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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

Pedro VASQUEZ PERDOMO; Carlos Alexander OSORTO; and Isaac VILLEGAS MOLINA; Jorge HERNANDEZ VIRAMONTES; Jason Brian GAVIDIA; LOS ANGELES WORKER CENTER NETWORK; UNITED FARM WORKERS; COALITION FOR HUMANE IMMIGRANT RIGHTS; IMMIGRANT DEFENDERS LAW CENTER,

Plaintiffs,

v.

Kristi NOEM, in her official capacity as Secretary, Department of Homeland Security; Todd M. LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; Rodney S. SCOTT, in his official capacity as Commissioner, U.S. Customs and Border Patrol; Michael W. BANKS, in his

Case No.: 2:25-cv-05605-MEMF-SP

PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

[Filed concurrently with Declaration of Laura R. Perry Stone]

Date: April 9, 2026
Time: 10:00 a.m.
Place: Courtroom 8B

First Am. Compl. Filed: July 2, 2025

Hon. Maame Ewusi-Mensah Frimpong

official capacity as Chief of U.S. Border Patrol; Kash PATEL, in his official capacity as Director, Federal Bureau of Investigation; Pam BONDI, in her official capacity as U.S. Attorney General; Ernesto SANTACRUZ JR., in his official capacity as Acting Field Office Director for Los Angeles, U.S. Immigration and Customs Enforcement; Eddy WANG, Special Agent in Charge for Los Angeles, Homeland Security Investigations, U.S. Immigration and Customs Enforcement; Gregory K. BOVINO, in his official capacity as Chief Patrol Agent for El Centro Sector of the U.S. Border Patrol; Jeffrey D. STALNAKER, in his official capacity as Acting Chief Patrol Agent, San Diego Sector of the U.S. Border Patrol; Akil DAVIS, in his official capacity as Assistant Director in Charge, Los Angeles Office, Federal Bureau of Investigation; Bilal A. ESSAYLI, in his official capacity as U.S. Attorney for the Central District of California,

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I. INTRODUCTION

The Court should grant Plaintiffs' Motion for Leave to File a Second Amended Complaint ("2AC") under the liberal standards governing leave to amend. Defendants fail to show that any of the five factors that courts consider when deciding whether to grant leave to amend—*i.e.*, prejudice to the opposing party, bad faith, undue delay, futility of amendment, and whether the party has previously amended the pleadings—weigh in their favor here. *See Foman v. Davis*, 371 U.S. 178, 182 (1962). Neither Plaintiffs' additional Fourth Amendment claim alleging unreasonably intrusive stops nor Plaintiffs' Fifth Amendment equal protection claim is futile. Defendants' challenge to Plaintiffs' new Fourth Amendment claim is substantially identical to the standing argument this Court recently rejected as to Plaintiffs' existing Fourth Amendment claim. Plaintiffs' Fifth Amendment claim is not futile because Plaintiffs sufficiently plead discriminatory intent. Defendants will not be prejudiced by Plaintiffs' proposed amendments at this early stage in the litigation, nor will the additional causes of action produce any undue delay. No trial date has been set and no schedule has been entered. Justice thus requires allowing Plaintiffs to amend their complaint to seek the relief afforded to them under the law.

II. ARGUMENT

A. The Proposed Amendments Are Not Futile.

Defendants' argument that Plaintiffs' proposed amendments are futile lacks merit. Amendment is "futile only if no set of facts can be proved under the amendment to the pleadings that would constitute a valid and sufficient claim or defense." *Freedom Found. v. Turner*, 711 F. Supp. 3d 1172, 1182 (C.D. Cal. 2024) (quoting *Miller v. Rykoff-Sexton, Inc.*, 845 F.2d 209, 214 (9th Cir. 1988)). Plaintiffs allege sufficient facts to state additional claims under the Fourth and Fifth Amendments.

1. Plaintiffs' Additional Fourth Amendment Cause of Action Is Not Jurisdictionally Deficient.

Defendants' only argument that Plaintiffs' additional Fourth Amendment claim is futile is that the Court lacks subject matter jurisdiction because Plaintiffs "cannot demonstrate that past isolated encounters with federal agents are likely to recur, or they will again be subjected to any

purported unlawful conduct." Defendants' Opposition To Plaintiffs' Motion For Leave To File Second Amended Complaint ("Opp'n"), ECF 458, at 3–6. This is the same argument this Court rejected when denying Defendants' motion to dismiss the Stop/Arrest claims in the First Amended Complaint ("1AC"). This Court held that both the individual and organizational "Plaintiffs have demonstrated standing to pursue injunctive relief." ECF 419 at 17–18. The Court explained: "Plaintiffs state extensive allegations in the 1AC suggesting that immigration officers are repeatedly targeting the same locations, *see id*. ¶¶ 6–7, 38–40, and stopping people absent reasonable suspicion, *see id*. ¶¶ 36, 44–49, 67–69. Put another way, it is simply untrue that the Plaintiffs have only alleged 'isolated incidents.'" *Id*. This same logic applies to Plaintiffs' additional Fourth Amendment claim. Plaintiffs allege that the unreasonably intrusive stop claim is based on an ongoing policy and practice. ECF 436-2, ¶ 302, ("2AC"). The tactics Plaintiffs challenge are used as a matter of course, without an individualized assessment of the circumstances of each encounter. *Id.* ¶ 99. Just as this Court held that Plaintiffs have standing to pursue their Fourth Amendment claim in the 1AC, Plaintiffs also have standing to pursue their additional Fourth Amendment claim in the 2AC.

As in their recently denied motion to dismiss, Defendants heavily rely on the Supreme Court's order staying the temporary restraining order, and on Justice Kavanaugh's concurrence, to support their futility argument. Opp'n at 1, 3–5. But as this Court already explained, the Supreme Court's interim stay order offered no rationale for its decision, and "the concurrence on which Defendants rely is not binding authority. . . . Nor can this Court fairly attribute the concurrence's opinion—which was signed by one Justice—to the Supreme Court at large." ECF 419 at 20 n.7. Defendants' opposition concedes that "this Court previously rejected Defendants' standing arguments" including their arguments about the Supreme Court's order. Opp'n at 3 n.1. Plaintiffs have standing for injunctive relief to bring their Fourth Amendment intrusive stops claims, and this new cause of action is not futile.[1]

[1] Defendants' reliance on *Hussen v. Noem*, No. 26-cv-324, 2026 WL 657936, at *1, *42 (D. Minn. Mar. 9, 2026), an out-of-circuit district court case, is inapposite. Opp'n at 6. There, the district court held that although Plaintiffs demonstrated that Defendants had "adopted a policy authorizing (continued…)

2. Plaintiffs' Equal Protection Claim Is Not Futile.

Defendants also fail to show that Plaintiffs' equal protection claim is futile. Defendants base their futility argument on the flawed notion that a showing of "invidious discriminatory purpose" is required to plead an equal protection claim. Opp'n at 7 (quoting *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977)). As an initial matter, Defendants ignore that Plaintiffs have pleaded multiple equal protection theories, including that Defendants "expressly classify individuals based on Latino race, color, and/or ethnicity." 2AC ¶ 70. Under an express racial classification theory, Plaintiffs are not required to provide evidence of discriminatory purpose. *See Wayte v. United States*, 470 U.S. 598, 608 n.10 (1985) ("A showing of discriminatory intent is not necessary when the equal protection claim is based on an overtly discriminatory classification").

Moreover, Plaintiffs are not required to allege animus to plead an equal protection claim—even though Plaintiffs do, in the alternative, allege that Defendants' policies are motivated by animus. 2AC ¶ 84. Where a violation of equal protection is not based on an express classification, Plaintiffs need only plead that Defendants' policies and practices are motivated by discriminatory intent, not that such actions are based on "ill will, enmity, or hostility." *Floyd v. City of New York,* 959 F. Supp. 2d 540, 662 (S.D.N.Y. 2013); *see also Vill. of Arlington Heights*, 429 U.S. at 265. Plaintiffs do just that: The 2AC alleges much more than "the mere fact that

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federal immigration officers to conduct investigatory stops based on ethnicity or race without reasonable suspicion that the individuals were violating immigration laws," Plaintiffs failed to show that irreparable injury is likely to reoccur "largely owing to a significant reduction in the scope of Defendants' Minnesota-based operations." *Hussen*, 2026 WL 657936, at *1, 37. Here, Plaintiffs have alleged that Defendants' raids in this District based on a discriminatory pattern or practice remain ongoing. *See* 2AC ¶¶ 79, 83, 88, 114. At least two other courts have recently found standing for forward-looking relief in similar circumstances. *See, e.g.*, *Escobar Molina v. U.S. Dep't of Homeland Sec.*, No. 25-3417, 2025 WL 3465518, at *15–17 (D.D.C. Dec. 2, 2025) (finding that "plaintiffs have sufficiently shown that they cannot avoid repeating the quotidian conduct that led to their original arrests. Courts have been more willing to find that a plaintiff will once again be placed at risk of future injury 'when, for reasons beyond the plaintiff's control, he or she is unable to avoid repeating the conduct that led to the original injury at the hands of the defendant.'" (citation omitted)); *M-J-M-A- v. Hermosillo*, No. 6:25-cv-02011-MTK, 2026 WL 562063, at *15–16 (D. Or. Feb. 27, 2026) (finding that "Plaintiffs present[ed] evidence of Defendants' targeted pattern and practice of violating Plaintiffs' constitutional rights, and Plaintiffs are vulnerable to that practice simply by their presence in the United States").

many individuals affected may be Latino", Opp'n at 7; Plaintiffs plead specific, articulable facts showing that Defendants *intentionally* rely on Latino ethnicity in conducting raids in this District. For example, the 2AC alleges that federal agents make racially-charged statements while conducting raids and that the Department of Homeland Security uses racist dog-whistles for recruitment purposes. 2AC ¶¶ 72–73. Plaintiffs additionally plead discriminatory intent based on historical context, the sequence of events leading up to the challenged policy, and the fact that Defendants have acted in a manner that departs from the norm and past practices. *Id.* ¶¶ 74–79. Plaintiffs point to articulable facts such as officials' "use [of] discriminatory language and stereotypes to justify reliance on apparent Latino ethnicity in connection with the ongoing raids in the District" to support these allegations. *Id*. ¶ 79.

Defendants also argue that Plaintiffs' claim that "immigration authorities are targeting [plaintiffs] for enforcement due to their Latino ethnicity" is "not cognizable." Opp'n at 7. But this flies directly in the face of Supreme Court precedent holding that reliance on race in government decision-making is unconstitutional. *See, e.g.*, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 218 (2023). It is also contrary to the Supreme Court's statement that "the Constitution prohibits selective enforcement of the law based on considerations such as race," *Whren v. United States*, 517 U.S. 806, 813 (1996), and Justice Kavanaugh's recent advisement that immigration "officers must not make interior immigration stops or arrests based on race or ethnicity." *Trump v. Illinois*, 146 S. Ct. 432, 436 n.4 (2025) (Kavanaugh, J., concurring).

Defendants' argument that "the challenged conduct consists of enforcing statutes that regulate immigration status, not race or ethnicity," Opp'n at 7, misrepresents Plaintiffs' equal protection claim by conflating alienage with perceived ethnicity. Plaintiffs' claim is not based on discrimination on the basis of immigration status or alienage—indeed, Plaintiffs in this case include both citizens and non-citizens. Plaintiffs allege discrimination based on Plaintiffs' Latino ethnicity regardless of where individuals are born or their immigration status. This is a cognizable equal protection claim.

Finally, Defendants rely on *DHS v. Regents of the University of California*, 591 U.S. 1

(2020), for the assertion that "the Supreme Court has already rejected this cause of action under similar facts." Opp'n at 7–8. Defendants are wrong. In *Regents*, the Supreme Court found that the plaintiffs failed to sufficiently plead discriminatory intent, concluding that there was no unusual history behind the recission of Deferred Action for Childhood Arrivals ("DACA"), and that the pre- and post-election statements by President Trump at issue were "remote in time and made in unrelated contexts" and therefore were not "probative of the decision at issue." 591 U.S. at 35. Here, Plaintiffs have sufficiently pleaded facts to show not only that Defendants' policies and practices have a discriminatory effect, but also that they are motivated by discriminatory intent.

For example, Plaintiffs allege that two days after the raids in this District began, President Trump claimed that "'Los Angeles[] has been invaded and occupied by Illegal Aliens and Criminals' and stated he was directing Secretary Noem, Secretary Hegseth, and Attorney General Bondi 'to take all such action necessary to liberate Los Angeles from the Migrant Invasion.'" 2AC ¶ 79. Plaintiffs also plead that Defendants have departed from the norm and past practices, including "their shift away from targeted enforcement in an effort to boost arrest numbers at all costs; their decision to move Border Patrol away from the border to conduct daily roving patrols in the interior; and the heavily militarized nature of their operations." *Id.* ¶ 75. Lastly, the Supreme Court concluded that the policy at issue in *Regents*, DACA, focused on alienage, whereas here Plaintiffs allege that Defendants' ongoing policy or practice discriminates on the basis of Latino race, color, and/or ethnicity. *Compare Regents*, 591 U.S. at 10–11, *with* 2AC ¶¶ 294–96. Thus, contrary to Defendants' assertion, the Supreme Court has not rejected an equal protection claim under similar facts.

B. Leave to Amend Will Neither Prejudice Defendants Nor Cause Undue Delay.

The remaining *Foman* factors—prejudice to the opposing party, undue delay, bad faith, and whether the party has previously amended the pleadings—all favor granting leave to amend here. *Foman*, 371 U.S. at 182.

Defendants inaccurately claim that Plaintiffs "could easily have brought [these additional claims] before limited discovery was imposed." Opp'n at 9. As an initial matter, Plaintiffs have

not prejudiced Defendants, or caused undue delay, by moving to amend at this early stage in the litigation, even if Plaintiffs theoretically could have moved to amend sooner.[2]

Defendants' statement is also wrong: Defendants' admissions during expedited discovery led Plaintiffs to conclude that there is a good-faith basis to add these new causes of action in this class action case. For example, federal agents and the two Rule 30(b)(6) designees made statements during depositions that revealed reliance on Latino ethnicity in this District is part of a pattern of officially-sanctioned conduct. Deponents also testified during expedited discovery to facts that demonstrate Defendants are engaged in an officially-sanctioned practice of using highly intrusive tactics as a matter of course during raids.

Defendants' citation to *Jackson v. Bank of Hawaii*, 902 F.2d 1385 (9th Cir. 1990), to support their undue delay argument is unconvincing. *See* Opp'n at 9. There, the Ninth Circuit affirmed the district court's holding that amendment would prejudice defendants because the case had already been "extensively litigated" and would "require [defendants] to relitigate a portion of their state court action." *Jackson*, 902 F.2d at 1388. The *Jackson* Court explained that plaintiffs had cited to "no facts or theories gleaned from the additional discovery" to support amendment and had delayed amending the complaint for *over a year* after they first informed the court of their intention to file an amended complaint. *Id*. In contrast, here, Defendants will not be prejudiced by amendment where expedited discovery is still ongoing and plenary discovery has just begun. Further, Plaintiffs informed the Court of their anticipated amendment at the Rule 16 conference on February 19, 2026, and subsequently filed the instant Motion for leave to amend a week later on February 26, 2026. ECF 436.

Defendants next argue that they "will be prejudiced by allowing Plaintiffs to substantially alter their case after significant discovery efforts to date." Opp'n at 1; *see also id.* at 8. Not true.

[2] Even if Defendants could show undue delay (they cannot), it is well established that "[u]ndue delay by itself is insufficient to justify denying leave to amend." *United States v. United Healthcare Ins. Co.*, 848 F.3d 1161, 1184 (9th Cir. 2016); *see also Howey v. United States*, 481 F.2d 1187, 1190–92 (9th Cir. 1973) (holding that the district court abused its discretion in denying leave to amend on the basis of delay alone despite the fact that the motion for leave to amend was made five years after the complaint was filed).

As Defendants essentially acknowledge, the proposed amendments will have significantly overlapping discovery with the claims in the 1AC, as these new claims depend on much of the same body of evidence as the stop/arrest claims that are *already* subject to discovery. Declaration of Laura R. Perry Stone ("Perry Stone Decl."), ¶ 5 (explaining that Defendants admitted that the proposed 2AC "will substantially be the same complaint"). Thus, Defendants cannot show that the proposed amendments would require them to start over on any of the discovery they have already completed to date nor that the additional claims will "greatly change the nature of the litigation." *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990); *see also Sonoma Cnty. Ass'n of Retired Emps. v. Sonoma Cnty.*, 708 F.3d 1109, 1118 (9th Cir. 2013); *Veg Ex, LLC v. W. Cent. Produce, Inc.*, No. 2:22-cv-01587-MEMF-JC, 2023 WL 11983386, at *4 (C.D. Cal. Nov. 2, 2023) (finding any prejudice to Defendants was insufficient to deny motion for leave to amend even though trial was seven months away because "[i]f further discovery is necessary, there is time for the Court to order such discovery"). Defendants' argument regarding their "significant discovery effort to date" ignores that plenary discovery has just begun and that Defendants have not yet fully complied with their document production obligations in expedited discovery. Defendants thus cannot show they will be prejudiced by amendment at this stage in the litigation.

Nor is there any evidence of bad faith in bringing the proposed amendments. Contrary to Defendants' assertions, these new causes of action were not readily apparent to Plaintiffs when the 1AC was filed on July 2, 2025—only twelve days after the original complaint was filed on June 20, 2025. *See* ECF 1; ECF 16. It was through the course of limited, expedited discovery that Plaintiffs learned more about the role of Defendants' intentional reliance on apparent Latino ethnicity when conducting immigration enforcement operations and the routine tactics used during those operations. Plaintiffs promptly moved to amend the operative complaint to add these additional claims.[3] And while Plaintiffs previously amended their complaint once as a matter of

[3] Defendants' citation to *Allen v. City of Beverly Hills*, 911 F.2d 367 (9th Cir. 1990), does not warrant a contrary result. In *Allen*, the Ninth Circuit held that the district court did not abuse its discretion in denying plaintiff a *fourth chance* to amend his complaint "to locate a portion of the (continued…)

right, this is the *first time* Plaintiffs seek the Court's leave to amend their complaint given the new information gathered in expedited discovery.

III. CONCLUSION

For each of the foregoing reasons, Plaintiffs respectfully request that the Court grant their Motion for Leave to File a Second Amended Complaint.

Dated: March 19, 2026

Respectfully submitted,

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municipal code or state law which creates a property interest in his employment." *Id.* at 373. Moreover, the Ninth Circuit held that any further amendment would be futile because "[t]he provisions of the municipal code and the Personnel Rules simply do not give rise to a right of continued employment in the City Attorney's office no matter what facts are alleged." *Id.* at 374. As explained above, this is the first time Plaintiffs have sought leave to amend, and such an amendment would not be futile here. *See supra* Sections II.A.I, II.A.2.

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Stop/Arrest Plaintiffs, certifies that this brief contains 3737 words, which complies with the word limit of L.R. 11-6.1.

Dated: March 19, 2026

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Plaintiffs,

v.

Kristi NOEM, in her official capacity as Secretary, Department of Homeland

Case No.: 2:25-cv-05605-MEMF-SPx

DECLARATION OF LAURA R. PERRY STONE IN SUPPORT OF PLAINTIFFS' REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

[Filed concurrently with Reply in support of Motion for Leave to File Second Amended Complaint]

Date: April 9, 2026
Time: 10:00 a.m.
Place: Courtroom 8B

Hon. Maame Ewusi-Mensah Frimpong

Security; Todd M. LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; Rodney S. SCOTT, in his official capacity as Commissioner, U.S. Customs and Border Patrol; Michael W. BANKS, in his official capacity as Chief of U.S. Border Patrol; Kash PATEL, in his official capacity as Director, Federal Bureau of Investigation; Pam BONDI, in her official capacity as U.S. Attorney General; Ernesto SANTACRUZ JR., in his official capacity as Acting Field Office Director for Los Angeles, U.S. Immigration and Customs Enforcement; Eddy WANG, Special Agent in Charge for Los Angeles, Homeland Security Investigations, U.S. Immigration and Customs Enforcement; Gregory K. BOVINO, in his official capacity as Chief Patrol Agent for El Centro Sector of the U.S. Border Patrol; Jeffrey D. STALNAKER, in his official capacity as Acting Chief Patrol Agent, San Diego Sector of the U.S. Border Patrol; Akil DAVIS, in his official capacity as Assistant Director in Charge, Los Angeles Office, Federal Bureau of Investigation; Bilal A. ESSAYLI, in his official capacity as U.S. Attorney for the Central District of California,

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DECLARATION OF LAURA R. PERRY STONE

I, Laura R. Perry Stone, declare the following:

1. I am an attorney at Munger, Tolles & Olson LLP and counsel of record to the Stop/Arrest Plaintiffs in the above-captioned action.

2. I make this declaration from my personal knowledge and if called to testify to these facts could and would do so competently.

3. On February 26, 2026, at 9:54 a.m. PT, Defendants emailed Plaintiffs and Intervenors to discuss Defendants' deadlines to file answers to the operative complaints.

4. On February 27, 2026, at 7:24 a.m. PT, Plaintiffs emailed Defendants that it did not make sense to delay the filing of Defendants' answers. Plaintiffs further stated that "[t]he bulk of the claims have already survived Defendants' motion to dismiss, and it is important to understand which allegations Defendants admit and which they deny, as well as any affirmative defenses they intend to assert, for purposes of discovery and other proceedings going forward."

5. On February 27, 2026, at 8:24 a.m. PT, Defendants stated that they "do not believe it is productive to file multiple answers for what will substantially be the same complaint, assuming the judge were to grant [Plaintiffs'] motion for leave to amend."

6. On March 3, 2026, at 1:03 p.m. PT, Plaintiffs emailed Defendants and agreed to stipulate to Defendants filing their answer to the First Amended Complaint on March 12, 2026.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 19th day of March, 2026, at Los Angeles, California.

/s/ Laura R. Perry Stone
Laura R. Perry Stone
MUNGER, TOLLES & OLSON LLP