BRETT A. SHUMATE
Assistant Attorney General
Civil Division

ERIC J. HAMILTON
Deputy Assistant Attorney General

SEAN SKEDZIELEWSKI
Counsel to the Assistant Attorney General

DEVIN BARRETT
ALANNA T. DUONG
Senior Litigation Counsel
JACOB A. BASHYROV
JAMES A. HURLEY
Trial Attorneys
Office of Immigration Litigation
Civil Division, U.S. Dept. of Justice
P.O. Box 878, Ben Franklin Station
Washington, DC 20044
Tel: (202) 305-7040
Fax: (202) 305-7211
Email: alanna.duong@usdoj.gov

BILAL A. ESSAYLI
United States Attorney
DAVID M. HARRIS
Assistant United States Attorney
Chief, Civil Division
JOANNE S. OSINOFF
Assistant United States Attorney
Chief, Complex and Defensive Litigation Section
DANIEL A. BECK (SBN 204496)
PAULINE H. ALARCON (SBN 345785)
Assistant United States Attorneys
Federal Building, Suite 7516
300 North Los Angeles Street
Los Angeles, California 90012
Telephone: (213) 894-2574 | 3992
E-mail: Daniel.Beck@usdoj.gov
Pauline.Alarcon@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

PEDRO VASQUEZ PERDOMO; *et al.*,

Plaintiffs,

v.

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; *et al.*,

Defendants.

No. 2:25-cv-05605-MEMF

DEFENDANTS' OPPOSITION TO *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION (Dkt. 45)

[Supporting declarations filed concurrently]

Hon. Maame Ewusi-Mensah Frimpong
United States District Judge

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Federal Cases

Federal Statutes

Federal Rules

Federal Regulations

I. INTRODUCTION

Plaintiffs seek the extraordinary remedy of a temporary restraining order and preliminary injunction designed to interfere with the enforcement of federal immigration law. Plaintiffs base their request for emergency injunctive relief on allegedly recurring violations of the Fourth Amendment related to what they claim are stops unsupported by reasonable suspicion. Their *ex* parte application for temporary restraining order (Dkt. 45) (the "TRO") is defective and fails for several reasons.

First, Plaintiffs cannot meet their burden of showing that they will be "irreparably prejudiced if the underlying motion is heard according to regular noticed motion procedures." *Mission Power Engineering Co. v. Continental Cas. Co*., 883 F. Supp. 488, 492 (1995). This is especially so because Plaintiffs took weeks to prepare their papers but can provide no explanation why, after that passage of time, bypassing usual notice procedures is suddenly necessary. Plaintiffs' tactics are highly prejudicial to Defendants and impair the proper administration of justice. Plaintiffs' abuse of procedure alone is grounds to deny their application.

Second, while Plaintiffs' overbroad requests for relief are both contrary to law and indiscriminate, their requests are not without a certain irony. On the one hand, their request for a TRO that orders the Federal Government to comply with the Fourth Amendment is prohibited because it abstractly commands what is already commanded by the law itself. On the other hand, their request that immigration authorities be enjoined from relying on certain factors like occupation and location flies in the face of established law requiring immigration officials to consider *the totality of the circumstances*, including things like occupation and location. The relief Plaintiffs seek cannot be granted because it is either an impermissible restatement of the law in the form of an injunction or else runs flatly against what the law requires. These improper requests for relief are independent grounds for denying the request for TRO.

Third, organizational Plaintiffs lack standing of any kind, including associational or next friend standing, because, despite their broad and generalized asserted interests in aiding immigrants, Plaintiffs have failed to come forward with a member that has suffered an injury-in-fact. Additionally, named Plaintiff cannot seek relief for wholly unknown others whom they have no knowledge of and who themselves do not have standing.

Fourth, Plaintiffs cannot demonstrate a likelihood of success on the merits for the threshold reason

that this Court lacks jurisdiction to review Plaintiffs' removal related claims. 8 U.S.C. § 1252. Even if the Court had jurisdiction, however, Defendants have acted and continue to act in accord with both their statutory authority and Constitutional requirements by using a totality of the circumstances approach with articulable facts in support of their reasonable suspicion determinations. Given the absence of Constitutional violations, Plaintiffs cannot show that they will suffer irreparable harm in the absence of an injunction. Plus, the Federal Government's strong interest in enforcing the immigration laws tips the balance of the equities in its favor.

Plaintiffs' TRO is procedurally and substantively defective and should, therefore, be denied.

II. FACTUAL BACKGROUND

A. Procedural History

On July 3, 2025, Plaintiffs, five named individuals and three legal services organizations, filed the instant *ex parte* application for TRO and an order to show cause why a preliminary injunction should not issue pending the final disposition of this action. Dkt. 45. They alleged that, in immigration enforcement operations conducted in June 2025, Defendants violated the Fourth Amendment by conducting illegal stops and arrests.

B. Federal Law Enforcement Procedures

On January 22, 2025, Acting DHS Secretary Benjamine C. Huffman issued a memorandum authorizing any law enforcement officials within the Department of Justice including the Federal Bureau of Investigations, U.S. Marshals Service, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, and Federal Bureau of Prisons to exercise immigration enforcement authorities under Title 8 of the United States Code. Declaration of Andre Quinones ("Quinones Dec.") ¶ 7. On or about February 6, 2025, and on June 5, 2025, the Office of the Principal Legal Advisor, a component within the Department of Homeland Security's ("DHS") Immigration and Customs Enforcement ("ICE") office, offered local law enforcement partners from these agencies Ninth Circuit-specific immigration enforcement training, covering immigration arrests, the requirements of reasonable suspicion and probable cause, brief stops for questioning, and consensual encounters under the Fourth Amendment and the Immigration and Nationality Act ("INA") and implementing regulations. *Id.* ¶ 8.

Offices and agents of U.S. Customs and Border Protection ("CBP"), another component of DHS,

receive extensive training during their months-long Basic Academy Training, including comprehensive legal training. Declaration of Kyle C. Harvick ("Harvick Decl.") ¶ 12. CBP agents are required to adhere to standards of enforcement activity set forth in 8 C.F.R. § 287.5. *See id.* ¶ 9. CBP agents can question anyone if the encounter is consensual. *Id.* ¶ 7. CBP agents and officers are trained that, under the Fourth Amendment, they must have a reasonable suspicion based on articulable facts before they can briefly detain an individual for questioning. *Id.* ¶ 9. Under 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.5, CBP agents and officers may effectuate arrests pursuant to administrative and judicial warrants. *Id.* ¶¶ 9-10. CBP agents and officers may conduct warrantless arrests for immigration violations pursuant to applicable legal authorities, including 8 U.S.C. § 1357 and 19 U.S.C. § 1589a. *Id.* ¶ 10.

ICE law enforcement officers participate in multi-agency teams conducting immigration enforcement in the Los Angeles area. Quinones Dec. ¶ 9. In these operations, ICE Enforcement and Removal Operations ("ERO") and Homeland Security Investigations ("HSI") serve as team leads of multi-agency teams on regular, targeted fugitive enforcement operations focusing on individuals with final orders of removal cases or cases with significant criminal history. *Id.* As ERO Los Angeles has been doing for many years, ERO creates individual targeting packets for the individual to be arrested. *Id.* Should other individuals be encountered during the targeted arrest, ICE will conduct consensual interviews to identify whether there is reasonable suspicion that the individuals are illegally in the United States and determine if these individuals are subject to immigration enforcement and arrest. *Id.* ¶ 9.

On June 6, 2025, CBP agents were sent to assist Los Angeles ERO. Harvick Decl. ¶ 5. Typical CBP contact teams consist of three to five agents who contact individuals in public places such as streets, sidewalks, and publicly accessible portions of businesses. *Id.* ¶ 8. Certain types of businesses, including car washes, were selected for encounters because past experience demonstrated that they are likely to employ persons without legal documentation. *Id.* During operations in Los Angeles, CBP agents temporarily detained individuals, and made arrests for immigration violations and federal criminal statutes. *Id.* ¶¶ 5, 10.

C. Named Plaintiffs' Allegations[1]

Plaintiffs allege unlawful immigration operations by Defendants in Los Angeles and surrounding counties throughout the month of June 2025, but focus on four specific dates: June 9, 12, 14, and 18, 2025. Dkt. 45 at 6-13.

June 9, 2025: Named Plaintiffs Hernandez Viramontes and Gamez are both U.S. citizens and co-managers of a car wash in Whitter, California. Dkt. 45-4, ¶¶ 2, 4;Dkt. 45-5, ¶¶ 2-3. Hernandez Viramontes and Gamez allege that immigration agents arrived at the car wash in unmarked vehicles. Dkt. 45-4, ¶ 6; Dkt. 45-5, ¶ 5. Many of the agents were in military uniforms, covered their faces and did not identify themselves. Dkt. 45-4, ¶ 6; Dkt. 45-5, ¶ 5. The agents asked people their immigration status and arrested three workers from the car wash. Dkt. 45-4, ¶ 6; Dkt. 45-5, ¶ 5.

June 12, 2025: Gavidia is a U.S. citizen. Dkt. 45-9, ¶ 1. He was repairing his car at a tow yard in Montebello, California, when he heard reports that there were immigration agents outside. *Id.* ¶¶ 6-7. Emerging from the gates of the tow yard, Gavidia encountered an immigration agent in a green uniform, and other agents with "Border Patrol Federal Agent" on their vests. *Id.* ¶ 7. A masked agent told Gavidia to stop when Gavidia attempted to reenter the tow yard. *Id.* ¶ 8. The agent asked Gavidia if he was a U.S. citizen and, when Gavidia told him that he was, he asked Gavidia in which hospital he was born. *Id.* ¶ 9. Gavidia could not name the hospital but produced a REAL ID proving his citizenship. *Id.* ¶¶ 9-11. The agents pushed Gavidia and took Gavidia's REAL ID and phone. *Id.* ¶ 11. After confirming his citizenship, the agents returned Gavidia's phone after 20 minutes but did not return his REAL ID. *Id.* ¶ 11.

June 14, 2025: Hernandez Viramontes and Gamez alleged that uniformed CBP agents returned in marked vehicles to the car wash in Whittier, questioned everyone about their immigration status, and arrested one worker. Dkt. 45-4, ¶ 7; Dkt. 45-5, ¶ 6.

June 18, 2025: Hernandez Viramontes and Gamez alleged that immigration agents returned in unmarked vehicles to the car wash in Whittier, questioned workers, and arrested one worker. Dkt. 45-4, ¶ 8; Dkt. 45-5, ¶¶ 7-9. On that date, the agents detained Hernandez Viramontes, transported him to another location where they verified his citizenship, and returned him to the car wash within 20 minutes. Dkt. 45-

[1] Facts in this section are as alleged by named Plaintiffs in their declarations. Defendants do not concede these allegations.

4, ¶¶ 9-14; Dkt. 45-5, ¶¶ 8-11. Gamez alleged that another group of agents arrived at the car wash later that day, "said that they were looking for someone," but left without arresting anyone. Dkt. 45-5, ¶ 11.

June 18, 2025: Vasquez Perdomo, Osorto, and Villegas Molina are day laborers of unspecified immigration status. Dkt. 45-1, ¶¶ 2-3; Dkt. 45-2, ¶¶ 2-3; Dkt. 45-3, ¶¶ 2-3. Shortly before 6 a.m. PST, Vasquez Perdomo, Osorto, and Villegas Molina, were waiting for work at a bus stop outside of Windell's Donut Shop in Pasadena, California. Dkt. 45-1, ¶ 4; Dkt.45-2, ¶ 4; Dkt. 45-3, ¶ 4. Plaintiffs alleged that four unmarked vehicles appeared at the bus stop and armed men in civilian clothes emerged.[2] Dkt. 45-1, ¶ 5; Dkt. 45-2, ¶ 5; Dkt. 45-3, ¶ 5. Vasquez Perdomo and Osorto attempted to flee, but Villegas Molina remained. Dkt. 45-1, ¶ 6; Dkt. 45-2, ¶ 6; Dkt. 45-3 ¶ 6. The agents asked the men their immigration status, took them to a store parking lot, shackled them at the hands, waist, and feet, and transported the three to a detention facility in downtown Los Angeles. Dkt. 45-1, ¶¶ 7-8; Dkt. 45-2, ¶ 6; Dkt. 45-3, ¶¶ 7-9.

Organizational Plaintiffs, LAWCN, UFW, and CHIRLA, allege that their organization members and those members' relatives have been placed in fear of detention or have been detained by Defendants' immigration enforcement actions. Dkt. 45-8, ¶¶ 16-36; Dkt. 45-12, ¶¶ 25-28; Dkt. 38-9, ¶¶ 24-31.

III. STANDARD OF REVIEW

The standard for issuing a TRO and a preliminary injunction are substantially identical. *Stuhlbarg Int'l Sales Co., Inc. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). "In exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Id.* at 24 (cleaned up). "Likelihood of success on the merits is the most important factor," and if the movant fails to meet this "threshold inquiry," the court "need not consider the other factors." *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018). Where, as here, a movant seeks a mandatory injunction that would alter the status quo and impose

[2] Villegas Molina alleged that there were only three vehicles. Dkt. 45-3, ¶ 5.

affirmative requirements on law enforcement officers as they carry out their duties, the burden is even higher standard. *See Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (mandatory injunctions are "particularly disfavored" and the "district court should deny such relief unless the facts and law clearly favor the moving party.") (cleaned up).

IV. ARGUMENT

A. Plaintiffs Have Failed to Establish That They are Entitled to Seek *Ex Parte* TRO Relief under the *Mission Power* Standard, As Opposed to Proceeding by Noticed Motion for a Preliminary Injunction.

Ex parte applications are rarely justified. *See Mission Power*, 883 F. Supp. at 490. To justify the extraordinary remedy of *ex parte* relief, the movant must demonstrate it "is without fault in creating the crisis that requires *ex parte* relief, or that the crisis occurred as a result of excusable neglect." *See id.* at 492. Here, Plaintiffs do not satisfy the *Mission Power* standard for proceeding by an *ex parte* application, as opposed to by a noticed motion. Their application does not even mention this threshold legal standard, which they do not meet. *See* TRO at 18 ("Legal Standard").

Instead, Plaintiffs' TRO application cites caselaw that is limited to the preliminary injunction motion context—as with Plaintiffs' lead citation of *United Farm Workers v. Noem*, 1:25-cv-00246-JLT-CDB (E.D. Cal. April 29, 2025). The *United Farm* complaint was filed on February 26, 2025 (Dkt. 1), a motion for class certification was filed on March 7, 2025 (Dkt. 14), and a motion for a preliminary injunction was filed on March 7, 2025 (Dkt. 15). After that full briefing, the District Court ruled on April 29, 2025 (Dkt. 47). Plaintiffs also cite *Kidd v. Mayorkas*, 734 F. Supp. 3d 967, (C.D. Cal. 2024), but that was a summary judgment decision by Judge Wright—not an *ex parte* TRO application—and an injunction was denied in *Kidd*, moreover.

By contrast, no District Court appears to have accepted the type of blitzkrieg *ex parte* strategy that Plaintiffs have taken here. Rather than following the *United Farm Workers* procedure, Plaintiffs instead made mammoth surprise filings from July 2 to 3, 2025. They filed their sixty-five (65) page First Amended Complaint (Dkt. 16 ("FAC")) shortly after midnight on July 2, 2025, with no advance notice to Defendants or the Court, adding a vast array of new Plaintiffs, twenty-four (24) counsel of record, and new claims, including putative class action claims. Plaintiffs indicated their intention to file two *ex parte*

TRO applications that same day of July 2, 2025, again having given no advance notice, while insisting Defendants could only have one day to respond—and no more.

After Plaintiffs filed their first *ex parte* application on July 2, 2025 (Dkt. 38), they then filed the instant vast *ex parte* TRO application regarding immigration arrests and detentions at 9:55 p.m. on July 3, 2025 (Dkt. 45). That second *ex parte* TRO application has twenty-one (21) supporting declarations (264 pages in aggregate length), and cites an enormous array of evidentiary contentions and asserted evidentiary documentations, media, internet links, and citations. Plaintiffs then directly e-mailed the Courtroom Deputy a download link at 9:59 p.m. on July 3, 2025, which they described as the "courtesy copies" of the supporting media files that would be lodged with the Court on Monday, July 7, 2025. Setting aside whether this e-mailing followed the Court's rules on communications with chambers, it was not a proper filing.

It is essentially impossible for Defendants (most of which were named on July 2, 2025, for the first time) to fairly respond to the vast array of *ex parte* documentation, declarations, citations, and arguments that Plaintiffs prepared in secret for weeks and then filed late on the evening of July 3, 2025, with a supplemental lodging on July 7, 2025. *Mission Power* warned of how *ex partes* "pose a threat to the administration of justice," calling out situations where "the moving party's papers reflect days, even weeks, of investigation and preparation; the opposing party has perhaps a day or two... The goal often appears to be to surprise opposing counsel or at least to force him or her to drop all other work to respond on short notice." *Mission Power*, 883 F. Supp. at 490. That is precisely what happened here.[3] Plaintiffs' resort to this tactic has created an impaired and unworkable evidentiary record. Indeed, Plaintiffs have pursued every possible avenue for maximizing the prejudicial volume and surprise of their *ex parte* filings on Defendants, rather than properly following the rules.

Plaintiffs' July 3rd *ex parte* TRO filing (Dkt. 45) regarding arrests and detentions, along with the media files submitted on July 7th in support of it, is so immense and voluminous that there is no reasonable way Defendants can fairly address its myriad contentions on an expedited basis, particularly with the intervening federal holiday weekend impeding Defendants' ability to contact and work with

[3] This followed Plaintiffs' counsel, the ACLU, having pursued the same tactic in *Los Angeles Press Club* case, 2:25-cv-05563-SVW-MAA—where the ACLU filed an enormous *ex parte* TRO Application shortly after midnight on June 19, 2025 (Dkt. 6).

witnesses. These issues regarding the second *ex parte* TRO application cannot fairly be resolved by a July 8 opposition brief and July 10 hearing.

Furthermore, Plaintiffs could have much more promptly sought relief on this point if they were genuinely facing irreparable harm requiring *ex parte* relief. Plaintiffs' *ex parte* application begins by declaring how they have been greatly aggrieved by immigration enforcement since June 6, 2025:

> Starting on or around June 6, 2025, Defendants have deployed marauding, masked, and armed agents to conduct suspicionless stops of thousands of Latine people in this District, in order to meet an arbitrary quota for 3,000 daily arrests imposed by the White House.

TRO at 10. Yet rather than promptly filing a true class action lawsuit (i.e., following the *United Farm Workers* approach and procedure), or else immediately seeking truly exigent relief, the organizational Plaintiffs delayed. They then belatedly tried to weld class action claims onto a preferred existing small habeas petition by suddenly filing an expanded First Amended Complaint, along with two voluminous *ex parte* TRO applications. This does not resemble the situations where courts have found the extraordinary procedural remedy of *ex parte* relief appropriate. "The Court expected to find a detailed explanation as to why Plaintiffs delayed filing their application until a regularly-noticed motion was not an option. Plaintiffs provided nothing; not a single sentence explains why, having had knowledge of [the upcoming protests], they waited until [a federal holiday] to file their Application." *Ubiquity Press Inc. v. Baran*, No. 8:20-CV-01809-JLS, 2020 WL 8172983, at *2 (C.D. Cal. Dec. 10, 2020).

For this threshold reason, the *ex parte* TRO application fails to satisfy the *Mission Power* standard for extraordinary *ex parte* relief. Plaintiffs should be required to follow the preliminary injunction motion standard instead.

B. Plaintiffs Seek Overbroad and Insufficiently Specific TRO Relief.

As Judge Wilson found in denying the ACLU's *ex parte* TRO application on June 20, 2025, in *Los Angeles Press Club v. Kristi Noem et al.*, 2:25-cv-05563-SVW-MAA (Dkt. 19) (Order Denying Plaintiffs' *Ex Parte* TRO Application), the plaintiffs' *ex parte* TRO application there was defective because the requested relief was too broad. The Ninth Circuit has "long held that injunctive relief must be tailored to remedy the specific harm alleged." *Melendres v. Arpaio*, 784 F.3d 1254, 1265 (9th Cir. 2015). "[A]n injunction against state actors must directly address and relate to the constitutional violation itself and must not require more of state officials than is necessary to assure their compliance with the

constitution." *Id.* (cleaned up).

Here, Plaintiffs suggest that their requested TRO is not overbroad and is sufficiently specific because it putatively orders the government to comply with extant law. There are multiple threshold defects in that claim however, beyond the fact that Plaintiffs do not correctly explain the extant law. Those threshold defects are as follows.

First, while the United States is obligated to obey the U.S. Constitution, a TRO ordering the government to broadly follow existing extant law is not permitted. The relief must be much more specific. *See Elend v. Basham*, 471 F.3d 1199, 1209 (11th Cir. 2006) (court cannot fashion an injunction that abstractly commands the Secret Service to obey the First Amendment, noting that injunction requiring party to do nothing more specific than 'obey the law' is impermissible."); *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d 824, 841 (7th Cir. 2013) ("An obey-the-law injunction departs from the traditional equitable principle that injunctions should prohibit no more than the violation established in the litigation or similar conduct reasonably related to the violation."); *see, e.g. Lowery v. Circuit City Stores, Inc.*, 158 F.3d 742, 767 (4th Cir. 1998) (an "obey the law" injunction "impermissibly subjects a defendant to contempt proceedings for conduct unlike and unrelated to the violation with which it was originally charged"); *Burton v. City of Belle Glade*, 178 F.3d 1175, 1201 (11th Cir. 1999) ("As this injunction would do no more than instruct the City to 'obey the law,' we believe that it would not satisfy the specificity requirements of [Federal Rule of Civil Procedure] 65(d) and that it would be incapable of enforcement."); *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 144 (2d Cir. 2011) ("[A]n injunction [must] be 'more specific than a simple command that the defendant obey the law.'"). As the Supreme Court has explained,

> The specificity provisions of Rule 65(d) are no mere technical requirements. The Rule was designed to prevent uncertainty and confusion on the part of those faced with injunctive orders, and to avoid the possible founding of a contempt citation on a decree too vague to be understood. Since an injunctive order prohibits conduct under threat of judicial punishment, basic fairness requires that those enjoined receive explicit notice of precisely what conduct is outlawed.

Schmidt v. Lessard, 414 U.S. 473, 476 (1974) (cleaned up). Reiterating existing law as an injunction or TRO does not perform this function.

In violation of these rules, paragraph (a) of Plaintiffs' proposed TRO order gives an incredibly

generic recitation of law: "As required by the Fourth Amendment of the United States Constitution, Defendants are enjoined from conducting detentive stops in this District unless the agent or officer has reasonable suspicion that the person to be stopped is within the United States in violation of U.S. immigration law." Dkt. 45-22.

Plaintiffs' other paragraphs are equally unspecific, particularly at the TRO stage, and are much more akin to nascent ambitions to seek a preliminary injunction. They vaguely gesture at Defendants being required (by TRO no less) to develop unspecific "guidance" and "training," but the order says nothing whatsoever about what that would be. *See* Dkt. 45-22. This does not comply with the law interpreting Rule 65(d).

Second, Plaintiffs seek relief against an extraordinarily wide and indiscriminate range of federal defendants, unlike the precedent they cite. They request that the Court issue a TRO against Defendants from across the Federal Government, many who have no or only a tenuous connection to the alleged facts. *See* FAC ¶¶ 21-32; Dkt. 45-22. Plaintiffs' indiscriminate challenge to the entirety of federal law enforcement, and almost all involved in it, is the opposite of the requisite narrowly tailored scope of relief.

Third, while Plaintiffs argue that being ordered to follow extant law is not burdensome, they ignore the fact that they are *suing Defendants in class action litigation*, and per their FAC, are seeking an award of attorneys' fees from the United States. When a general principle of law is set forth as an *injunction*, plaintiffs and counsel are incentivized to pursue intensive discovery, motion practice, demands for reporting and documentation, along with associated attorney fee claims (commonly sought in the millions of dollars under the Equal Access to Justice Act, to be paid to organizational plaintiffs as federal government funds). If unchecked, this kind of injunction incentivizes private plaintiffs, like Plaintiffs in this case, to pursue a "generalized auditor of the law" function imposes a significantly overbroad impediment on government operations.

Further, insofar as organizational Plaintiffs are publicly dedicated to *preventing and obstructing* federal immigration enforcement, they are especially incentivized to misuse TRO enforcement procedures for that purpose.[4] Overbroad and vague TROs, such as the one they seek here, threaten to

[4] For example, having lost their *ex parte* TRO application in *Los Angeles Press Club* (because they failed to establish that they faced likely imminent future injury, and sought overbroad TRO relief), the ACLU

(footnote cont'd on next page)

touch off and facilitate a wildfire of intractable efforts to impair basic government functions, through litigation, as a central goal.

C. Plaintiffs Lack Standing to Obtain a Prospective Injunction.

Because standing is a prerequisite to this Court's jurisdiction, Plaintiffs' claims on the merits have no likelihood of success since they cannot establish standing. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 158 (2014) ("The party invoking federal jurisdiction bears the burden of establishing' standing and must do so "the same way as any other matter on which the plaintiff bears the burden of proof, *i.e.,* with the manner and degree of evidence required at the successive stages of the litigation.") (cleaned up).

1. Organizational Plaintiffs Lack Standing Three Ways.

As argued in Defendant's opposition in the *ex parte* application regarding an alleged Fifth Amendment violation, and as applicable here, organizational Plaintiffs lack standing. Unlike certain other constitutional protections, the Fourth Amendment's safeguard against unreasonable searches and seizures is inherently personal and applies only to individuals whose own privacy interests have been infringed. *Minnesota v. Carter*, 525 U.S. 83, 88 (1998) (holding that, under Article III doctrine, a party must demonstrate a personal and reasonable expectation of privacy—rooted in property law or societal norms—to establish standing to challenge a search). Hence, the question of standing under the Fourth Amendment centers on whether the individual challenging the search or seizure had their own rights violated, rather than asserting the rights of another. *Id*. This inquiry is a substantive component of a Fourth Amendment claim, separate from the general Article III standing requirements. *Id*. Accordingly, when plaintiffs pursue prospective injunctive and declaratory relief, as in this case, they must present evidence showing that they are "immediately in danger of sustaining some direct injury as a result of the challenged official conduct," and that the risk of harm is "real and immediate, not conjectural or hypothetical"—"abstract injury" will not suffice. *City of Los Angeles v. Lyons*, 461 U.S. 95, 101 (1983) (holding that plaintiff lacked standing to enjoin city from using chokeholds where he could not demonstrate real and

---

then immediately—without even meeting and conferring, in violation of Local Rule 7-3—filed a motion asking the Court to authorize immediate discovery, and ordering the defendants to immediately respond. *See* 2:25-cv-05563-SVW-MAA, Dkt. 26. Seeking overbroad injunctive relief and overbroad discovery in this manner imposes severe negative impact on defendants.

immediate threat, he would be subject to chokehold again).

Here, Plaintiff legal services organizations have not alleged facts sufficient to demonstrate that they are likely to suffer any injury that is fairly traceable to the actions of Defendants under the relevant provisions of the INA. *See* TRO at 2-18; *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 416 (2013) (plaintiffs "cannot manufacture standing merely by inflicting harm on themselves based on their fears of hypothetical future harm that is not certainly impending"); *Munns v. Kerry*, 782 F.3d 402, 410 (9th Cir. 2015) (same). Plaintiff legal services organizations assert two types of injuries: first, that members of UFW, CHIRLA, and LAWCN, have suffered or may suffer unconstitutional arrests and detention as a result of being subject to INA enforcement; and second, that their members are being racially profiled by the immigration authorities and stopped in violation of their Fourth Amendment rights. *See* TRO at 7-9. However, finding standing under these circumstances—either organizational or next friend—would blow the courthouse door open to virtually any conceivable suit by legal services organizations against the government, given that virtually any administration of INA by a federal agency could be cast as creating such derivative effects. *See Whitmore v. Arkansas*, 495 U.S. 149, 164 (1990) (holding that "generalized interest of all citizens in constitutional governance" represents "an inadequate basis on which to grant petitioner standing to proceed"); *see also Hamdi v. Rumsfeld*, 294 F.3d 598, 605 (4th Cir. 2002) (cautioning against permitting lawsuits filed by "someone who seeks simply to gain attention by injecting himself into a high-profile case" as he is "much more likely to be utilizing the real party's injury as an occasion for entry into policy-laden proceedings of all sorts").

Moreover, under the separate doctrine of associational standing, an organization seeks to establish standing "as [a] representative[] of [its] members who have been injured in fact, and thus could have brought suit in their own right." *Simon v. E. Ky. Welfare Rights Org.*, 426 U.S. 26, 40 (1976). "[A]n association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977). "If an association can satisfy these requirements, [courts] allow the association to pursue its members' claims, without joining those members as parties to the suit." *Id.* Courts have been particularly reluctant to permit

associational standing in the Fourth Amendment context because the right is highly personal and fact-specific. Unless the organization itself has suffered a direct injury, such as its own property being searched, it cannot litigate the Fourth Amendment claims of its members.

Defendants dispute that legal services organizations' mission is germane to the interests it seeks to protect in this litigation, and, more fundamentally, they fail to satisfy the requirements for associational standing. It is not enough for a legal services organization to broadly claim advocacy on behalf of immigrant communities or to monitor legislation; to establish standing under Article III, the organization must specifically identify at least one member who has suffered a concrete and particularized injury as a result of the challenged conduct. The legal services organizations have not identified any individual member with standing, nor has it provided evidence that any such member has suffered an injury-in-fact. *See* FAC ¶¶ 111-64 (experiences of named Plaintiffs, without mentioning that any of them are members), 165-94 (profiles of organizations, without naming any members). Legal services organizations cannot circumvent the constitutional standing requirements by relying solely on their organizational purpose or generalized interests. Without a specifically injured member, they lack the requisite "personal stake" in the litigation and thus cannot establish associational standing, or any standing, to pursue these claims in federal court. Their claims thus fail at this threshold issue.

2. Named Plaintiffs Lack Standing to Seek Relief for Others.

Named Plaintiff Molina is, as of the date of his declaration, detained at Adelanto and therefore in no imminent risk of being stopped by immigration agents in a manner inconsistent with the Fifth Amendment. (Dkt. 45-2 ¶ 11). Plaintiffs also lack standing to bring claims for unknown individuals. A person may maintain a suit in federal court, whether as an individual or as a class member, only if he has standing and has the legal capacity to sue. *See TransUnion LLC v. Ramirez*, 594 U.S. 413, 422 (2021). But unknown people—*i.e.*, persons who have not yet been identified, let alone identified as a class member (that has not been certified)—simply lack standing. *See id.* at 424 ("[U]nder Article III, a federal court may resolve only 'a real controversy with real impact *on real persons*.'" (cleaned up)). A judicial order resolving the rights of "parties that did not exist" yet at the time of the decision would raise "significant questions under the Due Process Clause." *McLaughlin Chiropractic Assoc's v. McKesson Corp.*, No. 23-1226 (June 20, 2025), slip op. 11 n.5. The interests of a person who has not been identified

also cannot be "fairly and adequately protect[ed]," Fed. R. Civ. P. 23(a)(4), given the person's inability to monitor or participate in the litigation. Here, the uncertified class of "Stop/Arrest Plaintiffs" include, "All persons who, since June 6, 2025, have been *or will be* subjected to a detentive stop by federal agents in this District." FAC ¶ 199. This overly speculative and broad definition would include plaintiffs who are not yet in the United States, and who—*by reductio ad absurdum*—are not yet born. Yet, Plaintiffs are attempting to obtain relief for these individuals; they simply cannot assert these unknown individuals' rights for them. *See Am. Legion v. Am. Humanist Ass'n*, 588 U.S. 29, 87 (2019) (Gorsuch, J., concurring) ("Abandoning offended observer standing will mean only a return to the usual demands of Article III, requiring a real controversy with real impact on real persons to make a federal case out of it.").

D. Plaintiffs Are Not Likely To Succeed On The Merits of Their Claim.

For the foregoing reasons, Plaintiffs cannot establish a likelihood of success on the merits of their Fourth Amendment claim, as this Court lacks jurisdiction. Thus, the Court need proceed no further in its analysis to deny the TRO application. *See, e.g.*, *Munaf v. Geren*, 553 U.S. 674, 691 (2008) (noting that jurisdictional issues can make success on the merits "more *unlikely* due to potential impediments to even reaching the merits"); *Laker Airways Ltd. v. Sabena, Belgian World Airlines*, 731 F.2d 909, 921 (D.C. Cir. 1984). ("If there is no justification for the court's exercise of jurisdiction, the injunctive relief should necessarily fail."). Even so, Plaintiffs' Fourth Amendment claim fails.

1. The Court Lacks Jurisdiction to Review Plaintiffs' Claims Under 8 U.S.C. §§ 1252(a)(5), (b)(9), and (g).

Three of the named Plaintiffs (Vasquez Perdomo, FAC ¶ 121; Osorto, FAC ¶ 134; and Villegas Molina, FAC ¶ 146) are in removal proceedings. The INA bars this Court's review of their Fourth Amendment claim. And to the extent that organizational Plaintiffs are bringing a Fourth Amendment claim for an uncertified class of aliens in removal proceedings, their claim would also be barred.

Pursuant to the INA, "[j]udicial review of *all questions of law and fact*, including interpretation and application of constitutional and statutory provision, *arising from any action taken or proceeding brought* to remove an alien from the United States under this subchapter shall be available only in judicial review of a final [removal] order." 8 U.S.C. § 1252(b)(9) (emphasis added). Section 1252(b)(9) expressly precludes district court review "by habeas corpus … or by any other provision of law (statutory or

nonstatutory)" of an order of removal or "questions of law or fact, including interpretation and application of constitutional provisions" arising from any action taken or proceeding brought to remove an alien from the United States. Section 1252(b)(9) is an "unmistakable zipper clause" that channels judicial review of "all questions of law and fact," including both "constitutional and statutory" challenges into a petition for review once administrative immigration proceedings have ended. *Reno v. Am.-Arab Anti-Discrimination Comm. ("AADC")*, 525 U.S. 471, 483, 485 (1999) (emphasis added). When a claim by an alien, "however it is framed, challenges the procedure and substance of an agency determination that is 'inextricably linked' to the order of removal, it is prohibited by section 1252(a)(5) [and (b)(9)]." *J.E.F.M. v. Lynch*, 837 F.3d 1026, 1032 (9th Cir. 2016) (citing *Martinez v. Napolitano*, 704 F.3d 620, 623 (9th Cir. 2012) (applying this principle in the context of a claim brought under the Administrative Procedure Act)). Indeed, a petition for review filed in the appropriate court of appeals is the sole and exclusive means for judicial review of a final removal order. 8 U.S.C. § 1252(a)(5).

Congress further deprived this Court of jurisdiction over named Plaintiffs' claims through 8 U.S.C. § 1252(g), which strips district courts of jurisdiction "to hear any cause or claim by or on behalf of any alien arising from the decision or action by the [government] to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter." 8 U.S.C. § 1252(g); *see INS v. St. Cyr*, 533 U.S. 289, 311 n.34 (2001); *J.E.F.M.*, 837 F.3d at 1035 ("We conclude that §§ 1252(a)(5) and 1252(b)(9) channel review of all claims, including policies-and-practices challenges, through the [petition for review] process whenever they 'arise from' removal proceedings."). As the Supreme Court has held, the statute should be narrowly applied "only to [the] three discrete actions" listed. *AADC*, 525 U.S. at 482-83. Even so, by its terms, this jurisdiction stripping provision precludes habeas review under 28 U.S.C. § 2241 (as well as review pursuant to the All Writs Act and Administrative Procedure Act) of claims arising from a decision or action to commence removal proceedings. *See AADC*, 525 U.S. at 482. In short, the decision as to the method by which removal proceedings are commenced, which is the genesis of the named Plaintiffs' (and any other alien's) detention, is a discretionary one that is not reviewable by a district court under §1252(g). *See id.* at 487.

Here, the stops and detentions that Plaintiffs challenge were actions taken to commence removal proceedings and remove named Plaintiffs (and other targeted individuals) from the United States, that is,

to "detain [them] in the first place and seek their removal." *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018); Harvick Decl. ¶¶ 5, 8-9; Quinones Decl. ¶ ¶ 9-12. Plaintiffs challenge the questions of law and fact behind these actions, specifically, whether the immigration agents had reasonable suspicion for the stops. *See* TRO at 18-22. But because Plaintiffs challenge questions of law and fact arising from these actions taken to commence proceedings and remove the named Plaintiffs and other aliens, §§ 1252(a)(5) and (b)(9) require that they bring these claims, first in their removal proceedings before the agency, and then, in petitions for review before the appropriate Court of Appeals. Indeed, petitions for review commonly consider challenges related to whether immigration authorities had reasonable suspicion to stop, or probable cause to arrest, an alien. *See, e.g.*, *Sanchez v. Sessions*, 904 F.3d 643 (9th Cir. 2018); *J.E.F.M.*, 837 F.3d at 1033 (holding that §§ 1252(a)(5) and (b)(9) bar district courts from reviewing legal questions "routinely raised in petitions for review").

Notably, these same legal questions are commonly raised by aliens in removal proceedings asking administrative and federal courts of appeal to suppress evidence of their removability due to Fourth Amendment or regulatory violations, or terminate proceedings due to the same. *See, e.g.*, *Sanchez*, 904 F.3d at 653-54 (alleged race-based stop by Coast Guard challenged in removal proceedings) (citing *Rajah v. Mukasey*, 544 F.3d 427, 446 47 (2d Cir. 2008)); *Leal-Burboa v. Garland*, No. 21-70279, 2022 WL 17547799 (9th Cir. 2022) (alleged race-based stop challenged in removal proceedings). If the legal remedy for unlawful stops and arrests is provided in removal proceedings, *ipso facto* these challenges are part of the decision to remove an alien. It does not matter that a class remedy "might be more efficient than requiring each applicant to file a" petition for review, or preferred as a method to challenge "policy and practice," as § 1252(b)(9) plainly precludes "all district court review of any issue raised in a removal proceeding." *J.E.F.M.*, F.3d at 837 at 1034-35, 1038. Because the stop and arrest of an alien is directly, linearly part of the process to remove an alien—the stops occurred here to investigate immigration status rendering an alien removable—the "legal questions" challenging the stops are directly part of the removal process. *Jennings*, 583 U.S. at 295 n.3. Accordingly, this Court lacks jurisdiction pursuant to 8 U.S.C. §§ 1252(a)(5), (b)(9), and (g).

2. Plaintiffs have not shown that Defendants violated any Fourth Amendment rights or acted contrary to 8 U.S.C. § 1357(a)(2).

Defendants have acted, and continue to act, in accordance with the law. The Fourth Amendment provides protection from unreasonable searches and seizures. U.S. Const. amend. IV. Under the INA, immigration officials are empowered to perform the warrantless arrest of:

> [A]ny alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay … before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States.

8 U.S.C. § 1357(a)(2); *see Abel v. United States*, 362 U.S. 217, 232-37 (1960) (discussing longstanding administrative arrest procedures in deportation cases). "Reason to believe" has been equated with the constitutional requirement of probable cause. *See Tejeda-Mata v. INS*, 626 F.2d 721, 725 (9th Cir. 1980). The implementing regulations explain that "an alien arrested without a warrant of arrest … will be examined by an officer other than the arresting officer." 8 C.F.R. § 287.3(a). "If the examining officer is satisfied that there is prima facie evidence that the arrested alien is present in the United States in violation of the immigration laws, the officer will either refer the case to an immigration judge for further inquiry, order the alien removed, or take whatever other action may be appropriate or required under the laws or regulations applicable to the particular case. *Id.* at § 287.3(a)-(b) (cleaned up). DHS ordinarily will make an initial determination within 48 hours of the apprehension whether the alien will remain in custody, be paroled, be released on bond or released on recognizance. 8 C.F.R. § 287.3(d).

Here, Plaintiffs have not shown that Defendants violated any Fourth Amendment rights or acted contrary to 8 U.S.C. § 1357(a)(2). Three of the Plaintiffs were arrested and detained based on statutorily valid grounds, and whether their arrests were legally sound is a question they may raise in removal proceedings. *See* Dkt. 45-1, ¶¶ 7-8; Dkt. 45-2, ¶ 6; Dkt. 45-3, ¶¶ 7-9. The other two Plaintiffs were only subject to investigative detentions that ended when their citizenship status was confirmed. *See* Dkt. 45-4, ¶¶ 9-14; Dkt. 45-5, ¶¶ 8-11; Dkt. 45-9, ¶ 11. Plaintiffs' arguments that the manner of their arrest and detention by federal officers violates their constitutional rights under the Fourth Amendment fail.

As a threshold issue, three of the named Plaintiffs cannot establish that their arrest and detention were unconstitutional given that they are present in this country without valid status. *See Echeverria-*

Perez v. Barr, 794 F. App'x 614, 616 (9th Cir. 2019) ("The fact that agents detained and arrested Echeverria without first establishing her identity and alienage is of no moment. All the agents needed to make an arrest was 'reason to believe' that Echeverria was an alien illegally in the United States." (citing 8 C.F.R. § 287.8(c)(2)(i) and 8 U.S.C. § 1357(a)(2))). This Court should not consider whether a violation of 8 C.F.R. § 287.8(b)(2) occurred because Plaintiffs did not raise that argument. *See* TRO at 18-22; *McKay v. Ingleson*, 558 F.3d 888, 891 n.5 (9th Cir. 2009). Even so, the Ninth Circuit has recognized that § 287.8(b)(2) "serves a purpose of benefit to the alien" and "was intended to reflect constitutional restrictions on the ability of immigration officials to interrogate and detain persons in this country." *Perez Cruz v. Barr*, 926 F.3d 1128, 1137 (9th Cir. 2019) (quoting *Sanchez*, 904 F.3d at 650-51); *see also id.* at 1137 n.4 ("If anything, the regulation is stricter than the Fourth Amendment."). Second, § 1357(a)(2) "provides that an officer has the authority to arrest any alien in the United States if he has reason to believe that the alien arrested is in violation of an immigration law or regulation and the alien is likely to escape before a warrant can be obtained for his arrest." *United States v. Reyes-Oropesa*, 596 F.2d 399, 400 (9th Cir. 1979) (citing *United States v. Meza-Campos*, 500 F.2d 33 (9th Cir. 1974)). Further, Plaintiffs have failed to provide any proof to challenge the government's determination that they lack valid status.

To determine whether the government's actions constituted a Fourth Amendment seizure, this Court determines whether "taking into account all of the circumstances surrounding the encounter, the police conduct would have communicated to a reasonable person that he was not at liberty to ignore the police presence and go about his business." *Orhorhaghe v. Immigr. & Naturalization Serv.*, 38 F.3d 488, 494 (9th Cir. 1994) (cleaned up). "Even if the official interference … is brief, provided that it is some sort of 'meaningful interference …. with an individual's freedom of movement,' it constitutes a seizure." *United States v. Enslin*, 327 F.3d 788, 795 (9th Cir. 2003) (quoting *United States v. Jacobsen*, 466 U.S. 109, 113 n.5 (1984)).

Turning to the constitutionality of the seizures, to satisfy the Fourth Amendment, "an investigatory stop by the police may be made only if the officer in question has 'a reasonable suspicion supported by articulable facts that criminal activity may be afoot.'" *United States v. Montero-Camargo*, 208 F.3d 1122, 1129 (9th Cir. 2000) (quoting *United States v. Sokolow,* 490 U.S. 1, 7 (1989)). When making reasonable-suspicion determinations, courts "must look at the 'totality of the circumstances' of

each case to see whether the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing." *United States v. Arvizu*, 534 U.S. 266, 273 (2002) (quoting *United States v. Cortez*, 449 U.S. 411, 417-18 (1981)). Reasonable suspicion exists "when an officer is aware of specific, articulable facts which, when considered with objective and reasonable inferences, form a basis for *particularized* suspicion." *Montero-Camargo*, 208 F.3d at 1129. The requirement of particularized suspicion encompasses two elements: the officer's assessment is based upon the totality of the circumstances and it arouses a reasonable suspicion that the particular person being stopped has committed or is about to commit a crime. *See id.* (citing *Cortez*, 449 U.S. at 418).

Here, Plaintiffs do not allege facts in their FAC, or submit evidence with their TRO application, that establish that Defendants engaged, or continue to engage, in a pattern and practice that ignores this requirement of particularized suspicion prior to initiating an investigatory stop. Instead, the evidence shows that Defendants' officers use a totality of the circumstances approach when in the field and in determining whether they have reasonable suspicion to target an alien. *See* Harvick Decl. ¶ 8. Consistent with 8 C.F.R. § 287.8(b)(2), the agents' reasonable suspicions are based on "specific articulable facts" that the person being questioned is an alien illegally present in the United States. Quinones Decl. ¶ 5. This analysis is fact-specific and includes factors such as "intelligence sources, querying law enforcement and open-source databases, analysis of trends, facts developed in the field by agents, rational inferences that lead an agent or officer to suspect that criminal activity has or is occurring, and the officers or agents observations, training, and experience." *Id.*

Consistent with the totality of the circumstances approach, agents may consider the location of the encounter, whether it was in a public place or businesses known to employ aliens without documentation, including specific streets, parking lots, and car washes. *See* Harvick Decl. ¶¶ 7-8; Dkt. 45-1, ¶ 4; Dkt.45-2, ¶ 4; Dkt. 45-3, ¶ 4; Dkt. 45-4, ¶ 7; Dkt. 45-5, ¶ 6; Dkt. 45-9, ¶¶ 6-7. "Requiring law enforcement to ignore certain facts in this analysis would be unworkable on a practical level in the operational environment." Harvick Decl. ¶ 8. In public places, individuals may be approached in the context of consensual encounters or with reasonable suspicion necessary to conduct an investigative detention. *See* Quinones Decl. ¶¶ 6, 9. Indeed, "[s]hould other individuals be encountered during the targeted arrest of the fugitive or criminal alien targeted, ICE will conduct consensual interviews to

identify whether there is reasonable suspicion that the individuals are illegally in the United States and determine if these individuals are subject to immigration enforcement and arrest." Quinones Decl. ¶ 9. When the officers encountered Vasquez Perdomo and Osorto at a bus stop, they attempted to flee, and only Villegas Molina remained. Dkt. 45-1, ¶ 6; Dkt. 45-2, ¶ 6; Dkt. 45-3 ¶ 6. "Any one of these factors is not by itself proof of any illegal conduct and is quite consistent with innocent travel. But … taken together they amount to reasonable suspicion." *United States v. Sokolow*, 490 U.S. 1, 9 (1989); *see also Terry v. Ohio*, 392 U.S. 1, 22 (1968) ("Through a series of acts, each of them perhaps innocent in itself, but which taken together warranted further investigation."); *see also United States v. Montero-Camargo*, 208 F.3d 1122, 1130 (9th Cir. 2000) ("In short, conduct that is not necessarily indicative of criminal activity may, in certain circumstances, be relevant to the reasonable suspicion calculus.").

First, and contrary to Plaintiffs' arguments, it was not their appearance alone that caused the officers to approach Plaintiffs, even though appearance "may in some cases be 'a relevant factor' in determining whether immigration officers were justified in making an investigatory seizure. *Orhorhaghe v. Immigr. & Naturalization Serv.*, 38 F.3d 488, 498 (9th Cir. 1994); *see United States v. Brignoni-Ponce*, 422 U.S. 873, 885 (1975) (stating appearance could be a factor in a reasonable suspicion calculus, but that "factor alone would justify neither a reasonable belief that they were aliens, nor a reasonable belief that the car concealed other aliens who were illegally in the country"). Instead, "officers and agents are given information on [the targeted individual], which may include immigration and criminal history, biological information, photos (if available), and other relevant information, such as the last known home address or possible workplace of the subject." Harvick Decl. ¶ 10. The information leading to reasonable suspicion may even come from prior "surveillance operations" of the site in question. *Id.*

Second, considering the location as part of the totality of the circumstances approach is not prohibited where agents "conduct surveillance in order to identify the location of the subject in order to effectuate the arrest." *Id.* Indeed, officers are trained to use their knowledge, training, and experience when in the field searching for targeted individuals with final orders of removal, and of which they had created targeting packets for the individuals to be arrested. *See* Quinones Decl. ¶ 9; Harvick Decl. ¶¶ 10, 12. While this information might not rise to the level of that in *Onofre-Rojas*, "officers are not required to ignore the relevant characteristics of a location in determining whether the circumstances are

sufficiently suspicious to warrant further investigation." *Illinois v. Wardlow*, 528 U.S. 119, 124 (2000). "'[P]ermissible deductions,' or 'rational inferences' must, however, flow from objective facts and be capable of rational explanation." *Nicacio v. Immigr. & Naturalization Serv.*, 797 F.2d 700, 705 (9th Cir. 1985) (quoting *Cortez,* 449 U.S. at 419 and then *Brignoni-Ponce,* 422 U.S. at 884). That other individuals, like the named Plaintiffs, are encountered during a targeted arrest, the officers, using their training and experience, would evaluate the facts to form rational inferences that those individuals may be undocumented and in the United States illegally. *Cf. Onofre-Rojas v. Sessions*, 750 F. App'x 538, 539 (9th Cir. 2018) (affirming reasonable suspicion finding when officers had a warrant for a location with undocumented workers and petitioner was hiding in a container); *Arvizu*, 534 U.S. at 277 (affirming district court's finding of reasonable suspicion based on officer's observations, registration check, and border patrol experience).

Third, the flight of two Plaintiffs after the detention of another was further relevant to the officers' reasonable suspicion determination. *See* Dkt. 45-1, ¶ 6; Dkt. 45-2, ¶ 6; Dkt. 45-3 ¶ 6. Obvious, unambiguous attempts to evade contact with law enforcement officials is conduct relevant to the reasonable suspicion determination. *See Wardlow*, 528 U.S. at 124 ("[N]ervous, evasive behavior is a pertinent factor in determining reasonable suspicion."); *see, e.g.*, *id.* (unprovoked flight); *Sokolow*, 490 U.S. at 8 (evasive or erratic path through an airport); *Florida v. Rodriguez,* 469 U.S. 1, 6 (1984) (speaking furtively and urging the need to leave). The officers thus followed the law under the totality of the circumstances approach. *See Montero-Camargo*, 208 F.3d at 1130 ("In short, conduct that is not necessarily indicative of criminal activity may, in certain circumstances, be relevant to the reasonable suspicion calculus.").

At bottom, Plaintiffs merely assume Defendants engaged, or continue to engage, in a pattern and practice that ignores this requirement of particularized suspicion prior to initiating an investigatory stop despite no evidence to the contrary. *See Emanuel v. Morda*, 2025 WL 1532501, at *3 (D. Nev. May 28, 2025) (denying motion for temporary restraining order without prejudice because plaintiff "does not identify a threatened immediate and irreparable injury with specific factual allegations, nor does it request specific relief that this Court has the authority to grant"). But that is not so. Accordingly, they cannot show a likelihood of success of their Fourth Amendment claim.

E. Plaintiffs Have Not Demonstrated Irreparable Harm.

"[P]laintiffs may not obtain a preliminary injunction unless they can show that irreparable harm is likely to result in the absence of the injunction." *All. For The Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011). "The purpose of an injunction is to prevent future violations" and, therefore, requires the movant establish a "cognizable danger of recurrent violation" and not just "the mere possibility" of future harm. *U.S. v. W. T. Grant Co.*, 345 U.S. 629, 633 (1953). To establish a likelihood of irreparable harm, Plaintiff "must do more than merely allege imminent harm sufficient to establish standing; [they] must *demonstrate* immediate threatened injury." *Boardman v. Pacific Seafood Group*, 822 F.3d 1011, 1022 (9th Cir. 2016) (emphasis in original). Where "there is no showing of any real or immediate threat that the plaintiff will be wronged again," there is no irreparable injury supporting equitable relief. *Lyons*, 461 U.S. at 111; *see Olagues v. Russoniello*, 770 F.2d 791, 797 (9th Cir. 1985). Under federal law, the government may conduct warrantless arrest if officers have reasonable suspicion, based on specific articulable facts. *See* Harvick Decl. ¶¶ 8-10; Quinones Decl. ¶¶ 4-5, 8-9. Plaintiffs have presented no evidence that alleged misconduct will occur in the future. *See* TRO at 22-23. At bottom, Plaintiffs' future injuries are not only speculative and, therefore, insufficient to demonstrate the likelihood of irreparable injury, they are premised on generalizations and a lack of understanding of Defendants' procedures for targeting aliens unlawfully in the United States. *See Park Vill. Apartment Tenants Ass'n v. Mortimer Howard Tr.*, 636 F.3d 1150, 1160 (9th Cir. 2011) ("An injunction will not issue if the person or entity seeking injunctive relief shows a mere possibility of some remote future injury[.]") (cleaned up).

F. The Equities Weigh Against Granting the TRO Application.

When the government is the defendant, the final two factors—the public interest and the balance of equities—merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009). These equitable factors cut against the broad remedy proposed by Plaintiffs. Three of the named Plaintiffs are illegally present in the United States; their unlawful presence (and that of other aliens) in the United States is a continuing violation of the law. *See INS v. Lopez-Mendoza*, 468 U.S. 1032, 1047 (1984) (discussing that "a person whose unregistered presence in this country, without more, constitutes a crime," and while "the constable's blunder may allow the criminal to go free, we have never suggested that it allows the criminal to continue in the commission of an ongoing crime" (cleaned up)). The government has a legitimate and

significant interest in ensuring that immigration laws are enforced, and any limitation would severely infringe on the President's Article II authority. *See U.S. v. Texas*, 599 U.S. 670, 679 (2023) (Article II "enforcement discretion" applies in the immigration context, where the Court has stressed that the Executive's enforcement discretion implicates normal domestic law enforcement priorities and foreign-policy objectives). That interest would be compromised if the TRO is granted. Moreover, it is well-settled that the public's interest in enforcement of U.S. immigration laws is paramount, and even more so where, as here, Congress has exercised its plenary legislative authority and control over immigration issues. *United States v. Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977). Here, Plaintiffs seek an injunction from this Court enjoining the government from allegedly making arrests without reasonable suspicion in violation of the Fourth Amendment. But as discussed, the government's practices comply with the Constitution, and therefore, alteration of the *status quo* is unnecessary. Accordingly, both the public interest and the balance of the equities weigh in favor of denying the application.

G. Plaintiffs Cannot Obtain Relief on Behalf of an Uncertified Class.

Plaintiffs have neither sought nor obtained class certification. Consequently, the Court cannot issue class-wide relief and, at most, could only provide relief to the Plaintiffs in this case. *See Warth v. Seldin*, 422 U.S. 490, 499 (1975) ("The Art. III judicial power exists only to redress or otherwise to protect against injury to the complaining party, even though the court's judgment may benefit others collaterally."); *see also, Nat'l Ctr. for Immigrants Rights, Inc. v. INS*, 743 F.2d 1365, 1371 (9th Cir. 1984) (citing cases and holding "in the absence of class certification, [a] preliminary injunction may properly cover only the named plaintiffs"). Moreover, without demonstrating that its proposed class satisfies the requirements of Rule 23 after a "rigorous analysis," Plaintiffs cannot obtain "an exception to the usual rule that litigation is conducted by and on behalf of the individual named parties only." *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 348 (2011) (internal citation and quotation marks omitted).

H. Any Injunction Should Require Bond and Be Properly Limited to Named Plaintiffs

If the Court grants Plaintiffs' requested TRO it should order security. Under Federal Rule of Civil Procedure 65(c), the Court may issue a preliminary injunction "only if the movant gives security" for "costs and damages sustained" by Defendants if they are later found to "have been wrongfully

enjoined." Fed. R. Civ. P. 65(c). If the Court issues a TRO here, it should require Plaintiffs to post an appropriate bond commensurate with the scope of any injunction. *See DSE, Inc. v. United States*, 169 F.3d 21, 33 (D.C. Cir. 1999).

On June 27, 2025, the Supreme Court held that district courts do not have equitable powers to issue a "universal injunction," barring the defendant from enforcing "a law or policy against *anyone*." *Trump v. CASA, Inc.*, 2025 WL 1773631, *4 (U.S. June 27, 2025) (emphasis in original). The Court reasoned that "'[c]omplete relief' is not synonymous with 'universal relief.' It is a narrower concept: The equitable tradition has long embraced the rule that courts generally 'may administer complete relief *between the parties*.'" *Id.* at *11 (emphasis in original) ("The individual and associational respondents are therefore wrong to characterize the universal injunction as simply an application of the complete-relief principle."). The Court in *Casa* overturned the lower court's universal injunction as to "all other similarly situated individuals" but left undisturbed the relief granted to named parties. *Id.* If this Court grants injunctive relief to Plaintiffs', that relief should apply *only* as to named Plaintiffs who have applied for such relief, not to anyone and everyone the government may come into contact within the Central District of California whether or not they are parties to this action. (*See Pls.' Proposed Order*, Dkt. 45-22 at 4-5)

Finally, Defendants respectfully request that if this Court does enter injunctive relief, that relief be stayed for a period of seven days to allow the Solicitor General to determine whether to appeal and seek a stay pending appeal.

V. CONCLUSION

For these reasons, the Court should deny the *ex parte* TRO application.

Dated: July 8, 2025

Respectfully submitted,

/s/Sean Skedzielewski
SEAN SKEDZIELEWSKI
Counsel to the Assistant Attorney General
United States Department of Justice
Civil Division
950 Pennsylvania Ave NW, Ofc. 3631
Washington, DC 20530
Telephone: (202) 307-1697
Email: Sean.Skedzielewski@usdoj.gov

Attorney for Defendants

L.R. 11-6.2 Certificate of Compliance

The undersigned counsel of record certifies that this filing is less than twenty-five (25) pages, which complies with this Court's standing order.

Dated: July 8, 2025

/s/Sean Skedzielewski
SEAN SKEDZIELEWSKI
Counsel to the Assistant Attorney General
United States Department of Justice
Civil Division
950 Pennsylvania Ave NW, Ofc. 3631
Washington, DC 20530
Telephone: (202) 307-1697
Email: Sean.Skedzielewski@usdoj.gov

Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Pedro VASQUEZ PERDOMO, et al., Plaintiffs, v. KRISTI NOEM, IN HER OFFICIAL CAPACITY AS SECRETARY OF HOMELAND SECURITY, et al., Defendants.	Case No. 2:25-cv-05605 **DECLARATION OF ANDRE QUINONES**

DECLARATION OF ANDRE QUINONES

I, Andre Quinones, hereby declare:

1. I am employed by the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) and serve as a Deputy Field Office Director (FOD) of the Los Angeles Field Office (ERO Los Angeles).

2. I have been employed by ICE, or its predecessor legacy Immigration and Naturalization Service (INS), since June 2000. In April 2011, I was promoted to Supervisory Detention and Deportation Officer and in October 2016, I was promoted to Assistant Field Office Director. In June 2020, I was promoted to Deputy Field

Office Director (DFOD).

3. As DFOD for ERO Los Angeles, I assist the Field Office Director in directing and overseeing ICE's enforcement of federal immigration laws within the Central District of California, which has the same geographic boundaries as the ERO Los Angeles Field Office. The ERO Los Angeles Field Office currently consists of over 290 law enforcement officers in six offices who are responsible for enforcing federal immigration laws in seven California counties with a combined population of over 20 million people. ICE is the largest investigative branch of DHS and is charged with the enforcement of more than 400 federal statutes. The agency was created after the September 11, 2001 terrorist attacks, by combining components of the former INS and the former U.S. Customs Service, to more effectively enforce federal immigration and customs laws and to protect the United States against terrorist attacks. The mission of ICE is to protect the United States from the cross-border crime and illegal immigration that threaten national security and public safety. To carry out that mission, ICE focuses on enforcing immigration laws, preventing terrorism, and combating transnational criminal threats. ICE consists of three core operational directorates: (1) ERO, which includes 25 field offices led by FODs; (2) Homeland Security Investigations (HSI), which includes 30 field offices led by Special Agents-in-Charge; and (3) the Office of the Principal Legal Advisor, which includes 25 field locations led by Chief Counsel.

4. ERO Los Angeles officers receive Ninth Circuit-specific immigration enforcement training on the requirements of the Fourth Amendment of the U.S. Constitution and the statutory and regulation provisions of the Immigration and Nationality Act (INA) twice per year. This training covers warrantless arrests, the requirements of having and documenting reasonable suspicion and/or probable cause, and consensual encounters.

5. ERO Los Angeles officers are trained that, under the Fourth Amendment, case law, and relevant regulations, brief detention for questioning requires an immigration officer to have reasonable suspicion, based on specific, articulable facts, that the person being questioned is an alien illegally in the United States. ERO Los Angeles officers are trained that an arrest requires probable cause that the person being arrested is an alien illegally in the United States.

6. ERO Los Angeles officers are trained to follow ICE procedures for apprehensions of illegal aliens in the United States by using targeted investigations, conducting operations, and making arrests. Individual targeting packages, consisting of the targeted alien's immigration history and/or status, criminal history, last known residence and employment information are prepared during the targeted investigation, prior to contact with the targeted alien. Targeted investigations focus on aliens with final removal orders and/or serious criminal history. When non-targeted individuals are encountered during the targeted

operations, ERO Los Angeles officers are trained to develop reasonable suspicion through consensual encounters. ERO Los Angeles officers identify themselves to the arrestee at the time of arrest/encounter or as soon as practicable when safe to do so.

7. On January 22, 2025, Acting DHS Secretary Benjamine C. Huffman issued a memorandum authorizing any law enforcement officials within the U.S. Department of Justice including the Federal Bureau of Investigations, U.S. Marshals Service, Drug Enforcement Administration, Bureau of Alcohol, Tobacco, Firearms and Explosives, and Federal Bureau of Prisons to exercise immigration enforcement authorities under Title 8 of the United States Code.

8. I am aware that on or about February 6, 2025 and on June 5, 2025, the ICE Office of the Principal Legal Advisor offered local law enforcement partners from these agencies Ninth Circuit-specific immigration enforcement training, covering immigration arrests, the requirements of reasonable suspicion and probable cause, brief stops for questioning, and consensual encounters under the Fourth Amendment and the INA statute and regulations.

9. ICE law enforcement officers are participating in multi-agency teams conducting immigration enforcement in the Los Angeles area. In these operations, ERO and HSI serve as team leads of multi-agency teams on regular, targeted fugitive enforcement operations focusing on individuals with final orders of

removal or cases with significant criminal history. As ERO Los Angeles has been doing for many years, ERO creates individual targeting packets for the individual to be arrested. Should other individuals be encountered during the targeted arrest of the fugitive or criminal alien targeted, ICE will conduct consensual interviews to identify whether there is reasonable suspicion that the individuals are illegally in the United States and determine if these individuals are subject to immigration enforcement and arrest.

Pursuant to the provisions of 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my information, knowledge, and belief.

Executed on this 8th day of July 2025.

ANDRE G QUINONES

Digitally signed by ANDRE G QUINONES
Date: 2025.07.08 15:15:06 -07'00'

Andre Quinones
Deputy Field Office Director
DHS ICE ERO Los Angeles

DECLARATION OF KYLE C. HARVICK

I, Kyle C. Harvick, declare and affirm as follows:

1. I am employed by U.S. Customs and Border Protection (CBP). CBP is charged with enforcing the Nation's immigration laws in order to protect national security and uphold the integrity of the immigration system. As part of this mission, CBP Border Patrol Agents and officers are responsible for preventing the unlawful entry of individuals into the United States, apprehending those who attempt to enter illegally or who have violated the immigration laws in accordance with applicable laws. Through these activities, CBP seeks to secure the border, disrupt human smuggling and trafficking networks, and ensure consistent enforcement of the immigration laws of the United States.

2. I am the Patrol Agent in Charge, El Centro Station. In this role, I drive Border Patrol Operations for the El Centro Station, comprised of 35 miles of land border, a permanent traffic checkpoint, overseeing 320 employees, a 160-vehicle fleet, and a budget of $800,000. I have been in this position since 2023.

3. I entered on duty with the U.S. Border Patrol on September 10, 2000, with my first duty assignment in the El Paso Sector. In 2015-2016, I served as Acting Assistant Chief within the Strategic Planning and Analysis Directorate, Operational Requirements Management Division in Washington, D.C. I have also served as the Deputy Patrol Agent in Charge of the Yuma Sector Border Patrol Station and the first Customs and Border Protection Advisor to Israel, where I was responsible for facilitating in country liaison with various Israeli Law Enforcement entities and Ministry of Defense agencies. I have served in the El Centro Sector since 2021, including service as the Professional Standards Assistant Chief Patrol Agent.

4. Currently for the Los Angeles operation, I am Deputy Incident Commander and I operate out of the Border Patrol Incident Command Post (BP ICP). In this position, I oversee all U.S. Border Patrol operations around the Los Angeles area. I ensure the Border Patrol Agents have all the proper equipment and supplies to do their job. I

oversee logistics, prosecutions, use of force events, personnel, and intelligence. I report to the Incident Commander or act as the Incident Commander in his absence. The BP ICP is the operational component of Operation At Large Los Angeles, CA. The BP ICP reports up to the Lead Field Coordinator and National Incident Command Center.

5. On June 6, 2025, in support of U.S. Immigration and Customs Enforcement, CBP agents and officers were sent to Los Angeles, California in support of Immigration and Customs Enforcement-Enforcement and Removal Operations (ICE-ERO). As part of this operation, CBP agents and officers, along with their federal partners, participate in a variety of different law enforcement encounters and enforcement actions as part of the operation in Los Angeles. These activities have included consensual encounters, investigative detentions, warrantless arrests made where probable cause is developed in the field, arrests carried out pursuant to federal immigration warrants, and criminal arrests under judicial warrants.

6. CBP personnel participated in consensual encounters during the operations in Los Angeles. During those consensual encounters, the individuals were free to walk away and terminate the encounter, decline to answer questions, and refuse to provide requested identification documents. While some of the individuals encountered freely answered questions about their names and place of birth and provided identification documents, others refused to answer questions and/or walked away from the encounters without any further interaction.

7. CBP agents and officers are typically divided into teams, composed of three to five agents, who contact individuals in public places such as streets and sidewalks, parking lots, or the publicly-accessible portions of businesses. Certain types of businesses, including car washes, have been selected for encounters because past experiences have demonstrated that illegal aliens utilize and seek work at these locations.

8. CBP agents and officers also engaged in lawful investigative detention encounters during the operation in Los Angeles. Prior to engaging in investigative detentions,

officers and agents had reasonable suspicion that the individual had committed or was committing a federal crime or federal immigration violation. This reasonable suspicion was based on various factors including intelligence sources, information from law enforcement and open-source databases, analysis of trends, facts developed in the field by agents, rational inferences that led an agent or officer to suspect criminal or immigration violations, and the officers or agents' observations, training, and experience. Officers and agents are trained to consider the totality of the circumstances when determining whether reasonable suspicion exists. Requiring law enforcement to ignore certain facts in this analysis would be unworkable on a practical level in the operational environment. For example, the particular location where the stop occurs is relevant to the officer's overall analysis. As an additional example, an individual's vocation may be relevant to the officer's overall consideration of the totality of the circumstances. Additionally, 8 C.F.R.§ 287.8(b)(2), specifically authorizes CBP officers and agents conducting a temporary, investigative detention based on reasonable suspicion to interrogate any alien or person believed to be an alien concerning his or her right to be, or to remain, in the United States.

9. During the operation in Los Angeles, CBP officers and agents have also conducted warrantless arrests for immigration violations pursuant to applicable legal authorities, including 8 U.S.C. § 1357 and 19 U.S.C. § 1589a. Also, during the operation in Los Angeles, CBP officers and agents have made warrantless arrests for immigration violations, as well for as violations of federal criminal statutes, such as 18 U.S.C. § 111, 21 U.S.C. § 841 and 18 U.S.C. § 1361.

10. During the operation in Los Angeles, CBP agents and officers have effectuated arrests pursuant to federal administrative warrants, specifically, Warrants for Arrest of Alien, referred to as I-200s. Prior to conducting targeted immigration arrests pursuant to an I-200, authorized DHS personnel identify subjects for whom they have developed probable cause to believe are removable from the United States. This conclusion is based upon specific evidence. Typically, officers and agents are given information on

the subject of the I-200, which may include immigration and criminal history, biological information, photos (if available), and other relevant information, such as the last known home address or possible workplace of the subject. This information is gathered from a variety of sources including, but not limited to, systems of record checks, information contained in an individual's immigration file (A-file), information developed from past investigations, open-source information, surveillance operations, and information provided by other federal agencies, particularly the local and regional offices. Officers and agents then typically conduct surveillance in order to identify the location of the subject in order to effectuate the arrest. CBP officers and agents effectuate administrative immigration warrants in public locations.

11. During the operation in Los Angeles, CBP agents and officers have also effectuated criminal judicial arrest and search warrants.

12. The actions undertaken by CBP law enforcement officers are informed by their experience and the comprehensive training they receive at various stages of their careers. During the CBP Officer Basic Training program at FLETC, in Glynco, Georgia, and the U.S. Border Patrol Agent Basic Training program in Artesia, New Mexico, trainees receive comprehensive tactical, operational, and legal training over the course of the months-long training program. During this time, they receive approximately 100 hours of legal instruction that is prepared and presented by attorneys within the CBP Office of Chief Counsel (OCC). This legal training provides officers and agents with the framework necessary to recognize violations of the laws they enforce and to take appropriate law enforcement actions. Legal topics covered include criminal law, criminal procedure, courtroom testimony, customs law, forfeiture, immigration law, use of force, nationality law, and report writing. Following their time at the Basic Academies, CBP law enforcement officers receive additional on-the-job training and periodic refreshers on a full range of topics.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed this 8th day of July, 2025, at Long Beach, California.

KYLE C. HARVICK