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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF NEVADA

8 JEFFERSON DOMINGUEZ-LARA;) JOSE  
9 RAMIREZ,) ON BEHALF OF THEMSELVES  
10 AS INDIVIDUALS) AND ON BEHALF OF  
11 OTHERS SIMILARLY SITUATED

12 Plaintiff

Case No.: 2:25-cv-01553-JAD-BNW

PLAINTIFFS' RESPONSE TO FEDERAL  
RESPONDENTS' MOTION TO DISMISS

13 vs.

14 , KRISTI NOEM, SECRETARY THE UNITED  
15 STATES DEPARTMENT OF HOMELAND  
16 SECURITY; PAM BONDI, UNITED STATES  
17 ATTORNEY GENERAL; TODD LYONS,  
18 DIRECTOR OF UNITED STATES  
19 IMMIGRATION AND CUSTOM  
20 ENFORCEMENT; BRYAN WILCOX, FIELD  
21 OFFICE DIRECTOR FOR DETENTION AND  
22 REMOVAL, U.S. IMMIGRATION AND  
23 CUSTOMS ENFORCEMENT,  
24 DEPARTMENT OF HOMELAND  
25 SECURITY; JOHN MATTOS, WARDEN,  
26 NEVADA SOUTHERN DETENTION  
27 CENTER; EXECUTIVE OFFICE FOR  
28 IMMIGRATION REVIEW (EOIR); SIRCE  
OWEN, ACTING DIRECTOR, EOIR; LAS  
VEGAS IMMIGRATION COURT

Defendant

**INTRODUCTION**

Under Rule 12(b)(1), Defendants must demonstrate that Plaintiffs' allegations "are insufficient on their face to invoke federal jurisdiction." *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). Defendants cannot prevail if the complaint contains "sufficient factual

1 matter . . . to state a claim to relief that is plausible on its face.” *Bain v. Cal. Tchrs. Ass’n*, 891  
2 F.3d 1206, 1211 (9th Cir. 2018) (citation omitted). The Court “must presume all factual  
3 allegations of the complaint to be true and draw all reasonable inferences in favor of the  
4 nonmoving party.” *Usher v. City of Los Angeles*, 828 F.2d 556, 561 (9th Cir. 1987).

6 **ARGUMENT**

7 I. 8 U.S.C. 1252(g) Does Not Bar This Court’s Jurisdiction. Defendants argue that 8  
8 U.S.C. § 1252(g) bars the claims because class members’ “detention arises from the decision to  
9 commence [removal] proceedings.” But the claims do not challenge any decision to “commence  
10 proceedings” within the meaning of § 1252(g). Accepting Defendants’ interpretation would bar  
11 nearly all detention challenges brought by noncitizens, at odds with the narrow interpretation of  
12 this subsection that courts have consistently adopted. The Supreme Court found that § 1252(g) is  
13 “much narrower” than what Defendants claim. *Reno v. Am.-Arab Anti-Discrimination Comm.*  
14 (AADC), 525 U.S. 471, 482 (1999). § 1252(g) deals with litigation against immigration  
15 authorities’ “exercise of [their] discretion,” with respect to the three specified actions:  
16 “commenc[ing] proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders,” *id.* at 483  
17 (alterations in original). This subsection is “directed against a particular evil: attempts to impose  
18 judicial constraints upon prosecutorial discretion.” However, 1252(g) does not “sweep in any  
19 claim that can technically be said to ‘arise from’ the three listed actions,” including challenges to  
20 the proper interpretation of the INA’s detention provisions. *Jennings*, 583 U.S. at 294; *Zadvydas*  
21 *v. Davis*, 533 U.S. 678 (2001) (§ 1231); *Demore v. Kim*, 538 U.S. 510 (2003) (§ 1226); *Johnson*  
22 *v. Guzman Chavez*, 594 U.S. 523 (2021) (§§ 1226 & 1231); *Johnson v. Arteaga-Martinez*,  
23 596 U.S. 573 (2022) (§ 1231).  
24  
25  
26  
27  
28

1 II. 8 U.S.C. 1252(b)(9) Does Not Bar This Court's Jurisdiction. Defendants' argument  
2 under § 1252(b)(9) is also contradicted by Supreme Court precedent. When a final order of  
3 removal is eventually entered, excessive detention has already occurred. The Ninth Circuit has  
4 held that § 1252(b)(9) does not bar review. *Gonzalez v. United States Immigr. & Customs*  
5 *Enft*, 975 F.3d 788, 810 (9th Cir. 2020) "Section 1252(b)(9) is also not a bar to jurisdiction over  
6 noncitizen class members' claims because claims challenging the legality of detention pursuant  
7 to an immigration detainer are independent of the removal process." *Id.*

9 III. 8 U.S.C. § 1252(f)(1) and Rule 23(b)(2) Do Not Prevent Classwide Declaratory  
10 Relief. The Ninth Circuit found that § 1252(f)(1) does not bar declaratory relief. *Al Otro Lado v.*  
11 *Exec. Off. for Immigr. Rev.*, 138 F.4th 1102, 1123–24 (9th Cir. 2025). Here, the Court "stat[ed]  
12 that the . . . policy [at issue] violated [8 U.S.C.] § 1158 and § 1225." *Id.* at 1123. The Supreme  
13 Court has also supported declaratory relief. In *Nielsen v. Preap*, 586 U.S. 392 (2019), the Court  
14 found that "[w]hether the Preap court had jurisdiction to enter such an injunction is irrelevant  
15 because the District Court had jurisdiction to entertain the plaintiffs' request for declaratory  
16 relief." 586 U.S. at 402 (plurality opinion).

### 19 CONCLUSION

20 For the foregoing reasons, Plaintiffs respectfully request the Court deny the motion  
21 to dismiss.

22 DATED this 16th day of October, 2025.



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