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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

L.T., SEVAK MESROBIAN, JOSE MAURO SALAZAR GARZA, AND J.M., on behalf of themselves and all others similarly situated; COALITION FOR HUMANE IMMIGRANT RIGHTS,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement; JAIME RIOS, Acting Director of Los Angeles Field Office, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; U.S. DEPARTMENT OF HOMELAND SECURITY; KRISTI NOEM, Secretary, U.S. Department of Homeland Security,

Defendants.

Case No. 5:26-cv-00322-SSS-SPx

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISMISS THE COMPLAINT

CLASS ACTION

Date: May 22, 2026
Time: 2:00 p.m.
Ctrm: 2, 2nd Floor
3470 12th Street
Riverside, CA 92501
Hon. Sunshine Sykes

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I. INTRODUCTION

Plaintiffs are civil immigration detainees held at the Adelanto ICE Processing Center ("Adelanto"), a facility that the federal government selected, funded with a $2 billion contract, and is statutorily obligated to oversee. They challenge conditions that include contaminated drinking water, inedible food, unsanitary conditions, grossly inadequate medical care, and retaliatory solitary confinement—conditions that fall far below constitutional standards and the government's own Performance-Based National Detention Standards ("PBNDS"). Despite all of this, Defendants awarded the facility a "Good" rating.

Defendants argue that they bear no constitutional responsibility for the conditions at Adelanto because GEO Group, Inc. ("GEO"), the private contractor that operates Adelanto, handles day-to-day facility operations. But this premise is wrong as a matter of law, factually unconscionable, and irreconcilable with Defendants' prior positions. The Supreme Court has held that the government's constitutional duty to provide humane conditions of confinement cannot be contracted away. And the Ninth Circuit has held—at the urging of Defendants—that ICE's detention operations at privately run facilities are federal operations over which ICE exercises authority through its contracting power and detention standards. Defendants cannot claim that privately operated detention facilities are extensions of federal authority when it suits them, only to disclaim all responsibility when detainees challenge the conditions within those same facilities.

Defendants' remaining arguments fare no better. Plaintiffs have standing because their injuries are directly traceable to Defendants' affirmative decisions—including the decision to rapidly repopulate Adelanto despite known staffing deficiencies and the refusal to enforce compliance with the Constitution and PBNDS. An injunction against Defendants would redress Plaintiffs' injuries because Defendants set standards and policies at Adelanto, fund the operations, control staffing plans, and have the authority to ensure compliance.

If Defendants' theory were accepted, it would create an unconscionable result: absolving the federal government from responsibility for unconstitutional conditions in its detention centers. Defendants' Motion to Dismiss the Complaint, ECF 59, ("Motion") should be denied.[1]

II. ARGUMENT

A. Defendants Cannot Shift Their Constitutional Obligations to GEO

Defendants' central argument—that Plaintiffs have "sued the wrong defendants" because GEO exercises day-to-day operational control over Adelanto—rests on a fallacious rewriting of the constitutional obligations at stake in this case. Motion at 7. Defendants do not dispute that they are responsible for Plaintiffs' detention, that they contracted with GEO to carry out that detention, set conditions standards, have staff onsite responsible for compliance and reviewing grievances weekly, (ECF 54-1, ¶ 9; ECF 54-2, at ECF 21, 62), routinely inspect the facility, (ECF 54-1 ¶¶ 7-9, 11), have control over staffing plans, (ECF 54-2 at ECF 17-18), are responsible for identifying deficiencies and corrective action (ECF 54-1 ¶ 12; Ex. 4, at 7), fund GEO's operations with over $400 million per year under a $2 billion

[1] Defendants open the Motion by arguing plaintiffs seek sweeping relief. See Motion at 1. What Plaintiffs actually seek is a facility-wide injunction that remedies specific conditions deficiencies. At this stage of proceedings, such relief is appropriate under three avenues. First, the Court can provisionally certify the class and issue a class-wide injunction. *See Roman v. Wolf*, 977 F.3d 935, 944 (9th Cir. 2020) (affirming provisional certification issued in conjunction with preliminary injunction); *Pablo Sequen v. Albarran*, 810 F. Supp. 3d 1084, 1121 (N.D. Cal. 2025) ("Courts routinely grant provisional class certification for purposes of entering injunctive relief prior to a final ruling on class certification"). Second, the Court can issue class-wide relief before ruling on class certification. *A.A.R.P. v. Trump*, 605 U.S. 91, 98 (2025) ("[C]ourts may issue temporary relief to a putative class[.]"). Third, in order to afford plaintiffs complete relief, the Court can and should order systemic relief. *See Vasquez Perdomo v. Noem*, 148 F.4th 656, 688 (9th Cir. 2025); *Dickinson v. Trump*, No. 3:25-CV-2170-SI, 2026 WL 279917, at *9 (D. Or. Feb. 3, 2026). To remedy Plaintiffs' exposure to contagious diseases, for instance, the government must implement proper intake and sick call systems. *See Hoptowit v. Ray*, 682 F.2d 1237, 1253 (9th Cir. 1982) overruled on other grounds by *Sandin v. Conner*, 515 U.S. 472 (1995).

contract, Compl. ¶ 26, have the power to order or make changes themselves, and have failed to take such measures to meet constitutional standards at Adelanto. Defendants contend that because they hired GEO to operate the facility, they bear no constitutional responsibility for its conditions, no matter how inhumane those conditions become. The Constitution does not permit such an abdication of the government's constitutional duty to those in its custody; the consequences of such a finding would give the Government free reign to violate fundamental human rights.

1. Defendants Owe a Nondelegable Constitutional Duty to Plaintiffs

The Supreme Court has made clear that "when the State takes a person into its custody and holds him there against his will, the Constitution imposes upon it a corresponding duty to assume some responsibility for his safety and general well-being." *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 199-200 (1989). This duty encompasses the obligation to provide "food, clothing, shelter, [and] medical care" because by restraining an individual's liberty, the government has rendered him "unable to care for himself." *Id*. at 200.

This constitutional duty cannot be contracted away. The Supreme Court squarely addressed this point in *West v. Atkins*, holding that "[c]ontracting out prison medical care does not relieve the State of its constitutional duty to provide adequate medical treatment to those in its custody." 487 U.S. 42, 56 (1988). The Ninth Circuit has applied the same principle, holding that government entities "cannot shirk obligations … under federal law by housing [plaintiffs] in facilities operated by [third-parties]." *Armstrong v. Brown*, 732 F.3d 955, 957 (9th Cir. 2013). Any other rule would produce an unconscionable result: it would allow the federal government to shirk its constitutional responsibilities by engaging private actors.

2. Defendants' Cases Are Inapposite

Defendants rely on a series of inapposite cases in support of their faulty claim that they can pass their constitutional or statutory liability to GEO.

Logue and *Orleans* are Federal Tort Claims Act ("FTCA") cases against federal contractors for damages with no application here. *See Logue v. United States*, 412 U.S. 521 (1973) (finding federal contractors were not federal employees for purposes of negligence); *United States v. Orleans*, 425 U.S. 807 (1976) (same). Plaintiffs have not sued GEO, do not sue under the FTCA, and do not seek damages. *Padilla* is equally inapposite—it addressed only the procedural question of the proper respondent in a habeas petition challenging the *fact* of detention, not *conditions* of confinement, and the Court recognized that its immediate-custodian rule "does not apply when a habeas petitioner challenges something other than his present physical confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 438 (2004). This is not a habeas case and the custodian rule does not apply. Lastly, *Minneci v. Pollard*, held that a "federal prisoner seek[ing] damages from privately employed personnel working at a privately operated federal prison" does not have a *Bivens* remedy and "must seek a remedy under state tort law." 565 U.S. 118, 131 (2012). Plaintiffs do not bring a *Bivens* claim here.

GEO Group, Inc. v. Newsom, 50 F.4th 745 (9th Cir. 2022) (en banc) also undercuts Defendants' position. There, the federal government and GEO sued California, challenging a California statute banning private detention facilities in the state. The federal government's argument, which the Ninth Circuit accepted, was that ICE's detention operations at privately run facilities are federal operations that states cannot interfere with, precisely because ICE exercises authority over those operations through its contracting power and its detention standards. *Id*. at 756-57. Thus, when it suited the government to claim that privately operated detention facilities are extensions of federal operations, it did so. Defendants cannot now reverse course and argue that those same facilities are wholly independent from the federal government when detainees challenge the punitive conditions within them.

3. Plaintiffs Do Not Seek to Enforce the ICE-GEO Contract

Defendants argue Plaintiffs lack a cause of action or "party standing" to enforce ICE's contract with GEO. This is a strawman argument. Plaintiffs do not assert a cause of action as third-party beneficiaries of the ICE-GEO contract. The sources of Plaintiffs' rights are the Constitution, Rehabilitation Act, and Administrative Procedure Act—not the ICE-GEO contract. Plaintiffs' constitutional and statutory rights exist independent of any contract; here, the ICE-GEO contract is merely evidence of the government's control over conditions at Adelanto and its power to make changes. Compl. ¶¶ 24-28, 37; ECF 54-2 at ECF 2.

Because Plaintiffs are not seeking to enforce the ICE-GEO contract, *Xirum v. U.S. ICE* does not support Defendants' position. To the contrary, Defendants mischaracterize *Xirum*'s holdings: the court held that ICE's certification of a facility as PBNDS-compliant was final agency action reviewable under the APA, *Xirum*, 2023 WL 2683112, at *11-12 (S.D. Ind. Mar. 29, 2023), and sustained a claim that ICE's continued funding of a facility despite known violations constituted abdication of statutory responsibilities falling within the *Heckler* exception, *Xirum*, 2024 WL 3718145, at *9-12 (S.D. Ind. Aug. 8, 2024) (citing *Heckler v. Chaney,* 470 U.S. 821, 833 n.4 (1985)).

B. GEO is Not a Necessary Defendant

GEO is not a necessary defendant in this litigation. Plaintiffs' constitutional claims are properly asserted against the government, and the government is the only necessary party for both legal and practical reasons.

Courts in this Circuit have consistently entered injunctions against the government alone, rather than the contracted operator of a detention facility, implicitly determining that the private entity is not a necessary party. *See Roman v. Wolf*, 5:20-cv-00768-TJH-PVC, Dkt. 55 (ordering the government, not GEO, to make changes at Adelanto), *aff'd in part*, 977 F.3d 935, 938 n.1 (9th Cir. 2020) (affirming conditions injunction at Adelanto against the government, where GEO group was not

a party);[2] Zepeda Rivas v. Jennings, 465 F. Supp. 3d 1028, 1036–37 (N.D. Cal. 2020) (entering injunction against "ICE and all of its officers, agents, servants, employees" at GEO facility) *aff'd*, 845 F. App'x 530, 535 (9th Cir. 2021); *Ruiz v. ICE*, No. 3:25-CV-09757-MMC, 2026 WL 851980, (N.D. Cal. Mar. 27, 2026) (entering injunction against government, not contracted facility operator); *see also Armstrong*, 732 F.3d at 957 (affirming injunction against government, not contracted facility operator).[3] Plaintiffs could not identify any case holding that the private entity operating a facility is a required party when detained individuals sue the government for injunctive relief based on conditions violations.[4] Nor has GEO moved to intervene, suggesting its tacit understanding that the government already represents its interests. *Cf. Roman v. Mayorkas*, No. ED CV 20-00768 TJH, 2021 WL 4621947, at *1 (C.D. Cal. July 7, 2021) (noting that the government represents the warden of Adelanto).

Courts have even issued injunctions against the government requiring changed conduct by government-contractors. In *Bregsal v. Brock*, the Ninth Circuit held that

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[2] The warden of Adelanto was named in Roman because that case involved a habeas petition; naming the warden is not necessary here because this is not a habeas case and because under Rule 65(d), an injunction would run against the government's "officers, agents, servants, employees, and attorneys, and other persons who are in active concert or participation" with the government. If the Court prefers that the warden be named as an additional government defendant, plaintiffs are happy to stipulate to this addition and refile the complaint and request for injunctive relief for consideration on an expedited basis.

[3] Because courts independently assess standing and required joinder under Rule 19, these courts implicitly determined that the contracted operators were not necessary parties.

[4] Further, while Plaintiffs contend that GEO is a government actor, *see Torres v. United States Dep't of Homeland Sec.*, 411 F. Supp. 3d 1036, 1057 (C.D. Cal. 2019), if added as a party, GEO would likely raise defenses that could complicate the litigation, namely that they are not liable for constitutional violations as private contractors. *See, e.g., Geo Grp., Inc.*, 50 F.4th at 755. GEO might also seek to litigate its contract with ICE within the scope of this case. Adding GEO would also enable the government to continue disclaiming responsibility for conditions and delay Plaintiffs' urgent need for relief while this issue is litigated.

a preliminary injunction requiring the Department of Labor to enforce statutory standards upon labor contractors could hold without joining the contractors. 843 F.2d 1163, 1170 (9th Cir. 1987). The Ninth Circuit acknowledged that "a major class of persons that will be affected by our ruling . . . is not before the court" but "[t]he fact that forestry labor contractors are not among the parties here does not prevent the district court, or this court, from issuing an injunction." *Id*. at 1170. There, as here, plaintiffs request that the government ensure compliance with its own standards. Courts in this Circuit have followed this principle in prison conditions cases as well. *See, e.g., Jensen v. Shinn*, 609 F.Supp.3d 789, 866, n. 36 & 912-13 (D. Ariz. 2022) (holding government liable for unconstitutional prison medical care provided by private contractor because government could compel sufficient staffing and "when [state director of prisons] believes his chosen vendor must provide health care in a different manner, he must enforce his rights under the vendor contract").

In addition, an injunction against the government provides a streamlined, effective remedy because it is the government that bears constitutional responsibility for conditions and has discretion to determine how to meet those obligations. *See Hoptowit*, 682 F.2d at 1253-54 ("[T]here is more than one way in which the State could provide necessary medical services."). For example, if the Court orders the government to meet its constitutional obligations by increasing staff or providing clean water, the government could take various steps to comply: it could order GEO to take certain actions, bring in actors beyond GEO to provide these needs, or provide them itself. Even if GEO were not contractually obligated to provide water and meet other basic needs—or if GEO were unable to fulfill those needs—the government would still be ultimately responsible for its constitutional obligations. And because Plaintiffs' claims involve systemic policies and practices, rather than concerns about a given GEO employee, the necessary injunction targets the systemic policies and

practices that the government sets and controls.[5]

C. Plaintiffs Have Standing

1. Individual Plaintiffs Have Standing

Having established that Defendants owe a nondelegable constitutional duty to Plaintiffs, the standing analysis follows directly: Plaintiffs' injuries are traceable to Defendants' breach of their constitutional and statutory obligations, and an injunction against Defendants will redress them. Defendants' argument to the contrary relies on inapposite case law and plainly fails.

Traceability. Traceability requires that the Complaint plausibly allege a "fairly traceable" connection between Defendants' conduct and Plaintiffs' injuries. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992). The Complaint alleges that Defendants made the affirmative decision to detain Plaintiffs in inhumane conditions and to rapidly repopulate Adelanto with nearly two thousand detainees despite knowing the facility lacked adequate staffing and medical resources (Compl. ¶¶ 38, 188); that Defendants have a duty to care for the people they detain (Compl. ¶¶ 36, 153); that Defendants created standards and then systematically failed to enforce them (Compl. ¶¶ 28-29, 131, 186); that Defendants conducted an inadequate inspection and awarded a "Good" rating, allowing the facility to continue operating without remediation (Compl. ¶¶ 44-46, 132-34, 189-90); and that while Defendants bear responsibility for conditions, they have taken no action to remedy the unconstitutional conditions at Adelanto (¶¶ 19-23, 131-32, 175). Plaintiffs' injuries are not caused by

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[5] Moreover, while GEO is the contractor today, that could change tomorrow—ICE could purchase the facility or seek to change contractors. *See ICE Detention Reengineering Initiative,* https://www.governor.nh.gov/sites/g/files/ehbemt971/files/media/media_document/merrimack-nh-detention-reengineering-initiative-final.pdf (indicating ICE intends to purchase ten existing facilities where it operates); Ryan J. Foley & Michael Biesecker, *ICE replaces contractor at largest detention camp after scrutiny of living conditions*, AP News (March 13, 2026) https://apnews.com/article/ice-detention-facility-camp-east-montana-conditions-contract-c7d369ed5fcbe19d87868b9b337f5211.

"independent day-to-day operational choices of GEO and its employees." Mot. at 12. They are the direct result of the government's standards, policies, decisions—including its failure to require and implement proper health care systems. *See Brown v. Plata*, 563 U.S. 493, 506 (2011) ("Because plaintiffs do not base their case on deficiencies in care provided on any one occasion, this Court has no occasion to consider whether these instances of delay—or any other deficiency in medical care complained of by the plaintiffs … if considered in isolation. Plaintiffs rely on systemwide deficiencies in the provision of medical and mental health care[.]"). It is the government that tells its contractor what to do, *see* Ex. 1 (contract requiring compliance with ICE's standards); Ex. 5 (GEO responding to ICE's identification of deficiencies with corrective action plan); Ex. 6 at ECF 80 (providing for assessment of contractor performance), and it is the government's systemic actions that cause and perpetuate the harms Plaintiffs continue to suffer every day.

Defendants' reliance on *Murthy v. Missouri* is misplaced. In *Murthy*, the Supreme Court held that plaintiffs failed to demonstrate traceability because the record showed no "specific causation" between government conduct and social media companies' content moderation decisions. 603 U.S. 43, 59 (2024). Here, by contrast, Plaintiffs allege straightforward causation: Defendants took Plaintiffs into federal custody and confined them at Adelanto, despite the facility's obvious lack of staffing and resources to comply with the Constitution and Defendants' own standards, and have failed to provide and ensure humane conditions. Compl. ¶¶ 38, 131, 188.

Ahn is also materially distinguishable. *Ahn v. GEO Grp.*, 2024 WL 1258428 (E.D. Cal. Mar. 25, 2024). First, *Ahn* was an FTCA case seeking damages for a detainee's death at another GEO-operated facility. The court's analysis turned on the FTCA's independent-contractor and discretionary-function exceptions to the government's waiver of sovereign immunity, statutory defenses that have no application here. Second, the Court's holding addressed whether the government

vicariously controlled GEO's day-to-day physical performance for FTCA purposes—again, not applicable here.

Redressability. An injunction against Defendants would redress Plaintiffs' injuries because Defendants control conditions at Adelanto. Conditions at Adelanto are not dependent on GEO's "unfettered choices," Mot. at 12; Defendants set the standards and policies at Adelanto, fund operations, control staffing plans, conduct inspections, are responsible for identifying deficiencies and corrective action, and have the authority to compel GEO's compliance, terminate the contract entirely, or to bring in other actors to meet their constitutional obligations. Compl. ¶¶ 28, 131-36. Unlike the social media platforms in *Murthy*, which were independent companies exercising their own editorial judgment, GEO is ICE's contractor carrying out a federal function under mandatory constitutional standards and federal oversight. *Cf. Murthy*, 603 U.S. 73. GEO works for ICE, not the other way around—an injunction against the government would therefore order the relief necessary to remedy Plaintiffs' harms.

Defendants detained Plaintiffs, took them into federal custody, and confined them at a facility that Defendants selected, funded, and are statutorily obligated to oversee. 6 U.S.C. § 205(b); 8 U.S.C.§ 1231(g)(1); Compl. ¶ 24. ICE inspects Adelanto to assess compliance with its standards, rates the facility based on those inspections, and has the power to take or compel corrective action or terminate the contract. Compl. ¶¶ 131-36. Congress specifically appropriated funds for these inspections and conditioned ICE's detention expenditures on adequate performance evaluations. Compl. ¶¶ 134-36. And it was Defendants who made the decision to rapidly repopulate Adelanto despite the facility's obvious lack of staffing and resources to comply with the PBNDS. Compl. ¶¶ 38, 188. Under the Fifth Amendment, Defendants must provide non-punitive conditions and adequate medical care. Neither obligation is being met.

Ripeness. Plaintiffs' claims are undeniably ripe. They are suffering ongoing and imminent harms. They seek an injunction to remedy ongoing inhumane conditions including dirty water, spoiled food, hygiene issues, and inadequate medical care. Compl. ¶¶ 39-130. These concrete, present harms satisfy Article III. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993) ("demonstrably unsafe drinking water" establishes harm without waiting for "an attack of dysentery"); *Graves v. Arpaio*, 623 F.3d 1043, 1047 (9th Cir. 2010) (ongoing inhumane conditions represent concrete harms). Every detained individual at Adelanto also faces imminent harm because of the broken medical system. *See Helling*, 509 U.S. 25, 33 ("[A] remedy for unsafe conditions need not await a tragic event"); *id*. ("It would be odd to deny an injunction to inmates who plainly proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had happened to them."); *Brown*, 563 U.S. at 551 ("[S]ystemwide deficiencies in the provision of medical and mental health care [], taken as a whole, subject sick and mentally ill prisoners in California to 'substantial risk of serious harm' and cause the delivery of care in the prisons to fall below the evolving standards of decency that mark the progress of a maturing society."); *Parsons v. Ryan*, 754 F.3d 657, 679 (9th Cir. 2014) ("[I]nadequate health care in a prison system endangers every inmate.").

2. § 1252(f)(1) Does Not Bar Plaintiffs' Requested Relief

Defendants' argument that 8 U.S.C. § 1252(f)(1) strips this Court of authority to issue class-wide injunctive relief also fails. Section 1252(f)(1) does not "categorically insulate immigration enforcement from 'judicial classwide injunctions.'" *Gonzalez v. U.S. Immigr. & Customs Enf't*, 975 F.3d 788, 812 (9th Cir. 2020). It is not a threshold jurisdictional bar; it merely limits certain kinds of injunctive relief. *Garland v. Aleman Gonzalez*, 596 U.S. 543, 549 (2022); Biden *v. Texas*, 597 U.S. 785, 798, 142 S.Ct. 2528, 2539 (2022) ("Section 1252(f)(1) deprives courts of the power to issue a specific category of remedies: those that 'enjoin or restrain the operation of' the relevant sections of the statute. . . . Congress included

that language in a provision whose title – 'Limit on injunctive relief' – makes clear the narrowness of its scope.").

Plaintiffs' requested relief does not implicate any provision covered by Section 1252(f)(1). Their Fifth Amendment claims arise from the United States Constitution. Their Rehabilitation Act claims arise from 29 U.S.C. § 794. Their APA claims challenge the agency's failure to follow its own standards. None of these claims seeks to enjoin or restrain the operation of Sections 1221-1231 of the INA. Plaintiffs' claims do not implicate the detention provisions the government cites, Mot. at 13, as they are about *conditions* of detention, not detention itself.

Even if the injunction were to have some incidental downstream effect on a covered INA provision, that would not bring it within Section 1252(f)(1)'s scope. The Ninth Circuit has repeatedly held "that § 1252(f)(1) does not prohibit an injunction" issued under non-covered provisions "simply because of collateral effects on a covered provision." *Al Otro Lado v. EOIR*, 138 F.4th 1102, 1125 (9th Cir. 2025) (en banc). There is also a strong presumption that the judiciary may address constitutional claims. *Allen v. Milas*, 896 F.3d 1094, 1108 (9th Cir. 2018).

3. CHIRLA Has Associational and Organizational Standing

Defendants' contention that CHIRLA lacks standing fails. Motion. at 13–14. Controlling Ninth Circuit caselaw confirms that CHIRLA has both associational and organizational standing.

In *Vasquez Perdomo v. Noem*, 148 F.4th 656, 676 (9th Cir. 2025), the Ninth Circuit concluded that CHIRLA had associational standing because its members were at risk of being injured by the government's practice of racially profiling and detaining individuals. Here, Plaintiffs similarly allege that (1) CHIRLA has members who would otherwise have standing to sue in their own right because it has detained members who risk imminent harm; (2) the interests CHIRLA seeks to protect are germane to its purpose of protecting indigent immigrants; and (3) neither the claim asserted nor the relief requested requires the participation of individual members in

the lawsuit. *Id.*; *see* Compl. ¶ 18; Salas Decl. at ¶ 8 ("At least one CHIRLA member is currently detained at Adelanto. Because many CHIRLA members are immigrants, many members are at risk of being detained and taken to Adelanto."); Salas Decl. at ¶¶ 2, 7, 29.

Defendants selectively quote *Associated Gen. Contractors of Cal., Inc. v. Coal. for Econ. Equity,* for the proposition that "individualized proof" bars associational standing here. 950 F.2d 1401 (9th Cir. 1991). But they omit the holding: because the association sought declaratory and prospective relief rather than money damages, individualized proof was unnecessary and the *Hunt* test was satisfied. *Id*. at 1408 (citing *Alaska Fish & Wildlife Fed'n v. Dunkle*, 829 F.2d 933, 938 (9th Cir. 1987) (permitting standing "because the [organization] seeks declaratory and prospective relief rather than money damages [and thus] its members need not participate directly in the litigation")). This case thus undermines their own position.

Harris v. McRae is also unavailing; its standing analysis is limited to Free Exercise Clause claims. 448 U.S. 297, 321 (1980). Likewise, *Hunt v. Wash. State Apple Advert. Comm'n,* addresses only whether state agencies can invoke associational standing. 432 U.S. 333 (1977).

CHIRLA also has organizational standing because the conditions at Adelanto have impaired its core business activity of providing legal services—the same harm the Ninth Circuit found was sufficient to confer organizational standing in *Immigrant Def. Law Ctr. v. Noem*, 145 F.4th 972, 988 (9th Cir. 2025). Defendants cite *FDA v. All. for Hippocratic Med.*, where the Supreme Court found that organizational plaintiffs could not spend their way into standing. 602 U.S. 367 (2024). But the deficiency there was that the claimed injury consisted of costs incurred to oppose the regulatory actions the plaintiffs disagreed with—not actions that had actually harmed their core business activities. *Id.* at 393. CHIRLA's theory is fundamentally different; Defendants' actions have directly impaired CHIRLA's core business activities. *See Immigrant Def. Law Ctr.*, 145 F.4th at 988. The unconstitutional conditions at

Adelanto have increased call volumes to CHIRLA, compromised its ability to screen prospective clients' claims, and impaired its legal representation of detainees—each a concrete injury to CHIRLA's day-to-day operations, not a self-inflicted litigation cost. Thompson-Lleras Decl. ¶¶ 28–30; Salas Decl. ¶¶ 15, 29–34.

D. The Complaint Is Not a Shotgun Pleading

"The touchstone of Rule 8 is to provide notice of the entitlement to relief," meaning that "[f]actual allegations . . . must be tied to corresponding causes of action . . . in a manner that actually gives Defendants notice of the claim." *Gibson v. City of Portland*, 165 F.4th 1265, 1293 (9th Cir. 2026). The Complaint does exactly that: each count has a corresponding section of detailed factual allegations and explicates a distinct legal basis for relief. *See* Compl. ¶¶ 80-130, 152-65 (conditions constituting punishment); ¶¶ 47-68, 166-70 (unconstitutional healthcare deficiencies); ¶¶ 69-79, 171-80 (failures to accommodate amounting to disability discrimination); ¶¶ 131-138, 181-92 (agency action violating the APA).

None of Defendants' arguments prove otherwise. First, incorporation by reference does not automatically convert the Complaint into a shotgun pleading. Defendants' case law makes clear that "[i]ncorporation by reference is permitted by Rule 10(b) and (c)" and creates a problem only when used "indiscriminately," making it "difficult, if not impossible, for the opposing party to formulate a response." *Gibson*, 165 F.4th at 1288. That is not the case here. Second, referring to the same facts in multiple counts does not "mix[] legal theories." *See* Motion at 4-5. It is axiomatic that "'the same course of wrongful conduct' . . . may frequently give rise to more than a single cause of action." *Lawlor v. Nat'l Screen Serv. Corp.*, 349 U.S. 322, 327–28 (1955). Finally, notwithstanding Defendants' argument that they have no "[o]perational control over the conditions Plaintiffs actually challenge," Motion at 7, the Complaint plainly alleges Defendants' liability as the "legal custodian of Plaintiffs" "responsible for ensuring immigrants are kept in conditions that comply with the Constitution and the law." Compl. ¶¶ 19, 22; *cf. McHenry v. Renne*, 84 F.3d

1172, 1177-78 (9th Cir. 1996) (affirming dismissal because "one cannot determine from the complaint who is being sued, for what relief, and on what theory, with enough detail to guide discovery"); *Magluta v. Samples*, 256 F.3d 1282, 1284 (11th Cir. 2001) (remanding with instructions to order repleading where "all defendants are charged in each count" and "geographic and temporal realities make plain that all of the defendants could not have participated in every act complained of."). In sum, Plaintiffs satisfy Rule 8.

E. Plaintiffs State Fifth Amendment Claims

As a threshold matter, Defendants contend the Complaint attributes harmful conduct to Adelanto staff rather than to federal officials, and therefore fails to allege the requisite governmental intent. But there is no subjective intent requirement for Fifth Amendment claims; the applicable standard for civil detainees is purely objective. *See Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).

In Count One, Plaintiffs state a plausible claim that conditions at Adelanto are punitive. Conditions violate the Fifth Amendment where they are (1) "expressly intended to punish," (2) "excessive in relation" to a non-punitive purpose, ***or*** (3) could be "accomplished in so many alternative and less harsh methods." *Bell v. Wolfish*, 441 U.S. 520, 535-39 (1979); *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004). The Complaint alleges each prong: Defendants are on record stating the purpose of detention is to punish and deter illegal entry (Compl. ¶¶ 155, 159); conditions including inedible food, undrinkable water, grossly inadequate medical care, and retaliatory solitary confinement bear no reasonable relationship to any legitimate governmental objective (Compl. ¶¶ 39-130, 155-65); and Defendants' own standards prove less harsh methods exist. Additionally, conditions "similar to" or "more restrictive than" those of criminal prisoners are presumptively punitive under Jones, 393 F.3d at 932-34, and the Complaint expressly alleges Adelanto's conditions are worse than prison (Compl. ¶¶ 39, 155-58, 162-63).

On Count Two, Plaintiffs have alleged the government made an intentional decision regarding conditions that posed a substantial risk of serious harm, failed to take reasonable measures to abate that risk despite the obvious consequences, and the failure caused plaintiff's injuries. *Roman*, 977 F.3d at 943; Compl. ¶¶ 167-70. This test does not require Plaintiffs to show any individual official subjectively knew of and disregarded a risk—it asks only whether the conduct was objectively unreasonable.

Defendants argue that ICE's creation of the PBNDS and routine inspections of Adelanto "directly contradict" any allegation of punitive intent or deliberate indifference. *See* Motion at 15. This argument improperly asks the Court to resolve a factual dispute on a motion to dismiss. The Complaint alleges that ICE created comprehensive standards, inspected the facility, and knew about the deplorable conditions, yet failed to appropriately remedy them. Compl. ¶¶ 131-34, 186-92. Adopting standards that are not enforced is not evidence of good faith, it is evidence of awareness of a problem coupled with a failure to remedy it—the very definition of deliberate indifference. S*ee Castro v. Cnty. of Los Angeles,* 833 F.3d 1060, 1071 (9th Cir. 2016) (consciously taking no action can be an intentional decision); *Roman*, 977 F.3d at 944 (government's "inadequate response reflected a reckless disregard for detainee safety."). Finally, *Fraihat* does not foreclose a deliberate indifference claim; it demonstrates that the adequacy of ICE's oversight procedures is an issue of fact that cannot be resolved at the pleading stage. *See Fraihat v. U.S. Immigr. & Customs Enf't*, 16 F.4th 613 (9th Cir. 2021).

F. Plaintiffs State a Rehabilitation Act Claim

Defendants are subject to § 504 of the Rehabilitation Act, which expressly applies to "program[s] or activit[ies] receiving Federal financial assistance or under *any program or activity conducted by any Executive agency*. . ." 29 U.S.C.A. § 794(a) (emphasis added). "Program or activity" includes "all of the operations of . . . [an] agency." *Id*. § 794(b). The Rehabilitation Act applies to DHS and ICE's activities,

including detention, because they are executive branch agencies. *Franco-Gonzales v. Holder*, 767 F. Supp. 2d 1034 (C.D. Cal. 2010) (finding likelihood of success for Rehabilitation Act claims against DHS).

Defendants' citations to *U.S. Dep't of Transp. v. Paralyzed Veterans of Am.*, 477 U.S. 597, 605 (1986) and *Castle v. Eurofresh, Inc.*, 731 F.3d 901, 908 (9th Cir. 2013) are misleading. Both cases stand for the proposition that *companies* that do not directly receive federal funding are not subject to the Rehabilitation Act. Neither case discusses the application of the Rehabilitation Act to federal agencies, let alone rebuts clear statutory language.

Defendants also wrongly imply that Plaintiffs must allege "specific discriminatory intent" to state a Rehabilitation Act claim. Motion at 16. That showing is not required in Rehabilitation Act suits where, as here, Plaintiffs seek only injunctive relief. *A. J. T. v. Osseo Area Schs.*, 605 U.S. 335, 344 (2025) (noting intent is not required to obtain injunctive relief under ADA); *McGary v. City of Portland*, 386 F.3d 1259, 1266 (9th Cir. 2004) ("A plaintiff need not allege either disparate treatment or disparate impact in order to state a reasonable accommodation claim").

G. Plaintiffs State an APA Claim

1. APA Review is Not Precluded

The APA imposes a "strong presumption favoring judicial review" of agency actions, and the government must carry a "heavy burden" to establish that Congress intended to preclude judicial review. *Mach Mining, LLC v. EEOC*, 135 S. Ct. 1645, 1651 (2015) (quotation omitted). A court in this District previously determined that similar claims were reviewable. *Torres*, 11 F. Supp. 3d at 1068-69.

Under § 701(a)(1), Defendants have not pointed to any statute that indicates Congress intended to limit judicial review of ICE's detention-oversight decisions. The provisions it cites involve immigration enforcement, not detention conditions. Motion at 16. Neither provision contains review-preclusion language; this absence is dispositive.

Second, the exception for agency action committed to agency discretion under § 701(a)(2) "has been construed 'narrowly' to apply only in 'those rare circumstances where the relevant statute is drawn so that a court would have no meaningful standard against which to judge the agency's exercise of discretion.'" *Cmty. Legal Servs. in E. Palo Alto v. HHS.*, 137 F.4th 932, 939 (9th Cir. 2025). It does not bar review where "regulations or agency practice provide a 'meaningful standard'" for judicial review. *Spencer Enters., Inc.*, 345 F.3d at 688; *Alcaraz v. INS*, 384 F.3d 1150, 1161 (9th Cir. 2004). The PBNDS supply precisely that standard. Under the *Accardi* doctrine, agencies must follow their own internal standards, and courts have long recognized such standards as "law to apply" for § 701(a)(2) purposes. *Alcaraz*, 384 F.3d at 1162 ("*Accardi* doctrine extends beyond formal regulations"). Defendants concede that ODO "assess[es] and rate[s] each facility's compliance with their contractually obligated detention standards," evaluating Adelanto against its standards. Motion at 10-11. Where an agency must follow prescribed criteria, there is law to apply.

In addition, Congress directed ODO to conduct "unannounced inspections of detention facilities," provide "assistance to individuals affected by potential misconduct, excessive force, or violations of law or detention standards," and make "recommendations to address concerns or violations of contract terms." 6 U.S.C. § 205(b); Compl. ¶ 135. These congressionally mandated oversight functions are not non-enforcement decisions committed to unreviewable agency discretion under *Heckler*.

2. Inspection and Oversight Constitutes Final Agency Action

Defendants incorrectly argue that ICE's inspection and oversight of Adelanto do not constitute final agency action subject to APA review.

Finality is a "flexible" inquiry that courts approach in a "pragmatic manner." *Oregon Nat. Desert Ass'n v. U.S. Forest Serv.*, 465 F.3d 977, 982 (9th Cir. 2006). It is satisfied when the challenged conduct both "mark[s] the consummation of the agency's decisionmaking process" and carries "legal consequences." *Id.* (quoting

Bennett v. Spear, 520 U.S. 154, 178 (1997)). The APA "contains no requirement that agency action be formally promulgated," *Garro Pinchi v. Noem*, 813 F. Supp. 3d 973, 1022 (N.D. Cal. 2025), and a plaintiff may establish finality through "direct or circumstantial evidence." *Id.*

First, Plaintiffs challenge ICE's deliberate decision to repopulate Adelanto without adequate staff—a specific, identifiable course of agency conduct, not the diffuse programmatic attack *Lujan* addressed. ICE's repopulation decision was consummated when ICE approved the massive influx beginning in June 2025. Legal consequences flowed immediately as the massive influx overwhelmed the facility's capacity, resulting in unconstitutional conditions. Compl. ¶¶ 39-46, 188.

Second, Plaintiffs challenge ICE's issuance of a "Good" rating following an inadequate congressionally-mandated inspection with direct legal consequences. Compl. ¶ 189. This is the point at which ODO provides ICE with a final report. Ex. 4. *Torres* held that ICE's inspection and rating of this same facility constitutes final agency action, and Defendants offer no basis to depart from that holding. *Torres*, 411 F. Supp. 3d at 1068-69. Defendants' own authority, *Xirum*, held that ICE's certification of a detention facility was final agency action. *Xirum*, 2023 WL 2683112, at *11. Defendants' reliance on *Fund for Animals v. BLM* and *Village of Bald Head Island v. U.S. Army Corps of Eng'rs,* is unavailing—those cases involved diffuse, ongoing programmatic activity with no discrete triggering act, unlike the specific inspection and rating decisions challenged here. 460 F.3d 13 (D.C. Cir. 2006); 714 F.3d 186 (4th Cir. 2013).

Defendants' reliance on *Norton* is misplaced; Plaintiffs do not seek to compel agency action under § 706(1). The "Good" rating also satisfies the statutory definition of agency action as an "order" under 5 U.S.C. § 551(6)—ICE's definitive disposition of its congressionally-mandated performance evaluation. Plaintiffs clear the finality bar on both discrete agency actions they challenge.

3. Inspection and Oversight are Arbitrary and Capricious

Plaintiffs have adequately pleaded that both the decision to repopulate Adelanto and the "Good" rating were "arbitrary and capricious" under 5 U.S.C. § 706(2)(A). An agency's decision must be set aside where 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." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). The agency must also "articulate a satisfactory explanation for its action including a rational connection between the facts found and the choice made." *Id.* Both fail this standard.

The Complaint's factual allegations demonstrate that ICE's decision to rapidly repopulate Adelanto was made without any rational consideration of the facility's adequacy. Compl. ¶ 49. ICE's own inspection report later acknowledged that the "sudden influx [of detainees] may have contributed to the rise in deficiencies." *Id.* ¶ 45 n.57. These allegations plausibly establish that ICE "entirely failed to consider an important aspect of the problem" and that the decision to repopulate at such scale and speed was therefore arbitrary and capricious. *State Farm*, 463 U.S. at 43.

The "Good" rating is independently arbitrary and capricious because it "runs counter to the evidence before the agency." *State Farm*, 463 U.S. at 43. Plaintiffs have alleged widespread medical neglect. Compl. ¶¶ 40-44, 50. A detainee died mere days after the ODO inspection, after staff identified his condition as potentially life-threatening but returned him to his cell rather than hospitalizing him. Compl. ¶ 67. That the facility still received a "Good" rating with no medical care deficiencies found defies rational explanation.

The rating is also independently defective under the *Accardi* doctrine. *See Emami v. Nielsen*, 365 F. Supp. 3d 1009, 1020 (N.D. Cal. 2019) (sustaining APA

claim where agency disregarded its own established rules and internal procedures in administering a federal program). Here, ICE promulgated standards, contractually imposed them on GEO as mandatory terms of its detention contract, and is bound to enforce compliance. Compl. ¶¶ 28–29. Yet the September 2025 inspection awarded Adelanto a "Good" rating notwithstanding documented and ongoing violations of PBNDS standards governing medical care, food service, drinking water, and disability accommodations. *Id.* ¶¶ 42–44, 47, 67–68, 137–138. Defendants' departure from their own standards in the face of these documented deficiencies is precisely the sort of arbitrary, unexplained deviation from established internal standards that *Accardi* forbids.

H. Plaintiffs Do Not Impermissibly Intrude on Executive Authority

Defendants' plenary authority argument misconstrues the nature of Plaintiffs' claims. Plaintiffs do not challenge any immigration admission, exclusion, or removal decision, the domain to which the plenary power doctrine applies. Plaintiffs challenge whether conditions *inside* a civil detention facility satisfy the Fifth Amendment. That distinction is dispositive.

The Supreme Court and Ninth Circuit have squarely rejected the argument that plenary power shields the government from due process constraints on immigration detention. In *Zadvydas*, the government invoked plenary power to justify indefinite post-removal-period detention. The Court refused, holding that "[plenary] power is subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). In particular, "the Due Process Clause stands as a significant constraint on the manner in which the political branches may exercise their plenary authority." *Hernandez v. Sessions*, 872 F.3d 976, 990 n.17 (9th Cir. 2017) (citing *Zadvydas*, 533 U.S. at 695, 121 S.Ct. 2491). And while the government gets deference on *how* it provides constitutional conditions, it does not get deference on *whether* to comply. *See Brown*, 563 U.S. at 511 ("Courts may not allow constitutional violations to continue simply because a remedy would involve intrusion into the realm of prison

administration."); *Roman*, 977 F.3d at 945 ("[W]e reiterate that the district court possesses broad equitable authority to remedy a likely constitutional violation.").

While Section 1231(h) clarifies that § 1231 does not create privately enforceable *statutory* rights, it does not, and cannot, eliminate the Fifth Amendment's independent limits on civil detention. *See Zadvydas*, 533 U.S. at 687–88. Lastly, while § 1231(g)(1) commits detention placement decisions to Executive discretion, courts retain jurisdiction to review claims where the exercise of that discretion deprives detainees of constitutional rights. *See Comm. of Cent. Am. Refugees v. INS (CRECE)*, 795 F.2d 1434 (9th Cir.).

I. If the Complaint Is Deficient, Leave to Amend Should Be Granted

Should this Court grant Defendants' Motion in whole or in part, Plaintiffs respectfully seek leave to amend their Complaint. *See Eminence Cap., LLC v. Aspeon, Inc.,* 316 F.3d 1048, 1051 (9th Cir. 2003) (leave to amend should be granted with "extreme liberality").

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court deny the Motion.

Dated: May 1, 2026

Respectfully Submitted,

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WORD COUNT CERTIFICATE

The undersigned counsel of record for Plaintiffs certified that this Opposition to Defendants' Motion to Dismiss the Complaint contains 6,997 words, which complies with the word limit of L.R. 11-6.1.

Dated: May 1, 2026

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