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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF ARIZONA**

Andres Barrera Lopez,

Petitioner,

v.

John Cantu, et al.,

Respondents.

No. CV-25-03834-SMB-ASB

**RESPONSE TO NOTICE OF NATIONWIDE CLASS ACTION DECLARATORY RELIEF**

In the *Bautista* case, the Court's orders did not enter any declaratory judgment as to the nationwide class. *See* Partial MSJ Ruling at 17 (granting motion for partial summary judgment but expressly not ordering any relief); *see also* Class Cert. Ruling at 15 (granting motion for class certification but ordering only that class be certified, Petitioners be appointed class representatives, Petitioners' counsel be appointed class counsel, ordering a joint status report and setting status conference); Proposed Order (proposing specific declaratory relief that the Court did not enter). The Court also expressly declined to enter final judgment as to the claims at issue in the motion for partial summary judgment under Federal Rule of Civil Procedure 54(b). *See* Partial MSJ Ruling at 17. Rather, the Court set a January 9, 2026, joint status report deadline and January 16, 2026, status conference

indicating that the Court intends to address the question of final relief at a later date. Class Cert. Ruling at 15.

Absent an entry of final judgment on the entire case, or a certification of partial final judgment under Rule 54(b), there is no declaratory judgment. The partial summary judgment ruling does not operate as a "judgment" because it is not an appealable order and "does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." Fed. R. Civ. P. 54(a), (b). Thus, there is no class-wide judgment, let alone any final judgment that could have preclusive effect as to class members.

To be proper, a declaratory judgment must have preclusive effect: "Without preclusive effect, a declaratory judgment is little more than an advisory opinion." *Haaland v. Brackeen*, 599 U.S. 255, 293 (2023); *see also Wells v. Johnson*, 150 F.4th 289, 301 (4th Cir. 2025) (stating that the only reason a proper declaratory judgment does not violate Article III's requirements is because it has preclusive effect between the parties). *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 (9th Cir. 2005). And preclusive effect cannot be obtained without sufficient finality. *B & B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148 (2015) (citing Restatement (Second) of Judgments § 27, p. 250 (1980), for the general rule that an issue must be determined by a "valid and final judgment" for preclusion to apply); *Luben Indus., Inc. v. United States*, 707 F.2d 1037, 1040 (9th Cir. 1983) (affirming district court decision not to apply preclusive effect to an interlocutory decision that "could not have been the subject of an appeal at the time"); Restatement (Second) of Judgments § 28, p. 273 (1980) Restatement (Second) of Judgments § 27, p. 250 (1980) (issue preclusion does not apply when the "party against whom preclusion is sought could not, as a matter of law, have obtained review of the judgment in the initial action"; *id.* at cmt. a ("[T]he availability of review for the correction of errors has become critical to the application of preclusion doctrine.").

In short, the Court has expressly declined to enter a class-wide judgment. *Id.* As such, there is currently no declaratory relief, let alone relief with preclusive effect on

*Maldonado Bautista* class members' claims concerning the proper interpretation of 8 U.S.C. § 1225(b)(2)(A)'s mandatory detention provision.

Respectfully submitted on December 4, 2025.

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*/s/ Laurence G. Tinsley, Jr.*
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