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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

UNITED FARM WORKERS, et al.,

Plaintiffs,

v.

KRISTI NOEM, IN HER OFFICIAL
CAPACITY AS SECRETARY OF THE
DEPARTMENT OF HOMELAND
SECURITY; et al.,

Defendants.

Case No. 1:25-cv-00246-JLT-BAM

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

Date: April 11, 2025
Time: 9:00 a.m.
Dept.: Courtroom 4, 7th Floor
Judge: Hon. Jennifer L. Thurston

Date Filed: February 26, 2025

Trial Date: None set

NOTICE OF MOTION AND MOTION**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

PLEASE TAKE NOTICE that on April 11, 2025, at 9:00 a.m., or as soon as this matter may be heard, in the Courtroom of the Honorable Jennifer L. Thurston at Robert E. Coyle United States Courthouse, 2500 Tulare Street, Fresno, California 93721, Plaintiffs Oscar Morales Cisneros, Wilder Munguia Esquivel, and Yolanda Aguilera Martinez (collectively, “the Individual Plaintiffs”)¹ hereby move this Court to provisionally certify two proposed classes defined fully herein. Individual Plaintiffs request provisional certification under Federal Rule of Civil Procedure 23(a) and (b)(2) to seek class-wide preliminary injunctive relief. Additionally, Individual Plaintiffs ask the Court to appoint the American Civil Liberties Union Foundation of Northern California, the American Civil Liberties Union Foundation of Southern California, the American Civil Liberties Union Foundation of San Diego and Imperial Counties, and Kecker, Van Nest & Peters LLP as provisional class counsel under Rule 23(g).

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the supporting Declarations of Bree Bernwanger and Ajay S. Krishnan, and the Proposed Order filed herewith, the papers, evidence, and records on file in this action, and any other written or oral evidence or argument as may be presented at or before the time this motion is heard by the Court. This motion is also supported by the Complaint (Dkt. No. 1) as well as the Plaintiffs’ Motion for Preliminary Injunction (“PI Motion”) and the supporting declarations filed contemporaneously.

Pursuant to this Court’s Standing Order, counsel for Plaintiffs and Defendants met and conferred on March 6, 2025, in advance of filing this motion. During the meet and confer, Plaintiffs’ counsel informed Defendants’ counsel that they would be moving for a preliminary injunction and to certify a provisional class, and the bases for those motions. Plaintiffs’ counsel offered to answer any questions Defendants had concerning the motion, and after the parties discussed the motions and their bases, they agreed they would be unable to resolve the dispute

¹ Plaintiffs United Farm Workers, Juan Vargas Mendez, and Maria Guadalupe Hernandez Espinoza do not seek to represent any class.

1 before the filing of the motion. Plaintiffs thus certify that meet and confer efforts have been
2 exhausted in advance of filing the motion. Plaintiffs respectfully now move for a preliminary
3 injunction and provisional class certification.

4 Respectfully submitted,

5 Dated: March 7, 2025

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CALIFORNIA

8 By: /s/ Bree Bernwanger
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MICHELLE (MINJU) Y. CHO
LAUREN DAVIS
SHILPI AGARWAL

13 Dated: March 7, 2025

By: AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF SOUTHERN
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MAYRA JOACHIN
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20 Dated: March 7, 2025

By: AMERICAN CIVIL LIBERTIES UNION
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EASTERN DISTRICT OF CALIFORNIA
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Plaintiffs,

v.

KRISTI NOEM, et al.,

Defendants.

Case No. 1:25-cv-00246-JLT-BAM

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL CLASS
CERTIFICATION**

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This action arises from a nearly weeklong campaign during which Border Patrol agents from the El Centro Sector traveled hundreds of miles to Kern County and the surrounding area to target community members for suspicionless stops and warrantless arrests. Border Patrol broadly assumed that Latinos and other people of color whom they encountered lacked legal status to be in the United States, in some cases sweeping up U.S. citizens and lawful permanent residents for arrest and detention with no valid basis. Border Patrol bulldozed over people's rights in a blatant effort to round them up and quickly expel them from the U.S. without due process.

Plaintiffs seek to provisionally certify two classes to challenge the legality of Border Patrol's discriminatory and unlawful campaign against people of color in Kern County. The classes, respectively, seek to resolve these two issues of common fact and law: *First*: Does Border Patrol's practice of conducting roving immigration stops, without regard to whether there is reasonable suspicion that the person stopped is unlawfully in the United States, violate the U.S. Constitution? *Second*: Does Border Patrol's practice of conducting warrantless arrests, without assessing the flight risk that the arrestee poses, violate federal law?

Binding legal standards—the U.S. Constitution, federal statutes, and regulations—constrain how Border Patrol agents enforce immigration laws. *See, e.g.*, 8 U.S.C. § 1357(a)(2); 8 C.F.R. §§ 287.5(c), 287.8(b)(2); *United States v. Brignoni-Ponce*, 422 U.S. 873, 882–83 (1975) (holding Fourth Amendment prohibits Border Patrol from stopping private vehicles near the border absent reasonable suspicion that someone in the vehicle is unlawfully in the United States); *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019) (holding regulations governing seizures by immigration agents, including Border Patrol, are “at least as stringent as those imposed by the Fourth Amendment”).

But Border Patrol flouted these laws, and insists it will do so again, thus posing both current and imminent risks to Plaintiffs and putative class members throughout this District. Classwide injunctive relief is necessary to protect their rights. This motion seeks to provisionally certify the relevant classes, while a contemporaneously filed motion sets forth the basis for

1 issuing the necessary preliminary injunction. *See* Plaintiffs’ Mot. for Preliminary Injunction (“PI
2 Motion”).

3 Plaintiffs seek provisional certification of two classes (together, “the Proposed Classes”):

- 4 1. **Suspicionless Stop Class:** All persons who, since January 6, 2025, have been or
5 will be subjected to a detentive stop by Border Patrol in this district pursuant to a
6 practice of conducting stops without warrants and without an individualized
7 assessment of reasonable suspicion whether the person (1) is engaged in an offense
8 against the United States or (2) is a noncitizen unlawfully in the United States.
- 9 2. **Warrantless Arrest Class:** All persons whom Border Patrol, since January 6,
10 2025, has arrested or will arrest without a warrant in this district.

11 Plaintiffs propose three class representatives—Oscar Morales Cisneros, Wilder Munguia
12 Esquivel, and Yolanda Aguilera Martinez (collectively, “Individual Plaintiffs”)—who each seek
13 to represent both the Suspicionless Stop Class and the Warrantless Arrest Class. Each proposed
14 class representative shares the same injuries, and seeks the same relief, as absent class members
15 in each class.

16 The Proposed Classes meet the requirements of Federal Rules of Civil Procedure
17 23(a)(1)–(4) and 23(b)(2). *First*, each class is sufficiently numerous that joinder would be
18 impracticable. Even counting conservatively, the Proposed Classes comprise at least dozens of
19 individuals each, and likely hundreds. *Second*, all class members in each Proposed Class are
20 bound together by common questions of fact and law focused on the nature of Border Patrol’s
21 policies or practices and whether those policies or practices are unlawful. *Third* and *fourth*, the
22 proposed class representatives for each class are proper because their claims are typical of
23 unnamed class members, and because the proposed class representatives and proposed class
24 counsel will adequately represent the class. *Finally*, Defendants have acted and, absent relief, will
25 continue to act on grounds that are generally applicable to each Proposed Class as a whole by
26 carrying out policies that violate putative class members’ rights, and failing to maintain policies
27 that ensure Border Patrol’s compliance with federal laws that protect those rights.

28 Additionally, courts have previously provisionally certified classes exactly like the
Proposed Classes in prior cases involving unlawful detention and arrest. *See, e.g., Gonzalez v.*
ICE, 975 F.3d 788, 812 (9th Cir. 2020) (upholding certification of class subjected to immigration

1 detainers based on ICE’s unlawful practice of making probable cause determinations based on
 2 “only a check of an online database”); *Kidd v. Mayorkas*, 343 F.R.D. 428, 443 (C.D. Cal. 2023)
 3 (certifying classes where ICE conducted or would in the future conduct warrantless civil
 4 immigration enforcement operations); *N.S. v. Hughes*, 335 F.R.D. 337, 352, 355-56 (D.D.C.
 5 2020), *as modified in N.S. Dixon*, No. 1:20-cv-101-RCL, 2020 WL 6701076, at *4 (D.D.C. Nov.
 6 13, 2020) (provisionally certifying a class and preliminarily enjoining the U.S. Marshalls from
 7 “arresting and detaining people for suspected civil immigration violations”); *Ortega-Melendres v.*
 8 *Arpaio*, 836 F.Supp.2d 959, 992 (D. Ariz. 2011) (certifying a class of “[a]ll Latino persons who
 9 . . . have been or will be in the future, stopped, detained, questioned or searched” unlawfully).

10 Individual Plaintiffs seek urgent preliminary relief on a classwide basis because Border
 11 Patrol has openly proclaimed that it plans to replicate its unlawful policies and practices
 12 throughout California imminently, posing a grave and immediate threat to all putative class
 13 members. Accordingly, and for the reasons further set forth below, Individual Plaintiffs
 14 respectfully request that the Court certify the Proposed Classes under Rules 23(a) and (b)(2).

15 **II. BACKGROUND**

16 **A. Border Patrol’s Pattern or Practice of Stopping and Arresting People** 17 **Indiscriminately and Without Valid Basis Is Unlawful**

18 As set forth in the Complaint, in January 2025, Border Patrol sent shockwaves of terror
 19 across the Central Valley when it launched “Operation Return to Sender,” a nearly weeklong
 20 sweep through predominantly Latino areas of Kern County and the surrounding region. *See*
 21 Dkt. 1 ¶¶ 1-14, 47-245; PI Motion, at 3-6. Border Patrol agents conducted roving immigration
 22 stops, targeting Latino neighborhoods, farm roads in agricultural areas, and businesses that serve
 23 farmworkers and day laborers. *See id.* ¶¶ 2, 5-7, 234-36, 251-52. They detained members of the
 24 public based on their apparent race, ethnicity, or occupation, whether or not the agents had
 25 reasonable suspicion the person was unlawfully present in the United States. *See id.*

26 Border Patrol agents escalated these suspicionless stops to warrantless arrests, without an
 27 individualized determination that the arrestee posed a flight risk. Border Patrol sent busloads of
 28 arrestees hundreds of miles south to the El Centro Border Patrol Station and held them there for

1 days in freezing rooms without the ability to call their loved ones or a lawyer; and without beds,
 2 bedding, or basic hygiene items like toothbrushes. *See id.* ¶¶ 58-59, 80, 115-117, 142-145. At the
 3 detention center, immigration agents used deception and intimidation to extract “voluntary
 4 departure” agreements from the people they had arrested, to trick them into waiving their legal
 5 rights unknowingly and involuntarily, and to expel them to Mexico as quickly as possible. *See id.*
 6 ¶¶ 4, 9-11, 58-64, 117-25, 145-62, 173-80, 242-245.

7 Border Patrol’s operation deeply harmed putative class members and terrified community
 8 members who feared they, too, might be abruptly separated from their homes, livelihoods, and
 9 families. It was also unlawful.

10 ***First***, the Fourth Amendment and federal regulations prohibit Border Patrol agents from
 11 stopping people to question them about their immigration status without “reasonable suspicion,
 12 based on specific, articulable facts,” that the individual “is, or is attempting to be, engaged in an
 13 offense against the United States or is [a noncitizen] illegally in the United States.” 8 C.F.R.
 14 § 287.8(b)(2); *see Brignoni-Ponce*, 422 U.S. at 882–83. But during its January operation, Border
 15 Patrol stopped individuals without the required reasonable suspicion. *See* PI Motion at 10-13. For
 16 example, when Individual Plaintiff Oscar Morales Cisneros was trying to back out of a parking
 17 spot on his way home after work, Border Patrol deliberately blocked his car from behind and
 18 interrogated him about his immigration status. *See* Decl. of Oscar Morales Cisneros ISO PI
 19 Motion (“Morales Cisneros Decl.”) ¶¶ 4–6. Border Patrol stopped Mr. Morales Cisneros before
 20 ever speaking to him, and without a warrant. Before stopping him, the only facts they knew about
 21 Mr. Morales Cisneros were the vehicle he drives and that he appears to be Latino. This falls short
 22 of the “specific, articulable facts” required to form reasonable suspicion under 8 C.F.R.
 23 § 287.8(b)(2) or the Fourth Amendment. *See Brignoni-Ponce*, 422 U.S. at 885–86 (driver or
 24 passenger’s perceived ethnicity or national origin, based on their physical characteristics, cannot
 25 justify a vehicle stop); *United States v. Rodriguez*, 976 F.2d 592, 596 (9th Cir. 1992), *as amended*
 26 *on denial of reh’g*, 997 F.2d 1306 (9th Cir. 1993) (the type of vehicle a person is driving cannot,
 27 without more, create reasonable suspicion). As described in the PI Motion, Border Patrol
 28 repeatedly stopped residents of Kern County and the surrounding area without reasonable

1 suspicion, including: Plaintiffs Munguia Esquivel, Aguilera Martinez, Juan Vargas Mendez, and
 2 Maria Guadalupe Hernandez Espinoza as well as Mr. Jesus Ramirez, Mr. Ernesto Campos
 3 Gutierrez, Mr. Luis Perez Cruz, and United Farm Workers (“UFW”) members “Alicia,”
 4 “Benjamin,” and “Carlos.” *See* PI Motion at 10-13.

5 ***Second***, federal law prohibits immigration agents from effecting warrantless arrests unless
 6 they have “reason to believe” *both* that (a) the person “is in the United States in violation of any
 7 [immigration] law or regulation,” *and* that (b) the person “is likely to escape before a warrant can
 8 be obtained for his arrest.” 8 U.S.C. § 1357(a)(2); *see also* 8 C.F.R. § 287.8(c)(2)(i)–(ii)
 9 (articulating identical standard). But when Border Patrol agents performed warrantless arrests,
 10 they did not ask questions that would have allowed them to assess the statute’s second prong,
 11 likelihood of escape. *See* 8 U.S.C. § 1357(a)(2). For example, when a Border Patrol agent arrested
 12 Individual Plaintiff Wilder Munguia Esquivel, the agent did not ask any questions that would
 13 have allowed him to learn that Mr. Munguia Esquivel has a pending family-based immigration
 14 petition, and that he has lived in the same home—which his brother owns—for the last dozen
 15 years. *See* Decl. of Wilder Munguia Esquivel ISO PI Motion (“Munguia Esquivel Decl.”) ¶¶ 2, 6,
 16 8. Without asking such questions, Border Patrol could not have reached a reasoned decision that
 17 Mr. Munguia Esquivel was likely to escape before a warrant could be obtained, as the law
 18 requires prior to a warrantless arrest. Likewise, when Border Patrol arrested Individual Plaintiff
 19 Yolanda Aguilera Martinez, the agents did not ask her any questions that would have allowed
 20 them to learn that she had lived in Kern County for almost 45 years and had been a lawful
 21 permanent resident for 35 years or more. *See* Decl. of Yolanda Aguilera Martinez ISO PI Motion
 22 (“Aguilera Martinez Decl.”) ¶¶ 2, 3, 7, 8. Had they asked Ms. Aguilera Martinez such questions,
 23 it would have become patently obvious that any contention that she was a flight risk was absurd.
 24 Border Patrol’s arrests of Individual Plaintiffs Morales Cisneros, Vargas Mendez, and Hernandez
 25 Espinoza as well as Mr. Ramirez, Mr. Campos Gutierrez, Mr. Perez Cruz, and UFW members
 26 “Alicia,” “Benjamin,” and “Carlos” were similarly without reasonable suspicion. *See* PI Motion
 27 at 17-19.

28 As these accounts show, Border Patrol consistently disregarded whether reasonable

suspicion existed for conducting a stop and similarly failed to assess flight risk when effecting a warrantless arrest, in blatant violation of the Fourth Amendment, 8 U.S.C. § 1357(a)(2), and 8 C.F.R. §§ 287.8(b)–(c). Border Patrol’s illegal policies, practices, and patterns caused anguish, fear, physical suffering, and trauma among putative class members. It also resulted in the unlawful summary expulsion from the United States of approximately 40 people, if not more, who were expelled without a chance to say goodbye to their families, including children; collect any of their belongings left behind in Kern County; or otherwise put their affairs in order. *See* Dkt. 1 ¶ 322; *see e.g.*, Decl. of Juan Vargas Mendez ISO PI Motion ¶¶ 19–22 (20-year resident of Kern County expelled to Mexico, leaving behind American wife and four American children); Decl. of Maria Guadalupe Hernandez Espinoza ISO PI Motion ¶¶ 20–23 (10-year resident of Kern County expelled to Mexico, leaving behind partner, children, and grandchild).

Moreover, Border Patrol *lacks* a policy to ensure its agents comply with the Constitution and federal law when conducting stops and arrests. Border Patrol’s parent agency, Customs and Border Protection (“CBP”), has promulgated little to no guidance to its agents about what constitutes reasonable suspicion for a stop, or about how to assess flight risk before performing a warrantless arrest. Recently, CBP’s sister agency, Immigration and Customs Enforcement (“ICE”) entered into a settlement where it acknowledged that its agents must, to comply with 8 U.S.C. § 1357(a)(2), evaluate a person’s likelihood of escape before making a warrantless arrest, and document the particularized facts and circumstances surrounding the warrantless arrest in the person’s immigration file. *See* Appendix A: Broadcast Statement of Policy, *Castanon Nava v. DHS*, No. 1:18-cv-03757 (N.D. Ill., Feb. 7, 2022), ECF No. 155-1. While Border Patrol agents are equally bound by § 1357(a)(2), neither Border Patrol nor CBP has promulgated any similar policy to ensure compliance with the statute, the Constitution, or federal regulations.

B. Classwide Relief Is Appropriate Because Border Patrol Has Harmed And Will Continue Harming Proposed Class Members By Conducting Suspicionless Stops and Warrantless Arrests Throughout the Central Valley

Classwide relief is necessary to protect the rights of the Proposed Class Members, who have been, or will be, subjected to Border Patrol’s illegal practices of conducting stops without reasonable suspicion of unlawful presence in the country and arrests without assessment of flight

1 risk. Border Patrol’s unlawful practices pose a threat to the rights of *all* people it encounters
 2 during such immigration raids, regardless of immigration status: citizens, lawful permanent
 3 residents, people with temporary authorization, and undocumented individuals alike. This means
 4 *all* class members are at risk of being harmed by the same unlawful policies, practices, and/or
 5 patterns; and *all* class members require relief.

6 Border Patrol has boldly proclaimed it will conduct further immigration sweeps
 7 throughout California—especially around the Central Valley—using the unlawful policies or
 8 practices that comprised “Operation Return to Sender.” *See* PI Motion at 6-7, 13, 22-23; *see* Decl.
 9 of Reagan E. Braun ISO Plaintiffs’ Mot. for Preliminary Injunction (“Braun Decl.”), Exs. 1-14.
 10 In the aftermath of Border Patrol’s sweeps in and around Kern County, the Chief of the El Centro
 11 Sector, which conducted “Operation Return to Sender,” repeatedly declared on social media that
 12 similar operations were imminent, could again stretch well beyond the border, and would again
 13 *not* be narrow or targeted. *See id.* A representative sample of statements from the U.S. Border
 14 Patrol El Centro Sector social media posts include:

- 15 • “You bet!” in response to a comment about “return to sender round 2.” Ex. 1.
- 16 • “We plan on coming back [to Bakersfield]!” in response to a comment stating,
 17 “Here in Bakersfield you guys forgot to raid some people.” Braun Decl., Ex. 3.
- 18 • “[W]e will try and catch even more [people] next time.” Braun Decl., Ex. 4.
- 19 • “[E]very U.S. city [is] a border town.” Braun Decl., Ex. 7.
- 20 • “Bakersfield is now a dyed in the wool border town.” Braun Decl., Ex. 9.
- 21 • “We are planning operations for other locals (sic) such as Fresno and especially
 22 Sacramento.” Braun Decl., Ex. 10.
- 23 • “More to come on this. Much more.” Braun Decl., Ex. 12.

24 As explained below, provisional certification of the Proposed Classes is necessary to
 25 protect all putative class members from further violations of their legal rights.

III. LEGAL STANDARD

“Courts in the Ninth Circuit routinely grant provisional class certification for purposes of entering injunctive relief.” *Maney v. Brown*, 516 F.Supp.3d 1161, 1171 (D. Or. 2021) (quotations omitted); *see Wilson v. Mercado*, No. 1:22-cv-00278-ADA-SAB, 2022 WL 5235404 at *1 (E.D. Cal. 2022) (collecting cases).¹ Plaintiffs seeking provisional class certification must satisfy the requirements of Federal Rule of Civil Procedure 23. *See id.* Under Federal Rule of Civil Procedure 23, the party moving for class certification must meet each of the four requirements of Rule 23(a) ((1) numerosity, (2) commonality, (3) typicality, and (4) adequacy of representation) and at least one subsection of Rule 23(b). Fed. R. Civ. Proc. 23.

Although the Court’s analysis under Rule 23 “may entail some overlap with the merits of the plaintiff’s underlying claim,” “Rule 23 grants courts no license to engage in free-ranging merits inquiries at the certification stage.” *Amgen Inc. v. Conn. Retirement Plans & Trust Funds*, 568 U.S. 455, 465–66 (2013) (quoting *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011) (internal quotation marks omitted)). “Merits questions may be considered to the extent—but only to the extent—that they are relevant to determining whether Rule 23 prerequisites for class certification are satisfied.” *Id.* at 466. “In resolving a dispute about whether class certification is proper, the district court may consider material beyond the pleadings.” *Maney*, 516 F.Supp.3d at 1172 (citation omitted).

¹ *See, e.g., Doe #1 v. Trump*, 957 F.3d 1050, 1069 (9th Cir. 2020) (denying motion to stay district court’s grant of nationwide preliminary injunction on behalf of a provisionally certified nationwide class); *Al Otro Lado v. Wolf*, 952 F.3d 999, 1005 n. 4 (9th Cir. 2020) (noting Ninth Circuit has “approved provisional class certification for purposes of preliminary injunction proceedings”); *Hernandez Roman v. Wolf*, 829 F. App’x 165, 173 (9th Cir. 2020) (holding “district court did not err by provisionally certifying a class” of detained noncitizens); *Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d 1036, 1041 (9th Cir. 2012) (finding district court did not abuse its discretion by provisionally certifying class for purpose of entering preliminary injunction); *see also, e.g., Criswell v. Boudreaux*, No. 1:20-cv-01048-DAD-SAB, 2020 WL 5235675, at *12 (E.D. Cal. Sept. 2, 2020) (provisionally certifying class of people incarcerated in Tulare County jails); *Cath. Soc. Servs., Inc. v. Ashcroft*, 206 F.R.D. 654, 658 (E.D. Cal. 2002) (describing court had previously granted provisional class certification for noncitizens challenging policies of federal immigration agency for purposes of granting preliminary injunctive relief, which Ninth Circuit affirmed); *Kaiser v. Cnty. of Sacramento*, 780 F. Supp. 1309, 1312 (E.D. Cal. 1991) (describing court’s previous grant of provisional class certification for purposes of granting preliminary injunctive relief).

IV. ARGUMENT

Plaintiffs easily meet the Rule 23(a) and Rule 23(b)(2) requirements. Individual Plaintiffs and unnamed class members require a mandatory and uniform answer to their merits question: whether Border Patrol's stop and arrest policies or practices violate the constitution and federal law. Without class treatment, judicial efficiency will suffer, potentially meritorious claims will go unaddressed, and potentially inconsistent decisions will sow confusion.

A. The Proposed Classes meet the requirements of Rule 23(a).

Rule 23(a) requires plaintiffs to show that (1) the class is so numerous that joinder of all members is impracticable, (2) questions of law or fact exist that are common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a). Individual Plaintiffs' Proposed Classes satisfy each of these requirements.

1. Numerosity

Under Rule 23(a)(1), a class may be certified if it is "so numerous that joinder of all members is impracticable." Fed. R. Civ. P. 23(a)(1). Although "[t]here is no absolute minimum number of plaintiffs necessary to demonstrate that the putative class is so numerous so as to render joinder impracticable[,] . . . [j]oinder has been deemed impracticable in cases involving as few as 25 class members." *Gilbert v. MoneyMutual, LLC*, 318 F.R.D. 614, 621 (N.D. Cal. 2016) (alterations in original) (internal quotation marks omitted); *see also Villalpando v. Exel Direct Inc.*, 303 F.R.D. 588, 605–06 (N.D. Cal. 2014) (noting courts "routinely" find numerosity where class comprises 40 or more members). Plaintiffs need only "show some evidence of or reasonably estimate the number of class members." *Kincaid v. City of Fresno*, 244 F.R.D. 597, 601 (E.D. Cal. 2007) (internal quotation marks omitted). Additionally, where only declaratory or injunctive relief is sought, "the numerosity requirement is relaxed and plaintiffs may rely on [] reasonable inference[s] arising from plaintiffs' other evidence that the number of unknown and future members" makes joinder impracticable. *C.R. Educ. & Enf't Ctr. v. Hosp. Props. Tr.*, 317 F.R.D. 91, 100 (N.D. Cal. 2016) (alterations in original) (internal quotation marks omitted) (citing *Sueoka v. United States*, 101 F. App'x 649, 653 (9th Cir. 2004)).

Here, the numerosity requirement is easily met. Each Proposed Class is currently comprised of *at least* dozens of people. Border Patrol claims its agents arrested 78 people in Kern or Tulare counties between January 7 and 10, 2025. Braun Decl., Exs., 17, 18, 22. Other local reports estimate the number of arrested individuals may have been higher. *See* Dkt. 1 ¶¶ 4, 322. Even if Border Patrol’s number is correct, the Warrantless Arrest Class is currently comprised of approximately 78 people, and the Suspicionless Stops Class is even larger, as not all suspicionless stops were escalated to arrests. *See, e.g.,* Morales Cisneros Decl. ¶ 7 (describing stop of vehicle whose passengers were not arrested). Thus, each Proposed Class is so numerous that joinder of the individuals in each class is impracticable.

Indeed, these estimates understate the size of the Proposed Classes. The Classes consist of numerous *future* class members who will be subjected to the challenged practices or patterns. When a “class’s membership changes continually over time, that factor weighs in favor of concluding that joinder of all members is impracticable.” *A.B. v. Haw. State Dep’t of Educ.*, 30 F.4th 828, 838 (9th Cir. 2022); *see also J.D. v. Azar*, 925 F.3d 1291, 1322 (D.C. Cir. 2019) (observing “classes including future claimants generally meet the numerosity requirement due to the impracticability of counting such members, much less joining them”) (internal quotation marks omitted); *Rivera v. Holder*, 307 F.R.D. 539, 550 (W.D. Wash. 2015) (holding a class of 40 noncitizens was sufficiently numerous, “especially given the transient nature of the class and the inclusion of future class members”); *cf. Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 370 (C.D. Cal. 1982) (“Where the exact size of the class is unknown but general knowledge and common sense indicate that it is large, the numerosity requirement is satisfied.”).

Accordingly, the Proposed Classes meet the numerosity requirement of Rule 23(a)(1).

2. Commonality

Rule 23(a)(2) requires that “there are questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). Plaintiffs’ claims “must depend upon a common contention.” *Wal-Mart Stores*, 564 U.S. at 350. A contention is common where “it is capable of classwide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* “Even a single common question” will

1 satisfy Rule 23(a)(2). *Id.* at 359 (cleaned up); *see Ellis v. Costco Wholesale Corp.*, 657 F.3d 970,
 2 981 (9th Cir. 2011) (construing Rule 23(a)(2) requirements “permissively”). Indeed, “[a]ll
 3 questions of fact and law need not be common to satisfy the commonality requirement. The
 4 existence of shared legal issues with divergent factual predicates is sufficient.” *Gonzalez*, 975
 5 F.3d at 807 (internal quotation marks and alterations omitted). “Thus, ‘[w]here the circumstances
 6 of each particular class member vary but retain a common core of factual or legal issues with the
 7 rest of the class, commonality exists.’” *Parsons v. Ryan*, 754 F.3d 657, 675 (9th Cir. 2014).

8 In the Ninth Circuit, commonality is satisfied where, as here, Plaintiffs are “challeng[ing]
 9 a system-wide practice or policy that affects all of the putative class members.” *Armstrong v.*
 10 *Davis*, 275 F.3d 849, 868 (9th Cir. 2001), *abrogated on other grounds by Johnson v. California*,
 11 543 U.S. 499, 504–05 (2005); *see also* 7A Wright, Miller & Kane, Fed. Practice & Proc. § 1763,
 12 at 226 (3d ed. 2005) (“[C]lass suits for injunctive or declaratory relief by their very nature often
 13 present common questions satisfying Rule 23(a)(2).”).² In particular, the Ninth Circuit has held
 14 that “Fourth Amendment claims concerning government policies, practices or procedures for
 15 probable cause determinations are plainly suitable for classwide resolution.” *Gonzalez*, 975 F.3d
 16 at 809. This logic applies with equal force to reasonable suspicion determinations, which are also
 17 governed by the Fourth Amendment.

18 Here, the Proposed Classes satisfy the commonality requirements, because they present
 19 common questions of law and fact for all class members. In particular, each class member has, or
 20 will be, subjected to the same practices that Border Patrol employs, which has affected each class

21
 22 ² *See, e.g., Gonzalez*, 975 F.3d at 807–09 (affirming finding that commonality requirement was
 23 met where plaintiffs alleged the government had an unlawful policy and practice of basing
 24 probable cause determinations on “only a check of an online database”); *Cruz v. MM 879, Inc.*,
 25 329 F.R.D. 639, 645–46 (E.D. Cal. 2019) (finding commonality requirement satisfied where
 26 Plaintiffs challenged common compensation scheme and meal break policy); *Doe #1 v. Trump*,
 27 335 F.R.D. 415, 433–34 (D. Or. 2020) (finding commonality requirement satisfied “in cases
 28 involving challenges to systemic immigration policies and procedures, even though immigration
 decisions ultimately involve discretionary decisions by consular officers”); *Ms. L v. U.S.*
Immigration and Customs Enforcement, 331 F.R.D. 529, 539 (S.D. Cal. 2018) (finding
 commonality requirement satisfied where plaintiffs challenged government’s “practice of
 separating migrant parents and children and keep them separate without a showing the parent is
 unfit”); *Ortega-Melendres v. Arpaio*, 836 F.Supp.2d 959, 989 (D. Ariz. 2011) (finding
 commonality requirement satisfied where plaintiffs challenged government racial-profiling policy
 and practice for conducting vehicle stops).

1 member. “A future determination as to the legality of those common policies will resolve class-
 2 wide claims ‘in one stroke.’” *Cruz*, 329 F.R.D. at 646 (quoting *Wal-Mart Stores*, 564 U.S. at
 3 350). For the Suspicionless Stop Class, the common questions of law and fact include:

- 4 • Whether Border Patrol has a pattern or practice of conducting stops without regard
 5 to whether reasonable suspicion exists that the person (1) is engaged in an offense
 6 against the United States or (2) is a noncitizen unlawfully in the United States; and
- 7 • Whether Border Patrol’s pattern or practice of conducting stops without regard to
 8 whether reasonable suspicion exists that the person (1) is engaged in an offense
 9 against the United States or (2) is a noncitizen unlawfully in the United States
 10 violates the Fourth Amendment.

11 For the Warrantless Arrest Class, the common questions of law and fact include:

- 12 • Whether Border Patrol has a pattern or practice of conducting warrantless arrests
 13 without probable cause that an individual is likely to escape before a warrant can
 14 be obtained for the arrest;
- 15 • Whether Border Patrol’s pattern or practice of conducting warrantless arrests
 16 without probable cause that an individual is likely to escape before a warrant can
 17 be obtained for the arrest violates 8 U.S.C. § 1357(a)(2); and
- 18 • Whether Border Patrol’s pattern or practice of conducting warrantless arrests
 19 without probable cause that an individual is likely to escape before a warrant can
 20 be obtained for the arrest violates 8 C.F.R. § 287.8(C)(2)(ii).

21 Accordingly, the Proposed Classes satisfy the commonality requirement of Rule 23(a)(2).

22 3. Typicality

23 Rule 23(a)(3) requires that the claims “of the representative parties [be] typical of the
 24 claims . . . of the class.” Fed. R. Civ. P. 23(a)(3). “The test of typicality is ‘whether other
 25 members have the same or similar injury, whether the action is based on conduct which is not
 26 unique to the named plaintiffs, and whether other class members have been injured by the same
 27 course of conduct.’” *Parsons*, 754 F.3d at 685. The inquiry “‘focuses on the *nature of the claim*’”
 28 the proposed class representative brings, and not “‘the specific facts from which it arose.’”
Gonzalez, 975 F.3d at 809; *see, e.g., Armstrong*, 275 F.3d at 868 (Typicality is “‘satisfied when
 each class member’s claim arises from the same course of events, and each class member makes
 similar legal arguments to prove the defendant’s liability.’”).

Like commonality, the typicality requirement “is permissive and requires nothing more

1 than that a class plaintiff's claims be reasonably coextensive with those of absent class members.”
 2 *Gonzalez* at 809 (internal quotation marks omitted). Typicality “is not primarily concerned with
 3 whether each person in a proposed class suffers the same type of damages; rather, it is sufficient
 4 for typicality if the plaintiff endured a course of conduct directed against the class.” *Just Film,*
 5 *Inc. v. Buono*, 847 F.3d 1108, 1118 (9th Cir. 2017).

6 Here, the claims of the Individual Plaintiffs are typical of those of the members of the
 7 Proposed Classes, because they all arise from Border Patrol's illegal immigration policies,
 8 practices, or patterns pertaining to suspicionless stops and warrantless arrests in this District. The
 9 challenged immigration policies and practices at issue in this suit, as demonstrated by “Operation
 10 Return to Sender,” are “not unique” to the Individual Plaintiffs. *Parsons*, 754 F.3d at 685. All
 11 members of the Proposed Classes they seek to represent “have been,” or will be, “injured by the
 12 same course of conduct.” *Id.* The fact that some putative class members experienced different
 13 *outcomes* flowing from Border Patrol's unlawful actions because of their differing immigration
 14 status does not defeat typicality because *all* class members have suffered, or will suffer, the same
 15 harms. *See Just Film*, 847 F.3d at 1118. Namely, all members in each class were subjected to an
 16 unlawful stop or arrest. Because all putative class members experienced, or will experience, those
 17 harms, the claims of the Individual Plaintiffs are typical of the claims of all members in the
 18 Proposed Classes they seek to represent.

19 Accordingly, the Proposed Classes satisfy the typicality requirement of Rule 23(a)(3).

20 **4. Adequacy**

21 Under Rule 23(a)(4), the Court must be satisfied the “representative parties will fairly and
 22 adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This is determined by
 23 answering two questions: ““(1) [D]o the named plaintiffs and their counsel have any conflicts of
 24 interest with other class members[,] and (2) will the named plaintiffs and their counsel prosecute
 25 the action vigorously on behalf of the class?”” *Evon v. Law Offs. of Sidney Mickell*, 688 F.3d
 26 1015, 1031 (9th Cir. 2012). This requirement “‘tend[s] to merge’ with the commonality and
 27 typicality criteria of Rule 23(a).” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 626 n.20 (1997)
 28 (alteration in original); *see Gen. Tel. Co. of Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982)

(explaining commonality and typicality “serve as guideposts” to ensure “the named plaintiff’s claim and the class claims are so interrelated that the interests of the class members will be fairly and adequately protected in their absence”).

Representative Plaintiffs. The Individual Plaintiffs seeking to represent the Proposed Classes meet both aspects of adequacy. *First*, there is no conflict between the Individual Plaintiffs and the Proposed Class Members. All have suffered the same injury and all seek the same relief. *See Jiahao Kuang v. U.S. Dep’t of Def.*, 340 F. Supp. 3d 873, 892 (finding adequacy requirement met in part because “named Plaintiffs have a similar alleged injury as the rest of the proposed class”). *Second*, the proposed class representatives, Oscar Morales Cisneros, Wilder Munguia Esquivel, and Yolanda Aguilera Martinez, will vigorously prosecute this action on behalf of all class members in each class. *See Morales Cisneros Decl.* ¶ 23; *Mungia Esquivel Decl.* ¶ 21; *Aguilera Martinez Decl.* ¶ 15. They seek preliminary injunctive relief on behalf of each respective Proposed Class as a whole, share a common interest in ensuring the protection of their constitutional rights, and have no interest that is actually or potentially antagonistic to other members of each respective Proposed Class. Accordingly, Individual Plaintiffs meet the adequacy of representative requirement of Rule 23(a)(4).

Proposed Class Counsel. Counsel representing the named Plaintiffs include experienced civil rights attorneys and practitioners in federal constitutional litigation, class actions, and complex litigation involving immigrants’ rights. *See Decl. of Bree Bernwanger ISO Plaintiffs’ Mot. for Provisional Class Certification* (“Bernwanger Decl.”), at ¶¶ 2, 4-13; *Decl. of Ajay S. Krishnan ISO Plaintiffs’ Mot. for Provisional Class Certification* (“Krishnan Decl.”), at ¶¶ 3-5, 7-13. Plaintiffs’ counsel have adequately and thoroughly investigated the claims prior to bringing this suit, and they will vigorously prosecute this action on behalf of the Proposed Classes. For these reasons, class counsel also meet the requirements of Rules 23(a)(4) and 23(g).

In sum, the Proposed Classes satisfy each requirement of Rule 23(a).

B. The Proposed Classes meet the requirements of Rule 23(b)(2).

In addition to satisfying the requirements of Rule 23(a), the Proposed Classes should be provisionally certified because they meet the requirements of Rule 23(b)(2). “[T]he primary role

1 of [Rule 23(b)(2)] has always been the certification of civil rights actions.” *Parsons*, 754 F.3d at
 2 686 (quoting *Amchem Products, Inc.*, 521 U.S. at 614). Under Rule 23(b)(2), class certification is
 3 warranted when the opposing party “has acted or refused to act on grounds that apply generally to
 4 the class, so that final injunctive relief or corresponding declaratory relief is appropriate
 5 respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2).

6 “The key to [a] (b)(2) class is ‘the indivisible nature of the injunctive or declaratory
 7 remedy warranted—the notion that the conduct is such that it can be enjoined or declared
 8 unlawful only as to all of the class members or as to none of them.’” *Wal-Mart Stores*, 564 U.S. at
 9 360. This standard is “unquestionably satisfied when members of a putative class seek uniform
 10 injunctive or declaratory relief from policies or practices that are generally applicable to the class
 11 as a whole.” *Parsons*, 754 F.3d at 688. The Court need not examine “the viability or bases of the
 12 class members’ claims for relief” nor find “that all members of the class have suffered identical
 13 injuries.” *Id.* “It is sufficient if class members complain of a pattern or practice that is generally
 14 applicable to the class as a whole.” *Walters v. Reno*, 145 F.3d 1032, 1047 (9th Cir. 1998).

15 The Proposed Classes in this suit are quintessential Rule 23(b)(2) classes. *First*, Border
 16 Patrol has acted on grounds generally applicable to each class because they have subjected, or
 17 will subject, all members of the Proposed Classes to the same unlawful policies or practices—
 18 namely, the ways in which Border Patrol conducts suspicionless stops and warrantless arrests. *See*
 19 Complaint ¶¶ 1–13; PI Motion at 8–14, 17–19. *Second*, the prospective forms of relief Plaintiffs
 20 request for each Proposed Class for the preliminary injunction are appropriate for each class as a
 21 whole, because they all target Border Patrol’s central and systemic failures. Plaintiffs request an
 22 injunction that requires: (i) Border Patrol agents in this District to refrain from detentive stops
 23 without reasonable suspicion that the person stopped is unlawfully present and warrantless arrests
 24 without probable cause that the person is likely to escape before a warrant can be obtained; (ii)
 25 Border Patrol agents in this District to timely document the reasonable suspicion that underlies
 26 detentive stops they make; (iii) Border Patrol agents to comply with DHS’s “Broadcast Statement
 27 of Policy” concerning § 1357(a)(2) when they make warrantless arrests in this District, including
 28 documenting the probable cause that underlies those arrests; (iv) Defendants to provide that

1 reasonable suspicion and probable cause documentation to Plaintiffs’ counsel on a regular
 2 schedule; (v) Defendants to develop guidance concerning how Border Patrol agents should
 3 determine whether “reasonable suspicion” exists when conducting detentive stops; and
 4 (vi) Defendants train Border Patrol agents in this District on these requirements.. Because these
 5 remedies will provide preliminary relief to all members of each Proposed Class, certification
 6 under Rule 23(b)(2) is appropriate. *See Parsons*, 754 F.3d at 689 (finding Rule 23(b)(2)
 7 requirements met where “every [person] in the proposed class is allegedly suffering from the
 8 same (or at least a similar) injury and that injury can be alleviated for every class member by
 9 uniform changes in [the agency’s] policy and practice”).

10 Accordingly, Individual Plaintiffs respectfully request that the Court provisionally certify
 11 the Proposed Classes as injunctive relief classes under Rule 23(b)(2).

12 **V. CONCLUSION**

13 For the foregoing reasons, the Court should provisionally certify the Proposed Classes
 14 under Federal Rules of Civil Procedure 23(a) and 23(b)(2). Additionally, Individual Plaintiffs
 15 request that the Court provisionally appoint the American Civil Liberties Union Foundation of
 16 Northern California, the American Civil Liberties Union Foundation of Southern California, the
 17 American Civil Liberties Union Foundation of San Diego and Imperial Counties, and Kecker, Van
 18 Nest & Peters LLP as class counsel pursuant to Rule 23(g).

19
 20 Dated: March 7, 2025

AMERICAN CIVIL LIBERTIES UNION
 FOUNDATION OF NORTHERN
 CALIFORNIA

21
 22
 23 By: /s/ Bree Bernwanger
 24 BREE BERNWANGER
 25 MICHELLE (MINJU) Y. CHO
 26 LAUREN DAVIS
 27 SHILPI AGARWAL
 28

1 Dated: March 7, 2025

By: AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF SOUTHERN
CALIFORNIA

3 /s/ Mayra Joachin

4 MAYRA JOACHIN
5 EVA BITRAN
6 OLIVER MA

7 Dated: March 7, 2025

By: AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF SAN DIEGO &
IMPERIAL COUNTIES

9 /s/ Brisa Velazquez Oatis

10 BRISA VELAZQUEZ OATIS

11 *Attorneys for Plaintiffs*

12
13
14 Dated: March 7, 2025

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UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA
 FRESNO DIVISION

UNITED FARM WORKERS, et al.,

Plaintiffs,

v.

KRISTI NOEM, IN HER OFFICIAL
 CAPACITY AS SECRETARY OF THE
 DEPARTMENT OF HOMELAND
 SECURITY; et al.,

Defendants.

Case No. 1:25-cv-00246-JLT-BAM

**DECLARATION OF AJAY S. KRISHNAN
 IN SUPPORT OF PLAINTIFFS' MOTION
 FOR PROVISIONAL CLASS
 CERTIFICATION**

Date: April 11, 2025
 Time: 9:00 a.m.
 Dept.: Courtroom 4, 7th Floor
 Judge: Hon. Jennifer L. Thurston

Date Filed: February 26, 2025

Trial Date: None set

1 I, AJAY S. KRISHNAN, declare:

2 1. I am a partner in the firm of Keker, Van Nest & Peters LLP, one of the counsel
3 representing named Plaintiff Oscar Morales Cisneros in this lawsuit. I am a member of the
4 California State Bar, and I am admitted in the United States District Court for the Eastern District
5 of California. I have personal knowledge of the facts contained in this Declaration and, if called
6 to testify, could and would competently testify thereto. I make this declaration in support of
7 Plaintiffs' motion for class certification.

8 2. My law firm has the necessary experience and resources to adequately represent
9 and protect the interests of the class in this matter. For example, Keker, Van Nest & Peters has
10 been previously named the top litigation boutique by the *Daily Journal* and litigation boutique of
11 the year by the *American Lawyer*. It was also named the top trial group by *Law 360* this year.

12 3. Keker, Van Nest & Peters has significant experience handling civil rights cases
13 and litigation to vindicate the rights of underserved populations. Following are examples of some
14 of this relevant work and experience:

- 15 a. Jewett, et al., v. Shasta Cty. Sherri's Dep't et al., 2:13-cv-00882-MCE-AC (E.D.
16 Cal.): In conjunction with the Disability Rights Legal Center, we successfully
17 represented a certified class of inmates at the Shasta County Jail in claims related
18 to civil rights and disability law violations, ultimately obtaining injunctive relief
19 requiring comprehensive policy and structural changes at the Shasta County Jail
20 and a multi-year monitoring period.
- 21 b. Wilbur P.G., et al. v. U.S., 4:21-cv-04457-KAW (N.D. Cal.): In partnership with
22 the Lawyers' Committee for Civil Rights and the ACLU, we successfully
23 represented immigrant families who had been subjected to the government's
24 family-separation policy—where the government had forcibly separated parents
25 from their children in Customs and Border Protection facilities in Arizona. We
26 settled the case weeks before trial.
- 27 c. Al-Mowafak, et al. v. Trump, et al., 3:17-cv-00557-WHO (N.D. Cal.): With the
28 ACLU Foundation of Northern California, we represented individuals who were
injured by the government's unlawful entry ban. The case was stayed when
another district court entered a nationwide injunction.
- d. Preap v. Johnson, 303 F.R.D. 566 (N.D. Cal. 2014), aff'd, 831 F.3d 1193 (9th Cir.
2016): We represented a class of undocumented immigrants who brought a case
against the Secretary of Department of Homeland Security challenging their
mandatory detention without bond under the Immigration and Nationality Act.

1 4. Litigating class actions is also one of my firm's areas of expertise. Attorneys at my
2 firm have experience litigating class actions, including prisoners' rights, RICO, antitrust,
3 consumer, false advertising, copyright, unfair business practices, and securities class actions.
4 Keker, Van Nest & Peters has been both plaintiff and defense counsel in numerous class actions,
5 including the successful representation of a class of detainees and prisoners at the Shasta County
6 Jail (*Jewett, et al. v. Shasta Cty., et al.*), in which both I and my colleague Franco Muzzio, who is
7 also counsel of record in this case, participated.

8 5. In partnership with the American Civil Liberties Union offices, my law firm has
9 conducted extensive identification and investigation of potential class claims, both prior and
10 subsequent to filing the present action. Keker, Van Nest & Peters has the capacity to prosecute
11 the claims thoroughly and vigorously in this case and properly represent the Plaintiff classes. We
12 have undertaken this case on a pro bono basis, committing the resources necessary to litigate it.

13 6. Moreover, Keker, Van Nest & Peters has no conflict with the proposed class
14 members that would compromise its ability to represent the class.

15 7. I have been a member of the State Bar of California since 2002, and am currently
16 in my twenty-second year of practicing complex civil litigation and/or civil rights litigation. I
17 have represented a wide range of clients, ranging from Fortune 100 companies to indigent
18 individuals, and am experienced in all phases of litigation from pre-litigation advising through
19 trial and appeal.

20 8. I graduated from Harvard Law School in 2002. I clerked on the Ninth Circuit
21 Court of Appeals for the Honorable Marsha Berzon from 2003 to 2004. After my clerkship, I
22 worked at the ACLU of Northern California for one year. I joined Keker, Van Nest & Peters as an
23 associate in 2005.

24 9. Throughout my nearly twenty years at Keker, Van Nest & Peters, I have tried 13
25 cases to decision, including 6 as first chair. I have also maintained an active pro bono practice and
26 litigated numerous civil rights cases in state and federal court. For example, my team received the
27 fifth largest jury verdict in Florida federal court in 2022 in the human rights case *Camps v. Robert*
28 *Guillermo Bravo*, No. 20-cv-24294 (S.D. Fla. 2022). I am also a Board Member of the American

1 Civil Liberties Union of Northern California and the American Constitution Society (Bay Area
2 Lawyers Chapter).

3 10. My partner, Franco Muzzio, is assisting me in this matter. Franco is experienced in
4 all phases of litigation and has significant experience litigating civil rights and pro bono matters,
5 including having served as class counsel in *Jewett et al., v. Shasta Cty.* and as counsel in *Camps*
6 *v. Bravo* (both matters discussed above). In 2024, the *Daily Journal* selected Franco as one the
7 “Top 40 Under 40” lawyers in California. He has also received numerous awards for his pro bono
8 work, including the Disability Rights Law Center’s Pro Bono Award in 2024, the Center for
9 Justice and Accountability’s Partner in Justice Award in 2023, and the San Francisco Bay Area
10 Minority Bar Coalition’s Unity Award in 2023. He joined Kecker, Van Nest & Peters in 2017,
11 after having served as a judicial law clerk for Judge Susan Graber of the U.S. Court of Appeals
12 for the Ninth Circuit and Judge Virginia A. Phillips of the U.S. District Court for the Central
13 District of California. He is a member of the bar of the State of California and graduated from the
14 University of California Los Angeles School of Law in 2015.

15 11. Kecker, Van Nest & Peters associates Julia L. Greenberg, Zainab O. Rahami, and
16 Reaghan E. Braun are also assisting me in this litigation.

17 12. Julia L. Greenberg is a member of the bar of the State of California. She graduated
18 from Stanford Law School in 2019. She served as a judicial law clerk for Judge Scott M.
19 Matheson, Jr. of the U.S. Court of Appeals for the Tenth Circuit from 2019 to 2020. She has been
20 an associate at Kecker, Van Nest & Peters since December 2020. She maintains an active pro bono
21 practice and has experience litigating complex cases from pre-litigation advising through trial.

22 13. Zainab O. Ramahi is a member of the bar of the State of California. She graduated
23 from the University of California Berkeley School of Law in 2019. She served as a judicial law
24 clerk for Judge Richard Andrews in the U.S. District Court for the District of Delaware from
25 2019 to 2020 and for Judges Richard Paez and Dorothy Nelson in the U.S. Court of Appeals for
26 the Ninth Circuit from 2020 to 2021. She has been an associate at Kecker, Van Nest & Peters since
27 November 2021. She maintains an active pro bono practice and has experience litigating complex
28 cases from pre-litigation advising through trial. She has also served on the board of the American

1 Civil Liberties Union of Northern California since 2023 and is the Affiliate Equity Officer for the
2 board.

3 I declare under the penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct, and that this declaration was executed on March 7, 2025 in San
5 Francisco, California.

6 

7 AJAY S. KRISHNAN

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

UNITED FARM WORKERS, et al.,
Plaintiffs,

v.

KRISTI NOEM, IN HER OFFICIAL
CAPACITY AS SECRETARY OF THE
DEPARTMENT OF HOMELAND
SECURITY; et al.,

Defendants.

Case No. 1:25-cv-00246-JLT-BAM

**DECLARATION OF BREE
BERNWANGER IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL CLASS
CERTIFICATION**

Date: April 11, 2025
Time: 9:00 a.m.
Dept.: Courtroom 4, 7th Floor
Judge: Hon. Jennifer L. Thurston

Date Filed: February 26, 2025

Trial Date: None set

1 I, BREE BERNWANGER, declare:

2 1. I have personal knowledge of the facts stated in this declaration and, if called as a
3 witness, could testify truthfully to those facts.

4 2. I am a Senior Staff Attorney at the American Civil Liberties Union Foundation of
5 Northern California (“ACLUF-NC”), and counsel for Plaintiffs in this putative class action. I am
6 a member in good standing of the California State Bar and of the Bar of this Court. I have been
7 employed in my current position at ACLUF-NC since 2023 and have been involved in all aspects
8 of this case. I was admitted to the practice of law in New York in 2012 and in California in 2020.
9 I submit this declaration in support of Plaintiffs’ Motion for Provisional Class Certification on
10 behalf of ACLUF-NC, the American Civil Liberties Union Foundation of Southern California
11 (“ACLUF-SC”), and the American Civil Liberties Union Foundation of San Diego and Imperial
12 Counties (“ACLUF-SDIC”).

13 3. ACLUF-NC, ACLUF-SC, and ACLUF-SDIC are nonprofit, nonpartisan
14 corporations that are tax-exempt under § 501(c)(3) of the Internal Revenue Code. They are
15 nonpartisan organizations dedicated to defending the civil liberties and civil rights guaranteed by
16 the federal and state constitutions. ACLUF-NC, ACLUF-SC, and ACLUF-SDIC do not receive
17 government funding. ACLUF-NC, ACLUF-SC, and ACLUF-SDIC have extensive experience in
18 class litigation and immigrants’ rights litigation and, collectively, have served as lead counsel in
19 dozens of civil rights class actions, including before this Court.

20 4. I am a 2010 graduate of Georgetown University Law Center. After law school, I
21 began my career working on civil rights impact litigation and policy as a pro bono fellow at the
22 New York Civil Liberties Union (2011). I then worked as a litigation associate at the law firm of
23 Sidley Austin LLP in New York (2011-13). In both roles, I worked on complex civil litigation. I
24 served as a Clinical Fellow in Albany Law School’s clinical program (2014-15), where I taught
25 and supervised students handling family and immigration matters, and as the Director of the
26 Unaccompanied Immigrant Children and Immigrant Families Project at Fordham Law School
27 (2015-17), where I developed and supervised student and alumni pro bono efforts on behalf of
28 detained immigrant families, and was involved in policy advocacy related to unaccompanied

1 immigrant children and immigrant families. I further served as Managing Attorney for the Dilley
 2 Pro Bono Project from August 2016 to January 2017, where I was responsible for the provision of
 3 pro bono representation to thousands of asylum-seeking families in the South Texas Family
 4 Residential Center, the nation's largest immigration detention center. I supervised a staff of
 5 attorneys, legal assistants, and a rotating team of volunteers. I monitored detention conditions and
 6 participated in systemic advocacy on behalf of detained families. Immediately prior to my current
 7 employment, I was a Senior Staff Attorney at the Lawyers' Committee for Civil Rights of the San
 8 Francisco Bay Area ("LCCR") (2017-23), where I managed all litigation and systemic-reform
 9 advocacy related to immigrants' rights, and for two years (2017-19), additionally managed
 10 LCCR's full immigration removal defense docket, primarily involving asylum, withholding of
 11 removal, and Special Immigrant Juvenile Status cases. I also mentored pro bono attorneys
 12 representing immigrants in removal proceedings and seeking asylum affirmatively at the Asylum
 13 Office. During the same period (2017-19), I taught a Fordham Law School course on immigration
 14 enforcement and humanitarian protections for immigrants as an adjunct professor.

15 5. I have extensive experience litigating complex civil litigation to defend and
 16 advance the rights of immigrants in the United States. I am admitted to the U.S. Court of Appeals
 17 for the Ninth Circuit, the Northern District of California, the Eastern District of California, and
 18 the Southern District of California. I have served as class co-counsel for certified classes in
 19 *Zepeda Rivas v. Jennings*, No. 3:20-cv-02731 (N.D. Cal. 2020), a due process challenge against
 20 ICE by individuals detained in crowded immigration jails during the COVID-19 pandemic, which
 21 I argued before the Ninth Circuit and which ultimately resulted in a classwide settlement
 22 agreement; *J.L. v. Cissna*, No. 5:18-cv-04914-NC (N.D. Cal. 2018), an Administrative Procedure
 23 Act challenge to unlawful change in policy for Special Immigrant Juvenile Status adjudication
 24 that resulted in a classwide settlement agreement; and *Unknown Parties v. Nielsen*, 4:15-cv-
 25 00250, (D. Ariz. 2015), a substantive due process challenge to conditions of confinement in
 26 Border Patrol's Tucson Sector that resulted in a permanent injunction protecting the class.

27 6. In addition, I have represented noncitizen plaintiffs or petitioners in a several non-
 28 class cases raising complex issues. For example, I have served as counsel in *Mendez v. ICE*, No.

3:23-cv-00829 (N.D. Cal. 2023), a First Amendment challenge by dozens of hunger strikers in ICE custody; *P.G. v. United States*, No. 4:21-cv-4457 (N.D. Cal. 2021), a Federal Tort Claims Act suit on behalf of families who were separated at the U.S.-Mexico border in 2018, which included complex mandamus proceedings at the Ninth Circuit involving a former Secretary of the Department of Homeland Security; and *Murillo Vega v. Management and Training Corp.*, No. 3:21-cv-01770-GPC-LR (S.D. Cal. 2021), the first lawsuit to be brought under California’s “Dignity Not Detention Act.” I also have represented numerous detained immigrants in federal court *habeas corpus* petitions raising constitutional challenges to their ongoing detention. I have been awarded market-rate fees in federal litigation based in part on my “extensive experience litigating immigration cases.” *Primerio Garcia v. Barr*, 484 F. Supp. 3d 750, 756 (N.D. Cal. 2020).

7. Proposed Class Counsel **Shilpi Agarwal** is Legal Director at ACLUF-NC and an experienced civil rights litigator. She is a member in good standing of the California State Bar and of the Bar of this Court. She is admitted to the United States Supreme Court, U.S. Court of Appeals for the Ninth Circuit, the Northern District of California, the Eastern District of California, the Central District of California, and the District of New Mexico. Ms. Agarwal graduated from Columbia Law School in 2009 and clerked for Judge Betty B. Fletcher on the U.S. Court of Appeals for the Ninth Circuit (2010-11) and Judge Keith P. Ellison in the U.S. District Court for the Southern District of Texas (2009-10). Prior to joining ACLUF-NC, Ms. Agarwal served as an Assistant Federal Public Defender for the Northern District of California, and as an associate at Kecker & Van Nest (now Kecker, Van Nest & Peters). Ms. Agarwal has served as Legal Director at ACLUF-NC since September 2019, and as a Senior Staff Attorney for two years prior to that. In her current role, she provides a strategic vision that shapes the organization’s litigation docket, oversees each case that the organization files, and directly participates on litigation teams. During Ms. Agarwal’s tenure, ACLUF-NC has served as lead or co-lead counsel for certified classes in many cases. Three recent examples include: *Simon, et al. vs. City and County of San Francisco, et al.*, No. 22-cv-05541-JST (N.D. Cal. 2022) (Fourth Amendment challenge against sheriff’s office by individuals on electronic monitoring forced to

1 consent to extremely invasive warrantless search conditions); *Zepeda Rivas v. Jennings*, No. 3:20-
 2 cv-02731 (N.D. Cal. 2020) (due process challenge against ICE by individuals detained in
 3 crowded immigration jails during the COVID-19 pandemic); *Criswell v. Boudreaux*, No. 1:20-cv-
 4 00535 (E.D. Cal. 2020) (constitutional challenge by individuals detained in jails under authority
 5 of Sheriff of Tulare County during the COVID-19 pandemic).

6 8. Proposed Class Counsel **Eva Bitran** is the Director of Immigrants' Rights and a
 7 Senior Staff Attorney at ACLUF-SC. Ms. Bitran is an experienced immigrants' rights litigator.
 8 She is a member in good standing of the California State Bar since 2014 and of the Bar of this
 9 Court. She is admitted to practice before several federal courts, including the United States Court
 10 of Appeals for the Ninth Circuit and this Court. Ms. Bitran graduated from Harvard Law School
 11 in 2014. Following graduation, she served as a judicial clerk to the Honorable Edward C. Prado of
 12 the United States Court of Appeals for the Fifth Circuit. From September 2015 until December
 13 2016, she served as a Legal Fellow at the European Center for Constitutional and Human Rights,
 14 where she investigated and prepared litigation before the European Court of Human Rights
 15 regarding the rights of migrants at the external borders of the European Union. Following her
 16 fellowship, she worked as a Trial Attorney in the Federal Programs Branch of the United States
 17 Department of Justice. She joined the ACLU of Southern California in the fall of 2017. She has
 18 substantial experience litigating cases involving immigrants' rights and has spent the majority of
 19 her legal career representing immigrants in federal class actions. For example, she is currently
 20 counsel in an action challenging the lack of appointed representatives for immigrants with serious
 21 mental health abilities. *See Franco-Gonzalez v. Holder*, Case No. 2:10-02211-DMG-DTB (C.D.
 22 Cal. 2011). She is lead class counsel in *Hernandez Roman v. Wolf*, Case No 5:20-cv-00768-TJH-
 23 PVC (C.D. Cal. 2020), a certified class action protecting the rights of immigrants in detention
 24 from COVID-19, in which she has been intimately involved in the daily conduct of litigation
 25 (including discovery, depositions, numerous contested motions before the District Court and the
 26 U.S. Court of Appeals for the Ninth Circuit, and extensive settlement negotiations through the
 27 Ninth Circuit mediation program). She is also lead counsel in a putative class action challenging
 28 access to counsel for immigrants detained at the Adelanto ICE Processing Center. *See Torres v.*

1 *Dep't of Homeland Security*, Case No. 5:18-02604-JGB-SHK (C.D. Cal. 2017). Ms. Bitran has
 2 also served as class counsel in other complex immigrants' rights cases including *Kidd v.*
 3 *Mayorkas*, 2:20-cv-03512-ODW-JPR (ensuring that immigration officers comport with federal
 4 law when conducting law enforcement arrests at or near an individual's home), and *Orantes-*
 5 *Hernandez v. Meese*, 685 F. Supp. 1488, 1511-14 (C.D. Cal. 1988), *aff'd sub nom Orantes-*
 6 *Hernandez v. Thornburgh*, 919 F.2d 549 (9th Cir. 1990) (protecting rights of Salvadoran
 7 nationals to seek asylum). Ms. Bitran has previously served as class counsel in a class action
 8 aimed at preventing ICE from transferring detained immigrants out of the region, *Arroyo v. Dep't*
 9 *of Homeland Security*, Case No. 8:19-00815-JGB-SHK (C.D. Cal. 2019), for which she was
 10 awarded market-rate fees based on her "distinctive knowledge and specialized skill" in litigating
 11 "complex cases involving the constitutional rights of detained immigrants." *Id.* at ECF. No. 53, p.
 12 7. She was similarly awarded market-rate fees in a case seeking emergency relief to permit
 13 immigrants detained in a federal prison access to their attorneys. *Rodriguez-Castillo v. Nielsen*,
 14 Case No. 5:18-01317-ODW-KES (C.D. Cal. 2020), ECF No. 64 ("[C]ounsel's' undisputed
 15 expertise on issues of statutory construction, detainee rights, and effective advocacy in this
 16 challenging context was needed to effectively pursue the emergency relief their clients
 17 obtained.").

18 9. Proposed Class Counsel **Mayra Joachin** is a Senior Staff Attorney at ACLUF-SC.
 19 She is admitted to practice before several federal courts, including all U.S. District Courts in the
 20 State of California, the United States Court of Appeals for the Ninth Circuit, and the U.S.
 21 Supreme Court. She graduated from Columbia Law School in 2015 and joined ACLUF-SC in
 22 March 2022. Before working at ACLUF-SC, Ms. Joachin was a Staff Attorney at the National
 23 Immigration Law Center where she litigated complex cases involving immigrants' rights and
 24 constitutional law. Ms. Joachin has significant experience litigating complex immigrants' rights
 25 cases involving constitutional and statutory violations and serving as class counsel. She is
 26 currently certified class counsel for a settlement class in *Gonzalez v. ICE*, Case No. 2:13-cv-
 27 04416-AB-FFM (C.D. Cal. Jun. 19, 2013) (a challenge to immigration detainers issued in the
 28 Central District of California unlawfully). She has served as co-lead counsel in *Batalla Vidal v.*

1 *Wolf*, Case No. 1:16-cv-04756 (NGG)(JO) (E.D.N.Y. Aug. 25, 2016) (a certified class action on
 2 behalf of approximately one million Deferred Action for Childhood Arrival (“DACA”) recipients
 3 challenging rescissions to DACA) and *Georgia State Conference of the NAACP v. City of*
 4 *LaGrange*, Case No. 3:17-cv-067-TCB (N.D. Ga. Dec. 7, 2017) (lawsuit resulting in a settlement
 5 in and challenge to discriminatory utility policies that prevented immigrants from accessing
 6 essential utilities). She has also litigated other complex cases involving immigrants’ rights,
 7 including *Mendez v. ICE*, Case No. 3:23-cv-00829-TLT (N.D. Cal. Mar. 10, 2023) (an action on
 8 behalf of immigrant detainees challenging retaliation by facility staff); *La Clinica v. Biden*, Case
 9 No. 19-cv-04980-PHJ (N.D. Cal. Aug. 16, 2019) (a challenge to the unlawful promulgation of the
 10 public charge rule, a rule concerning noncitizen admissibility requirements); and *UFW*
 11 *Foundation v. County of Kern*, Case No. BCV-23-101419 (JRB) (Kern Cty. Sup. Ct. May 8,
 12 2023) (a challenge to misdemeanor arraignment proceedings that resulted in inadmissibility and
 13 removability consequences for immigrants).

14 10. Proposed Class Counsel **Michelle (Minju) Y. Cho** is a Senior Staff Attorney at
 15 ACLUF-NC and an experienced immigrants’ rights litigator. She is a member in good standing of
 16 the California State Bar and of the Bar of this Court. She is admitted to the U.S. Court of Appeals
 17 for the Ninth Circuit, the U.S. Court of Appeals for the Third Circuit, the Northern District of
 18 California, the Central District of California, and the Western District of Washington. Ms. Cho
 19 graduated from Yale Law School in 2016 and clerked for Judge Kim Wardlaw on the U.S. Court
 20 of Appeals for the Ninth Circuit (2016-17) and Justice Goodwin Liu on the California Supreme
 21 Court (2017-18). As a Skadden Fellow (2018-21), she worked at Asian Americans Advancing
 22 Justice-Southern California, where she served as co-class counsel for a certified class in *Chhoeun*
 23 *v. Marin*, No. 8:17-cv-01898 (C.D. Cal. 2017) (challenge to immigration enforcement practices
 24 against Cambodian nationals); and at the ACLU Foundation of Southern California, where she
 25 served as co-class counsel for certified classes in *Hernandez Roman v. Wolf*, 5:20-cv-00768 (C.D.
 26 Cal. 2020) (constitutional challenge to ICE detention conditions during COVID-19 pandemic);
 27 and *Wagafe v. Trump*, No. 2:17-cv-00094 (W.D. Wash. 2017) (challenge to federal government’s
 28 secretive national security vetting program). At ACLUF-NC, she is co-class counsel for a

certified class in *Aleman Gonzalez v. Sessions*, No. 3:18-cv-01869 (challenge to prolonged no-bond detention of noncitizens detained pursuant to 8 U.S.C. § 1231(a)(6) within the Ninth Circuit). Additionally, she has experience representing immigrants in civil cases raising complex issues without certified classes, such as *National TPS Alliance v. Noem*, No. 3:25-cv-01766 (N.D. Cal. 2025); *Mendez v. ICE*, No. 3:23-cv-00829 (N.D. Cal. 2023) (First Amendment challenge by dozens of hunger strikers detained by ICE); *Echeveste v. Jones*, No. 34-2021-80003768 (Sac. Sup. Ct. 2021) (mandamus action challenging violations of California’s immigrant sanctuary law by Sacramento County Sheriff’s Office); *Cal. Attorneys for Crim. Justice v. Newsom*, No. S261829 (Cal. S. Ct. 2020) (mandamus action to enjoin custody transfers from local/state custody to ICE during onset of COVID-19 pandemic); *Bhattarai v. Nielson*, No. 3:19-cv-00731 (N.D. Cal. 2019) (challenging termination of Temporary Protected Status for Honduras and Nepal), and *La Clinica de la Raza v. Trump*, No. 4:19-cv-04980 (N.D. Cal. 2019) (challenging promulgation of Trump administration’s new public charge rule); in addition to numerous matters related to habeas corpus, Freedom of Information Act, and Federal Tort Claims Act litigation.

11. Proposed Class Counsel **Brisa Velazquez Oatis** is a Staff Attorney at ACLUF-SDIC. She has been employed as a Staff Attorney at ACLUF-SDIC since 2024. She is a member in good standing of the California State Bar and of the Bar of this Court. She is admitted to the U.S. Court of Appeals for the Ninth Circuit and the Southern District of California. Ms. Velazquez is a 2018 graduate of the University of San Diego School of Law where she received the California State Bar’s Wiley W. Manual Award and the Outstanding Clinic Intern Award for successfully representing individuals in front of the California Unemployment Insurance Appeals Board and California’s Department of Industrial Relations Labor Commissioner’s Office. She has experience in civil litigation raising complex issues including immigrant workers’ rights, gender, race, and disability discrimination, harassment, and retaliation cases. She also has extensive experience representing noncitizen plaintiffs and petitioners in immigration matters. Since her employment with ACLUF-SDIC, Ms. Velazquez has been focused on complex civil litigation to advance the rights of immigrants in the United States. She is co-counsel in the class action lawsuit *Doe v. Wolf*, No. 19-cv-2119-DMS-SBC, ECF. No. 39 (S.D. Cal. Jan. 14, 2019) (order granting

1 class certification). *Doe* challenges the denial of access to counsel prior to and during non-
 2 refolement interviews, which determine whether individuals subject to the Migrant Protection
 3 Protocols should be allowed to enter the United States during the pendency of their immigration
 4 court proceedings.

5 12. Proposed Class Counsel **Oliver Ma** is an attorney at ACLUF-SC. He is a member
 6 in good standing of the California State Bar and of the Bar of this Court. Mr. Ma has been
 7 employed at ACLUF-SC since 2023. Mr. Ma has been practicing law since he was admitted by
 8 the State Bar of California in 2023. Mr. Ma earned a J.D. from Harvard Law School in 2023, and
 9 also has a Masters in Public Policy from the Harvard Kennedy School of Government. During
 10 law school, he performed more than 2,000 hours of pro bono legal work, representing indigent
 11 clients facing evictions in Massachusetts Housing Court. Since starting his current employment at
 12 ACLUF-SC, Mr. Ma has focused on complex civil litigation to advance the rights of immigrants
 13 in the U.S. He has served as co-counsel in the following cases: *Zepeda Rivas v. Jennings*, No.
 14 3:20-cv-02731-VC, 445 F.Supp.3d 36 (N.D. Cal. Apr. 29, 2020) (class action challenging unsafe
 15 COVID-19 conditions in immigration detention); *UFW Foundation vs. County of Kern*, BCV-23-
 16 101419 (JRB) (Kern Cty. Sup. Ct. May 8, 2023) (challenge to Kern County and Kern County
 17 Superior Court's misdemeanor arraignment practices).

18 13. Proposed Class Counsel **Lauren Davis** is an attorney at ACLUF-NC. She is a
 19 member in good standing of the California State Bar and of the Bar of this Court. She graduated
 20 with a J.D. from University of California, Berkeley School of Law in 2024. Ms. Davis graduated
 21 with Pro Bono Honors and was awarded a certificate in Public Interest & Social Justice. While in
 22 law school, she served as Publishing Editor for the *California Law Review*. At ACLUF-NC, Ms.
 23 Davis is co-counsel on several complex civil rights cases, including *UFW Foundation v. County*
 24 *of Kern*, BCV-23-101419 (JRB) (Kern Cty. Sup. Ct. May 8, 2023) (challenging the County's
 25 misdemeanor arraignment process, including challenging discrimination against limited-English
 26 proficient defendants under Gov. Code § 11135), and *Office of the State Public Defender v.*
 27 *Bonta*, No. S284496 (Cal. S. Ct. 2024) (challenging California's death penalty statutory scheme
 28 on equal protection grounds).

1 14. ACLUF-NC, ACLUF-SC, and ACLUF-SDIC have experience fairly and
2 adequately representing the interests of the class in other class actions. ACLUF-NC, ACLUF-SC,
3 and ACLUF-SDIC have capacity to thoroughly and vigorously litigate the claims in this case and
4 properly represent the plaintiff class, and intend to commit all necessary resources to do so. If
5 appointed class counsel, I will ensure that Ms. Agarwal, Ms. Bitran, Ms. Joachin, Ms. Cho, Ms.
6 Velazquez Oatis, Mr. Ma, Ms. Davis and I zealously represent the interests of the class to the best
7 of our collective ability.

8 15. I am not aware of any conflict among potential class members in this case.

9 16. I am not aware of any conflicts between ACLUF-NC, ACLUF-SC, ACLUF-SDIC,
10 and any members of the potential class that would prevent ACLUF-NC, ACLUF-SC, and
11 ACLUF-SDIC from providing zealous representation to the class.

12 I declare under penalty of perjury that the foregoing is true and correct.

13 Executed on March 7, 2025.

14 

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

UNITED FARM WORKERS, et al.,

Plaintiffs,

v.

KRISTI NOEM, IN HER OFFICIAL
CAPACITY AS SECRETARY OF THE
DEPARTMENT OF HOMELAND
SECURITY; et al.,

Defendants.

Case No. 1:25-cv-00246-JLT-BAM

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
PROVISIONAL CLASS
CERTIFICATION**

Date: April 11, 2025
Time: 9:00 a.m.
Dept.: Courtroom 4, 7th Floor
Judge: Hon. Jennifer L. Thurston

Date Filed: February 26, 2025

Trial Date: None set

1 The Court has considered the parties' briefing, evidence, and arguments, as well as the
2 authorities cited in support of their positions. Upon due consideration, the Court hereby GRANTS
3 Plaintiffs' Motion for Provisional Class Certification. The Court provisionally certifies the
4 following proposed classes for the purpose of granting Plaintiffs' Motion for Preliminary
5 Injunction:

- 6 1. **Suspicionless Stop Class:** All persons who, since January 6, 2025, have been or
7 will be subjected to a detentive stop by Border Patrol in this district pursuant to a
8 practice of conducting stops without warrants and without an individualized
9 assessment of reasonable suspicion whether the person (1) is engaged in an offense
10 against the United States or (2) is a noncitizen unlawfully in the United States.
- 11 2. **Warrantless Arrest Class:** All persons whom Border Patrol, since January 6,
12 2025, has arrested or will arrest without a warrant in this district.

13 **IT IS SO ORDERED.**

14
15 DATED: _____

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17 _____
18 HON. JENNIFER L. THURSTON
19 UNITED STATES DISTRICT JUDGE
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