at ¶ 13 (Mar. 14, 2025),
14 stating “ICE ERO policy number 11087.2 dictates that absent exceptional circumstances, no
15 detainee should be housed in a Hold Room facility for longer than 12 hours.” Mr. Joyce’s
16 declaration indicates that ICE transferred Mr. Khalil from a Hold Room to another facility “[i]n
17 compliance with this policy.” *Id.* at ¶ 14.

18 **B. ICE Abruptly Waives 12-Hour Limit on Holding Cells to Accommodate Mass**
19 **Arrests**

20 84. On June 24, 2025, ICE issued a Memorandum titled “Nationwide Hold Room
21 Waiver,” which “provides for a nationwide waiver for [ICE] Enforcement and Removal
22 Operations (ERO) field offices’ 12-hour hold room utilization time, as it relates to Directive
23 11087.2: Operations of ERO Holding Facilities (January 31, 2024).” The Memorandum is
24 addressed to “All ERO Field Office Directors.”

26 _____
27 ³⁰ U.S. Immigration & Customs Enforcement, Office of Enforcement and Removal Operations,
Policy Number: 11087.2: Operations of ERO Holding Facilities 2 n.3 (Jan. 31, 2024), available at
<https://perma.cc/J3GV-7DJD>.

28 ³¹ *Id.* at 7.

³² *Id.*

1 85. The waiver allows for individuals who are recently detained or are being
2 transferred to be housed in a “Hold Room” for up to 72 hours, absent exceptional circumstances.
3 This represents a sixfold increase in detention time allowed by the previous policy.

4 86. The waiver also departs from previous policies in that it allows detention in “Hold
5 Rooms” that necessarily encompasses overnight detention.

6 87. The waiver was effective immediately on the date it was issued and remains in
7 effect for one year.

8 88. The Memorandum (hereinafter “12-Hour Waiver Memo”) was issued by
9 Defendants Burke and Giles.

10 89. The 12-Hour Waiver Memo states:

11 “As a result of increased enforcement efforts, ERO’s average daily population has
12 significantly increased to over 54,000. This increase has put additional strain on
13 finding and coordinating transfers of aliens to available beds within the required
14 timeline detailed in Directive 11087.2. **Further, ERO field offices no longer have
15 the option to discretionarily release aliens, nor decline to take aliens into
custody from our counterparts in Homeland Security Investigations (HSI) or
U.S. Customs and Border Protection (CBP).** As a result of these constraints,
ERO field offices have had to resort to holding aliens in holding facilities beyond
than the 12-hour limit.”³³

16 90. The 12-Hour Waiver Memo does not explain why waiving a prior policy—in favor
17 of prolonged detention that was previously prohibited—is the only viable option for addressing
18 ERO’s capacity problems.

19 91. The 12-Hour Waiver Memo does not explain why prolonged detention must be
20 utilized to address capacity issues, as opposed to the reinstatement of discretionary release
21 practices or reinstatement of the ability to decline taking custody of immigrants from HSI or CBP.

22 92. The 12-Hour Waiver Memo does not address whether it is possible to effectively
23 convert short-term holding cells into long-term detention, much less to do so “immediately.” The
24 Memo gives no practical guidance for assessing or considering whether a given Field Office’s
25 hold room is suitable for long-term human detention.

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27
28 ³³ Memorandum from Monica S. Burke, Assistant Director for U.S. Immigration and Customs
Enforcement Custody Management, Nationwide Hold Room Waiver 2 (June 24, 2025), available
at <https://perma.cc/KF9Y-AWFA> (emphasis added).

93. 630 Sansome is not built or equipped for multi-day detention, and viable alternatives are readily available to ICE.

94. ICE maintains an Alternatives to Detention Program (“ATD”) that “exists to ensure compliance with release conditions and provides important case management services for non-detained” people. The ATD program enables immigrants “to remain in their communities — contributing to their families and community organizations and, as appropriate, concluding their affairs in the U.S. — as they move through immigration proceedings or prepare for departure.”³⁴

95. The ATD program consists of Intensive Supervision Appearance Program (“ISAP”), which “utilizes case management and technology tools to support [immigrants’] compliance with release conditions while on ICE’s non-detained docket.”³⁵

96. According to ICE, the ATD-ISAP program “increases court appearance rates.”³⁶

97. According to ICE, the ATD-ISAP program costs “\$4.20 per day — a stark contrast from the cost of detention, which is around \$152 per day.”³⁷

98. ICE did not consider the ATD-ISAP program as an alternative to ease detention facility crowding and lack of transfer space.

99. The lack of reasoned decision-making in ICE’s waiver decisions has been previously documented. In 2019, DHS’s Office of Inspector General issued a report that found:

“ICE frequently issued waivers to facilities with deficient conditions, seeking to exempt them from having to comply with certain detention standards. However, we found that ICE has no formal policies and procedures to govern the waiver process and has allowed ERO officials without clear authority to grant waivers. We also determined that ICE does not ensure key stakeholders have access to approved waivers.”³⁸

C. The 12-Hour Waiver Memo Conflicts with Longstanding ICE Policy

100. ICE maintains uniform standards for detention spaces, called the Performance-

³⁴ U.S. Immigration and Customs Enforcement, *Alternatives to Detention*, available at <https://perma.cc/9PQK-AFAJ>

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ DHS, Office of Inspector General, *Ice Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards*, (Jan. 29, 2019), available at <https://www.oig.dhs.gov/sites/default/files/assets/2019-02/OIG-19-18-Jan19.pdf>

1 Based National Detention Standards (“PBNDS”). The PBNDS have existed in some form since
2 2008.

3 101. The PBNDS were adopted and promulgated by ICE to ensure a set of uniform
4 governing standards for the operation and conditions of immigration detention facilities.

5 102. The PBNDS set minimum standards for detention facilities that house immigrant
6 detainees. They apply to all facilities where ICE operations occur, including facilities both owned
7 and operated by private entities.

8 103. Section 2.6 of the PBNDS, titled “Hold Rooms in Detention Facilities,” sets the
9 standards for ERO “Hold Rooms.” The PBNDS define “Hold Room” as those “used for detention
10 of individuals awaiting removal, transfer, EOIR hearings, medical treatment, intra-facility
11 movement, or other processing into or out of a facility.” 2011 PBNDS § 2.6.³⁹

12 104. 630 Sansome only has “Hold Rooms” as defined by Section 2.6 of the PBNDS.

13 105. Under the PBNDS, “No detainee shall be confined in a hold room for more than 12
14 hours.” 2011 PBNDS § 2.6(II)(2).

15 106. The 12-Hour Waiver Memo extends the allowable duration of “Hold Room”
16 detention but does not acknowledge that this change now makes it impossible for the ERO field
17 offices to comply with PBNDS.

18 107. The 12-Hour Waiver Memo does not give ERO field offices any directions about
19 how to comply with PBNDS standards for detention *over* 12 hours. Nor does the 12-Hour Waiver
20 Memo waive the PBNDS standards in ERO “Hold Rooms” for detention over 12 hours.

21 108. The 12-Hour Waiver Memo does not acknowledge that it conflicts with the 12-hour
22 limit on “Hold Room” detention in the PBNDS, nor does it tell ERO field offices what standards
23 should apply to 72-hour detention.

24 109. For instance, because the PBNDS limit “Hold Room” detention to less than 12
25 hours, they also state that “bunks, cots, beds and other sleeping apparatus are not permitted inside
26 hold rooms.” *Id.* at § 2.6(V)(a)(5). However, for overnight immigration detention, the PBNDS
27

28 ³⁹ U.S. Immigration and Customs Enforcement, Performance-Based National Detention Standards
98, 100 (2011), available at <https://perma.cc/PYW5-RM7J>.

1 elsewhere require “at minimum . . . one mattress, one blanket and one pillow.” 2011 PBNDS §
2 4.5(V)(G).

3 110. The 2011 PBNDS precede the 12-Hour Waiver Memo and the underlying policy
4 Directive that it waives. The PBNDS were adopted in 2008, while Directive 11087.1 was issued in
5 2014, and Directive 11097.2 (the most recent policy that has been waived) was issued in 2024.

6 111. In addition to confusion regarding which standards apply to “Hold Rooms,” the 12-
7 Hour Waiver Memo simply does not acknowledge the practical impact of using a short-term
8 holding cell—designed and intended to be emptied at the end of each day—for long term
9 detention lasting multiple nights and, in some circumstances, almost a week.

10 **IV. ICE Policies Governing Holding Facilities**

11 **A. Policies for Short-Term Detention Under 12 Hours**

12 112. Even for “Hold Room” detention that must be less than 12 hours, ICE’s standards
13 for “Hold Rooms” maintain some basic health and safety requirements for short-term
14 confinement. The Directive 11087.2 policy requires, among other things, that ERO officers:

- 15 (a) “Provide detainees with access to drinking water at all times”;
- 16 (b) “Ensure[] that detainees are provided a meal every at least six hours”;
- 17 (c) “[P]rovide minors and pregnant women with regular access to meals,
18 snacks, milk, and juice, regardless of their time in custody”;
- 19 (d) Provide every person who has limited English proficiency with translated
20 materials, or in the absence of translated materials, “in-person or telephonic oral interpretation”;
- 21 (e) “Allow detainees to keep personal inhaled medication on their person and
22 have access to other prescribed medication as necessary”;
- 23 (f) “Respond immediately to observed or reported medical emergencies.”⁴⁰

24 113. The Directive 11087.2 policy states that the Executive Associate Director for
25 ERO—here Defendant Charles— “is responsible for ensuring compliance with the provisions of
26

27
28 ⁴⁰ U.S. Immigration & Customs Enforcement, Office of Enforcement and Removal Operations,
Policy Number: 11087.2: Operations of ERO Holding Facilities (Jan. 31, 2024), 6–9, 11, available
at <https://perma.cc/J3GV-7DJJ>.

1 this Directive within ERO.”⁴¹

2 114. The Directive 11087.2 policy states that Field Office Directors or their supervisory
3 designees—here Defendant Albarran and his designees—are responsible for “ensuring that field
4 office personnel follow the procedures in this Directive for operating holding facilities located
5 within their respective field offices.”⁴²

6 **B. Policies for Detention Over 12 Hours**

7 115. For multi-day extended detention, like that at 630 Sansome, the PBNDS require
8 that people in immigration detention are given a standard issue of bedding and linens that includes
9 “at a minimum: (1) bedding: one mattress, one blanket and one pillow (additional blankets shall be
10 issued, based on local indoor-outdoor temperatures); (2) linens: two sheets and one pillowcase;
11 and (3) towel: one towel.” 2011 PBNDS § 4.5.

12 116. The PBNDS state that upon admission to a detention facility, “[e]ach detainee shall
13 be given an opportunity to shower and shall be issued clean clothing, bedding, towels, and
14 personal hygiene items.” 2011 PBNDS § 2.1.

15 117. The PBNDS also state that “[e]ach detainee shall receive, at a minimum, the
16 following items: (1) one bar of bath soap, or equivalent; (2) one comb; (3) one tube of toothpaste;
17 (4) one toothbrush; (5) one bottle of shampoo, or equivalent; and (6) one container of skin lotion”
18 while in immigration detention.⁴³ 2011 PBNDS § 4.5.

19 118. The PBNDS require that “[m]edical and mental health screening shall be conducted
20 to identify requirements for medical care, special needs and housing, and to protect the health of
21 others in the facility.” PBNDS § 2.1. A detainee is considered a “newly admitted detainee” within
22 the first 12 hours of confinement. 2011 PBNDS § 2.1.

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⁴¹ *Id.* at 5.

27 ⁴² *Id.*

28 ⁴³ Even for short-term detention lasting less than 12 hours, the PBNDS requires that detainees in
“Hold Rooms” are provided with “basic personal hygiene items (e.g., water, disposable cups,
soap, toilet paper, feminine-hygiene items, diapers and sanitary wipes), as appropriate.”

1 **V. The Punitive and Inhuman Conditions of Civil Detention at 630 Sansome**

2 **A. History of 630 Sansome**

3 119. 630 Sansome was not built or intended to house detainees for extended periods; it
4 is the U.S. Appraiser's administrative building, primarily intended to house government agency
5 offices.

6 120. Indeed, the last time 630 Sansome was opened for extended immigration detention
7 was over eighty years ago, in the post-World War II era.

8 121. In 1940, after the immigration detention center on Angel Island burned down, 630
9 Sansome was used for detention during a wave of racist immigration enforcement following the
10 passage of the Chinese Exclusion Act.⁴⁴

11 122. During those years, the upper floors of the detention facility at 630 Sansome were
12 notorious for their dangerous conditions. Historians and advocates have noted that the practice of
13 detaining immigrants at 630 Sansome—an office building haphazardly converted into a jail—
14 obscured the harmful conditions there and was intended to avoid scrutiny.⁴⁵ During a 1952 hearing
15 in front of President Eisenhower's Commission on Immigration and Naturalization, the detention
16 facility at 630 Sansome was referred to as a "skyscraper concentration camp."⁴⁶

17 123. The detention facility at 630 Sansome was officially closed in 1954, after multiple
18 Chinese immigrants died there.⁴⁷

19 124. The detention facility at 630 Sansome remained closed until the Trump
20 Administration began its mass arrest campaign against Black and Brown immigrants this year.

21 **B. Overcrowding at 630 Sansome**

22 125. After being dragged away from their court proceedings or community spaces,
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24 ⁴⁴ Daniela Blei, *A Federal Immigration Building with a Dark Past*, Smithsonian Magazine (May
25 12, 2017), available at <https://www.smithsonianmag.com/history/federal-immigration-building-180963265/>

26 ⁴⁵ Frankie Solinsky Duryea, *Ice HQ in SF's Financial District has 80-Year History of Detaining*
27 *Immigrants*, Mission Local (August 14, 2025), available at <https://missionlocal.org/2025/08/ice-hq-in-s-f-s-financial-district-has-an-80-year-history-of-detaining-immigrants/>

27 ⁴⁶ *Id.*

28 ⁴⁷ Daniela Blei, *A Federal Immigration Building with a Dark Past*, Smithsonian Magazine (May
12, 2017), available at <https://www.smithsonianmag.com/history/federal-immigration-building-180963265/>

1 immigrants are brought to the detention facility on the sixth floor of 630 Sansome and placed in a
2 small cell. Immigrants report often sharing a cell with multiple other people.

3 126. An open toilet also occupies this small space. The toilet has, at most, a low wall on
4 only one side that separates it from the rest of the cell. Immigrants are thus forced to urinate and
5 defecate in front of each other while held in this crowded room for days at a time.

6 127. ICE agents do not regularly clean the toilet or the cell. Immigrants have resorted to
7 cleaning the toilet with wads of dry toilet paper when the stench becomes unbearable.

8 128. On information and belief, the detention facility at 630 Sansome has multiple
9 holding cells, and each room has the same layout and accommodations and is approximately the
10 same size.

11 129. Men and women are held in gender-segregated cells. More people are added to
12 each cell as they are arrested, and there appears to be no limit to how many immigrants ICE will
13 place in a single cell.

14 130. The detention cells can become so crowded that there is barely sufficient room for
15 all of the detainees to sit or lie down simultaneously. At night, when the detainees attempt to
16 sleep, they are forced to crowd into the corners and spaces of the room farthest from the toilet, or
17 to sleep on the floor adjacent to the open toilet and trashcan.

18 131. The cramped spaces cause physical discomfort and distress for immigrants held in
19 the cells. Immigrants lack sufficient space to maintain a safe distance from the unsanitized toilet or
20 from other detainees, including others who show signs of illness due to the extreme cold in the
21 cells.

22 **C. Unsanitary Conditions and Lack of Proper Hygiene Accommodations**

23 132. When immigrants are taken to the detention center directly from the courtroom or
24 the community, they are not typically are not given a change of clothes beyond what they were
25 wearing at the time of their arrest.

26 133. ICE generally does not make clothing available to detainees at 630 Sansome. The
27 facility does not procure or store any changes of clothing or undergarments for those it detains
28 there.

134. ICE agents do not provide immigrants with a change of clothing, regardless of the duration of their detention at 630 Sansome. Moreover, ICE routinely confiscates clothing such as sweaters or jackets, despite maintaining freezing temperatures in the cells.

135. ICE agents will not allow family members to bring a change of clothes for detainees.

136. The holding cells have no showers.

137. As a matter of practice, immigrants are not given regular access to shampoo, deodorant, sanitary wipes, feminine hygiene products, toothbrushes, toothpaste, or other similar personal hygiene items.

138. Immigrants report pervasive stench and unsanitary conditions in the crowded cells due to the lack of hygiene items.

D. Immigrants Are Kept in a State of Sleep Deprivation at 630 Sansome

139. Despite many detainees spending at least one night—and usually multiple nights—at 630 Sansome, the cells do not have beds or cots.

140. Immigrants must choose between sleeping on metal benches meant for short-term sitting, or they must sleep on the floor.

141. As a matter of practice, immigrants are not provided pillows, blankets, sheets, or mattresses.

142. Instead, ICE’s practice is to distribute disposable plastic or Mylar “blankets.” These thin pieces of Mylar are intended for emergencies and are not suitable for regular or long-term use.

143. The pieces of Mylar provided by ICE are too small to adequately cover an adult-sized body, rendering them insufficient to fully insulate people in the detention cells. Even with a piece of Mylar, detainees still feel the effects of cold temperatures in the cells.

144. ICE keeps the lights on in detention cells twenty-four hours a day.

145. Continuous light and cold temperatures cause sleep deprivation, a condition recognized by the U.N. as a form of torture.⁴⁸

⁴⁸ *Committee Against Torture Concludes Eighteenth Session Geneva, 28 April–9, United Nations*, (May 12, 1997), available at <https://perma.cc/3E53-9RN8>, Press release.

1 146. As a result of the continuous light, freezing temperatures, and discomfort from
2 sleeping on metal benches or the floor, detainees report getting little to no sleep during their
3 detention.

4 147. Some detainees have suffered lasting illness from the cold temperatures and lack of
5 sleep, sometimes persisting for weeks after their release from 630 Sansome.

6 **E. Lack of Medical Services at 630 Sansome**

7 148. There is no standardized medical assessment or intake process at 630 Sansome.
8 ICE does not inquire about medical issues or necessary medications for detainees held at 630
9 Sansome as a matter of practice.

10 149. When an attorney attempted to alert ICE agents to his client's medical needs, he
11 was informed that the detainee would not receive a medical evaluation until their arrival at long-
12 term detention.

13 150. There are no medical support or services available at 630 Sansome; medical
14 treatment and personnel are absent.

15 151. ICE generally does not allow detainees to access prescribed medication, even if
16 family or friends are willing to provide it.

17 152. If a medical issue arises with a detainee at 630 Sansome, ICE agents have two
18 methods of responding: they either ignore the complaint, or they must call an ambulance to
19 transport the detainee to the emergency room.

20 153. For all medical issues that do not necessitate immediate emergency transport to the
21 emergency room, ICE's practice is to ignore the complaint.

22 154. Even for medical issues that *necessitate* emergency transport to the emergency
23 room, agents delay calling an ambulance until the detainee asks for help in English.

24 155. Most detainees at 630 Sansome have limited or no English proficiency. ICE agents
25 ignore their requests for medical help unless and until they find an English speaker to assist with
26 the request.

27 156. In one egregious example, a man suffered pain and swelling—symptoms consistent
28 with a prior episode of paralysis he experienced the year before— after he was arrested outside his

1 immigration hearing. He was repeatedly ignored when he requested medical attention in Spanish.
2 ICE only called an ambulance for him after a bilingual attorney coached him to repeat the correct
3 words to ask for help in English.

4 157. Defendants have a practice of denying language access to those seeking medical
5 care. Defendants deny medical care to detainees unless they request it in English, which most
6 cannot do. Some detainees have resorted to soliciting assistance from other detainees who speak
7 English to ask ICE agents for medical attention.

8 **F. Lack of Adequate Access to Counsel**

9 158. ICE is required to allow attorneys to visit detainees. The PBNDS require ICE to
10 allow “legal visitation seven days a week, including holidays, for a minimum of eight hours per
11 day on regular business days (Monday through Friday), and a minimum of four hours per day on
12 weekends and holidays.” 2011 PBNDS § 5.7(V)(J). These visits must be private to allow for
13 confidential conversations. 2011 PBNDS § 5.7(V)(J)(9).

14 159. ICE is also prohibited from limiting detainees’ access to free, confidential phone
15 calls with attorneys. The PBNDS prohibit ICE from unreasonably “restrict[ing] the number of
16 calls a detainee places to his/her legal representatives[.]” 2011 PBNDS § 5.6(F)(1). Similarly, the
17 PBNDS require that ICE “permit detainees to make direct or free calls to,” among others, “legal
18 representatives, to obtain legal representation, or for consultation when subject to expedited
19 removal (when a detainee is under an expedited removal order, his/her ability to contact pro bono
20 legal representatives shall not be restricted)[.]” 2011 PBNDS § 5.6(V)(E). These calls with legal
21 representatives must be private—the telephones must be placed such that “detainees can make
22 such calls without being overheard by staff or other detainees.” 2011 PBNDS § 5.6(V)(F)(2).

23 160. At 630 Sansome, detainees’ ability to have reasonable access to counsel is so
24 restricted that is tantamount to a denial of counsel.

25 161. To call their legal representatives, or even seek legal representation, individuals
26 detained at 630 Sansome are forced to navigate a cumbersome phone system that requires payment
27 from either the detainee or the recipient of the call to proceed. Sometimes, even when payment is
28 tendered, the call drops. When detainees are able to place a call, the audio quality is poor, making

1 it difficult for attorneys and clients to understand each other. Moreover, there are no means to
2 ensure that the phone calls are private: detained people are often not alone in the room where they
3 are speaking on the phone and instead other detainees or officers are frequently present, for
4 example.

5 162. ICE has refused to allow attorneys representing individuals detained at 630
6 Sansome to meet with their clients, asserting that the building was closed after 3:00 PM on
7 weekdays, and all day on weekends and holidays.

8 163. Even when attorneys are able to meet with detained clients in person at 630
9 Sansome, their ability to provide legal counsel is severely hindered by the conditions of the
10 visitation rooms. Attorneys and clients are separated by a Plexiglas barrier and must speak through
11 a landline phone with very poor audio quality, which makes it very difficult to understand each
12 other. Attorneys have been prohibited from bringing in interpreters who are not themselves
13 counsel and the poor audio quality of system makes it impossible to use phone interpretation
14 systems.

15 164. There is also frequently an issue of lack of confidentiality as the room where
16 attorneys may meet with clients has two booths side-by-side with only a narrow divider. On a day
17 with multiple representatives present or family visitors, all people in the room must either agree to
18 no confidentiality or must wait and meet with detained clients one at a time.

19 165. The only way for attorneys and clients to share documents is for someone to press a
20 document against the Plexiglas, or to ask a guard to pass along the documents—a request that is
21 often refused. Neither method permits confidential document sharing.

22 166. Attorney consultations are abruptly terminated mid-stream for arbitrary reasons.

23 167. Defendants' denial of effective access to counsel at 630 Sansome is particularly
24 damaging because it occurs at a critical moment for detainees when the need for legal consultation
25 is most acute. In the immediate aftermath of being detained, detainees must either retain counsel
26 or contact existing counsel to inform them of their detention and learn of their immediate legal
27 options, all while enduring an illegal arrest and inhumane detention conditions. ICE's refusal to
28 allow counsel to meet with clients after 3:00 PM on weekdays or over the weekend is particularly

1 harmful to the many individuals detained after Friday immigration hearings who may be forced to
 2 endure the inhumane conditions at 630 Sansome all weekend because they cannot seek legal help
 3 sooner.

4 168. Upon information and belief, as a direct result of the unreasonable restrictions on
 5 visits and calls between Plaintiffs and counsel at 630 Sansome, Plaintiffs may be barred from
 6 communicating confidentially with their attorneys in the coming days.

7 CLASS ALLEGATIONS

8 169. Plaintiffs bring this action under Federal Rule of Civil Procedure 23(a) and (b)(2)
 9 on behalf of themselves and a class of all other persons similarly situated.

10 170. Individual Plaintiffs seek to represent the following Proposed Classes:

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

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

16 171. The proposed classes satisfy the requirements of Fed. R. Civ. P. 23(a)(1). Joinder is
 17 impracticable because many putative class members are unrepresented by counsel and lack the
 18 resources to bring individual litigation. Further, members of the Detainee Class are detained,
 19 which presents an additional barrier to bringing individual litigation. The population of both
 20 classes changes regularly, and both classes include unknown and future class members, which
 21 further renders joinder impracticable.

22 172. The proposed classes meet the requirements of Fed. R. Civ. P. 23(a)(2). There are
 23 several common questions of law and fact, including but not limited to:

- 24 • Whether Defendants' policy and practice of forcing Plaintiffs and putative class members
- 25 to sleep overnight on metal benches or on the floor, with constant illumination and in cold
- 26 temperatures, violates the Fifth Amendment;
- 27 • Whether Defendants' policy and practice of detaining Plaintiffs and putative class
- 28 members for extended periods without conducting a standardized medical intake, without
- adequate procedures to address medical needs, and without provision of medical care or
- access to prescription medications violates the Fifth Amendment;

- Whether Defendants' policy and practice of detaining Plaintiffs and putative class members in crowded and unsanitary holding cells, without adequate hygienic items or opportunities to clean themselves, violates the Fifth Amendment;
- Whether Defendants' 12-Hour Waiver Memo violates APA Section 706;
- Whether Defendants' EOIR Courthouse Arrest Memo violates APA Section 706;
- Whether Defendants' ICE Interim Arrest Guidance and the Final ICE Arrest Memo violate APA Section 706.

173. The proposed classes meet the requirements of Fed. R. Civ. P. 23(a)(3). The named Plaintiffs' claims are typical of those of the classes. Plaintiffs Garcia and Hernandez-Torres are currently detained at 630 Sansome, and Mr. Hernandez-Torres has been detained for more than 12 hours. Both Ms. Garcia and Mr. Hernandez-Torres have been subjected to the punitive conditions challenged here, made possible by Defendants' policies, in violation of their constitutional rights. Plaintiffs Pablo Sequen and Garcia were subjected to Defendants' courthouse arrest policies, and Plaintiff Alvarado Ambrocio has an upcoming immigration hearing at the San Francisco Immigration Court and is at imminent risk of being arrested by ICE at that hearing.

174. The proposed classes meet the requirements of Fed. R. Civ. P. 23(a)(4). The named Plaintiffs have the requisite personal interest in the outcome of this action and have no interests adverse to the interests of the classes. They will fairly and adequately represent the interests of all proposed class members. The proposed classes are represented by pro bono counsel from Lawyers' Committee for Civil Rights of the San Francisco Bay Area, the American Civil Liberties Union Foundation of Northern California, Central American Resource Center of San Francisco (CARECEN SF), and Coblentz Patch Duffy & Bass LLP, who collectively have extensive experience litigating class action lawsuits and other complex cases in federal court, including on behalf of immigrants and individuals in detention.

175. The proposed classes meet the requirements of Fed. R. Civ. P. 23(b)(2). Defendants have acted on grounds generally applicable to the proposed classes through policies that apply generally to the classes, including the Courthouse Arrest Policies and the 12-Hour Waiver Memo, and the uniform practice of detaining individuals at 630 Sansome in punitive conditions and without access to counsel, in violation of their constitutional rights. Therefore, declaratory relief, at a minimum, is appropriate for the proposed classes as a whole.

176. The putative classes are inherently transitory, and the injuries suffered by the named Plaintiffs and putative class members are capable of repetition yet evading review. *See Pitts v. Terrible Herbst, Inc.*, 653 F.3d 1081, 1090 (9th Cir. 2011).

DUE PROCESS ALLEGATIONS

177. The Constitution protects Plaintiffs from arbitrary deprivations of their liberty and guarantees them due process of law. The government’s power over immigration is broad, but as the Supreme Court has declared, it “is subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

178. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and procedural.

179. *First*, “[t]he touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including “the exercise of power without any reasonable justification in the service of a legitimate governmental objective.” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

180. These protections extend to noncitizens facing detention, as “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from imprisonment—from government custody, detention, or other physical restraint—lies at the heart of the liberty that [the Due Process] clause protects.” *Zadvydas*, 533 U.S. at 690.

181. Substantive due process thus requires that all forms of civil detention—including immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s appearance at immigration proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690-92; *see also*

1 *Demore v. Kim*, 538 U.S. 510, 519–20, 527–28, 531 (2003).

2 182. *Second*, the procedural component of the Due Process Clause prohibits the
3 government from imposing even permissible physical restraints without adequate procedural
4 safeguards.

5 183. Generally, “the Constitution requires some kind of a hearing *before* the State
6 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (emphasis
7 in original). This is so even in cases where that “freedom is lawfully revocable.” *See Hurd v. D.C.,*
8 *Gov’t*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-
9 detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v.*
10 *Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S.
11 471, 484 (1972) (same, in parole context).

12 184. After an initial release from custody on conditions, even a person paroled following
13 a conviction for a criminal offense for which they may lawfully have remained incarcerated has a
14 protected liberty interest in that conditional release. *Morrissey*, 408 U.S. at 482. As the Supreme
15 Court recognized, “[t]he parolee has relied on at least an implicit promise that parole will be
16 revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever name, the liberty is
17 valuable and must be seen within the protection of the [Constitution].” *Id.*

18 185. This reasoning applies with equal if not greater force to people released from civil
19 immigration detention at the border. After all, noncitizens living in the United States have a
20 protected liberty interest in their ongoing freedom from confinement. *See Zadvydas*, 533 U.S. at
21 690. And “[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens
22 released from custody] is arguably greater than the interest of parolees.” *Ortega v. Bonnar*, 415 F.
23 Supp. 3d 963, 970 (N.D. Cal. 2019).

24 **PLAINTIFF ALLEGATIONS**

25 ***Carmen Aracely Pablo Sequen***

26 186. Carmen Pablo Sequen fled Guatemala in the face of credible threats, giving rise to
27 an asylum claim. She also has a cognizable claim to asylum based on her history of childhood
28 sexual abuse.

1 187. When Ms. Pablo Sequen entered the United States, she sought out border patrol
2 agents in order to turn herself in. After a brief detention, she was released on her own
3 recognizance. In granting her release, DHS determined that she posed little if any risk of flight or
4 danger to the community.

5 188. When DHS released Ms. Pablo Sequen, they instructed her to check in at the San
6 Francisco ICE office on September 30, 2024, and later on March 21, 2025. She did as instructed
7 and was scheduled for a subsequent check-in appointment on March 20, 2026. She has remained
8 at the same address that she provided to DHS at the time of her entry and has made no attempt to
9 abscond.

10 189. On May 15, 2025, Ms. Pablo Sequen filed an application for asylum with the San
11 Francisco Immigration Court.

12 190. Ever since Ms. Pablo Sequen entered the United States, she has fully complied with
13 court and supervision requirements. She has diligently attended all of her court hearings and
14 check-in appointments.

15 191. Subsequent to her asylum application, she was granted employment authorization
16 and has been working lawfully in a bakery. She has no criminal history. She attends St. Mary's
17 church.

18 192. On July 31, 2025, Ms. Pablo Sequen appeared in San Francisco Immigration Court
19 for a master calendar hearing before Judge O'Brien. She was unrepresented.

20 193. On information and belief, at the hearing, DHS counsel moved to dismiss Ms.
21 Pablo Sequen's case, and Judge O'Brien gave her ten days to respond to the motion. She was
22 handed a notice of a subsequent hearing scheduled for August 28, 2025.

23 194. Upon leaving the court on July 31, 2025, Ms. Pablo Sequen was surrounded by
24 approximately three ICE agents who were waiting for her in the hall. She describes the agents as
25 acting aggressively and making her feel like a criminal. They did not explain the reason for her
26 arrest. From there, she was brought to a holding area in the same building where she was held
27 until August 1, 2025, when she was released after the Court issued a temporary restraining order
28 on her petition for writ of habeas corpus.

1 195. Because Ms. Pablo Sequen was never determined to be a flight risk nor a danger to
2 the community, her detention was not related to either of the permissible justifications for civil
3 immigration detention. Her confinement did not further any legitimate government interest.

4 196. Ms. Pablo Sequen was deprived of her liberty without any permissible justification.
5 The government had previously released her on her own recognizance because she did not pose
6 sufficient risk of flight or danger to the community to warrant detention.

7 197. None of that has changed. She has no criminal record, and there is no basis to
8 believe that she poses any public safety risk. Nor is she, having been arrested *while appearing in*
9 *court for her immigration case*, conceivably a flight risk. To the contrary, she has appeared for all
10 of her immigration court hearings and supervision check-ins.

11 198. Detention will cause her irreparable harm. It will greatly complicate her ability to
12 present her asylum claim, making it harder to complete all the necessary steps needed to prepare
13 an asylum case – steps such as having extensive communication with counsel, collective evidence,
14 and preparing testimony. Immigration proceedings aside, it will pose a compounding
15 psychological burden, in addition to whatever physical hardships she has to endure from prison
16 conditions. It will deprive her of her livelihood, her community, her church, and her life as she
17 knows it.

18 ***Yulisa Alvarado Ambrocio***

19 199. Yulisa Alvarado Ambrocio fled Guatemala while she was pregnant in the face of
20 credible threats, giving rise to an asylum claim.

21 200. Shortly after Ms. Alvarado Ambrocio entered the United States, she encountered
22 immigration officials near the border. After a brief detention, she was released on her own
23 recognizance on or around April 24, 2024. In granting her release, DHS determined that she posed
24 little if any risk of flight or danger to the community. Since then, she has been living in San
25 Francisco with her partner and nine-month-old baby.

26 201. Ms. Alvarado Ambrocio attended a scheduled hearing at the San Francisco
27 Immigration Court on September 11, 2025. Because she did not have anyone to care for her infant,
28 she had to bring the baby with her to her court appearance. She was unrepresented.

1 202. During the hearing, DHS attorneys moved to dismiss Ms. Alvarado Ambrocio's
2 case. They provided no reason other than stating that it was "no longer in the best interest of the
3 United States Government to continue" with Ms. Alvarado Ambrocio's asylum case. The
4 immigration judge did not immediately grant the dismissal and instead gave Ms. Alvarado
5 Ambrocio ten days to file a written response. Her case was re-calendared for October 16, 2025.

6 203. ICE officers were waiting outside the courtroom to arrest Ms. Alvarado Ambrocio.

7 204. Seeing that Ms. Alvarado Ambrocio had a baby with her, two lawyers who
8 happened to be nearby approached her in the courtroom and offered to speak with the ICE agents
9 before Ms. Alvarado Ambrocio entered the hall. Fearing harm to the baby, they wanted to try to
10 convince the ICE agents not to arrest her.

11 205. Eventually, the lawyers were able to get the ICE agents to agree not to arrest Ms.
12 Alvarado Ambrocio that day. Instead, they imposed monitoring requirements on her and let her
13 leave. However, the ICE agents could not say what would happen to Ms. Alvarado Ambrocio at
14 her October 16, 2025 hearing, and they declined to provide any assurances that she will not be
15 arrested then.

16 206. Ms. Alvarado Ambrocio faces an impossible choice: attend her next court hearing
17 and potentially face immediate arrest and separation from her infant, who is still breastfeeding, or
18 fail to appear for her hearing, receive an order of removal *in absentia*, and face deportation back to
19 the dangerous conditions that she fled in the first place.

20 207. There is no justification for ICE to stalk Ms. Alvarado Ambrocio's immigration
21 hearings and seek to arrest her. Ms. Alvarado Ambrocio was never determined to be a flight risk
22 nor a danger to the community, and her arrest and detention would not be related to either of the
23 permissible justifications for civil immigration detention. Her confinement at 630 Sansome—
24 which will automatically occur if and when she is arrested—would not further any legitimate
25 government interest.

26 208. The government has previously assessed and released Ms. Alvarado Ambrocio on
27 her own recognizance because she did not pose sufficient risk of flight or danger to the community
28

1 to warrant detention.

2 209. That has not changed. She has no criminal record, and there is no basis to believe
3 that she poses any public safety risk. Nor is she, having been almost arrested *while appearing in*
4 *court for her immigration case*, conceivably a flight risk. To the contrary, she has complied with
5 every requirement and court appearance that the government has asked of her.

6 210. Detention will cause Ms. Alvarado Ambrocio irreparable harm. It will greatly
7 complicate her ability to present her asylum claim, making it harder to complete all the necessary
8 steps needed to prepare an asylum case – steps such as having extensive communication with
9 counsel, collective evidence, and preparing testimony. Immigration proceedings aside, Ms.
10 Alvarado Ambrocio is terrified of what will happen to her infant child's health if she cannot
11 breastfeed the baby. As to her own health, Ms. Ambrosio fears that if she is detained, she will not
12 get the supplies she needs to keep herself clean, moisturized, and disinfected while breastfeeding.
13 Abrupt cessation of breastfeeding can cause breasts to painfully swell and for milk ducts to
14 become clogged or infected, and Ms. Ambrosio fears she will not receive the medical care she
15 needs if she is detained. Such detention would not serve any conceivable government interest, and
16 it would cause psychological and physical hardship to Ms. Ambrosio as well as serious
17 consequences for the health of her infant.

18 ***Martin Hernandez-Torres***

19 211. Mr. Hernandez-Torres is originally from Mexico but has lived in the United States
20 for over thirty years and resides in Merced County, California. He has two adult U.S. citizen
21 children, ages 32 and 30, and is married to a lawful permanent resident. Mr. Hernandez-Torres has
22 cancer, high blood pressure, and prostate issues.

23 212. On September 17, 2025 Mr. Hernandez-Torres was arrested by ICE after a
24 reasonable fear interview conducted as part of reinstatement of removal proceedings. He has been
25 detained at ICE's office at 630 Sansome Street since September 17, 2025, at approximately 3 PM.

26 213. Mr. Hernandez-Torres was held overnight in the hold rooms at 630 Sansome.
27 Because there are no beds in the hold rooms, he was forced to sleep on a metal bench. He was not
28 given a mattress pad, a pillow, or a blanket—he was provided only a thin piece of foam and a

1 Mylar sheet. ICE kept the cell constantly illuminated throughout the night.

2 214. Despite Mr. Hernandez-Torres's serious medical needs, he was held in the 630
3 Sansome hold rooms for more than 20 hours without medical attention, including even a basic
4 medical intake.

5 215. Mr. Hernandez-Torres continues to be detained in the 630 Sansome hold rooms
6 without any indication of when, or where, he might be transferred.

7
8 ***Ligia Garcia***

9 216. Ligia Garcia is an asylum seeker from Colombia. She entered the United States on
10 or around March 13, 2024, and turned herself into border patrol agents. She was released from
11 custody upon their finding that she posed neither a flight risk nor a danger to the community. She
12 timely filed an application for asylum in February 2025, which remains pending. She has no
13 criminal history and has attended both of her two immigration court hearings.

14 217. Ms. Garcia appeared at the San Francisco Immigration Court at 630 Sansome Street
15 on September 18, 2025, for her master calendar hearing. She was summarily arrested by ICE upon
16 exiting the hearing and is currently being held in a holding cell at the same address. She suffers
17 from high blood pressure, which the stress of her arrest and detention has exacerbated.

18 218. Ms. Garcia was never determined to be a flight risk nor a danger to the community,
19 and her arrest and detention is not rationally related to either of the permissible justifications for
20 civil immigration detention. Her confinement at 630 Sansome does not further any legitimate
21 government interest.

22 219. The government has previously assessed and released Ms. Alvarado Ambrocio on
23 her own recognizance because she did not pose sufficient risk of flight or danger to the community
24 to warrant detention.

25 220. That has not changed. She has no criminal record, and there is no basis to believe
26 that she poses any public safety risk. Nor is she, having been arrested *while appearing in court for*
27 *her immigration case*, conceivably a flight risk. To the contrary, she has complied with every
28 requirement and court appearance that the government has asked of her.

221. Plaintiffs Ms. Pablo Sequen, Ms. Alvarado Ambrocio, and Garcia respectfully seek habeas relief ordering the government to immediately release them from ongoing, unlawful detention and/or prohibiting their re-arrest and re-detention without a hearing to contest that re-arrest and re-detention before a neutral decision-maker. In addition, to preserve this Court's jurisdiction and ensure prompt, effective compliance with court-ordered relief, Plaintiffs also request that this Court order the government not to transfer them outside of the Northern District of California, or deport them, for the duration of this proceeding.

CLAIMS FOR RELIEF

Claims Related to EOIR and ICE Courthouse Arrest Guidance

FIRST CLAIM FOR RELIEF

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A) (EOIR Policy Permitting Courthouse Arrests Is Arbitrary and Capricious)

By Plaintiffs Alvarado Ambrocio, Garcia, and Pablo Sequen, and the Putative Arrest Class Against All DOJ Defendants and Defendant United States of America

222. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.

223. The APA provides that courts “shall . . . hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

224. The DOJ Defendants had longstanding practices against allowing DHS to make arrests or take enforcement actions in immigration courts except in limited circumstances not present here. Most recently, this policy was codified in OPPM 23-01, which was rescinded by the EOIR Courthouse Arrest Memo (OPPM 25-06).

225. The EOIR Courthouse Arrest Memo is arbitrary and capricious. Among other things, the memo offers explanations “that run counter to the evidence before the agency,” entirely fails to consider important aspects of the problem, and includes reasoning that “is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *See Motor Vehicle Mfrs. Assn. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

226. The EOIR Courthouse Arrest Memo likewise ignores the “serious reliance

1 interests” that noncitizens, their loved ones, and witnesses have with respect to prior longstanding
 2 policies that prohibited arrests at immigration courts except in limited circumstances. *Regents*,
 3 591 U.S. at 30.

4 227. For these and other reasons, the EOIR Courthouse Arrest Memo is arbitrary and
 5 capricious and should be set aside.

6 **SECOND CLAIM FOR RELIEF**
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
(ICE Policies Authorizing Courthouse Arrests Are Arbitrary and Capricious)
By Plaintiffs Alvarado Ambrocio, Garcia, and Pablo Sequen, and the Putative Arrest Class
Against All DHS Defendants and Defendant United States of America

9 228. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs
 10 of this Complaint as if fully set forth herein.

11 229. DHS, including ICE, had longstanding policies against taking enforcement actions
 12 in immigration courts except in circumstances not present here. The ICE Interim Arrest Guidance
 13 and the Final ICE Arrest Memorandum reversing that policy constitute final agency action. *See*
 14 Memorandum 11072.3, *Interim Guidance: Civil Immigration Enforcement Actions in or near*
 15 *Courthouses*; Memorandum 11072.4, *Civil Immigration Enforcement Actions In or Near*
 16 *Courthouses*.

17 230. Both the ICE Interim Arrest Guidance and the Final ICE Arrest Memorandum are
 18 arbitrary and capricious. Among other things, the ICE Interim Arrest Guidance and the Final ICE
 19 Arrest Memorandum offer explanations that run counter to the evidence before the agency,
 20 entirely fail to consider important aspects of the problem, and provide reasoning that is so
 21 implausible that it could not be ascribed to a difference in view or the product of agency expertise.
 22 *State Farm*, 463 U.S. at 43.

23 231. The ICE Interim Arrest Guidance and the Final ICE Arrest Memorandum likewise
 24 ignore the “serious reliance interests” that noncitizens, their loved ones, and witnesses have with
 25 respect to prior longstanding policies that prohibited arrests at immigration courts except in
 26 limited circumstances. *See Regents*, 591 U.S. at 30.

27 232. For these and other reasons, the ICE Interim Arrest Guidance and the Final ICE
 28 Arrest Memorandum are arbitrary and capricious and should be set aside.

Claims Related to Conditions of Confinement

THIRD CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Due Process – Sleep Deprivation)

***By Plaintiffs Pablo Sequen, Hernandez-Torres, Garcia, and the Putative Detainee Class
Against All DHS Defendants***

233. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.

234. Defendants have a practice of detaining Plaintiffs and the putative class at 630 Sansome for extended periods of time.

235. The Due Process Clause of the Fifth Amendment protects civil detainees, like those in immigration detention, from being held under conditions that amount to punishment. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896).

236. Civil detainees have not been convicted and therefore have a higher level of protection afforded by both the Fifth Amendment and Fourteenth Amendment than convicted detainees.

237. Defendants have a constitutional obligation to provide for Plaintiffs' and the putative class members' health, safety, and well-being while in their custody. It is unconstitutional to subject civil detainees to punitive conditions of confinement that are worse than, or even equivalent to, those they would face in long-term immigration detention or criminal detention.

238. Plaintiffs and the putative class members are subjected to conditions at 630 Sansome that are inhumane and cause sleep deprivation.

239. The 630 Sansome hold rooms are neither designed for overnight detention nor equipped to detain human beings overnight. There are no beds in the 630 Sansome hold rooms—which are made entirely of metal—and detained people are forced to sleep on metal benches or directly on the floor. As a matter of policy and practice, Defendants do not provide mattress pads, blankets, pillows, or sheets to detained people.

240. Defendants' policy and practice is to keep the hold rooms extremely cold and to illuminate them around the clock.

241. Defendants' policies and practices—alone and in combination—cause sleep

1 deprivation and violate the Due Process Clause of the Fifth Amendment to the United States
2 Constitution.

3 242. The conditions faced by Plaintiffs and the putative class are substantially similar to,
4 or worse than, conditions that would be faced in criminal detention.

5 243. The conditions imposed by Defendants on Plaintiffs and the putative class are
6 excessive, more restrictive than necessary, and not rationally connected to any conceivable non-
7 punitive purpose.

8 244. Defendants' practices inflicted upon Plaintiff and the putative class members at 630
9 Sansome are excessively harsh in relation to any non-punitive or legitimate purpose. Moreover,
10 any non-punitive purpose could be accomplished through alternative methods consistent with the
11 constitutional rights of Plaintiff and the putative class.

12 245. Defendants' actions have caused and will continue to cause Plaintiffs and the
13 putative class to imminently suffer irreparable injury in the form of deprivation of their
14 fundamental rights, along with a range of physical, psychological, and emotional harms. If not
15 enjoined, Defendants will continue to cause these harms.

16 246. Plaintiffs and the putative Class members are entitled to injunctive relief to avoid
17 any further injury.

18
19 **FOURTH CLAIM FOR RELIEF**
20 **Violation of the Fifth Amendment to the United States Constitution**
21 **(Due Process – Deprivation of Adequate Medical Care)**
22 ***By Plaintiffs Pablo Sequen, Hernandez-Torres, Garcia, and the Putative Detainee Class***
23 ***Against All DHS Defendants***

24 247. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs
25 of this Complaint as if fully set forth herein.

26 248. Defendants have a practice of detaining Plaintiffs and the putative class at 630
27 Sansome for extended periods of time.

28 249. The Due Process Clause of the Fifth Amendment protects civil detainees, like those
in immigration detention, from being held under conditions that amount to punishment. *Wong*
Wing, 163 U.S. at 237.

1 250. Civil detainees have not been convicted and therefore have a higher level of
2 protection afforded by both the Fifth Amendment and Fourteenth Amendment than convicted
3 detainees.

4 251. Defendants have a constitutional obligation to provide for Plaintiffs' and the
5 putative class members' health, safety, and well-being while in their custody. It is unconstitutional
6 to subject civil detainees to punitive conditions of confinement that are worse than, or even
7 equivalent to, those they would face in long-term immigration detention or criminal detention.

8 252. Defendants deprive Plaintiffs and the putative class of access to adequate medical
9 care.

10 253. The 630 Sansome hold rooms are neither designed nor equipped to provide medical
11 care. There are no medical supplies or personnel onsite.

12 254. As a matter of policy and practice, Defendants do not conduct a medical intake or
13 use a medical questionnaire to identify the needs of people being detained in the hold rooms.
14 Defendants routinely fail to provide for the proper administration of prescription medications, and
15 they do not allow detained people to make arrangements to access their prescription medications
16 or keep medication with them.

17 255. As a matter of policy and practice, Defendants provide no system for detained
18 people to request medical assistance, and they do not identify detained people who are Limited
19 English Proficient ("LEP") who may need assistance or translation when requesting medical help.
20 In fact, it is Defendants' practice to ignore medical concerns unless they are posed in English.

21 256. The absence of adequate procedures to address detained people's medical needs is
22 hazardous to their health, and Defendants' policies and practices—alone and in combination—
23 violate the Due Process Clause of the Fifth Amendment to the United States Constitution.

24 257. The conditions faced by Plaintiffs and the putative class are substantially similar to,
25 or worse than, conditions that would be faced in long-term civil detention or criminal detention.

26 258. The conditions imposed by Defendants on Plaintiffs and the putative class are
27 excessive, more restrictive than necessary, and not rationally connected to any conceivable non-
28 punitive purpose.

259. Defendants' practices inflicted upon Plaintiff and the putative class members at 630 Sansome are excessively harsh in relation to any non-punitive or legitimate purpose. Moreover, any non-punitive purpose could be accomplished through alternative methods consistent with the constitutional rights of Plaintiff and the putative class.

260. Defendants' actions have caused and will continue to cause Plaintiffs and the putative class to imminently suffer irreparable injury in the form of deprivation of their fundamental rights, along with a range of physical, psychological, and emotional harms. If not enjoined, Defendants will continue to cause these harms.

261. Plaintiffs and the putative Class members are entitled to injunctive relief to avoid any further injury.

FIFTH CLAIM FOR RELIEF
Violation of the Fifth Amendment to the United States Constitution
(Due Process – Deprivation of Sanitary and Hygienic Conditions)
By Plaintiffs Pablo Sequen, Hernandez-Torres, Garcia, and the Putative Detainee Class
Against All DHS Defendants

262. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.

263. Defendants have a practice of detaining Plaintiffs and the putative class at 630 Sansome for extended periods of time.

264. The Due Process Clause of the Fifth Amendment protects civil detainees, like those in immigration detention, from being held under conditions that amount to punishment. *Wong Wing*, 163 U.S. at 237.

265. Civil detainees have not been convicted and therefore have a higher level of protection afforded by both the Fifth Amendment and Fourteenth Amendment than convicted detainees.

266. Defendants have a constitutional obligation to provide for Plaintiffs' and the putative class members' health, safety, and well-being while in their custody. It is unconstitutional to subject civil detainees to punitive conditions of confinement that are worse than, or even equivalent to, those they would face in long-term immigration detention or criminal detention.

1 267. Defendants have a practice of detaining Plaintiffs and the putative class members in
2 crowded, unsanitary conditions at 630 Sansome. In accordance with this practice, Defendants
3 overcrowd the hold rooms at 630 Sansome, leaving no way for detainees to properly distance
4 themselves from others show visible signs of illness—including coughing, sneezing, and
5 vomiting—in the harsh conditions of the hold rooms.

6 268. As a matter of policy and practice, Defendants do not provide detained people with
7 soap, sanitary wipes, feminine hygiene products, toothbrushes and toothpaste, a change of clothes,
8 or opportunities to bathe. As a result, detained people are kept in cramped and squalid conditions
9 for days with no opportunity to care for their personal hygiene.

10 269. As a matter of policy and practice, Defendants do not clean or disinfect hold rooms.
11 Detained people are forced to sleep on filthy floors or near the dirty toilet that has been used, and
12 will continue to be used, by the dozens of people who pass through the crowded hold rooms.

13 270. The conditions faced by Plaintiffs and the putative class are substantially similar to,
14 or worse than, conditions that would be faced in long-term civil detention or criminal detention.

15 271. The conditions imposed by Defendants on Plaintiffs and the putative class are
16 excessive, more restrictive than necessary, and not rationally connected to any conceivable non-
17 punitive purpose.

18 272. Defendants' practices inflicted upon Plaintiff and the putative class members at 630
19 Sansome are excessively harsh in relation to any non-punitive or legitimate purpose. Moreover,
20 any non-punitive purpose could be accomplished through alternative methods consistent with the
21 constitutional rights of Plaintiff and the putative class.

22 273. Defendants' policies and practices—alone and in combination—violate the Due
23 Process Clause of the Fifth Amendment to the United States Constitution.

24 274. Defendants' actions have caused and will continue to cause Plaintiffs and the
25 putative class to imminently suffer irreparable injury in the form of deprivation of their
26 fundamental rights, along with a range of physical, psychological, and emotional harms. If not
27 enjoined, Defendants will continue to cause these harms.

28 275. Plaintiffs and the putative Class members are entitled to injunctive relief to avoid

1 any further injury.

2 **SIXTH CLAIM FOR RELIEF**
 3 **Violation of the Administrative Procedure Act, 5 U.S.C. § 706**
 4 **(12-Hour Waiver Policy – Arbitrary & Capricious)**
 5 ***By Plaintiffs Pablo Sequen, Hernandez-Torres, Garcia, and the Putative Detainee Class***
 6 ***Against All DHS Defendants and Defendant United States of America***

7 276. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs
 8 of this Complaint as if fully set forth herein.

9 277. The APA, 5 U.S.C. § 706(2)(A), requires the Court to “hold unlawful and set aside
 10 agency action . . . found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in
 11 accordance with law.”

12 278. In 2014, ICE issued the Directive 11087.1, which limited “Hold Room” detention
 13 to no more than 12 hours, absent exception circumstances. A subsequent version of the policy,
 14 Directive 11087.2, maintained the 12-hour limit on detention and required that “Hold Rooms” be
 15 emptied at the end of each day.

16 279. On June 24, 2025, ICE issued the 12-Hour Waiver Memo policy, which waived the
 17 12-hour limit of Directive 11087.2 on a nationwide basis. The new policy was effective
 18 immediately on the date it was issued.

19 280. The 12-Hour Waiver Memo constitutes final agency action.

20 281. There is no rational connection between the overcrowding problems faced by ERO
 21 and the choice made by Defendants, among other alternatives, to extend and increase detention.

22 282. In issuing the 12-Hour Waiver Memo, Defendants overlooked important aspects of
 23 the problem posed by overcrowding and extended detention, including that such detention violates
 24 the PBNDS, and that “Hold Rooms” are not equipped for extended detention.

25 283. The 12-Hour Waiver Memo is arbitrary, capricious, and contrary to law in violation
 26 of the APA.

27 284. As a result of Defendants’ enforcement of the 12-Hour Waiver policy, Plaintiffs
 28 have languished in harsh and unsafe conditions at 630 Sansome for prolonged periods.

28 285. Plaintiffs Pablo Sequen and Hernandez-Torres each spent over 12 hours in custody
 at 630 Sansome, and Mr. Hernandez-Torres's detention is ongoing. Based on Defendants’ policy

1 and practice of holding detainees up to 72 hours in hold rooms, Plaintiff Garcia—who is also
 2 currently detained at 630 Sansome—faces significant and immediate risk of being held over 12
 3 hours in accordance with the 12 Hour Waiver Memo.

4 286. Plaintiffs and putative class members have suffered legal wrongs and have been
 5 adversely affected by ICE’s change in position and deviation from its own policy.

6 287. Defendants’ actions have caused Plaintiffs and the putative Class members
 7 irreparable injury in the form of deprivation of their fundamental rights and neglect of their
 8 physical safety and wellbeing. Plaintiffs have no adequate remedy at law.

9 288. If not enjoined, Defendants will continue to inflict their harms on the class.

10
 11 **SEVENTH CLAIM FOR RELIEF**
Violation of the First and Fifth Amendment to the United States Constitution; 8 U.S.C. §
1362; 8 U.S.C. § 1229a
(Access to Counsel)
By Plaintiffs Pablo Sequen, Hernandez-Torres, Garcia, and the Putative Detainee Class
Against All DHS Defendants

14 289. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs
 15 of this Complaint as if fully set forth herein.

16 290. Noncitizens in removal proceedings “shall have the privilege of being represented
 17 (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as
 18 he shall choose.” 8 U.S.C. § 1362; *see also* 8 U.S.C. § 1229a(b)(4)(A) (Immigration and
 19 Nationality Act providing the same).

20 291. The right to counsel is also rooted in the Constitution. “The right to counsel in
 21 immigration proceedings is rooted in the [Fifth Amendment’s] Due Process Clause.” *Biwot v.*
 22 *Gonzales*, 403 F.3d 1094, 1098 (9th Cir. 2005). Similarly, the “right to hire and consult an
 23 attorney is protected by the First Amendment’s guarantee of freedom of speech, association and
 24 petition.” *Mothershed v. Justs. of Supreme Ct.*, 410 F.3d 602, 611 (9th Cir. 2005) (citation
 25 omitted).

26 292. By and through Defendants’ ongoing violations of and departures from their own
 27 policies, ICE is engaged in conduct that deprives the Plaintiffs and the putative class members of
 28 effective access to counsel, in violation of the First and Fifth Amendments and federal law.

293. Defendants’ actions are causing Plaintiffs and the putative class members irreparable injury in the form of deprivation of their fundamental rights, and if not enjoined, Defendants will continue to cause such harm.

Claims Related to Petition for Writ of Habeas Corpus

EIGHTH CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

By Plaintiffs Pablo Sequen, Alvarado Ambrocio, and Garcia (Habeas Petitioners) Against Defendants-Respondents Albarran, Lyons, Noem, and Bondi

294. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.

295. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

296. Immigration detention is constitutionally permissible only when it furthers the government’s legitimate goals of ensuring the noncitizen’s appearance during removal proceedings and preventing danger to the community. *See id.*

297. Plaintiffs are not a flight risk or danger to the community. Respondents’ detention of Plaintiffs is therefore unjustified and unlawful. Accordingly, Plaintiffs are—or are at risk of—being detained in violation of the Due Process Clause of the Fifth Amendment.

298. Moreover, Plaintiffs’ detention is punitive as it bears no “reasonable relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose of detention appears to be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

NINTH CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention)

By Plaintiffs Pablo Sequen, Alvarado Ambrocio, and Garcia (Habeas Petitioners) Against Defendants-Respondents Albarran, Lyons, Noem, and Bondi

299. Plaintiffs repeat and re-allege the allegations contained in all preceding paragraphs of this Complaint as if fully set forth herein.

300. As part of the liberty protected by the Due Process Clause, Plaintiffs have a weighty liberty interest in avoiding re-incarceration after their initial release from DHS custody. *See Young*, 520 U.S. at 146–47; *Gagnon*, 411 U.S. at 781–82; *Morrissey*, 408 U.S. at 482–83; *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ’s bond determination).

301. Accordingly, “[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government’s asserted justification for physical confinement outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property.”) (emphasis in original). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785-786 (9th Cir. 2024).

302. Re-detention without a pre-deprivation hearing violates due process. Respondents seek to re-detain Plaintiffs with no notice after their prior release, with no explanation of the justification of their re-detention, and no opportunity to contest their re-detention before a neutral adjudicator before being taken into custody.

303. Plaintiffs have a profound personal interest in their liberty. Because they received no procedural protections, the risk of erroneous deprivation is high, and the government has no legitimate interest in detaining them without a hearing. Bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Plaintiffs’ records suggests that they would

1 abscond or endanger the community before a bond hearing could be carried out. *See, e.g., Jorge*
 2 *M.F. v. Wilkinson*, No. 21-cv-01434-JST, 2021 WL 783561, at *3 (N.D. Cal. Mar. 1, 2021);
 3 *Vargas v. Jennings*, No. 20-cv-5785-PJH, 2020 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020)
 4 (“the government’s concern that delay in scheduling a hearing could exacerbate flight risk or
 5 danger is unsubstantiated in light of petitioner’s strong family ties and his continued employment
 6 during the pandemic as an essential agricultural worker”).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs request that the Court grant the following relief:

- 9 1. Assume jurisdiction over this matter;
- 10 2. Declare that this action as a class action pursuant to Federal Rules of Civil
 11 Procedure 23 and certify the proposed classes;
- 12 3. Appoint undersigned counsel as Class Counsel;
- 13 4. Declare that the EOIR Courthouse Arrest Memo is arbitrary and capricious and is
 14 set aside;
- 15 5. Declare that the ICE Interim Arrest Guidance and the Final ICE Arrest
 16 Memorandum are arbitrary and capricious and are set aside;
- 17 6. Declare that Defendants’ policies and practices violate the Fifth Amendment due
 18 process rights of Plaintiffs and the putative Class members to be free from punitive conditions of
 19 confinement;
- 20 7. Declare that Defendants’ policy and practice violate the First and Fifth Amendment
 21 rights of Plaintiffs and the putative Class members to retain, consult, and communicate with
 22 counsel;
- 23 8. Enjoin Defendants, their agents, employees, and officials from subjecting Plaintiffs,
 24 and the putative Class members, to the illegal and unconstitutional conditions, acts, omissions,
 25 policies, and practices set forth above;
- 26 9. Issue a writ of habeas corpus ordering Respondents to immediately release the
 27 Habeas Petitioners from custody;
- 28 10. Declare that the Habeas Petitioners’ arrest and detention violate the Due Process

1 Clause of the Fifth Amendment;

2 11. Enjoin Respondents from transferring the Habeas Petitioners outside this District or
3 deporting the Habeas Petitioners pending these proceedings;

4 12. Enjoin Respondents from re-detaining the Habeas Petitioners unless their re-
5 detention is ordered at a custody hearing before a neutral arbiter in which the government bears
6 the burden of proving, by clear and convincing evidence, that they are a flight risk or danger to the
7 community;

8 13. Award Plaintiffs all costs incurred in maintaining this action, including reasonable
9 attorneys' fees under the Equal Access to Justice Act, as amended, 5 U.S.C. § 504, and on any
10 other basis justified by law; and

11 14. Grant any other further relief this Court deems just and proper.
12

13 DATED: September 18, 2025

LAWYERS' COMMITTEE FOR CIVIL RIGHTS OF THE
SAN FRANCISCO BAY AREA

14
15
16 By: /s/ Marissa Hatton

MARISSA HATTON

17 ANDREW NTIM

18 VICTORIA PETTY

JORDAN WELLS

19 NISHA KASHYAP

Attorneys for Plaintiff-Petitioners
20

21 DATED: September 18, 2025

CARECEN SF

22
23
24 By: /s/ Laura Victoria Sanchez

LAURA VICTORIA SANCHEZ

25 Attorneys for Plaintiff-Petitioners
26
27
28

1 DATED: September 18, 2025

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF NORTHERN CALIFORNIA

2
3
4 By: /s/ Neil K. Sawhney
NEIL K. SAWHNEY
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8 DATED: September 18, 2025

COBLENTZ PATCH DUFFY & BASS LLP

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