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7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 VICTOR KALID JACOBO RAMIREZ; EDGAR
 10 MICHEL GUEVARA ALCANTAR; on behalf of
 themselves and others similarly situated, et al.,

Case No.:

11 Plaintiffs-Petitioners,

12 vs.

**VERIFIED PETITION FOR A
 WRIT OF HABEAS CORPUS
 AND CLASS ACTION
 COMPLAINT**

13 KRISTI NOEM, Secretary, U.S. Department of
 Homeland Security, in her official capacity; U.S.
 14 DEPARTMENT OF HOMELAND SECURITY;
 PAMELA J BONDI, Attorney General of the
 15 United States, in her official capacity; TODD
 LYONS, Acting Director for U.S. Immigration and
 16 Customs Enforcement, in his official capacity; U.S.
 IMMIGRATION AND CUSTOMS
 17 ENFORCEMENT; JASON KNIGHT, Acting Field
 Office Director, EXECUTIVE OFFICE FOR
 18 IMMIGRATION REVIEW; SIRCE OWEN,
 Acting Director for Executive Office of
 19 Immigration Review, in her official capacity; LAS
 VEGAS IMMIGRATION COURT; JOHN
 20 MATTOS, Warden, Nevada Southern Detention
 Facility, in his official capacity,

21 Defendants-Respondents.

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15 *Applications for admission pro hac vice forthcoming
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INTRODUCTION

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2 1. Over the last few months, the U.S. Department of Homeland Security (“DHS”) and the U.S.
3 Department of Justice (“DOJ”) have abruptly and unlawfully reversed decades of settled
4 immigration practice in order to deny immigration bond hearings to potentially thousands of
5 people in immigration proceedings nationwide, including to potentially hundreds of people in
6 Nevada.

7 2. Specifically, DHS and DOJ are systemically misclassifying people arrested inside the
8 United States. These people are generally subject to discretionary detention under 8
9 U.S.C. § 1226(a), which allows for release on bond and conditions during the pendency of
10 immigration proceedings. However, DHS and DOJ are now misclassifying these people as being
11 subject to mandatory detention under 8 U.S.C. § 1225(b)(2), which applies to noncitizens seeking
12 admission at the border and does not allow for release on bond. First announced by ICE in July
13 2025, this abrupt change in policy has since been enshrined in a precedential decision of the Board
14 of Immigration Appeals (“BIA”), which is binding on all Immigration Courts and DHS officers.
15 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025). This misclassification is contrary
16 to decades of settled law and practice, and it is unlawfully premised solely upon the manner in
17 which the person initially entered the country, including instances where the person has been living
18 in the country for many years.

19 3. As of early September, this misclassification policy has been uniformly adopted by DHS
20 and DOJ, and it is being applied to all civil immigration detainees and in all Immigration Courts,
21 including people arrested, detained, and/or in immigration proceedings in Nevada.

22 4. As a result, DHS is currently arresting numerous people within Nevada and unlawfully
23 detaining them in jails without any possibility of release and without any due process protections
24

1 even though they are legally required to receive a bond hearing and are eligible for release on
2 bond.

3 5. The unlawful actions of DHS and DOJ have resulted in an enormous proliferation of
4 individual lawsuits to protect the rights of detained noncitizens. In those cases, federal judges in
5 Nevada and elsewhere have overwhelmingly rejected the new interpretation by DHS and DOJ and
6 are granting relief to petitioners unlawfully subject to mandatory detention. *See, e.g., Maldonado*
7 *Vasquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY, 2025 WL 2676082, at *11–16 (D. Nev. Sept.
8 17, 2025); *Sanchez Roman v. Noem*, No. 2:25-CV-01684-RFB-EJY, 2025 WL 2710211, at *6 (D.
9 Nev. Sept. 23, 2025); *Carlos v. Noem*, No. 2:25-CV-01900-RFB-EJY, 2025 WL 2896156, at *5
10 (D. Nev. Oct. 10, 2025); *E.C. v. Noem*, No. 2:25-CV-01789-RFB-BNW, 2025 WL 2916264, at *8
11 (D. Nev. Oct. 14, 2025); *see also Herrera v. Knight*, No. 2:25-CV-01366-RFB-DJA, 2025 WL
12 2581792, at *7 n.5 (D. Nev. Sept. 5, 2025) (noting the “decisions of federal district courts within
13 the Ninth Circuit and across the country that have thus far considered and rejected DHS’ novel
14 interpretation of sections § 1225 and § 1226”); *Pablo Sequen v. Albarran*, No. 25-CV-06487-PCP,
15 --- F. Supp. 3d ---, 2025 WL 2935630, at *8 (N.D. Cal. Oct. 15, 2025) (“District courts throughout
16 this district and across the country have rejected that argument” that § 1225(b)(2) covers
17 petitioners); *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, --- F. Supp. 3d ---, 2025 WL
18 2809996, at *5 (D. Mass. Oct. 3, 2025) (collecting cases); *Rodriguez Vazquez v. Bostock*, No. 3:25-
19 CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL 2782499, at *1 n.3 (W.D. Wash. Sept. 30, 2025)
20 (same); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9,
21 2025) (same); *Ventura Martinez v. Trump*, No. 25-1445 (W.D. La. Oct. 22, 2025), ECF No. 17 at
22 5 n.1 (same).

23 6. Nevertheless, DHS and DOJ continue to subject people to mandatory detention in violation
24 of their statutory, regulatory, and constitutional rights.

1 7. There has been a surge of immigration arrests in Nevada, and multiple habeas litigants have
2 come before the district court seeking relief from this same unlawful interpretation.

3 8. Petitioners-Plaintiffs (“Plaintiffs”) are such litigants.

4 9. Each Plaintiff has lived here for years and even decades. They have extensive families and
5 connections to the community in the United States, lengthy work histories, and no criminal
6 convictions. Both Plaintiffs are now detained at the Nevada Southern Detention Center (NSDC)
7 in Pahrump, Nevada, after being arrested by immigration officers inside the United States earlier
8 this year.

9 10. Plaintiffs are charged with, *inter alia*, having entered the United States without inspection.
10 *See* 8 U.S.C. § 1182(a)(6)(A)(i).

11 11. Based on this allegation in Plaintiffs’ removal proceedings, Defendants-Respondents
12 (“Defendants”) have denied each Plaintiff consideration for bond. Those denials were consistent
13 with Defendants’ policy of considering anyone alleged to be inadmissible under § 1182(a)(6)(A)(i)
14 —i.e., those who entered the United States without inspection—to be subject to mandatory
15 detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for a bond hearing.

16 12. Many more habeas petitions are likely to follow if a class-wide resolution is not obtained.
17 And many more people will be unable to access the Court, either because they lack the legal
18 resources to present a claim, or because they will be quickly boarded onto vans and planes and
19 sent to far-off locations before they have a chance to seek help.

20 13. Accordingly, Plaintiffs bring this action on behalf of themselves and others similarly
21 situated in an effort to prevent the government from unlawfully depriving them of liberty in
22 violation of immigration laws and regulations, and without due process of law.

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1 **JURISDICTION AND VENUE**

2 14. Plaintiffs are in the physical custody of Defendants and are detained at the Nevada
3 Southern Detention Facility in Pahrump, Nevada, within the jurisdiction of this Court.

4 15. This case arises under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2241 (the federal
5 habeas statute); the INA, 8 U.S.C. §§ 1101-1538, and its implementing regulations; the APA, 5
6 U.S.C. §§ 500-596, 701-706; and the U.S. Constitution, including the Suspension Clause, U.S.
7 Const., art. I, sec. 9.

8 16. The Court may grant relief pursuant to 28 U.S.C. § 2241; the Declaratory Judgment Act,
9 28 U.S.C. § 2201; the APA, 5 U.S.C. §§ 702 & 706; the All Writs Act, 28 U.S.C. § 1651; Federal
10 Rule of Civil Procedure 65; and the Court's inherent equitable powers.

11 17. Venue properly lies within the District of Nevada under 28 U.S.C. § 1391(b)(2) and (e),
12 because this is a civil action in which Defendants are employees, officers, and agencies of the
13 United States, Plaintiffs and members of the putative class are detained in this District, and a
14 substantial part of the events or omissions giving rise to this action occurred in the District because
15 Plaintiffs and members of the putative class have removal proceedings before the Las Vegas
16 Immigration Court, which is in this District.

17 **PARTIES**

18 18. **Plaintiff Victor Kalid Jacobo Ramirez** is a 30-year-old man from Mexico who has
19 resided in the United States for over two decades, since 2002. He is in removal proceedings before
20 the Las Vegas Immigration Court and ICE has charged him with, *inter alia*, being inadmissible
21 under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who allegedly entered the United States without
22 inspection. He has not been considered by ICE for release on bond. Initially, the immigration judge
23 in the Las Vegas Immigration Court granted him release on bond after finding he was not a flight
24 risk or danger, but his bond was revoked based on *Matter of Hurtado*. He was re-arrested when he

1 appeared for a scheduled check-in on October 7, 2025, and is back in DHS custody because of
2 Defendants' new policy.

3 19. **Plaintiff Edgar Michel Guevara Alcantar** is a 27-year-old man from Mexico who has
4 resided in the United States for nearly a decade, since March 2016. He is in removal proceedings
5 before the Las Vegas Immigration Court and ICE has charged him with, *inter alia*, being
6 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who allegedly entered the United
7 States without inspection. He has not been considered by ICE for release on bond and has not had
8 a bond hearing in Immigration Court because of Defendants' new policy.

9 20. **Defendant Kristi Noem** is the Secretary of the Department of Homeland Security. She is
10 responsible for the implementation and enforcement of the Immigration and Nationality Act
11 (INA), and oversees ICE, which is responsible for Plaintiffs' detention. Defendant Noem has
12 ultimate custodial authority over Plaintiffs and is sued in her official capacity.

13 21. **Defendant Department of Homeland Security (DHS)** is the federal agency responsible
14 for implementing and enforcing the INA, including the detention and removal of noncitizens.
15 Defendant DHS is a legal custodian of Plaintiffs.

16 22. **Defendant Pamela Bondi** is the Attorney General of the United States and administers the
17 Department of Justice, including EOIR, the BIA, and the Immigration Courts. Defendant Bondi is
18 sued in her official capacity.

19 23. **Defendant Todd Lyons** is the Acting Director and Senior Officer Performing the Duties
20 of the Director of ICE. Defendant Lyons is responsible for ICE's policies, practices, and
21 procedures, including those relating to the detention of immigrants during their removal
22 procedures. Defendant Lyons is a legal custodian of Plaintiffs. Defendant Lyons is sued in his
23 official capacity.

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1 24. **Defendant ICE** is the subagency of DHS that is responsible for carrying out removal
2 orders and overseeing immigration detention. Defendant ICE is a legal custodian of Plaintiffs.

3 25. **Defendant Executive Office for Immigration Review (EOIR)** is the federal agency
4 responsible for implementing and enforcing the INA in removal proceedings, including for custody
5 redeterminations in bond hearings.

6 26. **Defendant Sirce Owen** is the Acting Director of EOIR and has ultimate responsibility for
7 overseeing the operation of the immigration courts and the Board of Immigration Appeals,
8 including bond proceedings. Defendant Owen is sued in his official capacity.

9 27. **Defendant Jason Knight** is the Acting Director of the Salt Lake City Field Office of ICE
10 Enforcement and Removal Operations, a federal law enforcement agency within the Department
11 of Homeland Security (“DHS”). ERO is a directorate within ICE whose responsibilities include
12 operating the immigration detention system. In his capacity as ICE ERO Salt Lake City, Acting
13 Field Office Director, Defendant Knight exercises control over and is a custodian of immigration
14 detainees held at NSDC. At all times relevant to this Complaint, Defendant Knight was acting
15 within the scope and course of his employment with ICE. Defendant Knight is sued in his official
16 capacity.

17 28. **Defendant John Mattos** is the Warden of NSDC which detains individuals suspected of
18 civil immigration violations pursuant to a contract with ICE. Defendant Mattos exercises physical
19 control over immigration detainees held at NSDC. Defendant Mattos is sued in his official
20 capacity.

21 29. **Defendant Las Vegas Immigration Court** is the adjudicatory body within EOIR with
22 jurisdiction over the removal and bond cases of the class members.

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LEGAL BACKGROUND

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2 30. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully
3 limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

4 31. This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due
5 Process Clause, which specifically forbids the Government to “deprive[]” any “person . . . of . . .
6 liberty . . . without due process of law.” U.S. Const. amend. V.

7 32. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including
8 aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
9 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)
10 (“[A]liens who have once passed through our gates, even illegally, may be expelled only after
11 proceedings conforming to traditional standards of fairness encompassed in due process of law”).

12 33. “Freedom from imprisonment—from government custody, detention, or other forms of
13 physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*,
14 533 U.S. at 678.

15 34. The Supreme Court, thus, “has repeatedly recognized that civil commitment for any
16 purpose constitutes a significant deprivation of liberty that requires due process protection,”
17 including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979)
18 (collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong
19 procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*,
20 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*,
21 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

22 35. For decades, the immigration system has implemented this balance through a network of
23 three mutually exclusive detention statutes.
24

1 36. First, individuals arrested inside the United States are generally placed into removal
2 proceedings under 8 U.S.C. § 1229a, during which an Immigration Judge (an “IJ”)—and later
3 potentially the Board of Immigration Appeals (the “BIA”) and a U.S. Court of Appeals—will
4 decide whether or not the person should be deported. During these proceedings, a noncitizen may
5 apply for various forms of relief from deportation, such as asylum, withholding of removal,
6 cancellation of removal, and adjustment of status. The IJ usually holds a series of hearings to
7 determine if the person is eligible for deportation and, even if so, whether to grant some form of
8 relief from deportation. This process can take months or even years. While this process is ongoing,
9 the individuals are generally subject to the detention authority of 8 U.S.C. § 1226. *See Jennings*,
10 583 U.S. at 288-89 (describing § 1226 detention as relating to people “inside the United States”
11 and “present in the country”). Unless they have been arrested, charged with, or convicted of certain
12 enumerated crimes, which would subject them to mandatory detention until their removal
13 proceedings are concluded, *see* 8 U.S.C. § 1226(c), an individual detained under § 1226(a) can be
14 released by ICE on bond or conditional parole. *See* 8 U.S.C. § 1226(a)(1); 8 C.F.R. § 236.1(c)(8).
15 If release is denied by ICE, the detainee is entitled to a custody redetermination (colloquially called
16 a “bond hearing”) before an IJ to decide whether they should be detained or released. *See* 8 C.F.R.
17 §§ 1003.19(a), 1236.1(d).

18 37. Second, the INA provides for mandatory detention of noncitizens subject to expedited
19 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals “seeking admission” referred to
20 under § 1225(b)(2).

21 38. Third, if an individual completes their removal proceedings and all appeals, and is ordered
22 removed, the person is subject to detention under 8 U.S.C. § 1231 while the government attempts
23 to remove them. That statute provides for 90 days of mandatory detention called the “removal
24

1 period,” followed by discretionary detention within certain limits. *See Zadvydas*, 533 U.S. at 699-
2 700 (holding § 1231 detention may not continue if removal is not reasonably foreseeable).

3 39. This system—in which people arrested inside the United States are generally eligible for a
4 bond hearing and release during immigration proceedings—has existed essentially in its current
5 form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of
6 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587
7 (codified at 8 U.S.C. § 1226). According to IIRIRA’s legislative history, § 1226(a) was intended
8 to “restate[] the [then-]current provisions in section 242(a)(1) regarding the authority of the
9 Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United
10 States.” *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R.
11 Rep. No. 104-469, at 229 (1996)). It also reflected nearly a century of law in the United States of
12 allowing people inside the country to seek release while the government decided whether or not to
13 deport them. *See* 34 Stat. 904-05, § 20 (1907) (providing for release on bond for noncitizens
14 alleged to have entered the United States unlawfully); 39 Stat. 874, 890-91, §§ 19, 20 (1917)
15 (similar); 66 Stat. 163, §§ 241(a)(2), 242(a) (1952) (last codified at 8 U.S.C. § 1252(a)(1) (1994))
16 (providing for release on bond, including for noncitizens alleged to have entered the United States
17 without inspection).

18 40. This eligibility for a bond hearing and potential release has applied to people arrested in
19 the United States, regardless of whether they initially entered the country with permission. Indeed,
20 shortly after IIRIRA’s enactment, the former Immigration and Naturalization Service and the
21 Executive Office for Immigration Review (“EOIR”), which houses the Immigration Courts and
22 BIA, issued an interim rule to implement the statute that expressly stated: “Despite being
23 applicants for admission, aliens who are present without having been admitted or paroled (formerly
24

1 referred to as aliens who entered without inspection) will be eligible for bond and bond
2 redetermination.” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

3 41. Thus, in the decades that followed, most people who entered without inspection and were
4 thereafter arrested and placed in standard removal proceedings were considered for release on bond
5 by DHS and also received bond hearings before an IJ, unless their criminal history rendered them
6 ineligible. That practice was consistent with many more decades of prior practice, in which
7 noncitizens who had entered the United States, even if without inspection, were entitled to a
8 custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the
9 border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep.
10 No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority
11 previously found at § 1252(a)).

12 42. On July 8, 2025, DHS, “in coordination” with DOJ, adopted a policy misclassifying § 1226
13 detainees arrested inside the United States as mandatory detainees under § 1225(b)(2), solely
14 because they initially entered the country without permission.¹ Pursuant to the July 2025 Policy,
15 DHS’s representatives in the Immigration Courts began to request that Immigration Judges
16 nationwide misclassify bond-eligible § 1226 detainees as mandatory § 1225(b)(2) detainees and
17 refuse to conduct bond hearings on that basis. Some Immigration Judges agreed. As a result,
18 numerous detainees were illegally denied bond hearings and sought relief in the federal courts.

19 43. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025),
20 the BIA issued a precedential decision that purports to require all Immigration Judges and DHS
21 officers to misclassify people in this manner.

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23
24 ¹ *See* Interim Guidance Regarding Detention Authority for Applicants for Admission,
<https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applicationsfor-admission>.

1 44. Although Defendants’ policies are new, multiple federal courts, including this Court, have
2 already rejected the government’s position as contrary to law. *See, e.g., Maldonado Vazquez*, 2025
3 WL 2676082, at *13 (“the Court holds, consistent with the overwhelming majority of district
4 courts in the Ninth Circuit and across the country that have thus far considered the issue, that §
5 1226, not § 1225, applies to Petitioner and others similarly situated.”); *Guerrero Orellana*, 2025
6 WL 2809996, at *4-9 (holding that § 1226(a) applied based on the statute’s plain language,
7 Congress’s recent amendment to § 1226(c), the Supreme Court’s decision in *Jennings*, and
8 established agency practice); *Pizarro Reyes*, 2025 WL 2609425, at *7 (“[T]he BIA’s decision to
9 pivot from three decades of consistent statutory interpretation and call for [petitioner’s] detention
10 under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same
11 question of statutory interpretation.”); *Mendoza Gutierrez v. Baltasar*, No. 25-CV-2720-RMR,
12 2025 WL 2962908, at *4 (D. Colo. Oct. 17, 2025) (noting the government “readily admit[s] that
13 other district courts that have considered this same or similar issue ‘have concluded that aliens
14 who enter without inspection and then reside in the United States fall within the scope of Section
15 1226(a) rather than Section 1225(b)(2)(A)’”). Most notably, on September 30, 2025, in a similar
16 class action lawsuit, the U.S. District Court for the Western District of Washington granted
17 Plaintiffs’ partial motion for summary judgment and declared, *inter alia*, that the class members
18 are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C.
19 § 1225(b)(2). *Rodriguez Vasquez*, 2025 WL 2782499, at *27. The Court further declared that the
20 Tacoma Immigration Court’s practice of denying bond to Bond Denial Class members on the basis
21 of § 1225(b)(2) violates the Immigration and Nationality Act. *Id.*

22 45. Nevertheless, DHS and DOJ are continuing to systemically misclassify people and
23 unlawfully deny them access to bond hearings and release on bond during the pendency of their
24 immigration proceedings.

PLAINTIFFS' FACTS

Victor Kalid Jacobo Ramirez

46. Plaintiff Victor Kalid Jacobo Ramirez is a 30-year-old native of Mexico.

47. On information and belief, Mr. Jacobo-Ramirez entered the United States as a minor nearly 23 years ago, in the year 2002.

48. In 2012, Mr. Jacobo-Ramirez applied for Deferred Action for Childhood Arrivals, which was approved, and he maintained that status until 2024.

49. Mr. Jacobo-Ramirez has been with his wife, Araceli Esparga, a U.S. citizen born in the United States. They co-parent a six-year-old daughter who is also a U.S.-born citizen that Mr. Jacobo-Ramirez has from a previous relationship.

50. Mr. Jacobo-Ramirez was arrested on August 17, 2025, in Las Vegas, Nevada, for driving under the influence and other traffic offenses.

51. Following his arrest and being released on his own recognizance, Mr. Jacobo-Ramirez was transferred to DHS custody on August 18, 2025.

52. Mr. Jacobo-Ramirez is currently in removal proceedings before the Las Vegas Immigration Court pursuant 8 U.S.C. § 1229a. ICE has charged him with, *inter alia*, being inadmissible as someone who alleged entered the United States without inspection.

53. On September 3, 2025, Mr. Jacobo-Ramirez appeared for a custody redetermination hearing before Immigration Judge (IJ) Daniel J. Daugherty in Las Vegas, Nevada. In that hearing, the IJ agreed that Mr. Jacobo-Ramirez posed no flight risk or danger and granted release on bond of \$7,500.

54. Mr. Jacobo-Ramirez subsequently paid his \$7,500 bond on September 5, 2025, and was released from DHS custody.

1 55. On that same day, September 5, 2025, the BIA decided *Matter of Yajure Hurtado*, which
2 led the DHS to file a motion to reconsider Mr. Jacobo-Ramirez's bond. Bound by *Matter of Yajure*
3 *Hurtado*, the IJ granted DHS's motion on October 3, 2025, and revoked Mr. Jacobo-Ramirez's
4 bond based on Defendants' policy of considering him subject to detention under 8 U.S.C. §
5 1225(b)(2).

6 56. Mr. Jacobo-Ramirez was re-arrested by DHS on October 7, 2025, when he appeared for a
7 scheduled check-in. Mr. Jacobo-Ramirez has remained in detention in Pahrump, Nevada, since
8 that date.

9 **Edgar Michel Guevara Alcantar**

10 57. Plaintiff Edgar Michel Guevara-Alcantar is a 27-year-old native of Mexico.

11 58. On information and belief, Mr. Guevara-Alcantar entered the United States as a minor more
12 than nine years ago, on March 20, 2016.

13 59. On July 26, 2019, Mr. Guevara-Alcantar was a victim of battery with a deadly weapon
14 which qualifies as a felonious assault for the purposes of obtaining a U-Visa.

15 60. On February 4, 2022, Mr. Guevara-Alcantar's U-Visa application was filed and received
16 by USCIS. On December 13, 2023, USCIS found his application was bona fide and granted him
17 deferred action.

18 61. Mr. Guevara-Alcantar has a four-year-old daughter, who is a U.S. citizen born in the United
19 States.

20 62. On August 24, 2025, Mr. Guevara-Alcantar was arrested for battery domestic violence in
21 Las Vegas, Nevada. However, the District Attorney declined to pursue the criminal charge.

22 63. Approximately two days after being arrested, Mr. Guevara-Alcantar was transferred to ICE
23 custody and taken to NSDC in Pahrump, Nevada. He has been detained there since August 26,
24 2025.

1 64. DHS placed Mr. Guevara-Alcantar in removal proceedings before the Las Vegas
2 Immigration Court pursuant 8 U.S.C. § 1229a. ICE has charged him with, *inter alia*, being
3 inadmissible as someone who alleged entered the United States without inspection.

4 65. He has not had a bond hearing in Immigration Court because of Defendants' policies.

5 **CLASS ACTION ALLEGATIONS**

6 66. Plaintiffs bring this action on behalf of themselves and all other persons who are similarly
7 situated, pursuant to Federal Rule of Civil Procedure 23(a) and 23(b)(2). A class action is proper
8 because this action involves questions of law and fact common to the class; the class is so
9 numerous that joinder of all members is impractical; the claims of Plaintiffs are typical of the
10 claims of the class; Plaintiffs will fairly and adequately protect the interests of the class; and
11 Defendants have acted on grounds that apply generally to the class, so that final declaratory relief
12 is appropriate with respect to the class as a whole.

13 67. Plaintiffs seek to represent a class comprised of the following:

14 All noncitizens in the U.S. without lawful status (1) who are or will be
15 arrested or detained by ICE; (2) who are or will be in removal proceedings
16 before an Immigration Court within the District of Nevada; (3) whom DHS
17 alleges or will allege to have entered the United States without inspection
18 or parole; (4) who are not or will not be subject to detention under 8 U.S.C.
§§ 1226(c), 1225(b)(1), or 1231 at the time they are scheduled for or request
a bond hearing; and (5) whose most recent arrest by ICE occurred inside the
United States and not while arriving in the United States.

19 68. The class is so numerous that joinder of all members is impracticable. Plaintiffs are not
20 aware of the exact number of putative class members, as Defendants are uniquely positioned to
21 identify such persons. Upon information and belief, there are presently hundreds of individuals
22 detained with removal proceedings before the Las Vegas Immigration Court to whom the
23 Defendants' no-bond policy applies. The class is also comprised of many future potential
24 members, given the large numbers of persons residing in Nevada and neighboring states who

1 entered without inspection. DHS practice is to detain many people originally apprehended in Utah,
2 Idaho and other states in Nevada. It is estimated that 180,000 undocumented immigrants currently
3 reside in Nevada.² The vast majority of them likely entered without inspection and would be
4 subject to Defendants' policies and practices if apprehended.

5 69. The proposed class meets the commonality requirement of Federal Rule of Civil
6 Procedure 23(a)(2). All class members present at least one core common question: whether §
7 1225(b)(2)'s mandatory detention provisions apply to them and prevent them from being
8 considered for release on bond under § 1226(a) and its implementing regulations.

9 70. The Named Plaintiffs' claims are typical of the class, as they face the same injury as the
10 class and assert the same claims and rights as the class.

11 71. The proposed class meets the adequacy requirement of Federal Rule of Civil Procedure
12 23(a)(4). The Named Plaintiffs seek a declaration of rights and relief under the APA applicable to
13 the whole class, is represented by competent class counsel, and will fairly and adequately protect
14 the class's interests.

15 **CLAIMS FOR RELIEF**

16 **COUNT I**

17 **Violation of 8 U.S.C. § 1226(a)**

18 **Unlawful Denial of Consideration for Release on Bond**
19 **(On Behalf of Plaintiffs and the Class)**

20 72. Plaintiffs incorporate by reference the allegations of fact set forth in the preceding
21 paragraphs.

22 73. The mandatory detention provision in 8 U.S.C. § 1225(b)(2) does not apply to Named
23 Plaintiffs or the putative class members because they were present and residing in the U.S., have
24 been placed under a § 1229a removal proceeding, and charged with inadmissibility pursuant to 8

² Carl Davis, *et al.*, *Tax Payments by Undocumented Immigrants*, INSTITUTE ON TAXATION AND ECONOMIC POLICY, Appx. Table 5, available at <https://itep.org/undocumented-immigrants-taxes-2024/>.

1 U.S.C. § 1182(a)(6)(A)(i). Simply, § 1225 does not apply to people like Named Plaintiffs who
2 previously entered the country and have been present and residing in the U.S. prior to being
3 detained and placed in removal proceedings by Defendants. Such noncitizens may only be detained
4 pursuant to § 1226(a), unless (unlike Named Plaintiffs and the class members) they are subject to
5 mandatory detention under § 1226(c), or have a final order and are thus subject to § 1231. And
6 detention under § 1226(a) requires access to bond.

7 74. Nonetheless, DHS and DOJ have adopted a policy and practice of applying § 1225(b)(2)
8 to Named Plaintiffs and class members.

9 75. The unlawful application of § 1225(b)(2) to Plaintiffs and class members unlawfully
10 mandates their continued detention and violates the INA.

11 **COUNT II**
12 **Violation of Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 & 1003.19**
13 **Unlawful Denial of Consideration for Release on Bond**
14 **(On Behalf of Plaintiffs and the Class)**

15 76. Plaintiffs incorporate by reference the allegations of fact set forth in the preceding
16 paragraphs.

17 77. In 1997, after Congress amended the INA through IIRIRA, EOIR and then-Immigration
18 and Naturalization Service issued an interim rule to interpret and apply the IIRIRA. Specifically,
19 under the heading “Apprehension, Custody, and Detention of [Noncitizens],” the agencies
20 explained that “[d]espite being applicants for admission, [noncitizens] who are present without
21 having been admitted or paroled (formerly referred to as [noncitizens] who entered without
22 inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at 10323 (emphasis
23 added). The agencies thus made clear that individuals who had entered without inspection were
24 eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its
implementing regulations.

1 78. Nonetheless, DHS and the Department of Justice, including its subsidiary Executive
2 Office for Immigration Review (“EOIR”), have adopted a policy and practice of applying §
3 1225(b)(2) and its implementing regulations to Named Plaintiffs and class members.

4 79. The application of § 1225(b)(2) and its implementing regulations to Named Plaintiffs and
5 class members unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1,
6 1236.1, and 1003.19.

7 **COUNT III**
8 **Violation of the Administrative Procedure Act**
9 **Contrary to Law and Arbitrary and Capricious Agency Policy**
10 **(On Behalf of Plaintiffs and the Class)**

11 80. Plaintiffs incorporate by reference the allegations of fact set forth in the preceding
12 paragraphs.

13 81. Under the APA, a court must “hold unlawful and set aside agency action” that is
14 “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law,” that is
15 “contrary to constitutional right [or] power,” or that is “in excess of statutory jurisdiction,
16 authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).

17 82. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
18 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
19 relevant here, it does not apply to those who previously entered the country and have been residing
20 in the United States prior to being apprehended and placed in removal proceedings by Defendants.
21 Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are
22 subject to § 1225(b)(1), § 1226(c), or § 1231.

23 83. Nonetheless, Defendants have a new policy and practice of applying mandatory detention
24 pursuant to § 1225(b)(2) to Plaintiffs and the putative class members.

84. Defendants have failed to articulate reasoned explanations for their decisions, which
represent changes in the agencies’ policies and positions; have considered factors that Congress

1 did not intend to be considered; have entirely failed to consider important aspects of the problem;
2 and have offered explanations for their decisions that run counter to the evidence before the
3 agencies.

4 85. Defendants' new policy is thus arbitrary and capricious. It also is not in accordance with
5 the law, including the INA, its regulations, and the Fifth Amendment of the U.S. Constitution, and
6 thus violates the APA. *See* 5 U.S.C. § 706(2).

7
8 **COUNT IV**
9 **Violation of Fifth Amendment Due Process Clause**
10 **(On Behalf of Plaintiffs and the Class)**

11 86. Plaintiffs incorporate by reference the allegations of fact set forth in the preceding
12 paragraphs.

13 87. The Fifth Amendment provides that "No person shall ... be deprived of life, liberty, or
14 property[] without due process of law."

15 88. "Freedom from imprisonment – from government custody, detention, or other forms of
16 physical restraint – lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533
17 U.S. 678, 690 (2001).

18 89. Moreover, "The Due Process Clause applies to all 'persons' within the United States,
19 including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at
20 693.

21 90. Defendants' mandatory detention of Plaintiffs and the proposed class without
22 consideration for release on bond or access to a bond hearing violates their due process rights.
23 /
24 /

PRAYER FOR RELIEF

Wherefore,

A. Plaintiffs respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Certify this case as a class action, and certify the class;
3. Appoint Named Plaintiffs as the representative of the class;
4. Appoint Undersigned counsel as Class Counsel pursuant to Federal Rule of Civil Procedure 23(g);

B. As remedies for each of the causes of action asserted above, Named Plaintiffs and the putative class members request that this Court:

1. Enjoin Defendants from transferring Named Plaintiffs outside the jurisdiction of the District of Nevada pending resolution of this case;
2. Declare that Defendants' policy and practice of denying consideration for bond on the basis of § 1225(b)(2) to Named Plaintiffs and the class, violates the INA, its implementing regulations, the APA, and the Due Process Clause of the Fifth Amendment;
3. Declare that Named Plaintiffs and class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2);
4. Issue a writ of *habeas corpus* requiring the Defendants to release Named Plaintiffs immediately, or grant them a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
5. Set aside application of Defendants' unlawful detention policy as to the class members pursuant to the APA, 5 U.S.C. § 706(2), as contrary to law, arbitrary and capricious, and contrary to constitutional rights;

- 1 6. Award attorneys' fees and costs pursuant to the Equal Access to Justice Act (EAJA), as
2 amended, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, and on any other basis justified under
3 law; and
4 7. Grant any other and further relief that this Court deems just and appropriate, including
5 individual injunctions when requested as necessary to secure the rights of class
6 members.

7
8 Dated: October 30, 2025.
9

10 **AMERICAN CIVIL LIBERTIES**
11 **UNION OF NEVADA**

12 

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forthcoming

1 **LOCAL RULE IA 11-5 STATEMENT**

2 **REGARDING LAW STUDENT APPEARANCE**

3 Plaintiffs in this matter are co-represented by third-year law students who are certified student
4 attorneys under Nevada Supreme Court Rule 49.3. They are students in the UNLV Immigration
5 Clinic, part of the Thomas & Mack Legal Clinic at the William S. Boyd School of Law.

6
7 I am a member of the faculty at the William S. Boyd School of Law and Director of the UNLV
8 Immigration Clinic. I have been a licensed attorney since 2000, and I am the supervising attorney
9 of the student attorneys in this case.

10
11 I hereby certify that I have and will ensure full compliance with all requirements of LR IA 11-5
12 governing appearance by law students in this court.

13
14
15 /s/ Michael Kagan
16 Michael Kagan
Nevada Bar. No. 12318C

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