

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT GEORGIA
WAYCROSS DIVISION

GERONIMO VALERIO LOPEZ SUCHI,	)	
	)	
Petitioner,	)	
	)	CASE NO.:
vs.	)	5:25-cv-00174-LGW-BWC
	)	
TONY NORMAND, <i>in his official capacity as</i>	)	
<i>Warden of Folkston Detention Center; and</i>	)	
LADEON FRANCIS, <i>Field Office Director for ICE</i>	)	
<i>Atlanta Field Office, and</i>	)	
TODD LYONS, <i>in his official capacity as Acting</i>	)	
<i>Director of Immigration and Customs Enforcement; and</i>	)	
KRISTI NOEM, <i>Secretary of Homeland Security; and</i>	)	
PAMELA BONDI, <i>U.S. Attorney General.</i>	)	
	)	
	)	
Respondents.	)	
	)	

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO SHOW CAUSE ORDER

The Petitioner, GERONIMO VALERIO LOPEZ SUCHI, by and through the undersigned counsel, hereby submits this reply to Respondents' Response to Show Cause (ECF 8). Respondents bring the same arguments this Court has rejected in *Aguirre Villa v. Normand*, No. 5:25-cv-0089-LGW-BWC, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025) (*report and recommendation adopted*, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025)). Therefore, the Court just grant the writ forthwith under its finding in *Villa v. Normand*.

However, in order to preserve the record in case the Respondents choose to appeal a grant of a habeas petition in this case, Petitioner submits the following:

A. 8 U.S.C. § 1252(g) does not bar the Court's jurisdiction

The Government asserts that this Court lacks jurisdiction under 8 U.S.C. § 1252(g), arguing that Petitioner's detention arises from the commencement of removal proceedings. This argument relies on an overly broad interpretation of § 1252(g) that has been consistently rejected by the Supreme Court and numerous circuit and district courts, including this district in *Villa v. Normand* mentioned above.

Section 1252 is "Congress's comprehensive scheme for judicial review of removal orders." *Canal A Media Holding, LLC v. USCIS*, 964 F.3d 1250, 1256–57 (11th Cir. 2020). Section 1252(g) bars judicial review over "any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien[.]" 28 U.S.C. § 1252(g). The Supreme Court, in *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999) (AADC), clarified that § 1252(g) applies only to "three discrete actions that the Attorney General may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'"

8 U.S.C. § 1252(g) "strips the federal courts of jurisdiction only to review the Attorney General's exercise of lawful discretion to in only three distinct actions: (1) commence removal proceedings, (2) adjudicate those cases, and (3) execute orders of removal." *Abrego Garcia v. Noem*, No. 25-1345, 2025 WL 1021113, at *2 (4th Cir. Apr. 7, 2025) (emphasis added). "1252(g) is not to be construed broadly as a 'zipper' clause applying to the full universe of deportation-related claims, but instead as applying narrowly to only the three 'discrete' governmental actions enumerated in that subsection." *Wallace v. Sec'y, U.S. Dep't of Homeland Sec.*, 616 F. App'x 958, 960 (11th Cir. 2015) (citing *A.A.D.C.*, 525 U.S. at 472–73). "And

although many other decisions or actions may be part of the deportation process, only claims that arise from one of the covered actions are excluded from [a court's] review....” *Camarena v. Dir., Immigr. & Customs Enf’t*, 988 F.3d 1268, 1272 (11th Cir. 2021) (internal citations and quotations omitted).

The statute’s opening phrase—“Except as provided in this section”—is critical. It means that the jurisdictional bar is not absolute; rather, it is subject to the exceptions and carve-outs that are expressly set forth elsewhere in § 1252. The enumeration of 28 U.S.C. § 2241, as well as other habeas and mandamus provisions, is intended to clarify that, except as otherwise provided in § 1252, these statutes do not independently confer jurisdiction over claims that fall within the specific actions listed: the Attorney General’s decisions to commence proceedings, adjudicate cases, or execute removal orders.

Petitioner’s habeas claims do not challenge the decisions to commence removal proceedings, adjudicate his case, or execute a removal order. He is separately seeking relief from removal before the immigration court. Instead, he challenges the legality and constitutionality of his detention without a bond hearing; a matter distinct from the enumerated actions in § 1252(g). Such claim is reviewable. See *Canal A Media Holding, LLC*, 964 F.3d at 1257–58 (claim was not barred by § 1252(g) where action did not fall into one of three categories as “[w]hen asking if a claim is barred by § 1252(g), courts must focus on the action being challenged.”); *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411, at *6 (D. Minn. Aug. 15, 2025) (petitioner’s due process challenge was not barred by § 1252(g) as it did not “challenge the actions of commencing proceedings, adjudicating cases, or executing removal orders.”); *Vazquez v. Feeley*, No. 25-cv-01542, 2025 WL 2676082, at *8 (D. Nev. Sept. 17, 2025) (challenges the lawfulness of detention during the pendency of removal proceedings, it is not a challenge to one of the ‘three discrete events along the road to deportation’ to which § 1252(g)

applies); *Leal-Hernandez v. Noem*, No. 25-cv-02428, 2025 WL 2430025, at *5 (D. Md. Aug. 24, 2025) (same); *Sanchez v. LaRose*, No. 25-cv-2396, 2025 WL 2770629, at *2 (S.D. Cal. Sept. 26, 2025) (“Petitioner seeks only review of the legality of her detention, which does not require judicial intervention into the Attorney General’s decisions to commence proceedings, adjudicate cases, and execute removal orders....Adopting [the government’s] interpretation of 8 U.S.C. § 1252(g)...would eliminate judicial review of immigration detainee’s claims of unlawful detention[.]”).

Several Circuit courts have reiterated the same. See e.g., *Karki v. Jones*, 2025 U.S. App. LEXIS 20660, at 8–9 (6th Cir. Aug. 13, 2025) (Section 1252(g) does not clearly state a jurisdictional bar on review of detention claims, and thus does not preclude district court jurisdiction over habeas petitions that challenge the legality or constitutionality of immigration detention, as such claims are independent of, or collateral to, the removal process); *Kong v. United States*, 62 F.4th 608, 612 (1st Cir. 2023) (“construing § 1252(g) to bar all detention-related claims would raise serious constitutional concerns under the Suspension Clause”); *Mahdawi v. Trump*, 136 F.4th 443, 450 (2nd Cir. 2025) (§ 1252(g) does not strip district courts of jurisdiction over habeas petitions challenging immigration detention); *Ozturk v. Hyde*, 136 F.4th 382, 397 (2nd Cir. 2025) (§ 1252(g) is “directed against a particular evil: attempts to impose judicial constraints upon prosecutorial discretion,” and does not reach claims that are independent of, or collateral to, the removal process). Conversely, the Government’s reliance on *Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) and *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013) is misplaced because those cases involved direct challenges to the underlying removal proceedings or decisions, not to the legality of detention itself.

Moreover, the legislative history of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and subsequent case law confirm that, while Congress sought to

streamline and limit judicial review of removal orders, it did not intend to eliminate habeas review for claims that fall outside the three discrete actions listed in § 1252(g). Courts across the country have recognized that habeas review remains available for challenges to the legality of detention that does not directly arise from the commencement, adjudication, or execution of removal orders. Section 1252(g) does not bar habeas review of constitutional challenges to the procedures used to determine detention, or the duration of detention itself.

Petitioner's claims are not merely about the fact of Petitioner's detention during removal proceedings, but about the unlawful nature of that detention. The government's classification of Petitioner who has resided in the U.S. for nearly two decades as an "applicant for admission" and "seeking admission" subject to § 1225(b)'s mandatory detention based on the BIA's erroneous reasoning in *Yajure Hurtado* also raises serious due process concerns that are squarely within this Court's habeas jurisdiction. To hold otherwise would effectively insulate all immigration detention decisions from judicial review, a result inconsistent with the fundamental role of habeas corpus in safeguarding individual liberty. In summary, Supreme Court and lower courts have consistently interpreted § 1252(g) narrowly, ensuring that habeas relief remains available for claims like those presented here, which challenge the lawfulness of ongoing detention. Accordingly, section 1252(g) does not prevent this Court from exercising jurisdiction over the Petition.

B. Suspension Clause Supersedes Jurisdiction-Stripping Statutes

A broad interpretation of these jurisdiction-stripping provisions would raise grave constitutional concerns under the Suspension Clause, as recognized by the First Circuit in *Kong v. United States*, 62 F.4th 608, 612 (1st Cir. 2023) ("construing § 1252(g) to bar all detention-related claims would raise serious constitutional concerns under the Suspension Clause"). The

writ of habeas corpus is a constitutional minimum that cannot be abrogated by statute, even if Congress were to attempt to do so expressly. The Supreme Court has repeatedly affirmed that habeas review must remain available to challenge unlawful detention, regardless of statutory limitations. See *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008) (“the Suspension Clause remains applicable and the writ must be available to test the legality of executive detention”); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (“the writ of habeas corpus is available to all persons detained within the United States who claim to be held in custody in violation of the Constitution, laws, or treaties of the United States”). Thus, any reading of § 1252(g) or § 1252(b)(9) that would preclude habeas review of the legality of detention is constitutionally impermissible.

C. Petitioner is not subject to mandatory detention under § 1225(b)(2)(A) because he is not “seeking admission”

The statutory framework governing immigration detention draws a clear and deliberate distinction between the authority to detain “applicants for admission” at the border or port of entry under 8 U.S.C. § 1225(b), and the discretionary detention of noncitizens already present in the United States under 8 U.S.C. § 1226(a). Section 1225(b) mandates detention for those “seeking admission” who are not “clearly and beyond a doubt entitled to be admitted,” while § 1226(a) authorizes the Attorney General to arrest and detain, on a warrant, any noncitizen pending a decision on removability, with the possibility of release on bond except as provided in § 1226(c) (mandatory detention for certain criminal aliens). Nothing in the plain language of § 1226(a) prevents it from applying to noncitizens who unlawfully entered the country, like Petitioner. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 837 (2018) (§ 1225 governs “arriving aliens” and those “seeking admission,” while § 1226 applies to “an alien present in the

country” and that it “generally governs the process of arresting and detaining that group of aliens pending their removal.”).

The government’s recent policy—set forth in the July 2025 ICE memorandum and the Board of Immigration Appeals’ *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)—purports to reclassify all noncitizens who entered without inspection, regardless of their years-long residence in the U.S., as “applicants for admission” subject to mandatory detention under § 1225(b)(2). This interpretation is a significant and abrupt departure from decades of agency practice, regulatory guidance, and legal precedent that have consistently recognized that interior arrestees are subject to § 1226(a) and entitled to individualized custody determinations and bond hearings (assuming they are arrested pursuant to a warrant, which was not the case for Petitioner). The government’s attempt to collapse this distinction by reclassifying all noncitizens present without admission as “applicants for admission” ignores both the statutory structure and decades of agency practice.

Further, the Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), abrogated *Chevron* deference and requires courts to interpret statutes de novo, giving due respect to agency views but not deferring to them—especially where, as here, the agency’s position is inconsistent with statutory text, legislative history, and the overwhelming consensus of federal courts. This Court must therefore independently construe §§ 1225 and 1226, and the record and authorities demonstrate that Petitioner’s detention is governed by § 1226(a), not § 1225(b).

The overwhelming consensus among federal district courts—including numerous decisions from this district and Circuit—has rejected the government’s reclassification policy, instead holding that § 1226(a) governs the detention of noncitizens apprehended in the interior, including

those who entered without inspection years ago and have established significant ties to the United States. See e.g., *Antonio Aguirre Villa v. Warden Tony Normand*, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025).

But as Respondents continue to assert the same argument, Petitioner reiterates why Respondents' interpretation ignores the plain meaning of the phrase "seeking admission." See *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2 (M.D. Ga. Nov. 1, 2025) (The interpretation of the applicable statutes by respondents and the BIA in *Yajure Hurtado* overlooks part of the language in § 1225(b)(2)(A), it gives little consideration to the overall statutory scheme, and it ignores § 1226). "[T]he phrase 'seeking admission' is undefined in the statute but necessarily implies some sort of present-tense action." *Martinez v. Hyde*, No. 25-11613-BEM, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025). "Seek" is an active verb, not a type of status. *J.A.M.*, 2025 WL 3050094, at *3. "Seeking" means "asking for" or "trying to acquire or gain" and implies some kind of affirmative action on the part of the actor. *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *5 (E.D. Cal. Sept. 23, 2025) (citing Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/seeking>).

Next, the statute defines "admission" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101. "And 'entry' has long been understood to mean 'a crossing into the territorial limits of the United States.'" *Lepe*, 2025 WL 2716910, at *5. "To piece this together, the phrase 'seeking admission' means that one must be actively 'seeking' 'lawful entry.'" *Id.* (quoting *Lopez Benitez*, 2025 WL 2371588, at *7 (S.D.N.Y. Aug. 13, 2025)). The phrase "implies action –something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos v.*

Raycraft, No. 2:25-CV-12486, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025).

Thus, based on a plain reading of the language and aided by these standard canons of statutory construction, § 1225(b)(2)(A) applies to aliens in the U.S. who have not been admitted (“applicants for admission” definition) AND who are attempting to obtain lawful admission to the United States. *J.A.M.*, 2025 WL 3050094, at *3. As Judge Story recently reiterated in *Miguel Hernandez v. Udzenski*, No. 2:25-CV-373-RWS (N.D. Ga. Nov. 24, 2025), Respondents’ interpretation also violates several canons of statutory construction. For one, it violates the canon that in a statute, “[i]f possible, every word and every provision is to be given effect.” *J.A.M.*, 2025 WL 3050094, at *3. It makes no sense that Congress would use two different phrases in the same statutory sentence to mean the exact same thing. See *id.* (“The second phrase, ‘seeking admission,’ modifies and narrows the first, ‘an alien present in the United States who has not been admitted.’ It does not simply restate it.”). It further violates the canon of *noscitur a sociis*, which requires courts to consider statutory language in reference to “the specific context in which that language is used, and the broader context of the statute as a whole.” *Dawson*, 64 F.4th at 1237. Considering the statutory framework of the INA, it is clear to the Court that § 1225 applies to noncitizens who are encountered attempting to enter the country or shortly thereafter. Section 1225 repeatedly refers to noncitizens actively entering the country’s border and does not refer to noncitizens already living here. See, e.g., 8 U.S.C. § 1225(b)(1)(A)(i) (screenings for aliens “arriving in the United States”); *id.* § 1225(b)(2)(C) (noting that aliens “arriving on land ... from a foreign territory contiguous to the United States” may be returned to that territory pending removal proceedings). Section 1226, in contrast, applies to “aliens already in the country.” *Jennings*, 138 S. Ct. at 838.

The regulatory definition of “arriving alien” under 8 C.F.R. § 1.2 further supports this

distinction, limiting the term to those “coming or attempting to come into the United States at a port-of-entry” or interdicted at sea—not to individuals apprehended in the interior long after entry. The present-progressive language—“arriving,” “coming,” “attempting”—confirms that § 1225(b) applies only to those in the process of seeking admission, not to long-term residents like Petitioner.

Clearly, Petitioner is not currently “seeking admission” and thus does not fall with an “applicant for admission” subject to mandatory detention under § 1225(b)(2) in the statutory sense. Petitioner was not taking affirmative action to be admitted into the country; he was apprehended within the interior of the United States, many years (approximately 20) after his initial entry. Thus, any detention of Petitioner necessitates an individualized process and bond eligibility under § 1226(a).

D. The Class Action in *Maldonado Bautista* Also Applies to Petitioner

Petitioner is a member of nationwide “Bond Denial Class” certified in *Maldonado Bautista v. Santacruz* No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). While Respondents “recognize that Petitioner may be covered by the class action decision”, they “represents that the Department is still developing its decision on the application or non-application of that decision here.” Respondents know of this binding class-action order and still refuse to abide by it absent a specific habeas grant for an individual habeas claim in violation of law and the Federal Rules of Civil Procedure.

The Federal Court for the Central District of California granted partial summary judgment for the class, declaring the DHS policy to detain individuals like petitioner under § 1225(b)(2), unlawful and ordering restoration of bond hearings for all class members. Petitioner is a noncitizen who entered the U.S. without inspection, was arrested in the interior (not at the border),

and is not subject to mandatory detention under § 1226(c), § 1225(b)(1), or § 1231, and the California class action directly applies to him. As a member of that class he cannot be lawfully detained under the DHS policy that treats all interior arrests as subject to mandatory detention as “applicants for admission”; such detention is unlawful and must be remedied by access to bond hearings.

On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners’ Motion for Partial Summary Judgment).

Petitioner is a member of this class. He was apprehended in the interior of the United States nearly two decades after his entry and is not subject to any other mandatory detention provision. Despite the clear and binding nature of the *Maldonado Bautista* judgment, Respondents are engaged in a systemic and flagrant refusal to comply, continuing to unlawfully detain Petitioner without a bond hearing. This Court has the authority and the duty to remedy this ongoing illegal detention. Petitioner is a member of the nationwide “Bond Denial Class” certified in *Maldonado Bautista v. Santacruz*, which held that class members are detained under § 1226(a) and cannot be denied bond consideration under § 1225(b)(2)(A). Respondents, as parties to that litigation, are bound by that judgment. Petitioner is a member of the certified Bond Eligible Class, as he:

- a) is a noncitizen without lawful status currently detained at Folkston Detention Center after being apprehended by immigration authorities in November 2025;
- b) entered the United States without inspection years ago and was not apprehended upon arrival; and
- c) is not subject to mandatory detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

Despite this clear and binding judgment, Respondents continue to unlawfully detain Petitioner under § 1225(b)(2), denying him the opportunity for a bond hearing in flagrant defiance of the court's order.

Under federal law, a district court's judgment is binding and enforceable upon entry, unless and until it is stayed by a court order. The mere possibility of an appeal does not automatically suspend a judgment's effect. The Declaratory Judgment Act underscores this principle, stating that a court's declaration of rights "shall have the force and effect of a final judgment." 28 U.S.C. § 2201(a). This means the order is a binding adjudication, not an advisory opinion that can be ignored. If the government wished to postpone its obligation to comply, its proper recourse was to seek a stay pending appeal. Having failed to obtain a stay, Respondents are legally bound to comply with the judgment *now*. Their refusal to do so constitutes defiance of a valid court order.

The declaratory judgment issued in *Maldonado Bautista* is not an advisory opinion; it is a binding federal court order with the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). As parties to the *Maldonado Bautista* litigation, Respondents are unequivocally bound by its holding. The judgment legally obligates Respondents to cease their unlawful policy of subjecting class members, including Petitioner, to mandatory detention under § 1225(b) and to instead provide them with individualized bond hearings under § 1226(a).

It is a foundational principle of American jurisprudence that government agencies are not above the law and must comply with the orders of federal courts. The Administrative Procedure Act requires agencies to act in accordance with the law, and a federal court's interpretation of that law, embodied in a final judgment, is dispositive. Respondents' refusal to implement the *Maldonado Bautista* judgment constitutes an unlawful withholding of agency action and a violation of a non-discretionary duty to comply with a binding court order.

Respondents' non-compliance is not an oversight but a deliberate policy of defiance. This non-compliance is not isolated or accidental; it is a deliberate policy of non-acquiescence and is an affront to judicial authority and cannot be countenanced. By continuing to detain Petitioner in violation of a final, binding judgment, Respondents are acting contrary to law, and this Court has the authority and the duty to enforce the rights established by that judgment. Immigration judges all over the country and specifically in Georgia where undersigned counsel practices still deny bonds under *Matter of Yajure Hurtado* absent a specific habeas grant in an individual petitioner's case.

This Court possesses ample authority to enforce the declaratory judgment in *Maldonado Bautista* and grant Petitioner the relief to which he is entitled as a class member. The doctrine of *res judicata*, or claim preclusion, bars Respondents—as parties to the *Maldonado Bautista* litigation—from relitigating the issue of whether § 1225(b) or § 1226(a) governs the detention of Bond Denial Class members. That question has been definitively answered, and the judgment is final as to the parties and all class members (until it is stayed or overturned by an appeals court). The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

The Declaratory Judgment Act itself provides that a federal court's declaration of rights "shall have the force and effect of a final judgment or decree and shall be reviewable as such." 28 U.S.C. § 2201(a). This statutory language confirms that the judgment is not merely advisory but is an enforceable order that Respondents are legally obligated to obey.

Furthermore, under the All Writs Act, federal courts "may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). This authority empowers the Court to issue orders, including writs of habeas corpus and injunctions, to enforce its prior judgments and prevent them from being frustrated by agency non-compliance and to provide a remedy for an ongoing illegal confinement. Respondents' argument that only the issuing court in California can enforce the order is incorrect; this Court's duty is to adjudicate the legality of the detention before it, and the *Maldonado Bautista* judgment is dispositive proof that Petitioner's detention is unlawful.

Finally, the Court retains inherent equitable authority to enforce its own orders and to provide remedies that ensure its judgments are given full effect. Where, as here, an agency openly defies a court order, the judiciary's power to compel compliance is at its apex. Because Respondents are detaining Petitioner in direct violation of a binding declaratory judgment, this Court should exercise its authority to order Petitioner's immediate release. In the alternative, it should order an immediate bond hearing pursuant to its holding in *Villa v. Normand* as stated above.

Respectfully Submitted,

This 4th day of December, 2025.

/s/ Helen Vargas-Crebas

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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of December, 2025, this Document was served, via electronic delivery to Respondents' counsel via the CM/ECF system, which will forward copies to Counsel of Record.

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