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7 **UNITED STATES DISTRICT COURT**
8 **EASTERN DISTRICT OF CALIFORNIA**

9 ARMAN NERSISYAN,

10 Petitioner,

11 vs.

12 TODD M. LYONS, Acting Director, U.S.
13 Immigration and Customs Enforcement,
14 MARCOS CHARLES, Acting Executive
15 Associate Director, Enforcement and Removal
16 Operations, U.S. Immigration and Customs
17 Enforcement; KRISTI NOEM, Secretary, U.S.
18 Department of Homeland Security; PAMELA
19 BONDI, U.S. Attorney General; and DOE 1,
20 Warden of California City Corrections Center

21 Respondents.

) Case No. 1:25-cv-00178

) **NOTICE OF MOTION FOR LEAVE TO**
) **AMEND COMPLAINT; MEMORANDUM**
) **OF POINTS AND AUTHORITIES;**
) **DECLARATION OF STEPHANIE**
) **MCCLURE, ESQ., EXHIBIT**

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23 PLEASE TAKE NOTICE that at a time and place to be determined by this court at its
24 earliest opportunity, Petitioner will move this Court for an Order granting leave to amend its Petition
25 for relief in the above captioned matter.

26 This Motion will be made pursuant to *Federal Rules of Civil Procedure* 15(a)(2) which states
27 that leave to amend should be liberally granted. The Court has not issued any pre-trial scheduling
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1 order stating a deadline to amend any pleadings, (Rule 16), and as such the liberal standard of
2 *Federal Rule of Civil Procedure* 15(a)(2) must respectfully apply.

3 This motion is shall be based upon this Notice, the attached brief Memorandum of Points and
4 Authorities, the declaration of recently-entered counsel, Stephanie Mc Clure and Exhibit attached
5 thereto, the complete files and records of this action, and such other and further oral and documentary
6 evidence as may be presented.

8 Oral argument is not requested unless an opposition is filed.

9 Consent for this application was sought by way of email to opposing counsel. A response
10 has not yet been forthcoming.

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13 Dated:2/11/26


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MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF PERTINENT FACTS

1. Petitioner is a native and citizen of Armenia. After fleeing Armenia and coming to America, he was initially detained by immigration authorities on September 27, 2016.
2. He was paroled into the country on that same date and provided with the attached parole document. [Exhibit A]
3. Respondents admit throughout [DE 8] that Petitioner's pre-arrest status was that of one released and paroled. Petitioner was placed in 240 proceedings and released on September 27, 2016. [Exhibit A]
4. Petitioner has no criminal history whatsoever. He has no arrests, no convictions, and no pending criminal matters to speak of.
5. He has an approved I-130, filed by his U.S. citizen wife. A Form 485 was filed and a marriage interview set for October 30, 2025. He appeared on that date with his wife as scheduled. [Exhibit B]
6. Without notice, Petitioner was taken into custody while at his marriage interview.
7. He has been in custody continually since October 30, 2025.
8. No change of circumstances occurred in his life between the time of his parole and the time of his marriage interview, other than having an approved I 130 filed by his U.S. citizen spouse, a filed I 485, and properly attending his marriage interview.
9. An Order Staying Removal was issued by the Court of Appeals on January 6, 2026.
10. Petitioner, through counsel Steven Ridgill, of the Law Office of Judith L. Wood, filed a Petition for a writ of habeas corpus on December 3, 2025.
11. Steven Ridgill, former counsel for Petitioner, wrote the Petition at [DE 1] and admitted to the undersigned, with integrity and grace, that he simply did not know the applicable law, including regulatory provisions and cross-referencing constitutional arguments, and also did not know the procedures that would have allowed him to seek emergent relief in this

1 case. While he researched the issue, counsel indicated these things “did not come up in
2 his research.”

3 12. That said, the initial Petition at [DE 1] did not make mention of the most pertinent claims
4 and laws, laws this court has specifically and routinely considered on the issues currently
5 before this court.
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7 13. These claims and arguments are critical for the complete legal consideration of the
8 unlawful detention of this Petitioner and proper adjudication of the issues before this
9 Honorable Court.

10 14. Procedurally, to date, this Court has not issued any pre-trial scheduling order that states a
11 deadline to amend any pleadings.
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13 15. The Court issued an Order on February 2, 2026 [DE 10], directing the Petitioner to file
14 two Declarations previously relied upon by the former attorney in [DE 1]. That Order
15 directed the Declarations be filed by February 16, 2026. The Amended Petition attached
16 would render the filing of these Declarations moot.
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18 16. A copy of the proposed Amended Petition is attached. The Amended Petition relies upon
19 regulatory and constitutional claims and the Exhibits are documents from Petitioner’s
20 immigration record already on file with Respondents.

21 17. The Amended Petition adds a claim regarding C.F.R. violations, adds case law from this
22 circuit, case law regarding the Fifth Amendment Violation, and case law regarding
23 irreparable harm to the Petitioner.
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25 18. An email was sent to AUSA David Spencer on February 11, 2026 at approximately 11:30
26 a.m. seeking consent for the requested leave to amend. No response was received.
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II.

LEGAL ARGUMENT

A. **RULE 15 OF THE FEDERAL RULES OF CIVIL PROCEDURE GOVERN THIS MOTION BECAUSE NO PRE-TRIAL ORDER OR LIMITATION ON AMENDMENT HAS ISSUED FROM THIS COURT**

Rule 15(a) of the *Federal Rules of Civil Procedure* (“FRCP”) states in pertinent part that,

(1) “A party may amend its pleading once as a matter of course within:

(A) 21 days after serving it, or

(B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) *Other Amendments*. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. **The court should freely give leave when justice so requires.”**

Under Rule 15(a)(2), leave to amend should be granted “liberally.” In instances of bad faith, futile amendment, or undue delay, leave may be denied, otherwise leave should be granted liberally per the plain language of the Rule. *Johnson v. Mammoth Recreations*, 975 F.2d 604, 607 (9th Cir. 1992) Once a pre-trial scheduling order has been issued setting a limitation on Amended Pleading, the Court must look to the pre-trial scheduling order to determine what standards to apply to any motion to amend. *Johnson 975 F. 2d*, supra at 608. However, since no pre-trial scheduling order has been issued in this case as yet, the more liberal standards of Rule 15 should apply, and leave should be “liberally” granted. The Ninth Circuit Court of Appeals has stated that Rule 15's policy favoring amendments is applied liberally by us. *Ascon Properties, Inc. v. Mobil Oil Co.*, 866 F.2d 1149, 1160 (9th Cir. 1989).

1 Leave to amend a pleading under Rule 15(a) is to be granted freely and with "extreme
2 liberality." *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987); see also *Foman v.*
3 *Davis*, 371 U.S. 178, 182 (1962).

4 Furthermore, there is no prejudice that would be suffered by the Government were the court
5 to grant leave; there is no witness issue, no evidence spoliation. The Government is aware of the
6 arguments incorporated into the pleading and has faced these same arguments time after time before
7 this very court. Petitioner has been continually detained, and the Government is not at any loss by
8 the granting of this Amendment.
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10 This Amendment is necessitated due to the oversight of a less experienced attorney.
11 Petitioner is suffering an unconstitutional incarceration and irreparable harm as recognized by this
12 Circuit and the Supreme Court of the United States. The Ninth Circuit has recognized "irreparable
13 harms imposed on anyone subject to immigration detention," including "the economic burdens
14 imposed on detainees and their families as a result of detention, and the collateral harms to children
15 of detainees whose parents are detained." *Hernandez v. Sessions*, 872 F.3d 976, 995 (9th Cir. 2017).
16 Moreover, "[i]t is well established that the deprivation of constitutional rights 'unquestionably
17 constitutes irreparable injury.'" *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting
18 *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). Each day that this Petitioner is unlawfully incarcerated
19 constitutes irreparable harm and exacerbated irreparable harm. *Hernandez v. Sessions*, 872 F.3d 976
20 (9th Cir. 2017).
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23 Justice requires leave be granted to amend. Petitioner's prior counsel admittedly made a
24 mistake. He simply did not know the C.F.R. regulations that applied and mistakenly left out the most
25 critical argument in Petitioner's claim. Petitioner, who is suffering daily from an unlawful and
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1 unconstitutional detention cannot be further prejudiced by his own former lawyer's mistake. That is
2 plainly unjust.

3 A copy of the proposed Amended Petition is attached as an Exhibit to the Declaration of
4 counsel Stephanie Mc Clure.
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7 **B. THE NAMING OF THE CUSTODIAN TO REPLACE THE JOHN DOE**
8 **PLEADING RELATES BACK TO THE ORIGINAL FILING**

9 Rule 15(c) of the Federal Rules of Civil Procedure governs amendments necessitated to
10 correct party pleading. In this case, the original petition correctly set forth a JOHN DOE respondent
11 as the warden with physical custody over the Petitioner at the time of the filing. The Warden of the
12 California City Detention Center is Brian Chestnut and for the sake of completeness, this motion
13 seeks to amend the JOHN DOE Warden to reflect the Warden's name.
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15 This amendment no doubt relates back to the original proceeding and the John Doe
16 Respondent has already entered an appearance in the case, represented by AUSA Spencer. There is
17 no notice or service issue therefore and leave to amend to plead this John Doe by name should be
18 granted pursuant to F.R.C.P. 15(c).
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26 [Intentionally blank to conclusion]
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III

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court grant leave to file the proposed Amended Petition; and further, that the court render moot the Order and Directives issued at [DE 10].

Respectfully submitted,



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1 9. The Amended Petition clarifies the constitutional claims made in the original petition
2 and asserts entitlement to relief under the pertinent sections of the C.F.R., and provides documentary
3 evidence of Petitioner's paroled status (though his parolee status is conceded by Respondent).

4 10. Petitioner is suffering irreparable harm daily due to the unconstitutional and unlawful
5 incarceration. Amendment is required in the interest of justice and in order for this court to fully
6 consider the proper legal arguments surrounding the unlawfulness of the subject detention.

7 11. This amendment is not futile or frivolous. The amendment seeks to include claims
8 which have repeatedly been accepted by this court as true and requiring relief under identical
9 circumstances. See *DeSouza v. Chestnut*, 1:26-cv-0488 [DE 8], *Yang v. Kaiser*, No. 2:25-CV-02205-
10 DAD-AC (HC), 2025 WL 2791778, at *5 (E.D. Cal. Aug. 20, 2025), See *J.L.R.P. v. Wofford*, 1:25-
11 cv-01464-KES-SKO, *Morales-Flores v. Lyons, et al*, [1:25-CV-01640 – TLN – EFB] [DE 12] at p.
12 2. *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *4 (E.D. Cal. Sept.
13 23, 2025) (collecting cases). See also *Garro-Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal.
14 July 24, 2025) (collecting cases.)

15 12. The Government will not be prejudiced and even expected the argument to have been
16 made. See footnote number 4, page 5, [DE 8].

17 13. Further, acceptance of the Amended Petition does not delay the case, in fact it
18 advances it, as it will render moot the filing of factual Declarations previously relied upon by former
19 counsel, but rendered moot by the Amended pleading. This will advance the timing of the case
20 significantly, and likely avoid additional time requested by the Government to address additional
21 factual declaration. The Amended Petition seeks statutory and Constitutional relief, entitlement to
22 which is evidenced by Government documentation.
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1 I declare under penalty of perjury under the laws of the State of California and the United
2 States of America that the foregoing is true and correct.

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4 Dated: 2/11/26


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6 STEPHANIE MC CLURE

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CERTIFICATION OF SERVICE

On 2/11/26, I filed the motion for leave to amend with exhibits and supporting documents through ECF and served same upon all parties of record thereto electronically. A copy was also emailed directly to David Spencer AUSA of record for the respondents as a courtesy.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct.

DATED: 2/11/26


STEPHANIE MCCLURE