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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 DARWIN ANTONIO AREVALO
12 MILLAN, on his own behalf and on behalf
13 of all others similarly situated

14 *Petitioner-Plaintiff,*

15 vs.

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

19 *Respondents-Defendants.*

Case No.: 5:25-cv-01207

**PETITIONER-PLAINTIFF'S REPLY
TO RESPONDENTS-DEFENDANTS'
OPPOSITION TO MOTION FOR
RECONSIDERATION AND CLASS
CERTIFICATION AND
APPOINTMENT OF CLASS
COUNSEL**

20 **PETITINERS-PLAINTIFF'S REPLY TO RESPONDENTS-DEFENDANTS'**
21 **OPPOSITION TO MOTION FOR RECONSIDERATION, CLASS**
22 **CERTIFICATION, AND APPOINTMENT OF CLASS COUNSEL**

23 Petitioner-Plaintiff ("Petitioner") Darwin Antonio Arevalo Millan replies to the
24 oppositions filed by Respondents-Defendants ("Respondents") to make two points:
25 (1) Petitioner did not create the emergencies that required him to file an application
26 for *ex parte* relief here; (2) Respondents' arguments that Petitioner did not provide
27 enough evidence of the existence of a \$1000 settlement offer fail to assure the
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1 Petitioner or the Court that Respondents' counsel know what is going on including
2 whether their clients made a \$1000 settlement offer without notifying counsel,
3 whether counselors for Respondents here have permission to make similar settlement
4 offers to Petitioner through counsel, or that they have legal authority to act as counsel
5 for Respondents at all to actually resolve this dispute as their clients appear to be
6 attempting to resolve this dispute without them by attempting to skirt this Court's
7 pending decisions. Even if Respondents were not instructed to fight every motion of
8 Petitioner here, where there is questionable or no legal grounds to do so, Respondents
9 do not appear to be empowered by their clients to make settlements or to resolve the
10 several emergencies declared, proclaimed, and ordered by the Respondents in several
11 ways in this District. *See, e.g.*, Exec. Proc. 10888, 90 Fed. Reg. 8333; Exec. Proc.
12 10903, 90 Fed. Reg. 13033; Exec. Proc. 10949, 90 Fed. Reg. 24497; Exec. Order
13 14159, 90 Fed. Reg. 8443; Exec. Order 14161, 90 Fed. Reg. 8451; Exec. Order
14 14287, 90 Fed. Reg. 18761; Department of Defense for the Protection of Department
15 of Homeland Security Functions, THE WHITE HOUSE: MEMO (June 7, 2025),
16 [https://www.whitehouse.gov/presidential-actions/2025/06/department-of-defense-](https://www.whitehouse.gov/presidential-actions/2025/06/department-of-defense-security-for-the-protection-of-department-of-homeland-security-functions/)
17 [security-for-the-protection-of-department-of-homeland-security-functions/](https://www.whitehouse.gov/presidential-actions/2025/06/department-of-defense-security-for-the-protection-of-department-of-homeland-security-functions/).

18 Clearly, it would be futile for Petitioner to ask Respondents to walk back its
19 characterization of asylum seekers and Tren de Aragua ("TdA") as invading forces.
20 Exec. Proc. 10888, 90 Fed. Reg. 8333; Exec. Proc. 10903, 90 Fed. Reg. 13033; Exec.
21 Order 14159, 90 Fed. Reg. 8443. It would be futile to ask Respondents to walk back
22 its invocation of war powers to seek immigration enforcement pursuant to 8 U.S.C.
23 § 1229a and related laws. Exec. Order 14287, 90 Fed. Reg. 18761, § 5 (ordering
24 Respondents to ignore and to violate local laws and law enforcement). It would also
25 be futile to seek settlement assurances that Petitioner will be left unharmed, released,
26 and allowed to work and live in the United States as is required by law when
27 Respondents could not, and did not, unequivocally assure the Court that Petitioner
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1 will not be treated as an enemy combatant despite his asylum status. ECF No. 30,
2 Exh. B. And his status as detained immigrant in a dangerous environment without
3 notice or an opportunity to be heard, with no potential bond hearing available, and no
4 clear end date of his detention, is exactly the sort of emergency that *ex parte*
5 applications exist to address. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025)
6 (noting in an *ex parte* setting that the due process requirement of notice and an
7 opportunity to be heard must be vindicated); *see Mission Power Eng'g Co. v.*
8 *Continental Cas. Co.*, 883 F. Supp. 488, 490 (1995) (explicitly allowing *ex parte*
9 filings where “if given notice, someone would act improperly to frustrate the party’s
10 ability ever to obtain the relief sought” or “where there is a temporal urgency”—both
11 of which exists here as we are aware that Respondents, perhaps without knowledge of
12 counsel, is actively trying to skirt this Court by ending this case improperly and will
13 likely find a way if too much time passes).

14 Santa Ana and Orange County where the Ronald Reagan Federal Building and
15 U.S. Courthouse is situated is a destination location near Disney Land with temperate
16 weather and sparkling beaches that attract tourism globally. 3d Schroeder, Decl.
17 Outside of the Courthouse, for example, there are several restaurants and high end
18 shopping establishments frequented by locals and tourists every day. *Id.* Riots and
19 protests are not occurring nor have they occurred in Orange County or Santa Ana
20 recently, which, as a matter of politics, generally boasts support for the immigration
21 policies of the President. *Id.*

22 During the litigation of this case, however, Respondents boarded up the Ronald
23 Reagan Federal Building and U.S. Courthouse to protect it from rioters who do not
24 exist in Orange County. *Id.* Unused riot shields lined the halls of court. *Id.* Members
25 of the National Guard and U.S. Marines including Humvees blocked off the road in
26 front of the Courthouse armed with weapons of war in a vacation setting. *Id.* U.S.
27 Marines have been seen toting shopping bags from local fair, and one soldier was
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1 seen sipping a coffee drink from a Day of the Dead decorated cup from a high end
2 and very stylish nearby Mexican brunch venue across the street from the Courthouse
3 featuring a giant Day of the Dead scull mosaic at its entrance, which is to say that the
4 U.S. Military also enjoys immigrant culture. *Id.*; Exh. F.

5 Other than being required to stand in the direct sunlight for hours at specific
6 areas in full military gear, which is probably uncomfortable, the soldiers appear to be
7 enjoying something like fleet week in Los Angeles. 3d Schroeder, Decl.; Exh. F.
8 Tourists and patrons in flip flops and ripped jeans, milled around the vacation setting
9 buying trinkets and food items in temperate sunny weather as if the military was not
10 there. 3d Schroeder, Decl.; Exh. F. In fact, federal buildings are protected with an air
11 of vacationing, while local businesses across other areas of Los Angeles are raided by
12 masked individuals, without nametags, without official looking vehicles, who may or
13 may not be federal officials, without warrants or permission from businesses and
14 property owners and without permission of local law enforcement and the California
15 judiciary. 3d Schroeder, Decl.; Exh. F. Respondents are seeking to justify this lawless
16 insult to local governance, paraphrased in federal orders and proclamations that seek
17 to destroy the Tenth Amendment in defiance of *Printz v. United States*, in a lawsuit
18 against Los Angeles for its sanctuary city ordinance. Exec. Order 14287, 90 Fed. Reg.
19 18761, § 5, *openly ordering a standing violation of Printz v. United States*, 521 U.S.
20 898, 931 (1997) (“To say that the Federal Government . . . can control all of [a
21 State’s] officers” is to say that it can “control the State.”).

22 If anyone has shouted fire in a crowded theater and is asking this Court for
23 injunctive relief when and where there is no fire at all to apparently control local law
24 enforcement in contravention of *Printz*, it is Respondents. ECF No. 45, at 3, 1.3; *see*
25 *United States v. Los Angeles*, 2:25-cv-05917, Doc. 1 at *2 (C.D. Cal. 2025) (claiming
26 an emergency of “lawlessness, rioting, looting, and vandalism,” as a basis to destroy
27 laws that preclude direct federal control over local officials under the Tenth
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1 Amendment). Even if there were riots in Los Angeles, a disputed issue, they were
2 undoubtedly provoked by unprecedented I.C.E. raids without the permission of local
3 law enforcement, businesses, or property owners. Mayor Bass Issues Statement
4 Following Reports of ICE Action in Los Angeles, CITY OF LOS ANGELES: WEBPAGE
5 (June 6, 2025), [https://mayor.lacity.gov/news/mayor-bass-issues-statement-](https://mayor.lacity.gov/news/mayor-bass-issues-statement-following-reports-ice-action-los-angeles)
6 [following-reports-ice-action-los-angeles](https://mayor.lacity.gov/news/mayor-bass-issues-statement-following-reports-ice-action-los-angeles) (“These tactics sow terror in our
7 communities and disrupt basic principles of safety in our city.”). No warrants were
8 issued, no procedural due process was administered, and no respect for State law or
9 authority was paid. Exec. Order 14287, 90 Fed. Reg. 18761, § 5, *ordering a standing*
10 *violation of* L.A. Admin. Code § 16.190 (City of Los Angeles Ordinance Number
11 188441); United States v. Los Angeles, 2:25-cv-05917, Doc. 1 at *2 (C.D. Cal.
12 2025). The military has a word for this behavior, and that word is dishonor. *See,*
13 *e.g.*, UCMJ, Art. 133.

14 The resulting spectacle has tended toward the ridiculous. *See, e.g.*, Taijuan
15 Moorman et al., *Jimmy Kimmel Slams Trump, Calls Him ‘Arsonist With a Hose’ Over*
16 *ICE Sweeps in LA*, USA TODAY (June 13, 2025, 6:34 AM),
17 [https://www.usatoday.com/story/entertainment/celebrities/2025/06/09/la-protests-ice-](https://www.usatoday.com/story/entertainment/celebrities/2025/06/09/la-protests-ice-celebrities-react/84114560007/)
18 [celebrities-react/84114560007/](https://www.usatoday.com/story/entertainment/celebrities/2025/06/09/la-protests-ice-celebrities-react/84114560007/). This Court itself has witnessed the absurdity as the
19 military is deployed technically to protect the Ronald Reagan Federal Building and
20 U.S. Courthouse from Petitioner and others who are allegedly invading or attacking
21 the United States by their presence in the United States even while Respondents did
22 not seek inadmissibility of Petitioner based on terrorist bases in EOIR (and likely
23 does not seek similar relief against the other “invaders” it claims are attacking the
24 United States). 3d Schroeder, Decl.; Exh. F. And, while there are several available
25 lawyers employed by the federal government who live in the Los Angeles area who
26 would know the state of affairs occurring in Los Angeles, out of town lawyers based
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1 in Washington, D.C. are the attorneys of record in this case who likely have never
2 been to Adelanto ICE Processing Center or this Court. 3d Schroeder, Decl.

3 We are not confident that Respondents are empowered to settle with Petitioner
4 or resolve this case in any other way than keeping Petitioner detained in a
5 nightmarishly dangerous facility until they figure out a way of removing him,
6 disappearing him, or killing him. *Cf.* Stanley Milgram, *Behavioral Study of*
7 *Obedience*, 67 J. ABNORMAL & SOC. PSYCH. 371 (1963), *featured in* EXPERIMENTER:
8 THE STANLEY MILGRAM STORY (Netflix 2015). We are aware that Respondents have
9 directed officials not to release anyone without a court order directing it, even though
10 there is no law that requires Petitioner to file habeas corpus to obtain such a direction
11 from this Court in order to effect release. ECF No. 30, at Att’y Goldenstein Decl., at
12 2, ls.7–8. This means that Respondents created the need for this *ex parte* application
13 and this suit generally through emergency orders and proclamations, which they
14 could immediately resolve by revoking or amending said orders and proclamations,
15 where appropriate or necessary, and releasing Petitioner pending legitimate process to
16 detain and/or remove him including notice and an opportunity to be heard regarding
17 his future detention.

18 The appropriate way for Respondents to handle this situation, if Petitioner
19 really is detained pursuant to INA and not a general presidential emergency order or
20 proclamation, should be to release Petitioner and to issue notices regarding the basis
21 for Petitioner’s detention and giving Petitioner an opportunity to be heard. *Cf.* Brown
22 v. Ramsay, 2025 U.S. Dist. LEXIS 107437, *10 (S.D. Fla. 2025) (explaining I.C.E.
23 detainer packets). Here, no such process was administered, and therefore Petitioner’s
24 detention falls out of even the procedural due process vindicated in *Buck v. Bell*.
25 *Buck v. Bell*, 274 U.S. 200, 207 (1927) (noting that “so far as procedure is concerned,
26 the rights of the patient are most carefully considered, and, as every step in this case
27 was taken in scrupulous compliance with the statute and after months of observation,

1 there is no doubt that, in that respect, the plaintiff in error has had due process of
2 law”), *disputed by* Victoria Nourse, *Buck v. Bell: A Constitutional Tragedy form a*
3 *Lost World*, 39 PEPPERDINE L. REV. 101, 110 (2011) (noting the “illusory” nature of
4 Carrie Buck’s procedural due process). The point is, not even Justice Holmes, who
5 was overly deferent to executives and governments in *Buck*, would allow continued
6 detention here pursuant to his very wise decision in *Moore v. Dempsey*, 261 U.S. 86,
7 92 (1923) (finding that “the facts . . . if true as alleged . . . make the trial absolutely
8 void” and directing the District Court to confirm whether or not the facts are true).

9 Had detention been preceded by notice and an opportunity to be heard, then
10 perhaps Respondents’ argument that *ex parte* applications are not appropriate here
11 would be tenable. But, that is not the case here, and this Court should abstain from
12 addressing such potentialities here about when or if Respondents may comply with
13 procedural due process. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 614
14 (1952) (Frankfurter, J., concurring) (rejecting Executive overreach while refusing to
15 provide an advisory opinion). Other Courts are already addressing unreasonable
16 detentions of U.S. citizens in ICE custody even where such process is afforded, and it
17 should be left to them what to do when procedural due process is present. *Ramsay*,
18 2025 U.S. Dist. LEXIS 107437, at *10. Here, the Court must decide what to do when
19 the Respondents *do not* provide procedural due process, and the answer is absolutely
20 clear and traces back to the most ancient and reliable sources. ECF No. 1, at 3. Here,
21 habeas corpus should issue pending legitimate government process. *Ex parte*
22 *Bollman*, 8 U.S. 75, 101 (1807) (“Until the legislative will be expressed, this Court
23 can only see its duty, and must obey the laws. The motion, therefore, must be
24 granted.”).

25 Respondents’ hands are unclean, and so the doors of equity should be closed to
26 them. *Precision Instrument Mfg. Co. v. Automotive Maintenance Machinery Co.*, 324
27 U. S. 806, 814 (1945) (“[Clean hands is a] maxim is far more than a mere banality. It
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1 is a self-imposed ordinance that closes the doors of a court of equity to one tainted
2 with inequitableness or bad faith relative to the matter in which he seeks relief,
3 however improper may have been the behavior of the defendant.”), *cited by* DHS v.
4 D.V.D., No. 24A1153, slip op. at 10 (2025) (Sotomayor, J., dissenting). They do not
5 dispute or properly argue equitable bases to deny class here pursuant to equity as it
6 existed on July 4, 1776 according to *Trump v. CASA* here. *Trump v. CASA*, No.
7 24A884, slip op. at 5, 10 (2025) (quoting *Grupo Meixcano de Desarrollo, S.A. v.*
8 *Alliance Bond Fund, Inc.*, 527 U.S. 308, 319 (1999)). As the U.S. Supreme Court
9 recently held, equity is flexible though limited to addressing actual harms of affected
10 individuals. *Id.* The motions as renewed in this proceeding ask for nothing more and
11 nothing less.

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14 Respectfully Submitted on July 2, 2025

15 /s/ Joshua J. Schroeder

16 Joshua J. Schroeder

17 SchroederLaw

18 Attorney for Darwin Antonio

19 Arevalo Millan
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