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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE EASTERN DISTRICT OF CALIFORNIA**

Marianela LEON ESPINOZA; Mayra MENDEZ; Lorgia BOLAINEZ DIAZ; Yury VASQUEZ PEREZ; Ammy VARGAS BAQUEDANO; Mariela RAMOS,

Petitioners-Plaintiffs,

v.

Polly KAISER, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office; Todd LYONS, Acting Director of United States Immigration and Customs Enforcement; Kristi NOEM, Secretary of the United States Department of Homeland Security; Pamela BONDI, Attorney General of the United States, acting in their official capacities; Minga WOFFORD, Mesa Verde ICE Processing Center Facility Administrator

Respondents-Defendants.

Case No. 1:25-cv-01101-JLT-SKO

**PETITIONERS' OPPOSITION TO RESPONDENTS' MOTION TO SEVER**

Petitioners-Plaintiffs ("Petitioners") file this brief in opposition to Respondents' motion to sever (ECF 10, "Mot."). Petitioners are similarly situated, each alleging that their abrupt re-detention by ICE violates due process for the reasons embraced by this Court and a broad consensus of other courts in recent months. The Court has broad discretion to deny Respondents' motion and should exercise that discretion here.

To start, Respondents do not dispute that Petitioners' joinder promotes judicial economy. Respondents dismiss Petitioners' statement that "filing individual petitions for each person subject to ICE's unconstitutional practice has become unmanageable," saying that concern alone does not meet the permissive joinder standard. *See* Mot. at 2. Undersigned counsel can readily attest to the costs and burdens on the handful of attorneys and organizations dedicating time and resources to triage this situation. Petitioners also cited the drain on judicial resources incurred by having to re-litigate and adjudicate the same issues in individual emergency habeas petitions, often filed multiple times per week. *See, e.g.*, Petition, ECF 1, ¶ 3 (collecting a non-exhaustive list of cases). Respondents do not even acknowledge this concern.

Avoidance of unnecessary burden aside, Petitioners also allege new ICE policies under which they were all re-detained despite being released on their own recognizance, without individualized neutral review, for the purpose of re-routing them through expedited removal and imposing ICE's newly adopted interpretation of the immigration detention statutes. *See* Mot. at 2 (describing this as the "primary similarity" underlying the joint petition). Litigation of similar habeas cases over the past few months has shown that in such cases, the parties' primary contentions relate to these broad topics, rather than any individualized facts. Indeed, Respondents' Opposition to the Motion for TRO acknowledges that "petitioners' claims largely align with those of earlier cases." ECF 11 ("TRO Opp.") at 1. And to the extent Respondents may point to legally significant individualized facts here, nothing about joinder prevents them from doing so.

ICE's continued insistence on re-detaining noncitizens in Petitioners' circumstances is a quintessential situation for permissive joinder, the purpose of which is "to expedite the final determination of disputes, thereby preventing multiple lawsuits." *League to Save Lake Tahoe v.*

*Tahoe Reg'l Planning Agency*, 558 F.2d 914, 917 (9th Cir. 1977) (emphasis added).[1] In addition to embodying Rule 20's spirit of efficiency, the Petition easily meets the standard for permissive joinder. Again, Respondents do not dispute Petitioners' allegation that ICE has new "policies" and a "coordinated operation" to re-arrest people previously granted release on their own recognizance to legally migrate them from immigration court proceedings to expedited removal procedures – conduct that this Court has consistently enjoined. *See* Mot. at 2; Petition ¶¶ 39-50 (describing new policies and practices); TRO Opp. at 9 (explaining that the government has recently abandoned its long-held interpretation that the discretionary detention statute applies to individuals in Petitioners' circumstances). These allegations comprise a "systematic pattern of events" that amount to "the same transaction or occurrence" under Rule 20(a). *Coughlin v. Rogers* 130 F.3d 1348, 1350 (9th Cir. 1997) (affirming severance because plaintiffs had not alleged "a pattern or policy"); *see also Southern Poverty Law Ctr. v. U.S. Dep't of Homeland Sec.*, 2019 WL 2077120, *2-3 (D.D.C. May 10, 2019) (finding immigrants' claims should not be severed because they stemmed from defendants' administration of national standards).

Instead of contending with the unifying facts and law underlying the Petition, Respondents point to differences in Petitioners' exact times and locations of entry and arrest and their countries of origin. *See* Mot. at 2. Faced with similar arguments in the immigration context, courts in this Circuit have denied the government's motions to sever. For example, in *Fraihat v. U.S. Imm. & Customs Enf't*, fifteen noncitizens detained in different ICE detention centers were permitted to jointly pursue Fifth Amendment due process claims against ICE for failure to oversee the provision of medical and mental health care, despite that they had varying disabilities and health conditions. No. 19-cv-1546, 2020 WL 2759848, at *11-13 (C.D. Cal. April 15, 2020). Similarly in *Gutta v. Renaud*, the court held that 22 plaintiffs from "several countries, including India, Canada, Russia, Brazil, and the United Kingdom" who filed visa applications at different times within a two-year

[1] And bringing a class action to directly challenge the government's unlawful conduct is impossible in the wake of *Garland v. Aleman Gonzalez*, 596 U.S. 543 (2022), which forbids lowers courts from granting class-wide injunctive relief restraining the Executive Branch from taking actions pursuant to the Immigration and Nationality Act, including the detention provisions, even if those actions are otherwise unlawful.

range could jointly challenge agency delays in adjudication that "stem[med] from the same underlying course of conduct." No. 20-cv-06579, 2025 WL 533757, at *5 (N.D. Cal. Feb. 12, 2021); *see also id.* at *6 (distinguishing *Coughlin*). Here, too, the Court should reject Respondents' request to sever Petitioners' claims based upon minute distinctions, given that they all challenge the same re-detention policy and practices.

Nor is there any difference in Petitioners' immigration matters material to the resolution of Petitioners' claims and motion for preliminary relief. All of Petitioners' immigration cases remain pending before immigration courts, despite that ICE has allegedly designated them all for expedited removal. Petition ¶¶ 6-11, 42. No Petitioner has received a final decision on her asylum application, let alone sought or defended against any appeal. *id.* And importantly, as this Court has found, determination of whether Petitioners were or could ever be subject to expedited removal is not necessary to the disposition of the relief requested here. *See Maklad v. Murray*, No. 1:25-CV-00946, 2025 WL 2299376, at *5 (E.D. Cal. Aug. 8, 2025) ("The Court need not, at this juncture, determine whether Ms. Maklad continued to be in expedited removal through her arrest and until now—though the authorities strongly suggest otherwise—or whether she has been placed into expedited removal after her arrest—which, the authorities strongly suggest cannot occur."). And, as noted, to the extent Respondents would present any legally significant individualized facts here, nothing about joinder would prevent their doing so.[2]

Finally, none of Respondents' cited authorities support a blanket principle that "it is generally improper for multiple prisoners or detainees to file a joint habeas petition." *See* Mot. at 1-2 (citing *Pinson v. Blackensee*, 834 Fed. Appx. 427, 428 (9th Cir. 2021); *Rubinstein v. United States*, 2024 WL 37931 at *1 (E.D. Mich. Jan 3, 2024); *Hague v. Reherman*, 2020 WL 10355775, at *1 (S.D. W. Va. 2020); *Omurwa v. ICE*, 2019 WL 4418269, at *1 (N.D. Tex. 2019); *Buriev v. Warden, Geo, Broward Transitional Ctr.*, 2025 WL 1906626, at *1 (S.D. Fla. Mar. 18, 2025)). All

[2] The allegation that one petitioner failed to make it to an ICE check-in (but later reported), which Respondents acknowledge is "not the most severe of infractions," TRO Opp. at 11 n.4, is both not a legally material distinction for purposes of procedural due process—since Respondents rely on purported mandatory detention authority and have not afforded her any neutral determination of flight risk—and even if it were, would be an extremely thin basis on which to reject joinder.

of Respondents' citations involved *pro se* petitioners who either "attempted to sign the petition on behalf of the other petitioners[,]" *see Pinson*, 834 Fed. Appx. at 428 or if they had not done so already, "would be required to sign every pleading individually" lest they violate Rule 11(a). *See Rubinstein*, 2024 WL 37931, at *2. In other words, the problem with joinder in Respondents' citations was not the nature of the action, but rather the lack of representation and the attendant problems for the unrepresented petitioners' ability to comply with basic court procedures. Petitioners in this case are represented by *pro bono* counsel, so Respondents' case law is inapposite. *Cf.* Order Granting Petitioner's Ex Parte Motion for Temporary Restraining Order, *Cordero Pelico, et al., v. Kaiser, et al.*, No. 25-cv-7286, Dkt. 5 (N.D. Cal. Aug. 29, 2025) (granting preliminary relief to group of five habeas petitioners situated similarly to Petitioners here); *Bahena Ortuño v. Jennings*, No. 20-CV-2064, 2020 WL 1701724 (N.D. Cal. Apr. 8, 2020) (same).

## CONCLUSION

"Under the Rules, the impulse is toward entertaining the broadest possible scope of action consistent with fairness to the parties; joinder of claims, parties and remedies is strongly encouraged." *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715, 724 (1966); *accord* Fed. R. Civ. P. 1 (instructing that the Federal Rules "shall be construed and administered to secure the just, speedy, and inexpensive determination of every action"). For these reasons, the Court should deny Respondents' motion to sever.

Date: September 3, 2025

Respectfully Submitted,

*/s/ Jordan Wells*

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