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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Danna LUCIANO, *et al.*,

Petitioners,

v.

Kristi NOEM, Secretary, U.S.  
Department of Homeland Security, *et al.*,

Respondents.

Case No. 5:25-cv-03156-RGK-MAA

**PETITIONERS' REPLY TO  
RESPONDENTS' OPPOSITION  
TO APPLICATION FOR  
PRELIMINARY INJUNCTION**

Hon. R. Gary Klausner  
United States District Court Judge

1           Petitioners hereby reply to Respondents' opposition to their request for a  
2 preliminary injunction. Dkt. 12.

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4           Petitioners do not address the jurisdictional arguments made by Respondents  
5 (see Dkt. 12 at 12-16) which have been considered and rejected by this Court (see,  
6 e.g., *Benitez v. Noem*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025)  
7 (TRO), Dkt. 11 at 3-4) and by over two hundred other courts. See also, *Maldonado*  
8 *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025  
9 WL 3289861, at \*2 (C.D. Cal. Nov. 20, 2025).

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12           Petitioners limit this reply to addressing new authority, specifically the  
13 November 25<sup>th</sup> order in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-  
14 SSS-BFM, --- F.R.D. ----, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) certifying  
15 a nationwide Bond Eligible Class of which Petitioners are members,<sup>1</sup> and  
16 addressing Respondents' new arguments pertaining to Fed.R.Civ.P. 23(b)(2) and  
17 the argument that the declaratory judgment order in *Maldonado Bautista* is not a  
18 final judgment. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-  
19 BFM, --- F. Supp. 3d ----, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025) (partial  
20 summary judgment order); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-  
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25 <sup>1</sup> Respondents mistakenly state that Petitioners previously argued that the class  
26 certification order in *Maldonado Bautista* compels bond hearings. Dkt. 12 at 7.  
27 While Petitioners now make that argument, Petitioners did not previously make the  
28 argument because the class certification order was not issued until November 25<sup>th</sup>,  
after Petitioners filed their petition for writ of habeas corpus and sought a  
temporary restraining order.

1 SSS-BFM, --- F.R.D. ----, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025) (order  
2 certifying class and extending declaratory judgment to the Bond Eligible Class).  
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4 Petitioners are members of the *Maldonado Bautista* Bond Eligible Class  
5 consisting of:

6 “All noncitizens in the United States without lawful status who (1) have  
7 entered or will enter the United States without inspection; (2) were not or  
8 will not be apprehended upon arrival; and (3) are not or will not be subject to  
9 detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the  
10 Department of Homeland Security makes an initial custody determination.”  
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12 *Maldonado Bautista*, 2025 WL 3288403, at \*9. On November 20, 2025, the district  
13 court granted partial summary judgment on behalf of the *Maldonado Bautista*  
14 *individual* plaintiffs and, on November 25, 2025, certified a nationwide class and  
15 extended declaratory judgment to the certified class. *See Maldonado Bautista*,  
16 2025 WL 3289861, at \*11 (order granting partial summary judgment to named  
17 Plaintiffs-Petitioners); *Maldonado Bautista*, 2025 WL 3288403, at \*9 (declaratory  
18 judgment extended to the Bond Eligible Class members who are detained under 8  
19 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond  
20 under § 1225(b)(2)(A)). *Maldonado Bautista*, 2025 WL 3289861, at \*11.  
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22 Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full  
23 “force and effect of a final judgment.” 28 U.S.C. § 2201(a).  
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25 Respondents now argue that this petition should be “stayed or dismissed  
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1 pending resolution of [*Maldonado*] *Bautista*, since the certification of a Rule 23(b)(2)  
2 class precludes individual suits (like this) for the same injunctive or declaratory  
3 relief.” Dkt. 12 at 7. Here, however, Petitioners are *not* seeking the same injunctive  
4 or declaratory relief as the Plaintiffs in *Maldonado Bautista*. As an initial matter, the  
5 *Maldonado Bautista* class did not seek class-wide injunctive relief.<sup>2</sup> The *Maldonado*  
6 *Bautista* Plaintiffs also did not seek habeas claims on behalf of the class, and thus,  
7 class members are not precluded from filing habeas petitions that assert their  
8 individual claims of unlawful detention or seek individual injunctions ordering bond  
9 hearings or release. Instead, the *Maldonado Bautista* declaratory judgment is binding  
10 in regard to its statutory analysis that has determined that Petitioners’ detention falls  
11 under 8 U.S.C. § 1226(a), and therefore, Petitioners are eligible for release on bond.

12 The *Maldonado Bautista* declaratory judgment does not order habeas (or other  
13 injunctive) relief for class members, including Petitioners. *See Pride v. Correa*, 719  
14 F.3d 1130, 1133 (9th Cir. 2013) (when “the complainant is a member in a class action  
15 seeking the same relief” a court “may dismiss those portions of the complaint which  
16 duplicate the class action’s allegations and prayer for relief” but “a district court may

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17 <sup>2</sup> In *Garland v. Aleman Gonzalez*, the Supreme Court interpreted 8 U.S.C. §  
18 1252(f)(1) to prohibit class-wide injunctive relief regarding certain immigration  
19 detention statutes like the ones at issue here. 596 U.S. 543 (2022). However, §  
20 1252(f)(1) does not bar other forms of relief, like class-wide declaratory relief. *See,*  
21 *e.g., Biden v. Texas*, 597 U.S. 785, 800 (2022); *Al Otro Lado v. Exec. Off. For*  
22 *Immigr. Rev.*, 128 F.4th 1102, 1123-24 (9th Cir. 2025); *Brito v. Garland*, 22 F.4th  
23 240, 251-2 (1st Cir. 2021); *Texas v. United States*, 40 F.4th 205, 220 (5th Cir. 2022)  
24 (per curiam).

1 not ‘dismiss[ ] those allegations ... which go beyond the allegations and relief prayed  
2 for in [the class action].’) (quoting *Crawford v. Bell*, 599 F.2d 890, 893 (9th Cir.  
3 1979)).  
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5 Consequently, Respondents are simply wrong about the impact of the  
6 *Maldonado Bautista* declaratory judgment. Petitioners’ habeas petition is not  
7 precluded by the *Maldonado Bautista* declaratory judgment because the nature of the  
8 relief granted there is different from what Petitioners now seek. “[I]t is black-letter  
9 law that preclusion ‘does not apply to extinguish the claim’ if ‘[t]he plaintiff was  
10 unable to . . . seek a certain remedy or form of relief in the first action because of . .  
11 . restrictions on [the court’s] authority to entertain . . . demands for multiple remedies  
12 or forms of relief in a single action.’” *Luna Gutierrez v. Noem*, No. CV 25-1766  
13 (SLS), 2025 WL 3496390, at \*14 n.15 (D. D.C. Dec. 5, 2025) (quoting Restatement  
14 (Second) of Judgments § 26(1)(c) (1982)); *see also* Wright & Miller, 18 Fed. Prac.  
15 & Proc. Juris. § 4412 (3d ed. Sept. 2025 Update) (“Claim preclusion is readily denied  
16 when the remedies sought in the second action could not have been sought in the first  
17 action. . . .”). *Maldonado Bautista* did not provide class-wide injunctive or habeas  
18 relief, so it cannot have any preclusive effect on Petitioners’ or other individual class  
19 members’ present or future cases for either injunctive or habeas relief challenging  
20 their unlawful detention.  
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27 A core purpose of Rule 23(b)(2) is to allow courts to issue an indivisible  
28 declaratory judgment that paves the way for follow-on individual proceedings

1 seeking further (non-monetary) relief. See Advisory Committee Note (1966),  
2 Fed.R.Civ.P. 23 (“Declaratory relief ‘corresponds’ to injunctive relief when [it] . . .  
3 serves as a basis for later injunctive relief. The subdivision does not extend to cases  
4 in which the appropriate final relief relates exclusively or predominately to money  
5 damages.”); 2 William B. Rubenstein, Newberg & Rubenstein on Class Actions §  
6 4:31 (6th ed. Dec. 2025 Update) (same); see also *Powell v. McCormack*, 395 U.S.  
7 486, 499 (1969) (“A declaratory judgment can then be used as a predicate to further  
8 relief, including an injunction.”). Thus, it is not only permissible, but specifically  
9 contemplated by the Declaratory Judgment Act that a class-wide declaratory  
10 judgment may serve as the basis for a later injunction or habeas to give effect to the  
11 declaratory judgment. See *United Specialty Ins. Co. v. Cole's Place, Inc.*, 936 F.3d  
12 386, 396 (6th Cir. 2019); see also 28 U.S.C. § 2202 (allowing for “[f]urther relief or  
13 proper relief based on a declaratory judgment or decree”).

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18 Respondents also cite to *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 931 (1975)  
19 for the proposition that *Maldonado Bautista*’s “class certification order is not a  
20 ‘declaratory judgment’ because a court cannot grant declaratory relief prior to the  
21 entry of a final judgment.” Dkt. 12 at 7. However, under the Federal Rules of Civil  
22 Procedure, “[c]laims can be separate for the purposes of Fed.R.Civ.P. 54(b). *In re*  
23 *Fifth Third Early Access Cash Advance Litig.*, 925 F.3d 265, 269 (6th Cir. 2019).  
24 Rule 54(b) “was adopted ‘specifically to avoid the possible injustice of delay[ing]  
25 judgment o[n] a distinctly separate claim [pending] adjudication of the entire case....  
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1 The Rule thus aimed to augment, not diminish, appeal opportunity.’ *Gelboim v. Bank*  
2 *of Am. Corp.*, 574 U.S. 405, 409-10 (2015) (citations omitted).” *Jewel v. Nat’l Sec.*  
3 *Agency*, 810 F.3d 622, 628 (9th Cir. 2015). Further, final judgment is a distinct  
4 inquiry from whether *Maldonado Bautista* has now bound the parties before it,  
5 including through a certified nationwide class. *Cf. Goodheart Clothing Co. v. Laura*  
6 *Goodman Enters., Inc.*, 962 F.2d 268, 274 (2d Cir. 1992) (distinguishing issue  
7 preclusion between litigation in two courts from “the somewhat more flexible law-  
8 of-the-case doctrine”). Therefore, issue preclusion does not preclude Petitioners’  
9 habeas claims.  
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13 Furthermore, Petitioners remain detained, which is indisputably an injury  
14 sufficient to create a case or controversy distinct from the *Maldonado Bautista*  
15 declaratory judgment. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998). Even with the  
16 *Maldonado Bautista* orders, Petitioners cannot actually obtain a bond hearing absent  
17 an order from this Court because Respondents have taken the position that there is  
18 no binding judgment on immigration judges and instead have expressly directed  
19 those judges not to hold bond hearings for the *Maldonado Bautista* Bond Eligible  
20 Class members. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-  
21 BFM, Defendants’ Opposition to Ex Parte Application for Reconsideration re Order  
22 on Motions to Certify Class and for Partial Summary Judgment, Dkt. 90, Dec. 10,  
23 2025.  
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1 For the reasons set forth in Petitioners' Memorandum in Support of  
2 Application for Ex Parte TRO, Dkt. 4-1, Petitioners have established that 8 U.S.C. §  
3 1226 governs the detention of Petitioners. Section 1225 and its mandatory detention  
4 provision applies only to individuals arriving in the United States as specified in the  
5 statute, while § 1226 applies to those who have previously entered without admission  
6 and are now present and residing in the United States. A preliminary injunction  
7 should be issued on this basis as this Court has done previously. *See, e.g., Benitez v.*  
8 *Noem*, No. 5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025) (TRO), Dkt. 11.

12 Additionally, Petitioners are now members of the *Maldonado Bautista* Bond  
13 Eligible Class and are therefore detained under 8 U.S.C. § 1226(a), and thus may not  
14 be denied consideration for release on bond based on the Respondents' view that §  
15 1225(b)(2)(A) applies. *Maldonado Bautista*, 2025 WL 3289861, at \*11.

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1 For the foregoing reasons, Petitioners respectfully urge this Court to grant their  
2 request for a Preliminary Injunction directing Respondents to release Petitioners or  
3 provide Petitioners with an individualized bond hearing before an immigration judge  
4 pursuant to 8 U.S.C. § 1226(a) within seven days of the order.  
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8 Dated: December 16, 2025

Respectfully submitted,

s/ Niels W. Frenzen

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**WORD COUNT CERTIFICATION**

The undersigned, counsel of record for Petitioners, certifies that this Memo contains 1,583 words, which complies with the word limit of L.R. 11-6.1.

s/ Niels W. Frenzen

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