UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IMMIGRANT ADVOCATES RESPONSE COLLABORATIVE, et al.,

Plaintiffs,

v.

DEPARTMENT OF JUSTICE, et al.,

Defendants.

Civil Action No. 25-2279 (TNM)

DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants submit this notice of supplemental authority to inform the Court of the United States Court of Appeals decision in *Khalil v. President, United States*, --- F.4th ---, 2026 WL 111933 (3d Cir. Jan. 15, 2026). The Third Circuit held that 8 U.S.C. § 1252(b)(9) barred a petitioner's challenge to his detention because they were identical to the issues that would be litigated in immigration court. *See Khalil*, 2026 WL 111933, at *10 (reading § 1252(b)(9) to require aliens to wait for the culmination of administrative proceedings before raising challenges, even if related to detention). This holding confirms Defendants' argument that this Court lacks jurisdiction to address claims that are related to removal. *See* Defs' Mot. to Dismiss at 24-25, 31; Defs' Reply at 14-15.

The Third Circuit also read § 1252(b)(9) to apply to policy-and-practice challenges. *See Khalil*, 2026 WL 111933, at *13-14. Indeed, the Court specifically cited to *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991), and confirmed that aliens have available to them an administrative process to build a record. *Id.* at *14. And if the administrative proceeding and the record developed therein are deemed to be inadequate by a court of appeals reviewing a petition

for review, that court may utilize a limited remand to district court for factual finding. *Id.* That again undercuts Plaintiffs' argument that policy-and-practice challenges can be raised in federal district court, *see* Pls' Opp'n at 24-25, and confirms that § 1252(b)(9) is meant to bar policy-and-practice claims, as well, *see* Defs' Reply at 16.

Dated: February 4, 2026

Respectfully submitted,

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