

1 Jeremy Mondejar, ESQ.
2 2885 E Charleston BLVD, Suite 103
3 Las Vegas, NV 89104
4 Telephone: (702) 816-6611
5 help@azteclegalgroup.com

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

JEFFERSON DOMINGUEZ-LARA;) JOSE
RAMIREZ,) ON BEHALF OF THEMSELVES
AS INDIVIDUALS) AND ON BEHALF OF
OTHERS SIMILARLY SITUATED

Plaintiff,

vs.

, KRISTI NOEM, SECRETARY THE UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; PAM BONDI, UNITED STATES
ATTORNEY GENERAL; TODD LYONS,
DIRECTOR OF UNITED STATES
IMMIGRATION AND CUSTOM
ENFORCEMENT; BRYAN WILCOX, FIELD
OFFICE DIRECTOR FOR DETENTION AND
REMOVAL, U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT,
DEPARTMENT OF HOMELAND
SECURITY; JOHN MATTOS, WARDEN,
NEVADA SOUTHERN DETENTION
CENTER; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW (EOIR); SIRCE
OWEN, ACTING DIRECTOR, EOIR; LAS
VEGAS IMMIGRATION COURT

Defendant

Case No.: 2:25-cv-01553-JAD-BNW

PLAINTIFFS AMENDED
MOTION FOR CLASS
CERTIFICATION

I. INTRODUCTION

On behalf of themselves and the classes they seek to represent, Plaintiffs challenge Defendants' failure to maintain their Due Process rights in regards to bond grants, as well as their failure to provide a timely and thus meaningful avenue to respond to ICE's appeal of bond

1 decisions. Plaintiff's have lived in the United States for several years before being "arrested and
2 detained pending a decision on whether [he] is to be removed from the United States," 8 U.S.C.
3 § 1226(a), and was thus entitled to a bond hearing under that discretionary detention provision.
4 ICE, however, has adopted a policy of appealing every single bond grant in an attempt to subject
5 individuals such as the Plaintiffs to mandatory detention under § 1225(b)(2), even though this
6 law is only applies "at the Nation's borders and ports of entry, where the Government must
7 determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v.*
8 *Rodriguez*, 583 U.S. 281, 287 (2018). ICE's actions divest individuals of their bond grants
9 through automatic stays under 8 CFR § 1003.6 where a months long, or even years long, appeal
10 process means the individual will be deprived of their liberty under punitive conditions, facing
11 numerous barriers to defending against removal, only to see the bond appeal send in mootness.
12 That deprivation violates their constitutional and statutory rights.

13
14 Accordingly, Plaintiffs seek to represent the following three classes of noncitizens:

15
16 Bond Stay Class: All noncitizens detained at the Northwest ICE Processing Center who (1) have
17 entered or will enter the United States without inspection, (2) are not apprehended upon arrival
18 into the United States, and (3) are not or will not be subject to detention under 8 U.S.C. §
19 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a bond
20 hearing and has been or will be granted a bond by an immigration judge in the Las Vegas
21 Immigration Court ("Bond Stay Class") that has been statutorily stayed.

22
23 Bond Appeal Class: where detained noncitizens have a pending appeal, will file an appeal of, or
24 will respond to an appeal filed by ICE of an immigration judge's bond hearing ruling before the
25 Board of Immigration Appeals.
26
27
28

1 *The Hurtado Bond Denial Class: where detained noncitizens have been denied bond by the Las*
2 *Vegas Immigration Court or the BIA based on the holding of Matter of Hurtado.*

3 Each proposed class satisfies the requirements set forth in Rules 23(a) and 23(b)(2) of the
4 Federal Rules of Civil Procedure.

5 Plaintiff's accordingly request that the Court certify the above classes and appoint them as the
6 representatives for both classes.

7 II. BACKGROUND

8 A. Named Plaintiffs' Legal Claims

9
10 Adjudicating a motion for class certification does not call for "an in-depth examination of the
11 underlying merits," but a court may nevertheless analyze the merits to the extent necessary to
12 determine the propriety of class certification. *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970 (9th
13 Cir. 2011); see also *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350–52 (2011).

14 Here, Plaintiffs and proposed class members present legal challenges to two uniform agency
15 policies.

16 1. ICE's frivolous bond appeal policy.

17
18 The first question presented in this case concerns ICE's arbitrary and unlawful
19 interpretation of the INA's detention scheme. There are two statutory sections at issue here. The
20 first is 8 U.S.C. § 1225(b), which applies "at the Nation's borders and ports of entry," *Jennings*,
21 583 U.S. at 287.

22
23 The second is § 1226(a), which applies to those who are "present in the country"
24 but subject to removal proceedings, "includ[ing] [noncitizens] who were inadmissible at the time
25 of entry," *id.* at 288.

1 Noncitizens determined to be detained under § 1225(b) are subject to mandatory detention
2 without any opportunity to seek bond before an IJ. *See* 8 U.S.C. § 1225(b)(1)(B)(ii),
3 (b)(1)(B)(iii)(IV), (b)(2)(A). By contrast, individuals who are detained under § 1226(a) are
4 entitled to a bond hearing before an IJ. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). At that hearing,
5 the noncitizen may present evidence of their ties to the United States, lack of criminal history,
6 and other factors that show they are not a flight risk or danger to the community. *See generally*
7 *Matter of Guerra*, 24 I. & N. Dec. 37, 38 (BIA 2006). Consistent with the statutory framework,
8 noncitizens who entered the United States without inspection, were not immediately
9 apprehended pursuant to § 1225(b), and not subject to some other detention authorities are
10 generally detained under § 1226(a). As a result, they are entitled to bond hearings before an IJ to
11 determine whether their detention is justified by danger or flight risk. However, beginning in
12 July of 2025, ICE counsel adopted a novel and draconian interpretation of the statute, and began
13 to argue for application of the detention provisions of 8 U.S.C. § 1225(b)(2) to all persons who
14 entered the United States without inspection, including longtime residents who have been in the
15 United States for years, or even decades. ICE reasoned that all people who enter the United
16 States without inspection are considered “applicants for admission” who are “seeking admission”
17 to the United States and are therefore subject to § 1225(b)(2). The legality of ICE’s frivolous
18 bond appeal policy is a question that must be resolved on a class wide basis. The necessity of a
19 class action is particularly pronounced in this case where hundreds of individuals are being
20 deprived their Due Process with no other immediate relief at hand.

25 2. The Board of Immigration Appeals’ Delayed Adjudication of Bond Appeals

26 Another barrier for noncitizens seeking to post their bond grants is fighting ICE’s appeals under
27 the BIA’s delayed adjudication of bond appeals. Even though the regulations require the BIA to
28

1 “issue a decision on the merits as soon as practicable, with a priority for cases or custody appeals
2 involving detained noncitizens,” § 1003.1(e)(8), the BIA’s processing time for bond appeals
3 averages well over six months. This systematic delay impacts not only those who are subject to
4 the unlawful bond policy described above, but also all detained noncitizens who have a right to a
5 bond and seek to challenge an IJ’s custody denial or bond amount.
6

7 The BIA’s failure to timely adjudicate bond appeals defies the agency’s own regulations, as well
8 as the Due Process Clause, which “requires adequate procedural protections to ensure that the
9 government’s asserted justification for physical confinement outweighs the individual’s
10 constitutionally protected interest in avoiding physical restraint.” *Hernandez v. Sessions*, 872
11 F.3d 976, 990 (9th Cir. 2017) (quoting *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011)).
12

13 As the Supreme Court and the Ninth Circuit have explained, appellate review is a critical
14 component of a constitutional civil detention scheme, including in immigration cases. See, e.g.,
15 *Schall v. Martin*, 467 U.S. 253, 280 (1984); *Singh*, 638 F.3d at 1209; *Prieto-Romero v. Clark*,
16 534 F.3d 1053, 1065–66 (9th Cir. 2008). Critically, the Supreme Court has also made clear that
17 timely appellate review is a key feature of any detention scheme, explaining that “[r]elief [when
18 seeking review of detention] must be speedy if it is to be effective.” *Stack v. Boyle*, 342 U.S. 1, 4
19 (1951); see also *United States v. Salerno*, 481 U.S. 739, 752 (1987) (upholding the Bail Reform
20 Act’s federal pretrial detention provision in part because it “provide[s] for immediate appellate
21 review of the detention decision”). These principles derive from the federal pretrial context,
22 where the opportunity to obtain “freedom before conviction permits the unhampered preparation
23 of a defense, and serves to prevent the infliction of punishment prior to conviction.” *Stack*, 342
24 U.S. at 4. The same principles apply equally, if not with greater force, to noncitizens detained
25
26
27
28

1 pending civil, non-criminal proceedings. During the many months the BIA takes to review a
 2 bond appeal, the damage that such review should be designed to prevent already occurs: a
 3 detained noncitizen is forced to defend against their removal while facing significant barriers to
 4 prepare their case, often deprived of access to their family members as well as the opportunity to
 5 provide for them. *See, e.g.,* ACLU, No Fighting Chance: ICE's Denial of Access to Counsel in
 6 U.S. Immigration Detention Centers 6 (June 9, 2022), [https://www.aclu.org/publications/no-](https://www.aclu.org/publications/no-fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers)
 7 [fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers](https://www.aclu.org/publications/no-fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers) (summarizing
 8 significant challenges faced by detained noncitizens in accessing and communicating with
 9 counsel); *see also, e.g.,* Rodriguez Decl. ¶ 9 (describing difficulty of separation from family).
 10 Many ultimately give up on fighting their cases, accepting removal to avoid further detention.
 11 Even where a noncitizen prevails in their bond appeal, they have already spent months of
 12 unnecessary time in detention. The BIA's systematic delays of bond appeals thus violates the
 13 Due Process Clause and constitutes an "agency action . . . unreasonably delayed," 5 U.S.C. §
 14 706(1), in violation of the

15
 16
 17
 18 Administrative Procedure Act.

19 B. Named Plaintiffs' Factual Background

20 Plaintiffs are detained at the Nevada Southern Detention Center (NSDC). Plaintiffs were granted
 21 bonds by the Las Vegas Immigration Court. However, ICE immediately filed frivolous appeals
 22 of the bond decisions to the BIA, claiming Plaintiffs are subject to expedited removal despite
 23 their years-long presence in the U.S.
 24

25 ARGUMENT

26 Plaintiff seeks certification of the following classes: Bond Stay Class: All noncitizens
 27 detained at the Northwest ICE Processing Center who (1) have entered or will enter the United
 28

1 States without inspection, (2) are not apprehended upon arrival into the United States, and (3) are
2 not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the
3 time the noncitizen is scheduled for or requests a bond hearing and has been or will be granted a
4 bond by an immigration judge in the Las Vegas Immigration Court (“Bond Stay Class”) that has
5 been statutorily stayed.

6
7 Bond Appeal Class: where detained noncitizens have a pending appeal, will file an appeal of, or
8 will respond to an appeal filed by ICE of an immigration judge’s bond hearing ruling before the
9 Board of Immigration Appeals. Under Federal Rule of Civil Procedure 23, class certification is
10 warranted where two conditions are met: “The suit must satisfy the criteria set forth in
11 subdivision (a) (i.e., numerosity, commonality, typicality, and adequacy of representation), and it
12 also must fit into one of the three categories described in subdivision (b).” *Shady Grove*
13 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 398 (2010). Plaintiffs’ proposed
14 classes satisfy Rule 23(a) and (b)(2). Courts in the Ninth Circuit, including this Court, have
15 routinely certified class actions challenging immigration policies and practices, including those
16 that impact detained noncitizens. See, e.g., *Nightingale v. USCIS*, 333 F.R.D. 449, at *457–63
17 (N.D. Cal. 2019) (certifying nationwide classes challenging agency’s failure to produce
18 immigration files); *Rosario v. USCIS*, No. C15-0813JLR, 2017 WL 3034447, at *12 (W.D.
19 Wash. July 18, 2017) (granting nationwide certification to class of initial asylum applicants
20 challenging the government’s adjudication of employment authorization applications).

21 These cases demonstrate the propriety of Rule 23(b)(2) certification in actions
22 challenging immigration policies that deprive individuals of the benefits or rights to which they
23 are entitled. Indeed, the rule was intended to “facilitate the bringing of class actions in the civil-
24

rights area,” particularly those seeking declaratory or injunctive relief. Charles Alan Wright & Arthur R. Miller, 7AA Federal Practice and Procedure § 1775 (3d ed. 2022).

Claims brought under Rule 23(b)(2) often involve issues affecting vulnerable individuals, such as Plaintiffs, who would be unable to present their claims absent class treatment. Additionally, the core issues in these types of cases generally present pure questions of law, rather than disparate questions of fact, and thus are well suited for resolution on a classwide basis.

A. The Proposed Classes Meet All Requirements of Federal Rule of Civil Procedure 23(a).

1. The proposed class members are so numerous that joinder is impracticable. Rule 23(a)(1) requires the class be “so numerous that joinder of all members is impracticable.” “[I]mpracticability does not mean ‘impossibility,’ but only the difficulty or inconvenience of joining all members of the class.” *Harris v. Palm Springs Alpine Estates, Inc.*, 329 F.2d 909, 913–14 (9th Cir. 1964) (citation omitted). “Numerousness—the presence of many class members—provides an obvious situation in which joinder may be impracticable, but it is not the only such situation” William B. Rubenstein, 1 Newberg & Rubenstein on Class Actions § 3:11 (6th ed. 2022) (footnote omitted). “Thus, Rule 23(a)(1) is an impracticability of joinder rule, not a strict numerosity rule. It is based on considerations of due process, judicial economy, and the ability of claimants to institute suits.” *Id.* (footnote omitted). Determining numerosity “requires examination of the specific facts of each case and imposes no absolute limitations.” *Gen. Tel. Co. of the Nw., Inc. v. EEOC*, 446 U.S. 318, 330 (1980).

While “no fixed number of class members” is required, *Perez-Funez v. INS*, 611 F. Supp. 990, 995 (C.D. Cal. 1984), courts have generally found “the numerosity requirement satisfied when a class includes at least 40 members,” *Rannis v. Recchia*, 380 F. App’x 646, 651 (9th Cir. 2010);

1 see also *Rivera*, 307 F.R.D. at 550 (certifying class where “the Court [found] it highly plausible
2 that more than 40 [noncitizens] will be detained on this basis over the next year, and
3 that more than 40 [noncitizens] are being detained on this basis currently”); *Hum v. Dericks*, 162
4 F.R.D. 628, 634 (D. Haw. 1995) (“There is no magic number for determining when too many
5 parties make joinder impracticable. Courts have certified classes with as few as thirteen
6 members, and have denied certification of classes with over three hundred members.”). Courts
7 have also found impracticability of joinder when even fewer class members are involved. See,
8 e.g., *Ass’n v. Bd. of Educ.*, 446 F.2d 763, 765–66 (8th Cir. 1971) (finding 17 class members
9 sufficient); *Villalpando v. Exel Direct Inc.*, 303 F.R.D. 588, 606 (N.D. Cal. 2014) (noting that
10 courts routinely find numerosity “when the class comprises 40 or more members”).
11 Each proposed class meets the numerosity requirement. First, it is estimated that the proposed
12 Bond Stay Class is currently comprised of at least dozens of individuals currently detained at
13 NSDC.

14
15
16
17 Second, the Bond Appeal Class is likely comprised of hundreds or thousands of
18 individuals who appeal the outcome of their bond hearings to the BIA each year.
19 Notably, Defendants are aware of the exact numbers for both proposed classes at any given time,
20 as they are “uniquely positioned to ascertain class membership.” *Barahona-Gomez v. Reno*, 167
21 F.3d 1229, 1237 (9th Cir. 1999). Both proposed classes are also comprised of many future
22 members. Plaintiffs have thus identified a sufficient number of proposed class members to
23 demonstrate the class is so numerous that joinder is impracticable. Fed. R. Civ. P. 23(a)(1).
24 Joinder is also impracticable because of the existence of unnamed, unknown future class
25 members who will be subjected to Defendants’ unlawful bond appeal policy and BIA’s
26 unreasonably delayed adjudications of bond appeals. See *Ali v. Ashcroft*, 213 F.R.D. 390, 408–09
27
28

(W.D. Wash. 2003) (“[W]here the class includes unnamed, unknown future members, joinder of such unknown individuals is impracticable and the numerosity requirement is therefore met, regardless of class size.” (citation and internal quotation marks omitted)); *Rivera*, 307 F.R.D. at 550 (finding joinder impractical due, in part, to “the inclusion of future class members”); *Hawker v. Consovoy*, 198 F.R.D. 619, 625 (D.N.J. 2001) (“The joinder of potential future class members who share a common characteristic, but whose identity cannot be determined yet is considered impracticable.”). The impracticability of joining future class members is pronounced in cases that involve inherently revolving populations, such as groups of individuals detained at NSDC or other detention centers throughout the United States. See *J.D. v. Nagin*, 255 F.R.D. 406, 414 (E.D. La. 2009) (“The mere fact that the population of the [Youth Study Center] is constantly revolving during the pendency of litigation renders any joinder impractical.”); *Clarkson v. Coughlin*, 145 F.R.D. 339 (S.D.N.Y. 1993) (certifying classes of male and female deaf and hearing-impaired inmates even though only seven deaf or hearing-impaired female inmates were identified, in part because the composition of the prison population is inherently fluid).

In addition to class size and future class members, there are several other factors that make joinder impracticable in the present case, such as judicial economy, geographic dispersion of class members, financial resources of class members, and the ability of class members to bring individual suits. See *Dunakin v. Quigley*, 99 F. Supp. 3d 1297, 1327 (W.D. Wash. 2015) (finding joinder impracticable where proposed class members were, inter alia, “spread across the state” and “low-income Medicaid recipients”). The proposed class members are detained by definition, and not currently able to work to support themselves or their family. Furthermore, detention poses numerous barriers to accessing counsel, imposing a significant barrier for any individual seeking to challenge Defendants’ policies through individual suits. See *ACLU*, *supra* at 6

(documenting challenges faced by detained immigrants in working with counsel, including barriers to telephone access, legal mail, and attorney visits).

Finally, “[b]ecause plaintiffs seek injunctive and declaratory relief, the numerosity requirement is relaxed and plaintiffs may rely on [] reasonable inference[s] arising from plaintiffs’ other evidence that the number of unknown and future members of [the] proposed subclass . . . is sufficient to make joinder impracticable.” *Arnott v. USCIS*, 290 F.R.D. 579, 586 (C.D. Cal. 2012) (second, third, fourth, and fifth alterations in original) (quoting *Sueoka v. United States*, 101 F. App’x 649, 653 (9th Cir. 2004)). As a result, even if numerosity were a close question here (which it is not), class certification is warranted. *Stewart v. Assocs. Consumer Discount Co.*, 183 F.R.D. 189, 194 (E.D. Pa. 1998) (“[W]here the numerosity question is a close one, the trial court should find that numerosity exists, since the court has the option to decertify the class later pursuant to Rule 23(c)(1).”).

2. The class presents common questions of law and fact.

Rule 23(a)(2) requires that “there [be] questions of law or fact common to the class.”

“Courts have found that a single common issue of law or fact is sufficient to satisfy the commonality requirement.” *Perez-Olano v. Gonzalez*, 248 F.R.D. 248, 257 (C.D. Cal. 2008)); see also, e.g., *Rodriguez v. Hayes*, 591 F.3d 1105, 1122 (9th Cir. 2010) (“[T]he commonality requirement asks us to look only for some shared legal issue or a common core of facts.”).

Commonality exists if class members’ claims all “depend upon a common contention . . . of such a nature that it is capable of class wide resolution—which means that determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Wal-Mart*, 564 U.S. at 350. Therefore, the critical issue for class certification “is not the

1 raising of common ‘questions’ . . . but, rather the capacity of a class wide proceeding to generate
2 common answers apt to drive the resolution of the litigation.” Id. (citation omitted).

3 Here, both proposed classes satisfy the commonality requirement. The proposed Bond Stay Class
4 members all suffer from the same injury caused by ICE’s
5 policy. Similarly, the proposed Bond Appeal Class is comprised of noncitizens who have a
6 pending or future bond appeal, all of whom are subject to prolonged, potentially erroneous
7 detention due to the BIA’s systematic failure to issue timely decisions. Accordingly, both of
8 these issues are capable of class wide resolution through declaratory judgments making clear that
9

10
11 (1) Bond Stay Class

12 members are entitled to post bond grants without an automatic stay, and (2) Bond Appeal Class
13 members are entitled to a timely review of their bond appeals. The fact that putative class
14 members may have varying circumstances does not defeat the commonality among them.
15 Notably, Plaintiffs are not asking this Court to determine the merits of their or any putative class
16 member’s bond decision or appeal. Therefore, the core common questions presented do not
17 necessitate a substantial individual inquiry that would prevent a “class wide resolution.” *Wal-*
18 *Mart*, 131 S. Ct. at 2551; see also, e.g., *Moreno Galvez*, 2019 WL 3219418, at *2 (stating that
19 class of immigrant youth satisfied commonality where the case presented questions of “[w]hether
20 the [challenged] policy is in accordance with federal law” and “[w]hether the policy is arbitrary
21 and capricious”); *Nw. Immigr. Rts. Project v. USCIS*, 325 F.R.D. 671, 693 (W.D. Wash. 2016)
22 (“[A]ll questions of fact and law need not be common to satisfy the rule.” (citation omitted));
23 *Evon v. Law Offices of Sidney Mickell*, 688 F.3d 1015, 1029 (9th Cir. 2012) (“Where the
24 circumstances of each particular class member vary but retain a common core of factual or legal
25 issues with the rest of the class, commonality exists.” (citation omitted)); *Walters v. Reno*, 145

1 F.3d 1032, 1046 (9th Cir. 1998) (finding commonality based on plaintiffs' common challenge to
2 INS procedures, and noting that "[d]ifferences among the class members with respect to the
3 merits of their actual document fraud cases . . . are simply insufficient to defeat the propriety of
4 class certification"); *Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 370 (C.D. Cal. 1982)
5 (granting certification in challenge to common government practices in asylum cases, even
6 though the outcome of individual asylum cases would depend on individual class members'
7 varying entitlement to relief). Moreover, the commonality standard is even more liberal in a civil
8 rights suit such as this one, which "challenges a system-wide practice or policy that affects all of
9 the putative class members." *Gonzalez v. U.S. Immigr. & Customs Enf't*, 975 F.3d 788, 808 (9th
10 Cir. 2020) (citation omitted).

11
12
13 In sum, the relief sought by Plaintiffs will resolve the litigation as to all class
14 members "in one stroke," *Wal-Mart*, 564 U.S. at 350, and Plaintiffs thus satisfy the commonality
15 requirement of Rule 23(a)(2).

16
17 3. Named Plaintiffs' claims are typical of the claims of the proposed class
18 members. Rule 23(a)(3) specifies that the claims of the representatives must be "typical of the
19 claims . . . of the class." Meeting this requirement usually follows from the presence of common
20 questions of law. *Gen. Tel. Co. of the Sw. v. Falcon*, 457 U.S. 147, 157 n.13 (1982) ("The
21 commonality and typicality requirements of Rule 23(a) tend to merge."). To establish typicality,
22 "a class representative must be part of the class and possess the same interest and suffer the same
23 injury as the class members." *Id.* at 156 (citation and internal quotation marks omitted); see also
24 *Parsons v. Ryan*, 754 F.3d 657, 685 (9th Cir. 2014) (finding typicality requirement met where
25 class representatives "allege the same or similar injury as the rest of the putative class; they
26 allege that this injury is a result of a course of conduct that is not unique to any of them; and they
27
28

1 allege that the injury follows from the course of conduct at the center of the class claims”
2 (citation, internal quotation marks, and alteration omitted)). As with commonality, factual
3 differences among class members do not defeat typicality provided there are legal questions
4 common to all class members. See *LaDuke v. Nelson*, 762 F.2d 1318, 1332 (9th Cir. 1985) (“The
5 minor differences in the manner in which the representative’s Fourth Amendment rights were
6 violated does not render their claims atypical of those of the class.” (footnote omitted)).

7
8 Typicality is satisfied for both proposed classes. First, Plaintiffs and proposed Bond Stay Class
9 members all suffer from the same injury of detention without any opportunity to seek release.
10 Similarly, the deprivation of a timely bond appeal adjudication inflicts the same injury on
11 Plaintiffs and proposed Bond Appeal Class members, as they are all subject to continued
12 detention without a timely, meaningful opportunity to seek review of their custody
13 determination.
14

15 Plaintiffs thus seek declaratory relief establishing the right to timely bond appeals for all
16 proposed class members. In sum, the harms suffered by Plaintiffs are typical of the harms
17 suffered by the proposed classes, and Plaintiffs’ injuries and the injuries of all proposed class
18 members result from the identical courses of conduct by Defendants. Plaintiffs therefore satisfy
19 the typicality requirement.
20

21 4. Named Plaintiffs will adequately protect the interests of the proposed classes,
22 and counsel are qualified to litigate this action. Rule 23(a)(4) requires that “the representative
23 parties will fairly and adequately protect the interests of the class.” “Whether the class
24 representatives satisfy the adequacy requirement depends on ‘the qualifications of counsel for the
25 representatives, an absence of antagonism, a sharing of interests between representatives and
26
27
28

absentees, and the unlikelihood that the suit is collusive.” *Walters*, 145 F.3d at 1046 (citation omitted).

(a) Named Plaintiffs

Plaintiffs are motivated to pursue this action on behalf of others, who based on Defendants’ frivolous bond appeal policy, are or will be subject to detention without any opportunity to seek release. They are also motivated to represent all other individuals who have an appeal pending with the BIA. Plaintiffs will thus fairly and adequately protect the interests of the proposed classes, as they share the same interests and seek the same relief for all putative class members. Finally, Plaintiffs do not seek money damages. As a result, there is no potential conflict between the interests of Plaintiffs and members of the proposed classes. Accordingly, Plaintiffs are adequate representatives of the proposed classes.

(b) Counsel

Counsel has litigated numerous cases focusing on immigration law, including those involving the rights of detained noncitizens.

B. The Proposed Classes Satisfy Federal Rule of Civil Procedure 23(b)(2).

In addition to satisfying the four requirements of Rule 23(a), Plaintiffs also must meet one of the requirements of Rule 23(b) for a class action to be certified. Here, Plaintiffs seek certification under Rule 23(b)(2), which requires that “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Rule 23(b)(2) is “unquestionably satisfied when members of a putative class seek uniform injunctive or declaratory relief from policies or practices that are generally applicable to the class as a whole.” *Parsons*, 754 F.3d at 688; see also *Zinser v. Accufix Resch. Inst., Inc.*, 253 F.3d 1180, 1195 (9th

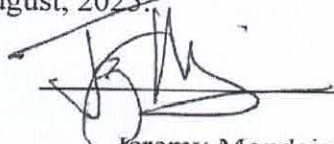
1 Cir. 2001) (“Class certification under Rule 23(b)(2) is appropriate only where the primary relief
2 sought is declaratory or injunctive.”). Each proposed class seeks such uniform relief, applicable
3 to all class members. First, Defendants’ bond appeal policy applies to the members of the
4 proposed Bond Stay class, rendering them all subject to continued detention.

5 Accordingly, a “single injunctive or declaratory judgment”—a declaratory judgement
6 establishing that automatic stays are enjoined from applying to bond grants. their detention is
7 governed by— “would provide relief to each member of the class.” *Wal-Mart*, 564 U.S. at 360;
8 see also *Amchem Products v. Windsor*, 521 U.S. 591, 614 (1997) (explaining that “[c]ivil rights
9 cases against parties charged with unlawful, class-based discrimination are prime examples” of
10 23(b)(2) class actions). Similarly, the BIA’s systematic failure to timely adjudicate bond appeals
11 impacts all members of the proposed Bond Appeal class, and a single declaratory judgment
12 requiring the BIA to issue timely bond appeal decisions would apply to the class as a whole.
13 Therefore, this action unquestionably meets the requirements of Rule 23(b)(2).

14 III. CONCLUSION

15 For the foregoing reasons, Plaintiffs respectfully request the Court certify the proposed classes,
16 appoint Plaintiffs as the class representatives for these classes, and appoint the undersigned
17 attorneys as class counsel.

18 DATED this 12th day of August, 2025

19 
20 Jeremy Mondejar, ESQ.
21 2885 E Charleston BLVD,
22 Suite 103
23 Las Vegas, NV 89104
24 Telephone: (702) 816-6611