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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 JORGE ARTURO ARMENTA-
12 ROSALES, et al.,

13 Petitioners,
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15 v.

16 KRISTI NOEM, et al.,

17 Respondents.
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Case No.: 25-cv-3505 DMS BLM

**OPPOSITION TO EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER**

1 In this case, Petitioners have filed a habeas petition specifically to “seek enforcement
2 of their rights as members of the Bond Eligible Class certified in *Maldonado Bautista v.*
3 *Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403 (C.D.
4 Cal. Nov. 25, 2025).” ECF No. 1 at ¶ 1. At the present time, however, the *Bautista* court
5 has not issued a class-wide declaratory judgment that would permit Petitioners to obtain a
6 temporary restraining order from this Court.

7 Although the *Bautista* court granted partial summary judgment and certified a class,
8 the *Bautista* court did not enter any class-wide declaratory judgment. *See Bautista*, ECF
9 No. 81 at 17 (granting motion for partial summary judgment but specifically declining to
10 enter final judgment); ECF No. 82 at 15 (granting motion for class certification and
11 ordering status conference to determine “how the parties will proceed”); *see also* ECF Nos.
12 41-1 & 42-1 (proposed orders submitted by petitioners seeking specific relief that the court
13 did not enter).¹ Notably, the *Bautista* court declined petitioners’ specific request to enter
14 final judgment under Federal Rule of Civil Procedure 54(b). *Id.*, ECF No. 81 at 17. Instead,
15 the court scheduled a status conference for January 16, 2026, indicating that the court
16 intends to address the question of class-wide relief at some future date.

17 Absent an entry of final judgment with respect to the entire case, or a certification
18 of partial final judgment under Federal Rule of Civil Procedure 54(b), there is no
19 enforceable declaratory judgment with respect to Petitioners in this case. The *Bautista*
20 court’s partial summary judgment ruling does not operate as a “judgment” because it is not
21 an appealable order and “may be revised at any time before the entry of a judgment
22 adjudicating all the claims and all the parties’ rights and liabilities.” Fed. R. Civ. P. 54(a),
23 (b). In other words, at the present time, there is no class-wide judgment that could have
24 preclusive effect as to Petitioners.

25 _____
26 ¹ Respondents acknowledge that in granting class certification, the *Bautista* court stated,
27 yet did not order, that “[w]hen considering this determination with the MSJ Order, the
28 [c]ourt extends the same declaratory relief granted to Petitioners to the Bond Eligible
Class as a whole.” *Bautista*, ECF No. 82 at 14.

1 To be enforceable, a declaratory judgment must have preclusive effect. *See Haaland*
2 *v. Brackeen*, 599 U.S. 255, 293 (2023) (“Without preclusive effect, a declaratory judgment
3 is little more than an advisory opinion.”); *see also Wells v. Johnson*, 150 F.4th 289, 301
4 (4th Cir. 2025); *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 (9th Cir. 2005).
5 And preclusive effect cannot be obtained without finality. *B & B Hardware, Inc. v. Hargis*
6 *Indus., Inc.*, 575 U.S. 138, 148 (2015) (noting the general rule that an issue must be
7 determined by a “valid and final judgment” for preclusion to apply); *Luben Indus., Inc. v.*
8 *United States*, 707 F.2d 1037, 1040 (9th Cir. 1983) (affirming district court’s decision not
9 to apply preclusive effect to an interlocutory decision that “could not have been the subject
10 of an appeal at the time”).

11 Accordingly, as the *Bautista* court has declined to enter a class-wide judgment, there
12 is currently no declaratory relief, let alone relief with preclusive effect that would permit
13 Petitioners to obtain a temporary restraining order from this Court at this stage.²

14 Respondents note, however, that circumstances could soon change. On December 4,
15 2025, the *Bautista* petitioners submitted a filing seeking reconsideration and clarification
16 from the *Bautista* court. As of the time of the filing of this brief, the *Bautista* court has not
17 issued a reconsideration or clarification order.³

18 DATED: December 16, 2025

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23 ² Petitioners’ motion specifically states that they seek “a Temporary Restraining Order that
24 requires Respondents to provide them their rights as members of the Bond Eligible
25 Class.” ECF No. 2-1 at 1:20-22.

26 ³ In the event this Court is nevertheless inclined to grant Petitioners’ relief, Respondents
27 contend the proper remedy would be to require they receive a bond hearing, not order
28 their immediate release. *See Bautista*, ECF No. 14 at 13 (ordering respondents to provide
named petitioners with “an individualized bond hearing before an immigration judge”).