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7 *Attorney for Petitioner*

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 Nestor Andres ARRIETA PATERNINA,

12 Petitioner,

13 v.

14 Sergio ALBARRAN, Acting Field Office
15 Director of the San Francisco Immigration and
16 Customs Enforcement Office; Todd LYONS,
17 Acting Director of United States Immigration
18 and Customs Enforcement; Kristi NOEM,
19 Secretary of the United States Department of
20 Homeland Security, Pamela BONDI, Attorney
21 General of the United States, acting in their
22 official capacities,

23 Respondents.

Case No. 4:25-cv-10378-YGR

**PETITIONER'S NOTICE OF
MOTION AND *EX PARTE* MOTION
FOR TEMPORARY RESTRAINING
ORDER**

1 **NOTICE OF MOTION AND MOTION**

2 PLEASE TAKE NOTICE as soon as it may be heard in the United States District Court
3 for the Northern District of California, that Petitioner Nestor Andres Arrieta Paternina will and
4 hereby does move for a temporary restraining order pursuant to Federal Rule of Civil Procedure
5 65(b) and Civil Local Rule 65. Because Petitioner's detention violates the Due Process Clause of
6 the Fifth Amendment to the United States, Petitioner respectfully requests that this Court (1) order
7 Petitioner's immediate release from Respondents' custody pending these proceedings, without
8 requiring bond or electronic monitoring, or, in the alternative, (2) order Petitioner's immediate
9 release from Respondents' custody and prohibit Petitioner's re-detention without a pre-
10 deprivation bond hearing before a neutral adjudicator, where Respondents shall bear the burden
11 of proof to show, by clear and convincing evidence, that Petitioner is a danger or a flight risk. To
12 preserve this Court's jurisdiction, Petitioner further seeks an order (3) enjoining Respondents
13 from transferring Petitioner out of this District or deporting him during the pendency of the
14 underlying proceedings.

15 This motion is based on this Notice of Motion and Motion, the accompanying
16 Memorandum of Points and Authorities, the supporting Declaration of Andrea Reyes Corena, and
17 the Proposed Order; the papers, evidence, and records on file in this action; and any other written
18 or oral evidence or argument as may be presented at or before the time this motion is heard by the
19 Court. This motion is also supported by the Petition for Writ of Habeas Corpus (ECF No. 1) and
20 the exhibits attached thereto.

21 Consistent with Civil L.R. 65-1, Petitioner seeks relief at the earliest possible opportunity.
22 Petitioner is filing this motion the same day as he filed his Petition for Writ of Habeas Corpus.

23 Pursuant to Civil L.R. 65-1(a)(5), and as detailed further in the supporting Declaration of
24 Andrea Reyes Corena, Counsel for Petitioner provided Counsel for Respondents with notice of
25 this Motion and advised Respondents of the emergency reasons requiring Petitioner to seek an *ex*
26 *parte* application for a temporary restraining order. Counsel for Petitioner and Counsel for
27 Respondents communicated by email regarding the habeas petition, and Counsel for Petitioner
28 emailed a copy of the filed petition to Counsel for Respondents. Counsel for Petitioner advised

1 Counsel for Respondents that a Motion for TRO would be forthcoming. Counsel for Petitioner
2 will email Counsel for Respondents a copy of the Memorandum of Points and Authorities
3 immediately after filing it. As of this filing, Respondents have not stipulated to a TRO.
4

5 Date: December 3, 2025

Respectfully Submitted,

6 /s/ Andrea Reyes Corena
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