

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

EVANGELINA MORALES,
Individually and on behalf of all others
similarly situated,

Petitioner,

v.

PAMELA BONDI, ET AL.,

Respondents.

CASE NO. 1:25-CV-01472
Honorable Hala Y. Jarbou

**EXPEDITED CONSIDERATION
REQUESTED Pursuant to
Local Rule 7.1(e)**

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BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

I. INTRODUCTION

At stake in this case is a principle as old as the Republic itself: that the government may not imprison human beings indefinitely without lawful authority or meaningful process. For nearly three decades, Congress, the courts, and the agencies charged with enforcing our immigration laws have understood that people arrested *inside* the United States—whatever their manner of entry—are entitled to bond hearings under 8 U.S.C. § 1226(a). That understanding reflected not only the statutory text, but the moral bedrock of due process itself: that liberty, once attained, cannot be taken away by executive fiat.

In 2025, that foundation was abruptly shaken. Through a hasty reinterpretation of well-settled law culminating in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the Department of Homeland Security (“DHS”) and the Department of Justice (“DOJ”) pivoted to declare that virtually all noncitizens who initially entered the United States without inspection—no matter how long they have lived in this country—must now be treated as “arriving aliens” under 8 U.S.C. § 1225(b)(2), thereby stripping them of access to bond hearings altogether. The result is a system of mass, indefinite, mandatory detention that Congress never authorized and the Constitution does not tolerate.

Crucially, this Court has already reviewed and rejected the government's new policy. In *Mendez v. Raycraft*, No. 1:25-cv-1323, ECF 12 (W.D. Mich. Nov. 18, 2025), this Court held that 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), governs the detention of noncitizens apprehended in the interior, and that denying them bond hearings violates the Due Process Clause. Despite this clear ruling, many others by this Court, Respondents continue to apply their unlawful policy to Petitioner Morales and the putative class. Class certification is now urgently required not only to resolve common questions, but to enforce this Court's statutory interpretation uniformly across

the District and prevent the waste of judicial resources inherent in litigating hundreds¹ of identical *Mendez*-style petitions.

The impact of this new policy has been immediate and severe. Individuals who have lived in the United States for decades—raising families, holding steady employment, and contributing to their communities—are suddenly arrested in their homes or workplaces and transported to detention facilities like North Lake Processing Center or Calhoun County Correctional Center. Upon arrival, they are informed that they are categorically ineligible for bond. They are not detained because they pose a danger to the community or a flight risk, but solely because the government has retroactively reclassified them as “arriving aliens”—despite their long-term residence and deep ties to this country.

This class action seeks to restore the rule of law and the constitutional promise of liberty. Plaintiffs, on behalf of themselves and all others similarly situated, challenge this unlawful policy of categorical detention. They ask this Court to declare that individuals apprehended in the interior of the United States—people who have already entered and established lives here—are detained, if at all, under § 1226(a), and are therefore entitled to individualized bond hearings.

Class certification under Rule 23(a) and (b)(2) is both proper and necessary. The government’s misclassification policy is uniform, its effects systemic, and its legality can and must be adjudicated on a classwide basis. The proposed class is numerous, its members are readily ascertainable from government records, and their claims are bound by common questions of law and fact—questions that cut to the heart of the statutory and constitutional order. Declaratory and injunctive relief will provide a single, coherent remedy for all.

¹ At last count based on data collected on [Habeasdockets.org](https://www.habeasdockets.org), there were 128 habeas petitions addressing this issue that have been filed as of 8:30am on November 21, 2025. This does not include the almost half dozen to dozen that undersigned counsel is aware of that will be filed later today or this weekend.

This case, in short, asks the Court to reaffirm what the Constitution has long required: that liberty may not yield to bureaucratic convenience, and that every person confined by the Executive is entitled to the law's protection. Permitting executive agencies to erode the basic principles of our Republic is a danger that the Court should weigh not just as an injustice to the proposed class, but to all who call this country home. The Founders understood that an executive branch without checks is a branch that would quickly tighten its grip on the people. The judicial branch is now tasked with countering the executive's stranglehold and restoring the balance that has allowed the American Experiment to survive the last 250 years.

Therefore, and for all the reasons stated herein, Petitioner requests this Court to grant her motion with **EXPEDITED CONSIDERATION**².

II. FACTUAL BACKGROUND

A. The Petitioners and the Detention Regime

Petitioner Evangelina Morales has lived in the United States continuously since 2001/the age of six. She is a devoted mother of four U.S. citizen children (two of whom are special needs). Like hundreds of other men and women detained in the Western District of Michigan, Ms. Morales has no criminal record, no history of violence, and no realistic prospect of flight. Yet she was arrested without a warrant, and has been held without bond since October 28, 2025—to be detained indefinitely under a newly imposed federal policy that denies all bond hearings to noncitizens who entered the United States without inspection, regardless of their ties, equities, or length of residence.

On October 28, 2025, Ms. Morales was arrested by immigration agents at her boyfriend's home in Detroit, Michigan, without a judicial warrant. She was transferred to the custody of Immigration and Customs Enforcement ("ICE") and sent to North Lake, hundreds of miles from

² See Section V. Basis for Expedited Consideration.

herfamily. There, DHS classified her under 8 U.S.C. § 1225(b)(2)(A)—the statutory provision governing *arriving aliens* seeking admission at ports of entry—despite her decades-long residence in the United States. Because § 1225(b)(2)(A) provides no mechanism for release on bond, this designation automatically rendered her ineligible for any individualized custody hearing before an Immigration Judge (“IJ”).

The Immigration Courts in Detroit have uniformly denied motions for bond to similarly situated individuals citing the Board of Immigration Appeals’ (“BIA”) new precedential decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). That decision, issued on September 5, 2025, upended nearly three decades of settled jurisprudence by holding that any person who entered without inspection—no matter when or where apprehended—must be treated as detained under § 1225(b)(2)(A). The BIA offered no notice-and-comment rulemaking, no reasoned explanation for reversing prior agency practice, and no regard for the due process implications of indefinite, mandatory detention.

As a result, detainees across the country—particularly those in the Western District of Michigan—are trapped in legal limbo. They have been reclassified as “arriving aliens,” denied any opportunity for bond, and effectively cut off from the statutory and constitutional safeguards that have long governed civil detention in the United States.

B. A Nationwide Policy Shift Without Lawful Authority

For nearly thirty years, the federal government consistently interpreted § 1226(a) as the operative detention authority for individuals arrested *inside* the United States, whether or not they were initially admitted at the border. Regulations implementing the 1996 Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) explicitly confirmed that “[a]liens who are present without having been admitted or paroled (formerly referred to as aliens

who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). As the regulations also confirm, the determination of whether somebody is an “arriving alien” depends on whether or not that person has “established physical presence” in the United States. *Id.* at 10313 (“Aliens who have not yet established physical presence on land in the United States cannot be considered as anything other than arriving aliens[.]” (emphasis added)).

This practice reflected Congress’s intent to distinguish between those arriving at the border, who may be detained under § 1225(b), and those long settled in the United States, whose detention under § 1226(a) must be individually justified. *See Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (contrasting §§ 1225 and 1226). According to *Jennings*, Section 1226(a) sets out the “default rule” for the discretionary detention of noncitizens “already present in the United States.” 583 U.S. at 303. Under § 1226(a), immigration authorities may make an initial determination as to detention, but noncitizens may then request a bond hearing before an IJ. 8 C.F.R. § 1236.1(c)(8), (d)(1). At that hearing, the noncitizen “may secure his release if he can convince the officer or immigration judge that he poses no flight risk and no danger to the community.” *Nielsen v. Preap*, 586 U.S. 392, 397–98 (2019) (citing 8 C.F.R. §§ 1003.19(a), 1236.1(d); *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006)).

By contrast, § 1255 governs the detention of those “seeking admission.” An applicant for admission is defined as a noncitizen “present in the United States who has not been admitted or who arrives in the United States,” § 1255(a)(1), and “fall[s] into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings*, 583 U.S. at 288. The second category creates a catchall mandatory detention provision: “If the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to

be admitted, the alien shall be detained for [full removal proceedings under § 1229].” 8 U.S.C. § 1225(b)(2)(A). Unlike noncitizens detained under § 1226(a), those detained under § 1225 may only be released “for urgent humanitarian reasons or significant public benefit.” Jennings, 483 U.S. at 288 (quoting 8 U.S.C. § 1182(d)(5)(A)).

That balance was disrupted in mid-2025, when DHS and DOJ jointly adopted an “Interim Guidance Regarding Detention Authority for Applicants for Admission,” purporting to reclassify *all* persons who entered without inspection—regardless of how long ago—as “applicants for admission.” The BIA’s *Matter of Yajure-Hurtado* decision followed, transforming what had been an internal enforcement memorandum into binding precedent nationwide.

Under this policy, ICE officers now routinely apply § 1225(b)(2)(A) to individuals arrested deep in the interior of the United States, detaining them without bond eligibility and instructing Immigration Judges that they lack jurisdiction to conduct custody hearings. The result has been a surge in habeas filings across the country; courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the text of the INA. Most importantly, on November 18, 2025, this Court definitively rejected Respondents’ position. See *Mendez v. Raycraft*, No. 1:25-cv-1323, Slip Op. at 9 (W.D. Mich. Nov. 18, 2025) (Jarbou, C.J.) (holding that “§ 1226(a), not § 1225(b)(2)(A), governs noncitizens.... who have resided in the United States and were already within the United States when apprehended”). This aligns with the growing consensus of federal courts rejecting the government’s position. See, e.g., *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (“There can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border.”); *Rodriguez v.*

Bostock, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM, 2025 WL 208438 (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Aguilar Merino v. Ripa et al.*, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Sanchez Alvarez v. Noem et al.*, No. 1:25-CV-1090, 2025 WL 2942648 (W.D. Mich. Oct. 17, 2025).

C. The Systemic Impact at in the Western District of Michigan

The effects of this unlawful policy are neither theoretical nor isolated. At the North Lake Processing Center and Calhoun County Correction Center, hundreds of detainees have been classified under § 1225(b)(2)(A) since late summer 2025. Nearly all entered the United States years ago; most have families, steady work histories, and strong community ties. None are subject to mandatory detention under § 1226(c), and none have received individualized bond hearings.

In fact, multiple detainees at the North Lake Processing Center, in particular, have

successfully argued that they should not be ineligible for bond where they “have resided in the United States for many years and were already within the United States when apprehended and arrested.” *Sanchez Alvarez*, 2025 WL 2942648 at *11; *Hernandez Garcia v. Raycraft*, No. 1:25-cv-1281, 2025 WL 3122800, at *5 (W.D. Mich. Nov. 7, 2025); *Rodriguez Serrano v. Noem*, No. 1:25-cv-1320, 2025 WL 3122825, at *5–6 (W.D. Mich. Nov. 7, 2025); *Salgado Mendoza v. Noem*, No. 1:25-cv-1252, 2025 WL 3077589, at *6 (W.D. Mich. Nov. 4, 2025); *Ruiz Mejia v. Noem*, No. 1:25-cv-1227, 2025 WL 3041827, at *5–6 (W.D. Mich. Oct. 31, 2025); *De Jesus Ramirez v. Noem*, No. 1:25-cv-1261, 2025 WL 3039266, at *5 (W.D. Mich. Oct. 31, 2025); *Escobar-Ruiz v. Raycraft*, No. 1:25-cv-1232, 2025 WL 3039255, at *5 (W.D. Mich. Oct. 31, 2025); *Marin Garcia v. Noem*, No. 1:25-cv-1271, 2025 WL 3017200, at *5 (W.D. Mich. Oct. 29, 2025); *Cervantes Rodriguez v. Noem*, No. 1:25-cv-1196, 2025 WL 3022212, at *6 (W.D. Mich. Oct. 29, 2025); *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097, 2025 WL 3012033, at *9 (W.D. Mich. Oct. 28, 2025); *Rodriguez Carmona v. Noem*, No. 1:25-cv-1131, 2025 WL 2992222, at *6 (W.D. Mich. Oct. 24, 2025); *Sanchez Alvarez v. Noem*, No. 1:25-cv-1090, 2025 WL 2942648, at *6 (W.D. Mich. Oct. 17, 2025).

This policy inflicts uniform harm: prolonged detention without process, deprivation of family unity, and the psychological and economic toll of indefinite confinement. Because the misclassification is systemic, the legal questions it presents are common to all class members and demand classwide resolution. The government’s position—applied categorically and without discretion—ensures that no individual detainee can obtain adequate relief through case-by-case litigation. Moreover, the government’s doubling down on this radical and unlawful reinterpretation of the statute is unduly burdensome on Article III courts, as the proliferation of individual habeas actions is clogging the dockets of federal district courts throughout the United

States.

This lawsuit seeks to restore the constitutional and statutory framework that has long governed immigration detention. Plaintiffs and the proposed class do not seek special treatment; they seek only the lawful treatment that Congress prescribed and that due process demands: a fair opportunity to seek release before a neutral decision-maker.

III. LEGAL STANDARD FOR CLASS CERTIFICATION³

A. Class Actions and Rule 23

“The class action is ‘an exception to the usual rule that litigation is conducted by and on behalf of the individual named parties only.’” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 348 (2011) (quoting *Califano. v. Yamasaki*, 442 U.S. 682, 700-01 (1979)). For the court to certify a class, the plaintiffs must meet the requirements set forth in Rule 23(a): numerosity, commonality, typicality, and adequate representation. Fed. R. Civ. P. 23(a); *Pickett v. City of Cleveland*, 140 F.4th 300, 308 (6th Cir. 2025). In addition, Rule 23(b) provides that the proposed class must fit within at least one of the types of class actions it enumerates. Fed. R. Civ. P. 23(b); *Clemons v. Norton Healthcare Inc. Ret. Plan*, 890 F.3d 254, 278 (6th Cir. 2018). The decision whether to certify a class is committed to the sound, broad discretion of the district judge and turns on the particular facts and circumstances of each individual case. *In re Whirlpool Corp. Front-Loading Washers Product Liability Litigation*, 722 F.3d 838, 850 (6th Cir. 2013); *Ballan v. Upjohn Co.*,

³ Although the Supreme Court has not definitively resolved whether Federal Rule of Civil Procedure 23 applies to habeas corpus petitions, *see Schall v. Martin*, 467 U.S. 253, 261 n.10 (1984), and while a recent dissent raised skepticism about the propriety of resolving habeas claims through class actions, *see A.A.R.P. v. Trump*, 605 U.S. 91, 107–09 (2025) (Alito, J., dissenting), the overwhelming weight of circuit authority supports the permissibility of representative habeas actions analogous to class proceedings. *See Betschart v. Oregon*, 103 F.4th 607, 615 (9th Cir. 2024); *LoBue v. Christopher*, 82 F.3d 1081, 1085 (D.C. Cir. 1996); *United States ex rel. Morgan v. Sielaff*, 546 F.2d 218, 220 (7th Cir. 1976); *Napier v. Gertrude*, 542 F.2d 825, 827 n.2 (10th Cir. 1976); *Bonner v. Cir. Ct.*, 526 F.2d 1331, 1335 n.4 (8th Cir. 1975); *United States ex rel. Sero v. Preiser*, 506 F.2d 1115, 1125-27 (2d Cir. 1974); *cf. Hamama v. Adducci*, 912 F.3d 869, 879 (6th Cir. 2018) (“[T]here is nothing barring a class from seeking a traditional writ of habeas corpus . . .”). While some circuits have noted that these representative habeas actions are not technically Rule 23 class actions, those courts use the same factors applicable under Rule 23 to evaluate whether to permit a representative habeas action to proceed. *See Morgan*, 546 F.2d at 221 & n.5; *Napier*, 542 F.2d at 827 n.2; *Sero*, 506 F.2d at 1125-27, 1127 n.9.

159 F.R.D. 473, 479(W.D. Mich. 1994). The party seeking class certification bears the burden to show that the requirements of Rule 23(a) and 23(b) have been met. *Pickett*, 140 F.4th at 314 (Gibbons, J., concurring). This burden is “not merely a pleading standard.” *Speerly v. Gen. Motors, LLC*, 143 F.4th 306, 316 (6th Cir. 2025). Rather, the “plaintiffs must affirmatively ‘prove’ that the class meets the prerequisites for certification.” *Id.* (quoting *Wal-Mart*, 564 U.S. at 350).

Rule 23(a) establishes four requirements for class certification: the class is so numerous that joinder of all members is impracticable; there are questions of law or fact common to the class; the claims or defenses of the representative party are typical of those of the class; and the representative party will fairly and adequately protect the interests of the class. Fed. R. Civ. P. 23(a). As to numerosity, Rule 23 (a)(1) requires that the proposed class be so numerous that joinder of all members is impracticable. While there is no strict numerical test, “substantial” numbers usually satisfy the numerosity requirement. *In re Polyurethane Foam Antitrust Litigation*, 314 F.R.D. 226, 237 (N.D. Ohio 2014) (citing *Daffin v. Ford Motor Co.*, 458 F.3d 549, 552 (6th Cir. 2006)).

Rule 23’s second requirement for class certification is that there be questions of law or fact common to the class. Fed. R. Civ. P. 23(a)(2). To demonstrate commonality, the plaintiff must show that class members have suffered the same injury. *Wal-Mart Stores*, 131 S.Ct. at 2555. Their claims must depend upon a common contention of such a nature that it is capable of class-wide resolution, which means that determination of its truth or falsity will resolve an issue that is central to the validity of each claim in one stroke. *See id.* at 2551. What matters to class certification is not the raising of common questions, but the capacity of a class-wide proceeding to generate common answers apt to drive the resolution of the litigation. *Id.* The mere fact that

questions peculiar to each individual member of the class remain after the common questions of the defendant's liability have been resolved does not dictate the conclusion that a class action is impermissible. *In re American Medical Systems, Inc.*, 75 F.3d 1069, 1080 (6th Cir. 1996); *see also Young v. Nationwide Ins. Co.*, 693 F.3d 532, 543 (6th Cir. 2012) (presence of questions peculiar to each individual member of the class was no bar when liability arose from a single course of conduct).

Third, Rule 23(a)(3) requires a plaintiff to show that its claims are typical of the claims of the proposed class. A plaintiff's claim is typical if it arises from the same event, practice, or course of conduct that gives rise to the claims of other class members and if its claims are based on the same legal theory. *See American Medical Systems*, 75 F.3d at 1082. Lastly, Rule 23(a)(4) requires the Court to find that the representative party will fairly and adequately protect the interests of the class. In order to satisfy the requirement of adequacy, the class representative must be part of the class and possess the same interest and suffer the same injury as the class members. *Young*, 693 F.3d at 543. In other words, the plaintiff must have common interests with unnamed members of the class and must be able to rigorously prosecute the interests of the class through qualified counsel.

The Supreme Court has cautioned that "certification is proper only if 'the trial court is satisfied, after a rigorous analysis, that the prerequisites of Rule 23(a) have been satisfied.'" *Comcast Corp. v. Behrend*, 133 S. Ct. 1426, 185 L.Ed.2d 515, 569 U.S. 27 (2013) (quoting *Wal-Mart Stores*, 564 U.S. at 2551–52). Oftentimes, that "rigorous analysis" requires the Court to "probe behind the pleadings before coming to rest on the certification question," which frequently will entail "overlap with the merits of the plaintiffs underlying claim." *Id.* "That is so because the class determination generally involves considerations that are enmeshed in the

factual and legal issues comprising the plaintiff's cause of action.” *Id.* (internal quotations omitted).

The Supreme Court has cautioned, however, that “Rule 23 grants courts no license to engage in free-ranging merits inquiries at the certification stage. Merits questions may be considered to the extent—but only to the extent—that they are relevant to determining whether the Rule 23 prerequisites for class certification are satisfied.” *Amgen Inc. v. Conn. Retirement Plans & Trust Funds*, 568 U.S. 455, 133 S.Ct. 1184, 1194–95, 185 L.Ed.2d 308 (2013) (citing *Wal-Mart Stores*, 131 S.Ct. at 2551). In other words, district courts may not “turn the class certification proceedings into a dress rehearsal for the trial on the merits.” *In re Whirlpool*, 722 F.3d 838, 851–52 (6th Cir. 2013) (citing *Messner v. Northshore Univ. HealthSystem*, 669 F.3d 802, 811 (7th Cir. 2012)).

B. Injunctive and Declaratory Classes

This case proceeds under Rule 23(b)(2), which authorizes certification when “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). “Civil rights cases against parties charged with unlawful, class-based discrimination are prime examples.” *Amchem Products Inc., v. Windsor*, 521 U.S. 591, 117 S.Ct. 2231, 138 L.Ed.2d 689 (1997).

As the Supreme Court has further explained,

The key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted—the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them. In other words, Rule 23(b)(2) applies only when a single injunction or declaratory judgment would provide relief to each member of the class. It does not authorize class certification when each individual class member would be entitled to a different injunction or declaratory judgment against the defendant. Similarly, it does not authorize class certification when each class member would be entitled

to an individualized award of monetary damages.

Wal-Mart Stores, 131 S. Ct. at 2559 (internal quotations and citations omitted).

Just recently, a district court in Massachusetts found a proposed class of immigration detainees who were denied bond were a class under (b)(2), reasoning as follows:

Guerrero Orellana’s proposed class satisfies Rule 23(b)(2). The government has adopted a uniform interpretation of § 1225(b)(2)(A) that imposes detention without a bond hearing during removal proceedings on all noncitizens who entered the United States without inspection, are apprehended while residing inside the country, and are not subject to parole revocation under § 1182(d)(5)(A) or mandatory detention under § 1225(b)(1) or § 1226(c). This policy prevents all members of the proposed class from seeking release from detention from an immigration judge at a bond hearing. Guerrero Orellana asks for a class-wide declaratory judgment that the government’s imposition of mandatory detention under § 1225(b)(2)(A) on this category of noncitizens is unlawful and that those noncitizens are entitled to bond hearings in immigration court. This “single . . . declaratory judgment would provide relief to each member of the class.” *Wal-Mart*, 564 U.S. at 360.

Guerrero Orellana v. Moniz, No. 25-cv-12664-PBS, (D. Mass. Oct. 30, 2025) (Saris, J.).⁴

IV. APPLICATION OF RULE 23 TO THE PROPOSED CLASS

A. Proposed Class

Petitioner seeks certification of the following class pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2):

All current and future noncitizens detained at the North Lake Processing Center, the Calhoun County Correctional Center, or any other immigration detention facility within the Western District of Michigan who: (1) entered the United States without inspection; (2) have been placed in removal proceedings under 8 U.S.C. § 1229a; (3) are not subject to mandatory detention under 8 U.S.C. § 1226(c) or post-order detention under 8 U.S.C. § 1231; and (4) are or will be detained without an individualized bond hearing pursuant to 8 U.S.C. § 1225(b)(2)(A).

Excluded from this class are individuals subject to expedited removal under 8 U.S.C. § 1225(b)(1), mandatory detention under § 1226(c), or post-order detention under § 1231. Class members can be readily identified through ICE and EOIR records reflecting field office

⁴ Attachment 1 - Memorandum and Order.

jurisdiction, entry status, and detention authority. This case readily satisfies the four requirements of Rule 23(a) and fits squarely within Rule 23(b)(2), which authorizes certification where the defendants “have acted or refused to act on grounds that apply generally to the class.” Fed. R. Civ. P. 23(b)(2).

B. Numerosity

Rule 23(a)(1) requires that the proposed class be “so numerous that joinder of all members is impracticable.” This requirement is satisfied where the size of the class, the geographic dispersion of members, and other practical limitations render individual joinder unworkable.

Here, the numerosity requirement is readily met. ICE’s own public records confirm that the North Lake Processing Center and Calhoun County Correction Center consistently detain well over 100 individuals at any given time. In fact, as of November 23, 2025, there have been 129 individual habeas petitions filed in this district and undersigned counsel is aware of at least a dozen more that will be filed this coming week not just by his office but by counsel from other states.. A substantial subset of those detainees have entered the United States without inspection, been apprehended within the interior, and are now detained under § 1225(b)(2)(A)—often as a result of recent policy shifts memorialized in *Matter of Yajure-Hurtado*. The reclassification of these individuals as “arriving aliens” applies systematically across all detainees within the Detroit Field Office’s jurisdiction.

This population is both large and fluid. ICE engages in ongoing enforcement actions throughout Michigan and surrounding states, and the number of class members shifts daily as new individuals are arrested, transferred, or removed. As courts have consistently recognized,

this sort of transitory detention population presents precisely the type of circumstance where class treatment is appropriate. *See Orellana v. Moniz*, No. 25-cv-12664-PBS (D. Mass. Oct. 30, 2025) (certifying class of detained noncitizens in similar procedural posture). Moreover, practical barriers to joinder—including language access, lack of legal representation, logistical difficulties communicating from within detention, and rapid ICE transfers—further underscore the impracticability of managing individual suits. Detained individuals cannot feasibly coordinate litigation or secure counsel in time to vindicate their rights absent classwide relief. The numerosity requirement is therefore satisfied.

The necessity of a class action is further underscored by the government's response in *Mendez*. In that case, the government argued that the proper respondent is solely the local Field Office Director, attempting to dismiss higher-level officials. *See Mendez*, Resp. in Opp. at 22 (arguing Secretary Noem and the AG should be dismissed). However, this Court rightly retained Secretary Noem as a respondent to ensure authority to enforce relief in the event of transfers. *Mendez*, Slip Op. at 13-14. Because the government continues to transfer detainees and assert that relief is limited to the immediate custodian, individual joinder is practically impossible. A class action naming the proper high-level officials—as validated by this Court in *Mendez*—is the only mechanism to ensure relief follows the class members regardless of transfer or the specific Warden holding them. Furthermore, because the Class includes detainees at multiple facilities (North Lake, Calhoun, and Chippewa) with different immediate wardens, naming the overarching DHS and ICE officials who control the Detroit Field Office's policy is essential to providing uniform relief to the class as a whole, regardless of which specific bed they occupy within the District.

C. Commonality

Rule 23(a)(2) requires that “there are questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). This standard is met where a single common legal or factual issue exists whose resolution will “drive the resolution of the litigation.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011).

This case presents precisely the kind of uniform legal question that satisfies commonality: whether Respondents’ reclassification of noncitizens apprehended within the interior as “arriving aliens” subject to mandatory detention under § 1225(b)(2)(A)—and the resulting denial of bond hearings—violates governing statutes, constitutional protections, and administrative law. All members of the proposed class challenge the same governmental conduct and seek uniform declaratory and injunctive relief.

The following common questions are central to the litigation:

1. Whether Respondents’ policy of detaining noncitizens apprehended inside the United States under § 1225(b)(2)(A) rather than § 1226(a) is unlawful under the Immigration and Nationality Act;
2. Whether the BIA’s ruling in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), enforcing that classification, violates the Administrative Procedure Act; and
3. Whether the government’s refusal to afford individualized custody determinations to these detainees violates the Fifth Amendment’s Due Process Clause.

The ‘common answers’ required by *Wal-Mart* are not hypothetical; they have already been provided by this Court in *Mendez*.

1. **Statutory Interpretation:** This Court has held that applying § 1225(b)(2) to interior apprehensions violates the INA because it renders § 1226(c)(1)(E) ‘entirely superfluous’

and ignores the present-tense statutory requirement of 'seeking' admission. *Mendez*, Slip Op. at 7, 9.

2. **Due Process:** This Court has held that under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the mandatory detention of this class of persons without a bond hearing violates the Fifth Amendment. *Mendez*, Slip Op. at 11-12.

Because Respondents continue to apply the policy rejected in *Mendez* to every member of the proposed class, the 'truth or falsity' of the class claims will undeniably 'resolve an issue that is central to the validity of each claim in one stroke.' *Wal-Mart*, 564 U.S. at 350.

Respondents may argue that detention decisions involve individualized discretionary factors. However, the common question here is one of *threshold statutory eligibility*, not the ultimate outcome of a bond determination. The question of whether a detainee falls under the mandatory detention regime of § 1225(b)(2) or the discretionary regime of § 1226(a) is a pure question of law identical for every class member. As *Mendez* confirms, the 'truth' of this legal question is that § 1226(a) applies. Resolving this threshold jurisdictional question settles the validity of the detention framework for the entire class, satisfying Rule 23(a)(2).

Because these questions do not hinge on individualized facts—such as the specific time or location of arrest, nationality, or relief sought—but rather on a systemic statutory and procedural misclassification, they are capable of classwide resolution. Indeed, the uniformity of Respondents' policy means that if one class member is entitled to a bond hearing, they all are.

Courts have repeatedly found that such constitutional and statutory challenges to detention practices satisfy commonality. *See Orellana v. Moniz*, No. 25-cv-12664-PBS, (D. Mass. Oct. 30, 2025) (finding commonality where “all class members challenge the same policy of being denied bond hearings under § 1225”); *see also Rodriguez v. Hayes*, 591 F.3d 1105,

1122–23 (9th Cir. 2010) (finding commonality in immigration detention class seeking custody hearings).

Because the injury and legal theory are common to all class members, and the relief sought is uniform, Rule 23(a)(2) is satisfied.

D. Typicality

Rule 23(a)(3) requires that “the claims or defenses of the representative parties are typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). Typicality focuses on the alignment between the representative’s claims and those of the class, and is satisfied where “the class representative’s interests are not antagonistic to those of the class, and where the representative’s claims and those of the class arise from the same event or practice and are based on the same legal theory.” *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1082 (6th Cir. 1996).

Here, Petitioner Evangelina Morales stands in precisely the same position as other members of the proposed class. Like them, she entered the United States without inspection, was apprehended inside the country by ICE, and is now detained under the purported authority of 8 U.S.C. § 1225(b)(2)(A), despite being a noncitizen apprehended well within the interior of the United States. Like every other class member, she has no access to an individualized bond hearing based solely on her manner of entry, not on any individualized finding of flight risk or danger. Her liberty has been curtailed under the same reclassification policy and the same statutory framework as all others in the proposed class.

Petitioner’s challenge is directed at Respondents’ uniform policy of misclassifying detainees who entered without inspection as “arriving aliens” and detaining them without bond hearings. This claim—based on statutory, constitutional, and administrative law grounds—is common to every member of the class. The relief sought is likewise identical: a declaration that

§ 1226(a), not § 1225(b)(2)(A), governs the detention of interior apprehendees, and an order requiring bond hearings for all class members.

Minor factual differences among class members—such as the precise location of apprehension, duration of residence, or individual immigration history—do not defeat typicality. Courts have consistently held that where the legal claims arise from a common policy or practice, and the relief sought is the same, Rule 23(a)(3) is satisfied. *See, e.g., Rodriguez v. Hayes*, 578 F.3d 1032 (9th Cir. 2009) (“Though Petitioner and some of the other members of the proposed class are detained under different statutes and are at different points in the removal process and hence do not raise identical claims, they all, as already discussed, raise similar constitutionally-based arguments and are alleged victims of the same practice of prolonged detention while in immigration proceedings.”).

Because Petitioner’s detention and legal claims mirror those of the class, and because his requested relief would benefit all similarly situated detainees, typicality is clearly satisfied under Rule 23(a)(3).

E. Adequacy of Representation

Rule 23(a)(4) requires that “the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This inquiry turns on two essential components: (1) whether the named representative has any conflicts of interest with the putative class, and (2) whether the proposed class counsel is qualified, experienced, and capable of vigorously prosecuting the litigation. *See Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625–26 (1997); *In re Am. Med. Sys., Inc.*, 75 F.3d 1069, 1083 (6th Cir. 1996).

Petitioner Evangelina Morales' interests are fully aligned with those of the proposed class. Like all members, she is a noncitizen apprehended within the interior of the United States after entering without inspection and is detained under 8 U.S.C. § 1225(b)(2)(A) without a bond hearing. She seeks the same core relief as the class as a whole: recognition that her detention is governed by § 1226(a) and a declaration and injunction ensuring access to constitutionally required bond hearings. There is no indication of any antagonism or divergence of interest between Petitioner and the class.

Petitioner is also represented by highly qualified and dedicated counsel in the Avanti Law Group, PLLC and the Law Office of Amy Maldonado, LLC, whose attorneys possess extensive experience in federal litigation, immigration detention law, and habeas petitions and class actions.⁵ Class counsel has represented detained noncitizens in individual, group and class proceedings in district courts across the country and is well-versed in the statutory, constitutional, and administrative issues presented here. Their commitment is demonstrated by the extensive groundwork laid in this case, including in-depth legal research, expert brief drafting, and coordination with community-based efforts to identify and support potential class members.

Courts in this Circuit and beyond routinely find adequacy satisfied where, as here, petitioners are challenging a uniform policy of detention without bond and are represented by counsel with demonstrated expertise in both class and immigration litigation. *See, e.g., Rodriguez v. Hayes*, 591 F.3d 1105, 1124 (9th Cir. 2010).

Accordingly, both Petitioner and her counsel satisfy the adequacy requirement of Rule 23(a)(4), and this action is well-positioned to proceed as a representative class action.

F. Rule 23(b)(2) is Satisfied

⁵ See Attachment 2 - Declarations of Robert Anthony Alvarez Sr and Amy Maldonado.

Certification under Rule 23(b)(2) is appropriate where “the party opposing the class has acted or refused to act on grounds that apply generally to the class.” Fed. R. Civ. P. 23(b)(2). The rule was designed to facilitate cases—like this one—seeking injunctive or declaratory relief to remedy systemic violations of federal rights. *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 361 (2011) (“[T]he key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted by the conduct.”); *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 614 (1997) (noting that Rule 23(b)(2) is “most common in civil rights actions”).

The proposed class satisfies this standard in full. Respondents have adopted and implemented a blanket policy—endorsed in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)—which systematically reclassifies noncitizens apprehended within the interior of the United States as “applicants for admission” under 8 U.S.C. § 1225(b)(2)(A), thereby denying them access to bond hearings under § 1226(a). This policy applies uniformly to all members of the class without regard to personal history, immigration background, or individual risk of flight or danger.

The relief sought—declaratory and injunctive orders restoring class members’ statutory and constitutional rights to bond hearings—is also classwide in nature. Each class member is subjected to the same deprivation of liberty based on the same flawed legal classification. Because a single injunction or declaratory judgment would redress the harm to every member of the class in one stroke, Rule 23(b)(2) is squarely satisfied. *See Wal-Mart*, 564 U.S. at 360; *Guerrero Orellana v. Moniz*, No. 25-cv-12664-PBS, (D. Mass. Oct. 30, 2025) (granting class certification under Rule 23(b)(2) in nearly identical challenge to *Matter of Yajure-Hurtado* policy).

Class certification under Rule 23(b)(2) is particularly appropriate where, as here, the

government continues to enforce a policy that a court has already declared unlawful in an individual case. In *Mendez*, the government argued that 'statutory provisions denying bond... do not violate the due process clause.' *Mendez*, Resp. in Opp. at 17. This Court explicitly rejected that argument, holding that the government's interest in detention is outweighed by the private liberty interest and the risk of erroneous deprivation. *Mendez*, Slip Op. at 11-12.

Despite the *Mendez* ruling, Respondents have not ceased applying the unlawful policy to other detainees at North Lake and Calhoun County. Without a class-wide injunction, hundreds of detainees will be forced to file individual habeas petitions to obtain the very relief this Court has already deemed required by law. This would impose a crushing burden on this Court's docket and result in inconsistent application of justice based solely on a detainee's ability to secure counsel and file a petition. This burden is not theoretical; as noted supra, over 129 habeas petitions have already been filed in this District on this exact issue. A Rule 23(b)(2) class injunction is the only procedural vehicle capable of resolving these hundreds of present and future cases in a single order, thereby preserving the Court's resources and ensuring consistent application of its *Mendez* ruling across the District. Rule 23(b)(2) was designed precisely to prevent such a scenario by providing a single, uniform remedy for a class subject to a uniform, unlawful policy.

Accordingly, class certification under Rule 23(b)(2) is warranted.

V. BASIS FOR EXPEDITED CONSIDERATION

Pursuant to W.D. Mich. LCivR 7.1(e), good cause exists to expedite the briefing and consideration of this Motion. As this Court held on November 18, 2025, in *Mendez v. Raycraft*, the continued mandatory detention of individuals in Petitioner's circumstances violates the Due Process Clause and the INA. Consequently, every day that class certification is delayed

constitutes an ongoing, irreparable deprivation of liberty for Petitioner and hundreds of putative class members detained under a policy this Court has already declared unlawful. Expedited consideration is further justified by Respondents' continued enforcement of a policy this Court has unambiguously held to be unconstitutional. Where the government ignores a judicial declaration of law in subsequent identical cases, the urgency is not merely a matter of petitioner's liberty, but of vindicating the Court's authority and preventing the Executive Branch from engaging in repetitive, lawless conduct. Furthermore, expedited resolution is strictly necessary to preserve judicial resources. Because Respondents continue to apply the unlawful policy despite the *Mendez* ruling, this Court faces an imminent and unmanageable deluge of duplicative individual habeas petitions. Prompt certification is the only mechanism to enforce this Court's order district-wide and prevent the unnecessary proliferation of litigation.

VI. CONCLUSION AND PRAYER FOR RELIEF

For nearly three decades, federal law and agency practice have recognized that individuals apprehended within the United States—regardless of the manner of their entry—are detained under 8 U.S.C. § 1226(a), and therefore entitled to individualized custody determinations and the possibility of release on bond. The government's abrupt reversal of that settled interpretation through *Matter of Yajure-Hurtado* and related policies has created a regime of indefinite, mandatory detention untethered from congressional intent, statutory authority, or constitutional constraint.

This unlawful policy has deprived hundreds of long-term residents detained within the Detroit Field Office's jurisdiction of their liberty without process, separating families, burdening courts, and eroding the basic promise that freedom from arbitrary confinement lies at the core of our constitutional system. Each class member suffers the same injury: confinement under an

invalid statutory framework, without any opportunity to demonstrate eligibility for release. The same uniform policy that inflicts this harm makes this case ideally suited for classwide adjudication under Rule 23(b)(2).

For these reasons, and in the interests of justice and judicial efficiency, Plaintiffs respectfully request that the Court:

1. Assume jurisdiction over this action pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 706, and 28 U.S.C. § 1331;
2. Pursuant to Local Rule 7.1(e), the Court issue an expedited briefing schedule on this motion;
3. Certify the proposed class defined as:

All current and future noncitizens detained at the North Lake Processing Center, the Calhoun County Correctional Center, the Chippewa County Correctional Facility, or any other immigration detention facility within the Western District of Michigan who: (1) entered the United States without inspection; (2) have been placed in removal proceedings under 8 U.S.C. § 1229a; (3) are not subject to mandatory detention under 8 U.S.C. § 1226(c) or post-order detention under 8 U.S.C. § 1231; and (4) are or will be detained without an individualized bond hearing pursuant to 8 U.S.C. § 1225(b)(2)(A).

and excluding individuals detained pursuant to § 1225(b)(1), § 1226(c), or § 1231;

4. Appoint Petitioner Evangelina Morales as representative of the class;
5. Appoint the Law Office of Amy Maldonado, LLC and associated co-counsel as Class Counsel pursuant to Rule 23(g);
6. Declare that Respondents' policy and practice of detaining class members under § 1225(b)(2)(A) rather than § 1226(a) violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment;
7. Issue preliminary and permanent injunctive relief enjoining Respondents from applying § 1225(b)(2)(A) to individuals apprehended within the United States and requiring that

all class members be provided individualized custody hearings before an Immigration Judge under § 1226(a) within seven (7) days of the Court's order;

8. Issue a class-wide order consistent with this Court's ruling in *Mendez v. Raycraft*, requiring Respondents to provide all class members with a bond hearing under 8 U.S.C. § 1226(a) within five business days, at which the government bears the burden of proof, or release them from custody;
9. Postpone the effective date of and set aside *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), pursuant to 5 U.S.C. §§ 705–706, to the extent it mandates the unlawful reclassification of interior detainees;
10. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), or other applicable authority; and
11. Grant such other and further relief as this Court deems just, equitable, and proper.

Respectfully submitted.

Dated: November 23, 2025

By: /s/ Robert Anthony Alvarez
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