

ERIC GRANT
United States Attorney
ZACHARY MALINSKI
Assistant United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Telephone: (916) 554-2700
Facsimile: (916) 554-2900

Attorneys for Respondents

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANGEL DIAZ MORENO,

Petitioner,

v.

CHRISTOPHER CHESTNUT, et al.

Respondents.¹

CASE NO. 1:25-CV-01806-KES-EPG

OPPOSITION TO PETITIONER'S MOTION FOR
TEMPORARY RESTRAINING ORDER;
STATEMENT OF NON-OPPOSITION TO
CONVERSION OF TRO INTO PI; NO HEARING
REQUESTED

I. INTRODUCTION

In accordance with this Court's order (ECF 7) to indicate Respondent's position on whether Petitioner's motion for temporary restraining order ("TRO") should be converted to a motion for preliminary injunction ("PI"), Respondent does not object to this Court converting Petitioner's motion for TRO to a motion for PI because "the standard for a [temporary restraining order] is the same as for a preliminary injunction" *Rovio Entm't Ltd. v. Royal Plush Toys, Inc.*, 907 F. Supp. 2d 1086, 1092 (N.D. Cal. 2012) (citing *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)). However, Respondent opposes granting of the TRO/PI because he is an applicant for admission subject to mandatory detention pursuant to 8 U.S.C. § 1225.

¹ The Court should dismiss all respondents other than the Warden of the California City ICE Processing Center because the only proper respondent to a habeas petition is the custodian having immediate custody of the petitioner. *See* 28 U.S.C. § 2242; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004); *Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024).

This court also directed Respondent to distinguish Petitioner's detention case to that of the petitioner's detention case in *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025). ECF 7. Respondent acknowledges that both *Lepe* and the instant action are cases of statutory interpretation. Specifically, the issue is whether Petitioner is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225. Respondent maintains its position that noncitizens who were never legally admitted to the United States, like Petitioner, are "applicants for admission" and thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

Respondent further contends that the legal landscape is different now than it was when this Court decided *Lepe*. This Court noted in *Lepe* that the government "ha[d] not identified any authority, other than the Board of Immigration Appeals' recent decision in *Matter of Yajure Hurtado*, finding that noncitizens such as petitioner who have been present in the United States for many years are subject to section 1225(b)(2)(A)." *Lepe v. Andrews*, at 4. But, since this court decided *Lepe*, several courts have agreed with Respondent's position. See *YANYUN MO, Petitioner, v. CHRISTOPHER CHESTNUT, Warden, California City Corr. Facility, et al., Respondents.*, No. 1:25-CV-01789 WBS CSK, 2025 WL 3539063 (E.D. Cal. Dec. 10, 2025); *Oliveria v. Albarran*, No. 1:25-CV-01760 WBS AC, 2025 WL 3525923 (E.D. Cal. Dec. 9, 2025); *Alonzo v. Noem*, No. 1:25-CV-01519 WBS SCR, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025).²

Accordingly, Respondent opposes granting of Petitioner's motion for TRO/PI.

II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Mexico who, sometime in 1990, entered the United States without admission or parole. Declaration of Deportation Officer Patrick J. Cruz ("Cruz Decl.") ¶ 7, 12. On or around July 11, 2007, Petitioner was convicted of misdemeanor DUI in Stanislaus Superior Court. Cruz Decl. ¶ 8. On or around January 7, 2008, Petitioner was convicted of misdemeanor DUI in

² See also *Ramos v. Lyons*, 2:25-cv-09785-SVW-AJR (C.D. Cal., Nov. 12, 2025); *Sandoval v. Acuna et al.*, No. 6:25-cv-1467, 2025 WL 3048926, at *4 (W.D. La. Oct. 31, 2025); *Chavez v. Noem*, No. 3:25-cv-2325-CAB-DBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

Stanislaus Superior Court. *Id.* at ¶ 9. On or around June 24, 2010, Petitioner was convicted of an unspecified charge in Stanislaus County. *Id.* at ¶ 10. On October 11, 2024, Petitioner applied for permanent residence. *Id.* at ¶ 11. On November 25, 2025, Petitioner was served with a NTA charging him with removability under INA § 212(a)(6)(A)(i) *Id.* at ¶ 14.

III. LEGAL STANDARD

“The standard for a [temporary restraining order] is the same as for a preliminary injunction.” *Rovio Entm't Ltd. v. Royal Plush Toys, Inc.*, 907 F. Supp. 2d 1086, 1092 (N.D. Cal. 2012) (citing *Stuhlbarg Int'l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001)). Injunctive relief is “an extraordinary remedy that may only be awarded upon a clear showing that the [petitioner] is entitled to such relief.” *Winter v. NRDC, Inc.*, 555 U.S. 7, 22 (2008) (citing *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (per curiam)). “A [petitioner] seeking a preliminary injunction must show that: (1) he is likely to succeed on the merits, (2) he is likely to suffer irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in his favor, and (4) an injunction is in the public interest.” *Id.*, *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). These same elements apply to Petitioner’s TRO. *Cal. Indep. Sys. Operator Corp. v. Reliant Energy Servs., Inc.*, 181 F. Supp. 2d 1111, 1126 (E.D. Cal. 2001). The last two factors “merge when the Government is the opposing party.” *Nken v. Holder*, 556 U.S. 418, 435 (2009).

“[I]f a [petitioner] can only show that there are ‘serious questions going to the merits’—then a preliminary injunction may still issue if the ‘balance of hardships tips sharply in the [petitioner’s] favor,’ and the other two *Winter* factors are satisfied.” *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th Cir. 2014) (quoting *Shell Offshore, Inc. v. Greenpeace, Inc.*, 709 F.3d 1281, 1291 (9th Cir. 2013); *see also Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

Importantly, a temporary restraining order “is an extraordinary and drastic remedy, [and] one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.” *Mazurek*, 520 U.S. at 972. Indeed, the moving party bears the burden of meeting all prongs of the *Winter* test. *DISH Network Corp. v. FCC*, 653 F.3d 771, 776 (9th Cir. 2011) (“To warrant a preliminary injunction [or TRO], [the petitioner] must demonstrate that it meets all four of the elements of the preliminary injunction test established in *Winter*[.]”).

IV. LEGAL ANALYSIS

A. Petitioner Is Not Likely to Succeed on the Merits.

1. Petitioner Is an Applicant for Admission Subject to Mandatory Detention.

The Executive Branch has broad statutory power to effect removal of aliens apprehended at the border.³ “Control over immigration is a sovereign prerogative.” *El Rescate Legal Servs., Inc. v. Exec. Off. of Immigr. Rev.*, 959 F.2d 742, 750 (9th Cir. 1991). The Immigration and Nationality Act (“INA”), originally enacted in 1952, sets forth a comprehensive plan to administer the immigration system. *See generally* 8 U.S.C. Ch. 12. As set forth therein, the President, through the Department of State, the Department of Justice, and Department of Homeland Security, decides which aliens may enter and remain in the United States. *See generally* 8 U.S.C. §§ 1103, 1104.

Section 1225(b)(2)(A) requires mandatory detention of “an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A). The statute defines an “applicant for admission” as “[a]n alien present in the United States who has not been admitted or who arrives in the United States...whether or not at a designated port of arrival.” 8 U.S.C. § 1225(a)(1). Thus, the statute identifies two categories of aliens: (1) those “present in the United States who ha[ve] not been admitted”; and (2) those “who arrive[] in the United States . . . whether or not at a designated port of arrival.” *Id.* The statute expressly treats a person in *either* category as an “applicant for admission.” *Id.*; *see also Matter of Lemus-Losa*, 25 I. & N. Dec. 734, 743 (BIA 2012) (“Congress has defied the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission”).⁴

³ This word “alien” is used herein as a term of art in the immigration context.

⁴ Section 1225 was added by Congress under the IIRIRA to correct “an anomaly whereby immigrants who were attempting to lawfully enter the United States were in a worse position than persons who had crossed the border unlawfully.” *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020) (en banc), *declined to extend by, United States v. Gambino-Ruiz*, 91 F.4th 981 (9th Cir. 2024). It “intended to replace certain aspects of the [then] current ‘entry doctrine,’ under which illegal aliens who have entered the United States without inspection gain equities and privileges in immigration proceedings that are not available to aliens who present themselves for inspection at a port of entry.” *Id.* (quoting H.R. Rep. 104-469, pt. 1, at 225).

1 Applicants for admission must be inspected by immigration officers to determine whether they
2 can be admitted to the United States under immigration laws. 8 U.S.C. § 1225(a)(3); *Jennings v.*
3 *Rodriguez*, 583 U.S. 281, 287 (2018). 8 U.S.C. § 1225(b) governs the detention of “applicants for
4 admission” during their removal proceedings. Applicants for admission fall into three categories. The
5 first two categories consist of: (1) arriving aliens who are inadmissible because they lack proper entry
6 documents or have falsified/misrepresented their entry documents; and (2) those aliens who have not
7 established to the satisfaction of an immigration officer that they have been physically present in the
8 United States for two years or more. Aliens that fall into either one of these two categories: (a) are
9 subject to expedited removal; and (b) are subject to mandatory detention during the expedited removal
10 process. *See* 8 U.S.C. § 1225(b)(1)(B)(ii), (iii)(IV).⁵

11 The third category of applicants for admission—applicable here—consists of those aliens who
12 are “seeking admission” and who an immigration officer has determined are “not clearly and beyond a
13 doubt entitled to be admitted.” *See* 8 U.S.C. § 1225(b)(2)(A). Aliens who fall within this third category
14 are eligible for standard removal proceedings, but they are nevertheless subject to mandatory detention
15 during their standard removal proceedings. *Id.*; *Jennings*, 583 U.S. at 299 (stating that aliens subject to
16 section 1225(b)(1) and aliens subject to section 1225(b)(2) are both subject to mandatory detention for
17 the duration of removal proceedings); *Matter of Q. Li*, 29 I. & N. Dec. 66, 68 (BIA 2025) (stating that
18 “for aliens arriving in and seeking admission into the United States who are placed directly in full
19 removal proceedings, section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), mandates detention
20 ‘until removal proceedings have concluded.’”) (citing *Jennings*, 583 U.S. at 299).

21 Petitioner here is an “applicant for admission” by virtue of seeking admission into the United
22 States without being clearly and beyond a doubt entitled to be admitted. Accordingly, Petitioner is
23 subject to the mandatory detention requirement of 8 U.S.C. § 1225(b)(2)(A). *YANYUN MO, Petitioner,*
24 *v. CHRISTOPHER CHESTNUT, Warden, California City Corr. Facility, et al., Respondents*, 1:25-CV-

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26 ⁵ If an alien who is subject to an expedited removal order raises a fear of persecution in their home
27 country, the immigration officer refers the alien for a “credible fear interview” that is conducted by an
28 asylum officer. If the asylum officer finds that the alien has a credible fear of persecution, the alien is
then moved to the standard removal proceeding (a removal proceeding under 8 U.S.C. § 1229a), but the
alien is still subject to mandatory detention during that standard removal proceeding.

1 01789 WBS CSK, 2025 WL 3539063 (E.D. Cal. Dec. 10, 2025); *Oliveria v. Albarran*, 1:25-CV-01760
2 WBS AC, 2025 WL 3525923 (E.D. Cal. Dec. 9, 2025); *Alonzo v. Noem*, 1:25-CV-01519-WBS-SCR
3 (E.D. Cal. Nov. 17, 2025); *see also Ramos v. Lyons*, 2:25-cv-09785-SVW-AJR (C.D. Cal., Nov. 12,
4 2025); *Sandoval v. Acuna et al.*, No. 6:25-cv-1467, 2025 WL 3048926, at *4 (W.D. La. Oct. 31, 2025);
5 *Chavez v. Noem*, No. 3:25-cv-2325-CAB-DBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025); *Pena v.*
6 *Hyde*, No. 25-11983-NMG, 2025 WL 2108913 (D. Mass. July 28, 2025); *Vargas Lopez v. Trump*, No.
7 8:25-cv-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025).

8 **2. Petitioner's Due Process Arguments Lack Merit.**

9 **a. Petitioner Is Not Entitled to a Pre-Re-Detention Hearing.**

10 Under the doctrine of "entry fiction," aliens seeking admission to the United States, even if
11 "allowed within its borders pending a determination of admissibility... are legally considered to be
12 detained at the border and hence as never having effected entry into" the United States. *Barrera-*
13 *Echavarria v. Rison*, 44 F.3d 1441, 1450 (9th Cir. 1995) (en banc).⁶ Thus, even if an alien seeking
14 admission is physically present on U.S. soil and has been "paroled elsewhere in the country for years
15 pending removal," he still is "treated . . . as if stopped at the border" for immigration law purposes.
16 *Dept. Homeland Security v. Thurassigiam*, 591 U.S. 103, 139 (2020); *see also United States v. Balde*,
17 943 F.3d 73, 84 (2d Cir. 2019) ("Parole does not change parolees' immigration status: they remain 'at
18 the border' for the purposes of immigration law and are treated as applicants into the country."). "The
19 distinction between an alien who has effected an entry into the United States and one who has never
20 entered" is a fundamental one that "runs throughout immigration law." *Zadvydas v. Davis*, 533 U.S. 678,
21 693 (2001).

22 Here, Petitioner was never admitted to the United States. For immigration law purposes, he is
23 treated as being stopped at the border, even though he has been physically present within the United
24 States since 1990. *Barrera-Echavarria*, 44 F.3d at 1450. This carries significant implications for the
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26 ⁶ The scope of *Barrera-Echavarria*'s holding has been complicated by statutory amendments in the
27 Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. No. 104-208, 110 Stat. 3009
28 (1996). But those amendments "do[] not undermine *Barrera-Echavaria*'s reasoning as it relates to
aliens . . . to whom the entry fiction clearly applies," such as in this case. *Rodriguez v. Robbins*, 715 F.3d
1127, 1140-41 (9th Cir. 2013).

contours of Petitioner's due process rights. An alien who has not effected a legal entry, *i.e.*, has not been admitted into the United States, is only entitled to "[w]hatever the procedure authorized by Congress is." *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (quoting *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950)); *see also Thuraissigiam*, 591 U.S. at 140 (an alien detained after unlawful entry "has only those rights regarding admission that Congress has provided by statute"); *Angov v. Lynch*, 788 F.3d 893, 898 (9th Cir. 2015) (for "those . . . who have never technically 'entered' the United States . . . procedural due process is simply whatever the procedure authorized by Congress happens to be") (cleaned up). This makes sense, since "an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application." *Barrera-Echavarria*, 44 F.3d at 1449.

"[A]pplicants for admission have virtually no constitutional rights regarding their applications." *Valencia v. Mukasey*, 548 F.3d 1261, 1263 (9th Cir. 2008) (citing *Landon v. Plasencia*, 459 U.S. 21, 33-34 (1982)). "Whatever the procedure authorized by Congress is, it is due process as far as an alien denied entry is concerned." *Shaughnessy*, 338 U.S. at 544. Thus, where the petitioner has "not 'technically entered the United States,' [the Court] examine[s] only whether the government violated the statutory rights that Congress afforded such applicants." *Grigoryan v. Barr*, 959 F.3d 1233, 1241 (9th Cir. 2020) (citation omitted). Accordingly, Petitioner is subject to mandatory detention. *See Matter of Yajure Hurtado*, 29 I & N Dec. 216, 220 (BIA 2025) (holding that the Immigration and Nationality Act makes all applicants for admission subject to mandatory detention for the duration of their immigration proceedings—even those who have entered without admission or inspection and have been residing in the United States for years without lawful status).

B. Petitioner Has Not Met His Heavy Burden To Show Likely Irreparable Harm.

Petitioner claims he will suffer irreparable harm from continued detention during his removal proceedings. ECF 6. However, as set forth above, Petitioner has not technically entered the United States and is only entitled to the rights and processes that Congress has given him. Immigration laws have long authorized immigration officials to charge aliens as removable from the country, to arrest aliens subject to removal, and to detain aliens pending removal. *Demore*, 538 U.S. at 523-26. Through the INA, Congress created a multi-layered statutory scheme for aliens' detention during removal,

1 including mandatory detention for aliens in Petitioner's position. *See* 8 U.S.C. § 1225(b). "Detention is
2 necessarily a part of [the] deportation procedure." *Carlson*, 342 U.S. at 538.

3 Nor do Petitioner's alleged conditions of detention demonstrate irreparable harm. Any conditions
4 of detention that Petitioner deems unsatisfactory are not cognizable in habeas proceedings. "The
5 appropriate remedy for such constitutional violations, if proven, would be a judicially mandated change
6 in conditions and/or an award of damages, but not release from confinement." *Crawford v. Bell*, 599
7 F.2d 890, 892 (9th Cir. 1979). Further, a habeas petition is not the proper mechanism for challenging
8 conditions of detention. *Pinson v. Carvajal*, 69 F.4th 1059, 1065, 1073-75 (9th Cir. 2023); *Badea v.*
9 *Cox*, 931 F.2d 573, 574 (9th Cir. 1991). Conditions of detention/confinement challenges, rather, are
10 properly brought in a civil rights action. *Id.*; *Brown v. Blanckensee*, 857 F. App'x 289, 290 (9th Cir.
11 2021); *Alcala v. Rios*, 434 F. App'x 668, 669-70 (9th Cir. 2011). Thus, to the extent Petitioner relies on
12 conditions of confinement as a basis for habeas relief, his petition cannot succeed.

13 **C. The Balance of Equities and Public Interest Do Not Favor Petitioner.**⁷

14 "The government's interest in efficient administration of the immigration laws" is "weighty,"
15 and "it must weigh heavily in the balance that control over matters of immigration is a sovereign
16 prerogative, largely within the control of the executive and the legislature." *Landon*, 459 U.S. at 34.
17 Further, the government's interest in protecting the public and preventing deportable aliens from fleeing
18 are strong and compelling. *See e.g., Rodriguez Diaz*, 53 F.4th at 1208 (government's interests in
19 "protecting the public from dangerous criminal aliens" and "increas[ing] the chance that, if ordered
20 removed, the aliens will be successfully removed" are "interests of the highest order that only increase
21 with the passage of time").

22 Those interests are compelling here. Congress determined that aliens who were stopped at the
23 border should be detained during expedited removal proceedings or pending resolution of their standard
24 removal proceedings. 8 U.S.C. § 1225(b). It not only made such detention mandatory, but severely
25 curtailed ICE's ability to release § 1225(b) aliens. *Jennings*, 583 U.S. at 299, 311; *Thuraissigiam*, 591
26 U.S. at 111. The government seeks to vindicate those interests here, whereas Petitioner seeks to exempt

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28 ⁷ When the government is a party, the third and fourth preliminary injunction factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014).

himself from the governing statutes. Petitioner's requested relief, meanwhile, would undermine the immigration statutory framework. Section 1225(b) largely precludes discretionary relief from removal, and application of § 1225(b) involves a subject matter entrusted to Congress and the Executive Branch.

D. Petitioner's Administrative Procedures Act Claim Fails

The APA is not available to challenge the validity of one's detention. Instead, by the APA's terms, it is available only for final agency action "for which there is no other adequate remedy in court." 5 U.S.C. § 704. The Supreme Court recently held that, for an action bringing claims for relief, under statutes including the APA and the INA, that necessarily imply the invalidity of a detainee's confinement, such "claims fall within the 'core' of the writ of habeas corpus and *must be brought in habeas.*" *Trump v. J.G.G.*, 604 U.S. 670 (2025) (emphasis added). Here, Petitioner seeks "immediate[] release . . . from custody on his own recognizance," either outright or pending a pre-deprivation hearing.

This is a core habeas claim, which fails on the merits for the reasons already discussed, and it is simply not cognizable under the APA. Petitioner's challenge to his detention cannot be premised on the APA.

Petitioner's APA complaints about being arrested at an adjustment of status interview also lack merit and must be denied. With regard to review of agency policies, the Supreme Court has held that "[t]he scope of review under the 'arbitrary and capricious' standard is narrow and a court is not to substitute its judgment for that of the agency." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). "Normally, an agency rule would be arbitrary and capricious if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Id.*

Congress has codified in the INA the Executive Branch's constitutional and inherent authority to investigate, arrest, and detain aliens who are suspected of being, or found to be, unlawfully present in or otherwise removable from the United States to effectuate their removal. *See* 8 U.S.C. §§ 1182, 1225, 1226, 1231, 1357. Among other things—and in contexts not necessarily involved here—the INA authorizes federal immigration officials to make civil immigration arrests with an administrative warrant, 8 U.S.C. § 1226(a), and without a warrant, 8 U.S.C. § 1357(a); and it explicitly grants the

federal government broad discretion when choosing locations to undertake enforcement actions, including courthouses, shelters, and visitation centers. 8 U.S.C. § 1229(e). Consistent with that authority and the Executive Branch's "broad" and "undoubted power" over the enforcement of this Nation's immigration laws, *Arizona v. United States*, 567 U.S. 387, 394 (2012), Petitioner's arrest at an adjustment of status interview was neither arbitrary nor capricious.

V. CONCLUSION

For the foregoing reasons, Petitioner's Motion for TRO/PI should be denied.

Dated: December 18, 2025

ERIC GRANT
United States Attorney

By: /s/ ZACHARY MALINSKI
ZACHARY MALINSKI
Assistant United States Attorney

1	Case 1:25-cv-01806-EPG	09 - HCR Order Requiring Respondent to File a Respo.			none		
2	Case 1:25-cv-01806-EPG	09 - Order Re Consent or Request for Reassignment			none	Pending	
3	Case 1:25-cv-01806-EPG	Temporary Restraining Order			904.7 KB	Pending	
4	Case 1:25-cv-01806-EPG	Order			none	Pending	
5	Case 1:25-cv-01806-EPG	DESIGNATION			none	Pending	
6	Case 1:25-cv-01806-EPG	CONSENT/DECLINE			none	Pending	
7	Case 1:25-cv-01806-EPG	Disposition to			none	Pending	
8	Case 1:25-cv-01806-EPG	Application to Reassign			none	Pending	