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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

DARWIN ANTONIO AREVALO
MILLAN, on his own and on behalf of
others similarly situated,

Petitioner-Plaintiff,

v.

DONALD J. TRUMP, in his official
capacity as President of the United
States, *et al.*,

Respondents-Defendants.

No. 5:25-cv-01207-JWH-PD

**RESPONDENTS-DEFENDANTS'
OPPOSITION TO PETITIONER-
PLAINTIFFS' *EX PARTE* MOTION
FOR CLASS CERTIFICATION**

Honorable John W. Holcomb
United States District Judge

1 The Court should deny Petitioner's Motion for Class Certification, filed ex parte
2 last night at 11:16 pm pacific. *See* ECF 44. Plaintiff submitted the motion "in conjunction
3 with" his First Amended Motion to Reconsider Emergency *Ex Parte* Application. *See*
4 ECF 43 (First Amended Motion to Reconsider) at 19. The government has already filed
5 its opposition to the First Amended Motion to Reconsider, *see* ECF 45 (Opposition),
6 arguing that Plaintiff failed to meet the high threshold necessary to grant a motion to
7 reconsider. *See also Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir.
8 2000) (noting a motion to reconsider is an "extraordinary remedy, to be used sparingly in
9 the interests of finality and conservation of judicial resources"). And because that motion
10 fails, the concurrent motion for class certification must necessarily also fail. *See Kona*
11 *Enters.*, 229 F.3d at 890.

12 Petitioner has also not established "why the regular noticed motion procedures must
13 be bypassed." *See Mission Power Eng'g Co., v. Cont'l Cas. Co.*, 883 F. Supp. 488, 492
14 (C.D. Cal. 1995). An "ex parte application 'is justified only when (1) there is a threat of
15 immediate or irreparable injury; (2) there is danger that notice to the other party may result
16 in the destruction of evidence or the party's flight; or (3) the party seeks a routine
17 procedural order that cannot be obtained through a regularly noticed motion (i.e., to file
18 an overlong brief or shorten the time within which a motion may be brought).'" *Immigrant*
19 *Defenders Law Ctr. v. Noem*, ---F. Supp. 3d ---, 2025 WL 1172442, at *5 (C.D. Cal. Apr.
20 16, 2025) (quoting *Horne v. Wells Fargo Bank, N.A.*, 969 F. Supp. 2d 1203, 1205 (C.D.
21 Cal. 2013)). To the extent the Court believes there is any merit to Petitioner's motion to
22 reconsider or motion for class certification, the government would respectfully request an
23 opportunity to respond under the "regular noticed motion procedures." *Misson Power*
24 *Eng'g Co.*, 883 F. Supp. at 492. The motion for class certification should be denied.

1 DATED this 1st day of July, 2025.

2 Respectfully submitted,

3 BRETT A. SHUMATE
4 Assistant Attorney General

5 ANTHONY NICASTRO
6 Acting Director

7 JOHN W. BLAKELEY
8 Senior Counsel for Appellate Litigation

9 /s/ Michael D. Ross
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CERTIFICATE OF COMPLIANCE

The undersigned counsel of record for the Federal Defendant certifies that this
brief contains 736 words which complies with the word limit of Local Rule 11-6.1.

/s/ Michael D. Ross

MICHAEL D. ROSS

Trial Attorney

U.S. Department of Justice