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9 **UNITED STATES DISTRICT COURT FOR THE**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12 Luis YBOY FLORES

13 Petitioner,

14 v.

15 Ernesto SANTACRUZ, et. al.,

16 Respondents.
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No. _____

**EX PARTE MOTION FOR
TEMPORARY RESTRAINING
ORDER; POINTS AND
AUTHORITIES IN SUPPORT
OF MOTION FOR
TEMPORARY RESTRAINING
ORDER AND MOTION FOR
PRELIMINARY INJUNCTION**

1 Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure and Civil Local Rule 7-19
2 of of this Court, Petitioner Luis Alberto Yboy Flores ("Mr. Yboy Flores") hereby moves this
3 Court for an order enjoining and restraining Respondents, Department of Homeland Security
4 ("DHS") and Immigration and Customs Enforcement ("ICE"), from arresting Mr. Yboy Flores
5 unless and until he is provided with a pre-deprivation hearing before a neutral adjudicator, as
6 required by the Due Process clause of the Fifth Amendment, to determine whether the
7 government can justify the necessity of his reincarceration by clear and convincing evidence.
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9 The reasons in support of this Motion are set forth in the accompanying Memorandum of
10 Points and Authorities. This Motion is based on the attached Declaration of Counsel Genna Beier
11 with Accompanying Exhibits in Support of Petition for Writ of Habeas Corpus and Ex-Parte
12 Motion for Temporary Restraining Order. As set forth in the Points and Authorities in support of
13 this Motion, Mr. Yboy Flores raises that he warrants a temporary restraining order due to his
14 weighty liberty interest under the Due Process Clause of the Fifth Amendment in preventing his
15 unlawful and unilateral re-incarceration by Respondents without a neutral hearing.
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1 WHEREFORE, Mr. Yboy Flores prays that this Court grant his request for a temporary
2 restraining order enjoining and restraining DHS and ICE from arresting him unless and until he
3 is afforded a hearing before on the question of whether his re-incarceration would be lawful. The
4 only mechanism to ensure that he is not continuously unlawfully detained in violation of his due
5 process rights is a temporary restraining order from this Court.
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7 Respectfully submitted this 21st day of August, 2025.
8

9 /s/ Genna Beier
10 Genna Beier
11 Attorney for Petitioner
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INTRODUCTION

Petitioner Luis Alberto Yboy Flores (“Mr. Yboy Flores”), by and through undersigned counsel, hereby brings this ex parte motion for a temporary restraining order to prevent Respondents, the Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”), from re-detaining him at a scheduled appearance in Los Angeles on August 25, 2025, or thereafter, in violation of his due process rights. Mr. Yboy Flores has a vested liberty interest in his release that requires a pre-deprivation hearing with a neutral judge *before* he may be detained by Respondents.

Mr. Yboy Flores was brought to the United States from Guatemala as a toddler. In the decades since he was granted residency, he has built a family—including six U.S. citizen children—and developed strong ties to his Los Angeles community. Mr. Yboy Flores was initially detained by ICE for removal proceedings based on a 2013 conviction that has since been vacated as constitutionally invalid.

In September 2020, Judge Hatter granted Mr. Yboy Flores release as part of a class action challenging dangerous conditions in ICE custody. *Hernandez Roman v. Wolf*, 5:20-cv-00768-TJH-PVC, Dkt. 500 (C.D. Cal. Sept. 12, 2020). In evaluating Mr. Yboy Flores’ suitability for bail, Judge Hatter reviewed his individual circumstances and determined that he did not pose a danger or flight risk.

In the last five years at liberty, Mr. Yboy Flores has proved the wisdom of Judge Hatter’s bail decision through his exemplary conduct. He has been supporting his family and working as a maintenance director for a residential properties company. He and his now-fiancée also developed a relationship and welcomed a new baby, who is now six-months old. Mr. Yboy Flores has complied with all the terms of his bail order, reported to ICE as directed, avoided any new criminal contact, and diligently pursued his rights before the immigration agencies. While

1 Mr. Yboy Flores has a final order of removal, the conviction underlying the sole charge of
2 removal has been vacated as legally invalid and unconstitutional by the Los Angeles Superior
3 Court. There is no other basis upon which to find Mr. Yboy Flores removable, and he has a
4 motion to reopen and rescind his removal order for lack of deportability and a motion for stay of
5 removal pending with the Board of Immigration Appeals (“BIA”).

6 Mr. Yboy Flores brings this motion because he is terrified that he will be detained on
7 Monday and separated from his family, even though there has been no change in circumstances
8 to suggest he is a danger or flight risk. In recent months, ICE has detained scores of noncitizens
9 like Mr. Yboy Flores at routine ICE check-ins, despite their compliance with release conditions.
10 The *Hernandez Roman* settlement remains in place, but does not prevent detention of individuals
11 with final orders of removal, like Mr. Yboy Flores. Nor does it address the constitutional
12 concerns of re-detaining an individual who has accrued a strong liberty interest in release.

13 Due process principles compel this Court’s intervention to enjoin Respondents from
14 unilaterally arresting Mr. Yboy Flores without a neutral review of whether his civil detention
15 meets any valid purpose. It is well-established that people who have been conditionally released
16 from custody have a protected liberty interest in their freedom. *See Morrissey v. Brewer*, 408
17 U.S. 471, 482-483 (1972). A chorus of district courts across California have recognized that
18 noncitizens like Mr. Yboy Flores who are released from ICE custody have a significant liberty
19 interest protected by due process. *See, e.g., Pinchi v. Noem*, No. 5:25-cv-05632-PCP, 2025 WL
20 2084921, at *3 (N.D. Cal. July 24, 2025) (collecting cases); *Rodriguez-Flores v. Semaia et al.*,
21 No. 2:25-cv-06900-JGB-JC, Dkt. 14, at *5 (C.D. Cal. Aug. 14, 2025). These same courts have
22 found that this protected liberty interest entitles noncitizens to a neutral custody review *before*
23 they may be re-detained by ICE. A neutral hearing avoids the risk of erroneously depriving Mr.
24 Yboy Flores of his liberty—as the statute would otherwise provide him with no hearing
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1 whatsoever—and it does nothing to undermine the government interests in protecting the
2 community and preventing risk of flight, questions that would be evaluated at a neutral hearing.

3 For these and the foregoing reasons, this Court should join its colleagues in holding that
4 due process prohibits Respondents from re-detaining Mr. Yboy Flores without notice and a
5 hearing, *prior* to any re-detention. The Court should also find that Mr. Yboy Flores meets the
6 standard for a temporary restraining order to preserve the status quo. Absent this Court's
7 intervention, Mr. Yboy Flores will suffer irreparable harm in the form of arbitrary arrest without
8 a neutral review. The balance of equities also strongly favor Mr. Yboy Flores, as ensuring
9 Respondents' fealty to the constitution lies in the public interest.
10

11 **STATEMENT OF FACTS AND CASE**

12 I. MR. YBOY FLORES' LENGTHY RESIDENCE AND STRONG FAMILY TIES TO
13 THE UNITED STATES

14 Mr. Yboy Flores is a 44-year-old national of Guatemala who came to the United States in
15 1984, when he was 3 years old. *See* Exh. H, Decl. of Luis Yboy Flores at ¶¶ 1, 6. He has lived in
16 California since then. *Id.* ¶ 6. He became a Lawful Permanent Resident in 1993, when he was 12
17 years old, a status he maintained for 25 years. *Id.* ¶ 7. He attended school in Los Angeles,
18 including attending Belmont High School through 10th grade, when he stopped attending in
19 order to work and earn a living to help support his family. *Id.* ¶ 8.

20
21 Mr. Yboy Flores has worked and paid taxes his whole life. Mr. Flores has even been a
22 business owner in Los Angeles. *Id.* ¶ 9. Mr. Flores opened his own tire shop, Hoover Tires, in
23 2009 but lost it soon after his conviction in 2013. *Id.* Since his release in 2020, he has worked as
24 a housepainter and head of maintenance for V & L Properties. *Id.*

25
26 **Mr. Flores is the father of six U.S. citizen children**, ages twenty-four through six
27 months. *Id.* ¶ 10. Mr. Flores maintains a close relationship with his U.S. citizen children, Cris
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1 Alberto Flores, 24 years old; Hazel Brigitte Flores, 22 years old; M.I.V., 17 years old; S.B., 16
2 years old; L.A.F.B., 14 years old; and R.A.F., almost six months old. *Id.*

3 Since 2020, Mr. Yboy Flores has been at liberty in Los Angeles, California where he
4 lives with mother and several siblings. *Id.* ¶ 42. Following his release from criminal and ICE
5 custody, he focused on rebuilding his life and his relationship with his five eldest children. *Id.* ¶
6 42-43. Since 2020, he has fostered close relationships with those five children and prioritized
7 spending time with them as much as possible. *Id.*

8
9 In 2022, Mr. Yboy Flores met and fell in love with his now-fiancée, Jenny Galindo, a
10 nurse who resides in Las Vegas. *Id.* ¶ 13, *see also* Exh. I, Letter from Ms. Galindo. Mr. Yboy
11 Flores and his fiancée have overcome the geographic challenges to their relationship—Jenny is
12 tied to Las Vegas by her work and extended family, and Mr. Yboy Flores is tied to Los Angeles
13 both by his ties to his children and family, and ICE restrictions against leaving the state. *Id.* That
14 said, Jenny visits frequently, usually every two weeks. *Id.* Her thirteen-year-old daughter, M.V.,
15 has become like a daughter to Mr. Yboy Flores. *Id.*; *see also* Exh. M, Letter from M.V. Ms.
16 Galinda attests to what a “loving, supportive & dependable partner” Mr. Yboy is, motivating and
17 encouraging her through nursing school. Exh. I.

18
19 In March of this year, the couple welcomed their son, R.A.F. Exh. H at ¶ 13. Mr. Yboy
20 Flores is enormously committed to his fiancée and new baby, in part because he missed so much
21 of his older children’s youth during his incarceration and detention. *Id.* Being present with Jenny
22 and R.A.F. is the most important thing in the world to him. *Id.* Ms. Galinda also attests to Mr.
23 Yboy Flores’ importance in her life and the life of her son and daughter: “he is the foundation of
24 our family, a steady presence from a far. He is the man who has helped us grow stronger through
25 love, faith, and resilience. I cannot imagine our lives without him.” Exh. I.
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1 Mr. Yboy Flores also maintains close relationships with his siblings and their families,
2 including Yesica Othom Flores, Jorge Linares, Zoila Linares Flores, Marco Tulio Garcia Flores,
3 Heidy Flores, Mainor Garcia, and Erick Alberto Garcia; his stepfather, Jorge Linares; and
4 numerous nieces and nephews; sisters-in-law and brothers-in-law; and aunts, uncles, cousins, and
5 friends. Exh. H at ¶ 56.

6 7 II. CRIMINAL HISTORY

8 Mr. Yboy Flores Mr. Flores has three misdemeanor convictions and one violation dating
9 back to 2005, 2006, and 2007, based on a contentious break-up with the mother of his eldest
10 children. *Id.* ¶ 16. However, they got past that hard time – and ultimately remarried in 2018
11 (followed by a second divorce). *Id.*

12 Mr. Yboy Flores' last arrest was on September 21, 2013 as a result of an argument with
13 his then-girlfriend. *Id.* ¶ 17. Mr. Yboy Flores was charged with unlawful imprisonment and
14 assault with a firearm. *Id.*; Exh. A, Motion to Reopen at pgs. 43-44 (Notice to Appear). On
15 January 16, 2014, Mr. Flores was convicted under California Penal Code Section 245(b), assault
16 with a firearm, and sentenced to six years' prison. *Id.*

17 18 19 III. MR. YBOY FLORES' REHABILITATION AND RELEASE ON PAROLE

20 Since his arrest in 2013, Mr. Yboy Flores has transformed his life by engaging in
21 rehabilitation programs, particularly including alcohol rehabilitation and anger management.
22 Exh. H at ¶ 20. He served four years and six months of the six-year sentence. *Id.* In prison, he
23 participated in various rehabilitative programs such as Alcoholics Anonymous, Alternatives to
24 Violence and Life Skills and MERIT Life Skills programs, which include topics like anger
25 management, parenting, drug education, spiritual growth, and relationships. *Id.* ¶ 21. He was
26 baptized into the Christian Church and began attending service regularly. *Id.* ¶ 22. Mr. Flores
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1 continues to attend church every Sunday and at times takes his children along with him. *Id.* ¶ 45-
2 46.

3 Most significantly, Mr. Yboy Flores served the state of California as an inmate-firefighter
4 for four years. *Id.* ¶ 23. While in prison, he was certified in Firefighting Training and Physical
5 Fire Training and rose to become a trusted leader in Fire Camp. *Id.* He received a chrono for in
6 camp “Fire Brigade” Engineering and obtained a Class A Chrono for chainsaw, tree falling, and
7 teachings experience. *Id.* In his last year in Fire Camp, he was a Swamper in Crew 3 in Eel River
8 Camp, which is the highest position in hand crew, and he was the team leader and second in
9 command after the captain. *Id.* Mr. Flores was also promoted to Lead Mechanic for Correction
10 Department Vehicles and CalFire equipment, which includes transporting inmates and fire
11 engines from Butte Co. Fire Stations as well as camp forklift driver. *Id.* ¶ 24. Mr. Flores fought
12 the King Fire, Willow Fire, Butte Fire, and Chimney Fire. *Id.* ¶ 25. In total, Mr. Flores fought
13 seven major fires and at least 50 smaller fires. *Id.* During the non-fire season, Mr. Flores would
14 work on community projects such as cutting firewood for elderly people, painting, and cleaning
15 up the community. *Id.* ¶ 26-27.

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18 Notably, the California Department of Corrections and Rehabilitation (CDCR) requires
19 all Fire Camp Participants to be found not to be dangerous to the community. *Id.* ¶ 28; *see also*
20 [https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-](https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/)
21 [program/](https://www.cdcr.ca.gov/facility-locator/conservation-camps/faq-conservation-fire-camp-program/).

22 23 IV. INITIAL DETENTION BY ICE AND REMOVAL PROCEEDINGS

24 Upon his release from criminal custody, on May 3, 2018, Mr. Yboy Flores was arrested
25 and detained by ICE. Exh. H at ¶ 31. He remained detained for the next two-and-a-half years,
26 until September 15, 2020. *Id.* ¶ 41.
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1 On May 3, 2018, the Department of Homeland Security ("DHS") filed a Notice to
2 Appear with four factual allegations, including a single criminal allegation: that he had been
3 convicted of a crime of violence based on a 2013 Los Angeles County conviction to Penal Code
4 § 245(b) with a sentence of three years. Exh. A at pgs. 43-44 (Notice to Appear). The NTA
5 charged him as removable under the single ground of removability, INA § 237(a)(2)(A)(iii) for
6 having been convicted of an aggravated felony crime of violence with a sentence of a year or
7 more. *Id.* Mr. Flores admitted the charge, and filed an application for deferral of removal under
8 the Convention Against Torture ("CAT"). Exh. H at ¶ 33.

10 On January 17, 2019, the IJ denied Mr. Flores's application for CAT. *Id.* ¶ 33. On July 9,
11 2019, the BIA remanded Mr. Yboy Flores' case. *Id.* The case returned to the Immigration Judge
12 and on October 11, 2019, the IJ issued a second written decision denying Mr. Flores's
13 application for CAT protection. *Id.* Mr. Flores timely appealed to the BIA and on October 29,
14 2020, that judgment was affirmed by the BIA. *Id.* He filed a Petition for Review to the Ninth
15 Circuit, which was dismissed on April 20, 2022. *Id.*

17 Meanwhile, Mr. Yboy Flores filed a petition to vacate his conviction on March 22, 2022.
18 *Id.* ¶ 34. On June 10, 2022, the Superior Court of California in the County of Los Angeles
19 vacated Mr. Flores' conviction to PC § 245(b) pursuant to PC § 1473.5(a)(1), based on
20 constitutional error in the conviction. *Id.*; *see also* Exh. A at pg. 83 (Order Granting Motion to
21 Vacate). Also on that day, Mr. Flores re-pled to PC § 236, false imprisonment. *Id.* As such, Mr.
22 Flores is no longer deportable as charged in the NTA.

24 On June 23, 2022, Mr. Yboy Flores filed a Motion to Reopen and Terminate Proceedings
25 with the BIA, based on the vacatur of the only conviction underlying his removal order. Exh. H
26 at ¶ 35; Exh. A, Motion to Reopen. He also filed a Motion for a Stay before the BIA. *Id.* Those
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1 motions remain pending to this day. *Id.*; *see also* Exh. C (ECAS printout showing the pendency
2 of the Motion to Reopen).

3 Also in 2022, Mr. Yboy Flores filed an application for a pardon of his criminal
4 conviction with the California Governor's Office. *Id.* ¶ 36; *see also* Exh. J (Email indicating
5 receipt of gubernatorial pardon application). That application remains pending. *Id.*
6

7 V. RELEASE BY THE DISTRICT COURT AFTER AN INDIVIDUALIZED FINDING
8 THAT MR. YBOY FLORES DOES NOT POSE A DANGER OR FLIGHT RISK

9 On September 12, 2020, Mr. Yboy Flores was ordered released from custody through a
10 bail order issued in *Hernandez Roman v. Wolf*, No. 5:20-cv-00768-TJH-PVC, (C.D. Cal.)
11 (hereafter "*Hernandez Roman*"), a class action lawsuit challenging unsafe conditions at the
12 Adelanto ICE Processing Center during the COVID-19 pandemic. Yboy Flores Dec, ¶ 41; *see*
13 *also* Exh. F, Hernandez Roman Bail Order.

14 At the start of the pandemic, noncitizens detained at the Adelanto ICE Processing Center
15 filed a habeas petition and class action complaint alleging that ICE's response to the pandemic
16 put hundreds of detained immigrants at risk of illness and death from COVID-19. *Hernandez*
17 *Roman*, No. 5:20-cv-00768-TJH-PVC, Dkt. 1.

19 On April 23, 2020, Judge Hatter in the Central District granted provisional class
20 certification and entered a preliminary injunction, ordering ICE to immediately reduce the
21 population at Adelanto to allow for social distancing, among other safety measures. *Hernandez*
22 *Roman*, No. 5:20-cv-00768-TJH-PVC, Dkt. 55 (C.D. Cal. April 23, 2020). The Court
23 simultaneously issued findings of fact and conclusions of law regarding conditions, including a
24 finding that the government acted with deliberate indifference to the health and safety of class
25 members. *Hernandez Roman*, No. 5:20-cv-00768-TJH-PVC, 2020 WL 1952656, *8 (C.D. Cal.
26 April 23, 2020).
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1 Although the Ninth Circuit partially stayed the preliminary injunction pending appeal, the
2 Court determined that extraordinary circumstances warranted the imposition of a bail process to
3 release affected class members. *Hernandez Roman*, No. 5:20-cv-00768-TJH-PVC, 2020 WL
4 3481564, at *1 (C.D. Cal. June 17, 2020). The Court then issued a process for “individualized
5 bail determinations” for each class member, in which the Court would consider an individual’s
6 biographic information, medical risk factors, criminal convictions and immigration history. *See*
7 Exh. D, Bail Application Process, *Hernandez Roman*, No. 5:20-cv-00768-TJH-PVC, 2020 WL
8 3487632, Dkt. 124 (C.D. Cal. June 19, 2020).

9
10 In order to grant release on bail, the Court required each noncitizen to establish by a
11 preponderance of evidence that they would not be a “flight risk, will not be a danger to public
12 safety, [that they have] a stable location to reside while released, and will have transportation
13 available to that stable location.” *Id.* at *3. Respondents were permitted to oppose bail
14 applications and attach evidence.

15
16 On September 10, 2020, Mr. Yboy Flores filed his bail application with the Court,
17 disclosing his criminal and immigration history. *See* Exh. H, Decl. of Yboy Flores.¹ The Bail
18 Application was a joint stipulation between the Petitioners and Respondents, in which the
19 Petitioners laid out Mr. Yboy Flores release plan, medical conditions, criminal history,
20 immigration status and court procedural history, lack of dangerousness, and lack of flight risk,
21 and including several corroborating exhibits. *Id.* at ¶ 37. The Respondent laid out their
22 opposition to his release, relying in part on allegations in his immigration paperwork that he was
23 a gang member. *Id.* at ¶ 38. In response, Mr. Yboy Flores submitted a Supplemental Declaration
24

25
26
27 ¹ A protective order prevents the dissemination of bail applications in *Hernandez Roman*.
28 5:20-cv-00768-TJH-PVC, Dkt. 122 (C.D. Cal. June 18, 2020). In an abundance of caution, Mr. Yboy Flores does not submit his bail application itself without express permission from opposing counsel in *Hernandez Roman*. However, his declaration generally describes its contents.

1 explaining how he believes those allegations came to be in his file and strongly denying that he
2 was or ever had been a gang member. *Id.* at ¶ 39.

3 On September 12, 2020, Judge Hatter granted his release, finding that he had established
4 “by a preponderance of the evidence...that he will not be a flight risk [and] will not be a danger
5 to public safety.” Exh. F, Bail Order, *Hernandez Roman*, No. 5:20-cv-00768-TJH-PVC, Dkt. 500
6 (C.D. Cal. Sept. 11, 2020). The bail order includes a number of conditions of release, including
7 that he would live at the residence submitted to the Court, and that he would not move from the
8 approved residence without first obtaining prior approval from the Court. *Id.* The order also
9 required him to abide by all laws and regulations, abstain from possessing or consuming illegal
10 drugs, and submit to location monitoring by Respondents. Exh. H at ¶ 50.

12 On September 23, 2020, the Ninth Circuit Court of Appeals affirmed portions of the
13 preliminary injunction order concluding that the district court has the power to grant injunctive
14 relief and that plaintiffs are likely to prevail on the merits of their due process claims. Several
15 weeks later, the Ninth Circuit dismissed Respondents’ appeal of the class-wide bail orders. The
16 parties subsequently engaged in settlement discussions, and a final settlement was approved by
17 the district court on December 23, 2024. Exh. E, Settlement Agreement *Hernandez Roman*, No.
18 5:20-cv-00768-TJH-PVC, Dkt. 2636-2 (C.D. Cal. Dec. 12, 2024)

20 Under the terms of the settlement, ICE was required to “make best efforts to not re-
21 detain” class members released on bail like Mr. Yboy Flores unless certain conditions were met.
22 *Id.* at 11. ICE was permitted to re-detain individuals if: (1) they became aware of “pre- or post-
23 release conduct indicating” that the class member is a threat to public safety; (2) if the class
24 member violated material conditions of release in a manner indicating they are a danger or flight
25 risk “as determined by ICE/ERO”; or (3) “to execute an administratively final order of removal.”
26 *Id.* at 12.

1 Respondents have not sought to invoke any portion of the agreement permitting Mr.
2 Yboy Flores' re-detention based on new information suggesting danger or flight risk. However,
3 the settlement does not protect against his re-detention because he has an administratively final
4 order of removal. Nor does the settlement preclude individual challenges to detention or re-
5 detention. Exh. E, Section VIII(B) ("Nothing in this Agreement shall have any preclusive effect
6 on...any claim by...Class Members concerning any individual challenge to the legality of their
7 custody, now or in the future.").

9 VI. MR. YBOY FLORES' EXEMPLARY POST-RELEASE CONDUCT

10 Mr. Yboy Flores has lived an exemplary life free of criminal conduct since his release
11 from ICE custody five years ago. Exh. H at ¶ 48. Not only has he avoided rearrest, he has
12 reflected on his past mistakes and learned how to take steps to avoid falling into them in the past.
13 *Id.* ¶ 48-49. He has complied with all of the conditions of release under the *Hernandez Roman*
14 Bail Order, including residing at the approved address with his family, following all laws and
15 regulations, abstaining from drugs and alcohol, and reporting to ICE biannually. *Id.* ¶ 50. He also
16 complies with Intensive Supervision Appearance Program (ISAP), which first involved an ankle
17 monitor and then was de-escalated to virtual weekly check-ins. *Id.* ¶ 52. ISAP also includes a
18 restriction against leaving California, which he has followed, despite the hardship it poses since
19 his fiancée and infant son live in Nevada. *Id.* ¶ 53.

22 For the past five years, Mr. Yboy Flores has worked for V&L residential properties, first
23 as a painter and now as the maintenance director. *Id.* ¶ 44. In that role, he has a great deal of
24 responsibility attending to any and all maintenance needs the residential properties present,
25 including fixing appliances, plumbing, drywall, electricity repair. *Id.*

26 Mr. Yboy Flores has also continued to build a family since his release. He met and fell in
27 love with his now-fiancée, Jenny Galindo, and baby R.A.F. *Id.* ¶ 23.
28

VII. DANGER OF RE-ARREST BY ICE DESPITE MR. YBOY FLORES' COMPLIANCE WITH ALL RELEASE CONDITIONS

Because Mr. Yboy Flores has a final order of removal, and because the BIA has not ruled on his Motion to Reopen his proceedings following the vacatur of the criminal conviction underlying his removal order, he is at imminent risk of detention.

Under the Trump Administration, ICE has dramatically increased the number of people it arrests, with the total detained population reaching its highest verifiable point in years.² The American Immigration Lawyers Association (“AILA”) has reported a nationwide uptick of arrests at ICE check-ins, targeting individuals with removal orders like Mr. Yboy Flores.³ President Trump has called for ICE to increase enforcement in “America’s largest cities,” which he dubbed the “core of the Democratic Power Center,” via a post on Truth Social.⁴ He stated “[w]e must expand efforts to detain and deport Illegal Aliens in America’s largest Cities, such as Los Angeles[.]” *Id.*

Mr. Yboy Flores last reported to the Los Angeles Field Office on February 11, 2025. On that date, ICE gave him a future report date of August 25, 2025. *Id.* ¶¶ 51, 54. Through counsel, Mr. Yboy Flores has sought assurances from the government that he will not be arrested at his check-in. However, to date ICE has been unable to provide any assurance that he will not be detained. *See* Exh. G, Email exchange between *Hernandez Roman* class counsel and AUSA Hans Chen.

² *See* Austin Kocher, ICE Detention Numbers Hit New High: 59,380 People Behind Bars, August 14, 2025, available at: <https://austinkocher.substack.com/p/ice-detention-numbers-hit-new-high>.

³ *See* AILA Doc No. 25081204, August 13, 2025, available at: <https://www.aila.org/featured-issue-immigration-enforcement-under-trump-2-0> (“ICE targets people who are following the legal process...including those who show up for hearings and appointments[.]”).

⁴ *See* Samantha Waldenberg and Priscilla Alvarez, CNN, June 16, 2025, available at: <https://www.cnn.com/2025/06/16/politics/trump-immigration-democratic-deportation-efforts>.

LEGAL STANDARD

Petitioner is entitled to a temporary restraining order if he establishes that he is “likely to succeed on the merits, . . . likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [his] favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *Stuhlbarg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001) (noting that preliminary injunction and temporary restraining order standards are “substantially identical”). Even if Petitioner does not show a likelihood of success on the merits, the Court may still grant a temporary restraining order if he raises “serious questions” as to the merits of his claims, the balance of hardships tips “sharply” in his favor, and the remaining equitable factors are satisfied. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011).

As set forth below, Petitioner satisfies both standards. He faces imminent and unlawful arrest by Respondents without a hearing before a neutral adjudicator to determine the necessity of his re-detention, in violation of his due process rights. Absent this Court’s intervention, Mr. Yboy Flores will suffer irreparable injury in the form of unilateral arrest and family separation. The Court must issue a temporary restraining order to preserve the status quo.

ARGUMENT

VIII. MR. YBOY FLORES IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIM THAT THE CONSTITUTION REQUIRES A HEARING BEFORE A NEUTRAL JUDGE BEFORE ANY RE-ARREST BY ICE

A. MR. YBOY FLORES HAS ACCRUED A STRONG LIBERTY INTEREST IN HIS CONTINUED RELEASE FROM ICE CUSTODY

“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

1 Once an individual is freed from custody—even where that release is lawfully
2 revocable—he grows a strong interest in remaining physically unconfined by the government.
3 This genesis of this idea began in *Morrissey*, where the Supreme Court held that a person paroled
4 following a criminal conviction has a protected liberty interest in that conditional release.
5 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1982). The Court reasoned that a parolee develops this
6 interest because, “subject to the conditions of his parole, [he] can be gainfully employed and is
7 free to be with family and friends and to form the other enduring attachments of normal life.” *Id.*
8 at 482. Moreover, “[t]he parolee has relied on at least an implicit promise that parole will be
9 revoked only if he fails to live up to the parole conditions.” *Id.* “By whatever name, the liberty is
10 valuable and must be seen within the protection of the [Constitution].” *Id.*

12 Courts have repeatedly extended this basic principle from *Morrissey*—that individuals
13 have a liberty interest in their conditional release—to similarly-situated groups. *See, e.g., Young*
14 *v. Harper*, 520 U.S. 143, 152 (1997) (holding that individuals placed in a pre-parole program
15 have a protected liberty interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411
16 U.S. 778, 781-82 (1973) (holding that individuals released on felony probation have a protected
17 liberty interest requiring pre-deprivation process). Even where someone has obtained liberty
18 through a mistake of law or fact, courts have recognized their cognizable interest in remaining at
19 liberty. *See Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C. Cir. 2017); *Gonzalez-Fuentes v.*
20 *Molina*, 607 F.3d 864, 887 (9th Cir. 2010); *Johnson v. Williford*, 682 F.2d 868, 873 (9th Cir.
21 1982).

23 Following *Morrissey* and its progeny, a chorus of district courts in California have
24 recognized the strength of a noncitizen’s protected liberty interest following release from ICE
25 custody. *See, e.g., Meza v. Bonnar*, 2018 WL 2554572 (N.D. Cal. June 4, 2018); *Ortega v.*
26 *Bonnar*, 415 F. Supp. 3d 963 (N.D. Cal. 2019); *Vargas v. Jennings*, No. 20-CV-5785-PJH, 2020
27

1 WL 5074312, at *3 (N.D. Cal. Aug. 23, 2020); *Jorge M. F. v. Wilkinson*, No. 21-CV-01434-JST,
2 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021); *Garcia v. Bondi*, No. 3:25-CV-05070, 2025
3 WL 1676855, at *4 (N.D. Cal. June 14, 2025); *Diaz v. Kaiser*, No. 3:25-CV-05071, 2025 WL
4 1676854, at *4 (N.D. Cal. June 14, 2025); *Garcia v. Andrews*, No. 2:25-CV-01884-TLN-SCR,
5 2025 WL 1927596, at *5 (E.D. Cal. July 14, 2025); *Guillermo M.R. v. Kaiser*, No. 3:25-cv-
6 05436-RFL, --F.Supp.3d --, 2025 WL 1983677 (N.D. Cal. July 17, 2025); *Pinchi v. Noem*, No.
7 5:25-cv-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025) (collecting cases);
8 *Rodriguez-Flores v. F. Semaia et al.*, 2:25-cv-06900-JGB-JC, Dkt. 14 (C.D. Cal. Aug. 14, 2025);
9 *Galindo Arzate, v. Andrews*, No. 1:25-CV-00942-KES-SKO (HC), 2025 WL 2411010 (E.D. Cal.
10 Aug. 20, 2025).

11
12 Indeed, “[g]iven the civil context [of immigration detention], [the] liberty interest [of
13 noncitizens released from custody] is arguably greater than the interest of parolees” from
14 *Morrissey. Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). Courts have also held
15 that the longer someone remains out on bond, the weightier their interest in remaining free from
16 ICE custody. *See Rodriguez-Flores*, 2:25-cv-06900-JGB-JC, Dkt. 14 at *5.

17
18 Just as in those cases, this Court should find that in his five years of freedom, Mr. Yboy
19 Flores has accrued a strong liberty interest protected by the Due Process Clause. *See Guillermo*
20 *M.R.*, -- F.Supp.3d --, 2025 WL 1983677, at *4-5 (finding noncitizen released on bond for two
21 years had a strong liberty interest). Mr. Yboy Flores was granted release from ICE custody by a
22 neutral third party after an individualized finding that he did not pose a danger or a flight risk.
23 Exh. F, Bail Order; Exh. H, Flores Decl. at ¶ 41. His conditional release pending a final removal
24 decision “enables him to do a wide range of things open to persons” who have never been in
25 custody or convicted of any crime, including to live at home, work, and “be with family and
26 friends and to form the other enduring attachments of normal life.” *Morrissey*, 408 U.S. at 482.

1 For these reasons, Mr. Yboy Flores has accrued a substantial liberty interest, and the
2 Court must order procedural safeguards to protect it. *See Rodriguez-Flores*, 2:25-cv-06900-JGB-
3 JC, Dkt. 14 at 5 (finding that release on bond for five years created a substantial liberty interest
4 and applying the *Mathews v. Eldridge* factors to determine what procedures were appropriate).

5
6 B. WITHOUT A PRE-DEPRIVATION HEARING BEFORE A NEUTRAL
7 JUDGE, THE RISK OF AN ERRONEOUS DEPRIVATION OF LIBERTY
8 IS HIGH

9 Absent intervention by this Court, Mr. Yboy Flores has not received and will not receive
10 any custody redetermination hearing before his re-detention by ICE.

11 Mr. Yboy Flores has an administratively final order of removal, albeit one he is
12 challenging through a motion to reopen. If he were to be detained, his statutory detention
13 authority would fall under 8 U.S.C. § 1231(a)(6), which permits Respondents to detain
14 individuals “beyond the removal period” without a bond hearing. The Ninth Circuit has
15 recognized that this provision “lacks the process available under more protective schemes, such
16 as Section 1226(a).” *Guillermo M.R.*, -- F.Supp.3d --, 2025 WL 1983677, at *8 (quoting
17 *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1210 (9th Cir. 2022)). By contrast to 1226(a), an
18 “individual detained under Section 1231(a)(6) has no statutory or regulatory entitlement to a
19 bond hearing before an IJ whatsoever.” *Id.* at *8.

20
21 In other words, the agency will never grant Mr. Yboy Flores a neutral hearing on whether
22 his detention is constitutional. Compounding the risk of erroneous deprivation, ICE has taken the
23 position in related litigation that it “may add its own conditions of release, even if rejected by [a
24 judge], and may re-detain unilaterally for *any* ‘change in circumstances’” whether or not that
25 change is related to danger or flight risk. *Guillermo M.R.*, -- F.Supp.3d --, 2025 WL 1983677, at
26 *8 (emphasis added) (“[A]ccording to Respondents, ICE could re-detain those released for
27 purely technical violations, like being one minute late to a check-in.”). Therefore, the risk is high
28

1 that Mr. Yboy Flores will be erroneously deprived of his liberty if ICE is permitted to make an
2 unreviewable decision to re-detain him. *See Diouf v. Napolitano*, 634 F.3d 1081, 1091-92 (9th
3 Cir. 2011) (observing that the risk of an erroneous deprivation of liberty is reduced where a
4 neutral decisionmaker, rather than ICE, makes custody determinations).

5 Allowing a neutral judge to review the facts would significantly reduce the risk of
6 erroneous deprivation. The Supreme Court has consistently held that “the Constitution requires
7 some kind of a hearing *before* the State deprives a person of liberty or property,” not after.
8 *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). This is so even in cases
9 where that freedom is lawfully revocable. *See Hurd*, 864 F.3d at 683 (emphasis added) (citing
10 *Young*, 520 U.S. at 152 (re- detention after pre-parole conditional supervision requires pre-
11 deprivation hearing)); *Gagnon*, 411 U.S. at 782 (holding the same, in context of probation);
12 *Morrissey*, 408 U.S. 471 (holding the same, in context of parole). Only in a “special case” where
13 post-deprivation remedies are “the only remedies the State could be expected to provide” can
14 post-deprivation process satisfy the requirements of due process. *Zinerman*, 494 U.S. at 985.

15
16
17 Here, a pre-deprivation hearing would reveal that there is no material change in
18 circumstances to justify Mr. Yboy Flores’ urgent re-detention. *Saravia v. Sessions*, 280 F. Supp.
19 3d 1168, 1197 (N.D. Cal. 2017), *aff’d sub nom. Saravia for A.H.*, 905 F.3d 1137 (DHS
20 “generally only re-arrests [noncitizens] pursuant to § 1226(b) after a material change in
21 circumstances.”). In the last five years, Mr. Yboy Flores has complied with all requirements,
22 strengthened his ties to family and community, and diligently pursued his rights. No current
23 evidence suggests that Mr. Yboy Flores is a danger to the community or a flight risk. While Mr.
24 Yboy Flores has a removal order, that order was based on a conviction that has since been
25 vacated as legally invalid under California law. For three years, Mr. Yboy Flores has been
26 awaiting the resolution of a motion to reopen and rescind his removal order to restore his
27
28

1 permanent resident status. If his motion is granted, he will no longer have a final removal order.
2 If his motion is denied, he intends to appeal to the Ninth Circuit and request a stay of removal.
3 *See Ninth Cir. Gen. Order 6.4(c)* (allowing for entry of an automatic stay of removal pending
4 adjudication of the merits of a stay request).

5 Without the procedural safeguard of a bond hearing, Mr. Yboy Flores will be unable to
6 present this or any evidence to a neutral adjudicator, and the necessity of his re-detention would
7 evade review. Because the provision of a pre-deprivation hearing is both possible and valuable in
8 preventing an erroneous deprivation of liberty, ICE is required to provide Mr. Yboy Flores with
9 notice and a hearing *prior* to any re-incarceration. *See Morrissey*, 408 U.S. at 481-82; *Haygood*
10 *v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985); *Zinerman*, 494 U.S. at 985; *see also*
11 *Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982). At this hearing before a neutral adjudicator,
12 the government must be required to show that there have been changed circumstances such that
13 his 2020 release by district court order should be revoked based on clear and convincing
14 evidence that he is a current danger or a flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203-05
15 (9th Cir. 2011).
16
17

18 C. RESPONDENTS' INTEREST IN ARRESTING MR. YBOY FLORES
19 WITHOUT A NEUTRAL HEARING IS LOW

20 The government's interest in re-detaining Mr. Yboy Flores *without a due process hearing*
21 is low and, when weighed against his significant private interest in his liberty, the scale tips
22 sharply in favor of enjoining Respondents from re-detaining him unless and until the government
23 demonstrates by clear and convincing evidence that he is a flight risk or danger to the
24 community.
25

26 The only valid purpose for civil immigration detention is to prevent danger to the
27 community and ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533
28

1 U.S. at 690. In this case, a pre-detention hearing would do nothing to undermine—and would in
2 fact promote—the government’s interest by ensuring a neutral evaluation of flight risk and
3 danger.

4 Further, Respondents suffer no “fiscal and administrative burdens” by allowing Mr. Yboy
5 Flores to maintain his liberty. *See Mathews*, 424 U.S. at 334-35. To the contrary, his continued
6 release will save the government the “staggering” cost it would have otherwise spent on his
7 incarceration. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017) (“The costs to the public
8 of immigration detention are ‘staggering’: \$158 each day per detainee, amounting to a total daily
9 cost of \$6.5 million.”). The government also has an interest in avoiding costly and needless
10 detention. *See Black v. Decker*, 103 F.4th 133, 154 (2d Cir. May 31, 2024) (when a noncitizen
11 “poses no danger and is not a flight risk, all the government does in requiring detention is
12 separate families and remove from the community breadwinners, caregivers, parents, siblings
13 and employees”) (cleaned up).

14
15 Finally, giving Mr. Yboy Flores a bond hearing before a judge is a routine procedure that
16 the government provides to those in immigration jails on a daily basis.

17
18 * * *

19 As the above-cited authorities show, Mr. Yboy Flores is likely to succeed on his claim
20 that due process requires notice and a hearing before a neutral adjudicator *prior to any re-*
21 incarceration by ICE. And, at the very minimum, he raises serious questions as to his procedural
22 due process claim.

23
24 IX. MR. YBOY FLORES WILL SUFFER IRREPARABLE HARM ABSENT
25 INJUNCTIVE RELIEF FROM THIS COURT

26 Mr. Yboy Flores will suffer irreparable harm absent injunctive relief from this Court to
27 preserve the status quo and prevent his arbitrary arrest by Respondents.

28

Multiple courts have granted injunctions in similar scenarios to prevent ICE from arresting people at check-ins, recognizing the high and imminent risk of arrest. *See, e.g., Guillermo M. R. v. Kaiser et al.*, No. 25-CV-05436-RFL, [2025 WL 1983677](#), at *1 (N.D. Cal. July 17, 2025) (granting preliminary injunction); *Zakzouk v. Becerra*, No. 25-CV-06254 (RFL), [2025 WL 2097470](#), at *2 (N.D. Cal. July 26, 2025) (granting TRO) (“Based on DHS’s stated policy and news reports of non-citizens being detained at checkins, Petitioner-Plaintiff feared that he would be detained without further notice at his check-in[.]”); *Garcia v. Bondi et al.*, No. 3:25-CV-05070, [2025 WL 1676855](#), at *1 (N.D. Cal. June 14, 2025) (granting ex parte TRO).

Mr. Yboy Flores and his family would undoubtedly suffer if he were detained by ICE on Monday without a review of whether his detention is warranted. “The irreparable harms imposed on anyone subject to immigration detention or other forms of imprisonment are self-evident.” *Guillermo M. R.*, [2025 WL 1983677](#), at *10 (cleaned up). Noncitizens in ICE custody are held in “prison-like conditions.” *Preap v. Johnson*, [831 F.3d 1193, 1195](#) (9th Cir. 2016). The Ninth Circuit has recognized that people in ICE detention suffer irreparable harm from “subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained.” *Hernandez v. Sessions*, [872 F.3d 976, 995](#) (9th Cir. 2017). Indeed, the government itself has documented alarmingly poor conditions in ICE detention centers. *See, e.g.,* DHS, Office of Inspector General (OIG), Summary of Unannounced Inspections of ICE Facilities Conducted in Fiscal Years 2020-2023 (2024).

Mr. Yboy Flores has a six-month old infant and fiancée who rely on him for emotional and economic support. Mr. Yboy Flores is also close to his five elder children and his extended family network, who suffered greatly during his prior incarceration by ICE. Mr. Yboy Flores has significant health issues which would be exacerbated by detention.

1 Finally, as detailed *supra*, Mr. Yboy Flores contends that his re-arrest absent a hearing
2 before a neutral adjudicator violated his due process rights under the Constitution. It is clear that
3 “the deprivation of constitutional rights ‘unquestionably constitutes irreparable injury.’”
4 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347,
5 373 (1976)).

6
7 X. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST FAVOR
8 GRANTING MR. YBOY FLORES A TEMPORARY RESTRAINING ORDER

9 Where the government is the opposing party, balancing the harm and the public interest
10 merge. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). The balance of equities and the public
11 interest undoubtedly favor granting this temporary restraining order.

12 First, the balance of hardships strongly favors Mr. Yboy Flores. The government cannot
13 suffer harm from an injunction that prevents it from engaging in an unlawful practice. *See*
14 *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1983) (“[T]he INS cannot reasonably assert that it is
15 harmed in any legally cognizable sense by being enjoined from constitutional violations.”).
16 Therefore, the government cannot allege harm arising from a temporary restraining order or
17 preliminary injunction ordering it to comply with the Constitution.
18

19 Further, there is no burden on Respondents in allowing Mr. Yboy Flores to remain at
20 liberty from ICE detention until he is provided with a pre-deprivation hearing that comports with
21 due process. To the extent Respondents may claim that they are prejudiced by a delay in their
22 ability to re-arrest Mr. Yboy Flores, this is a *de minimus* harm, and is clearly outweighed by the
23 substantial harm he would suffer in being detained without first having a neutral review. *See*
24 *Lopez v. Heckler*, 713 F.2d 1432, 1437 (9th Cir. 1983) (“Society’s interest lies on the side of
25 affording fair procedures to all persons, even though the expenditure of governmental funds is
26 required.”).
27
28

1 Finally, a temporary restraining order is in the public interest. If a temporary restraining
2 order is not entered, the government would effectively be granted unchecked permission to
3 detain Mr. Yboy Flores in violation of due process. The public has a strong interest in
4 “upholding procedural protections against unlawful detention.” *Guillermo M.R.*, 2025 WL
5 1983677, at *10. “[I]t would not be equitable or in the public’s interest to allow [a party] . . . to
6 violate the requirements of federal law, especially when there are no adequate remedies
7 available.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014); *see also*
8 *Hernandez*, 872 F.3d at 996 (“The public interest benefits from an injunction that ensures that
9 individuals are not deprived of their liberty and held in immigration detention because of bonds
10 established by a likely unconstitutional process.”); *cf. Preminger v. Principi*, 422 F.3d 815, 826
11 (9th Cir. 2005) (“Generally, public interest concerns are implicated when a constitutional right
12 has been violated, because all citizens have a stake in upholding the Constitution.”). In Mr. Yboy
13 Flores’ case in particular, the public has an interest in avoiding collateral hardship to his fiancée,
14 infant son, five older children, and his extended family network.

15
16
17 Therefore, the public interest overwhelmingly favors avoiding the cost of erroneous
18 detention and entering a temporary restraining order and preliminary injunction.

19 20 CONCLUSION

21 For the foregoing reasons, this Court should find that Mr. Yboy Flores warrants the entry
22 of a temporary restraining order to maintain the status quo and enjoin Respondents from
23 arresting him unless and until he is afforded a hearing before a neutral judge on whether his re-
24 detention is justified by clear and convincing evidence.

25
26
27 Dated: August 21, 2025

Respectfully submitted,

1
2 /s/ Genna Beier
3 Genna Beier
4 Attorney for Petitioner

5 **CERTIFICATE OF COMPLIANCE**
6 **PURSUANT TO CIVIL LOCAL RULE 11-6.2**

7 The undersigned, counsel of record for Petitioner, certifies that this brief contains approximately
8 6,980 words, which complies with the word limit of L.R. 11-6.1.
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