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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; DAVID J.
VENTURELLA, Senior Official Performing
the Duties of the Director; 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; MARKWAYNE MULLIN,
Secretary, U.S. Department of Homeland
Security,
Defendants.

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

**PLAINTIFFS' OPPOSITION TO
DEFENDANTS' EX PARTE
APPLICATION FOR STAY
PENDING APPEAL OF ECF 130
AND ECF 147**

CLASS ACTION

Ctrm: 2, 2nd Floor
3470 12th Street
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Hon. Sunshine Sykes

Date Filed: January 26, 2026
Trial Date: November 8, 2027

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1 **I. INTRODUCTION**

2 On July 16, the Court ordered two independent monitors to inspect the
3 Adelanto ICE Processing Center (“Adelanto”), review records, and report on
4 compliance with protections for the approximately 1,800 people detained there. Dkt.
5 104 (the “Initial Order”) ¶ 5; Dkt. 121 at 12. However, the Defendants did not grant
6 the independent monitors the access they needed to carry out the Initial Order. The
7 Court therefore added logistical provisions specifying how the monitors would
8 receive the access to Adelanto the Initial Order required. Dkts. 130, 147 (collectively,
9 “the Amended Orders”). Defendants now seek to suspend those provisions while their
10 appeal proceeds. A stay would restore the very obstacles to the monitors’ access the
11 Court sought to remove.

12 Neither the law nor the equities support that result. First, Defendants have not
13 shown a likelihood of success on their appeal of the Amended Orders. The Ninth
14 Circuit, in denying Defendants’ earlier stay request, already found that Defendants
15 are not likely to succeed in their appeal of the Initial Order. No. 26-4902, Dkt. 22.1
16 at 2–5. The Amended Orders merely clarify and expound on the measures needed to
17 effectuate the relief provided for in the Initial Order. A pending appeal does not strip
18 a district court of authority to supervise compliance with its injunction; Rule 62(d)
19 expressly preserves that authority. Fed. R. Civ. P. 62(d) (court “may suspend, modify,
20 restore, or grant an injunction” while an appeal is pending); *Nat. Res. Def. Council,*
21 *Inc. v. Sw. Marine, Inc.*, 242 F.3d 1163, 1166–67 (9th Cir. 2001); *A&M Records, Inc.*
22 *v. Napster, Inc.*, 284 F.3d 1091, 1098–99 (9th Cir. 2002). The challenged orders do
23 not change the conditions the injunction requires Defendants to provide, Initial Order
24 ¶¶ 1–4, or the questions pending on appeal. They specify how the monitors carry out
25 responsibilities paragraph 5 already gave them. The Ninth Circuit previously
26 explained that the monitors’ recommendations “must be adopted by the district court
27 before they become effective.” No. 26-4902, Dkt. 22.1 at 5. The Amended Orders
28 reflect the Court’s continuing supervision of that monitoring framework.

1 Defendants also cannot show irreparable harm. Their own efforts to comply
2 show that the challenged requirements are workable and that the Court's process is
3 measured. After the Court ordered Defendants to explain delays in providing
4 electronic medical records and warned of potential sanctions, Defendants reported
5 providing access to the records and the requested patient lists, and the Court
6 discharged its Order to Show Cause without imposing sanctions. Dkt. 171 at 1.
7 Meanwhile, the Medical Monitor's first report states that access problems prevented
8 him from assessing medical care at all. Dkt. 176 at 2. The Conditions Monitor
9 documented continuing deficiencies in water, sanitation, recreation, and disability
10 accommodations. Dkt. 177 at 3–8, 13–18, 24–26. Suspending the monitoring
11 provisions in the Amended Orders would make those conditions harder to detect and
12 correct—the very harm the Court's orders address.

13 Finally, Defendants have shown no emergency warranting ex parte relief. They
14 waited 42 days after the August 28 order and 28 days after the September 11 order to
15 seek a stay. Dkts. 130, 147, 185. Meanwhile, the Ninth Circuit has consolidated their
16 appeals and set an expedited schedule, with Plaintiffs' consolidated answering brief
17 due November 13. No. 26-4902, Dkt. 32.1 at 2. Defendants have not shown why they
18 should be excused from complying with the Court's monitoring orders while their
19 appeals proceed. Their application should be denied.

20 **II. PROCEDURAL HISTORY**

21 On July 16, 2026, after finding Plaintiffs likely to succeed on their claims that
22 conditions at Adelanto violate the Fifth Amendment and the Rehabilitation Act, this
23 Court entered a preliminary injunction. *See generally* Initial Order. The injunction
24 established two independent monitors and authorized them to inspect the facility
25 without notice, review relevant records, interview staff and detainees, and report
26 monthly on Defendants' compliance. *Id.* ¶ 5. Defendants appealed on July 30, Dkt.
27 109, and this Court denied a stay on August 4, Dkt. 118. The Ninth Circuit entered an
28

1 administrative stay on August 6 and, on August 20, denied Defendants’ motion for a
2 stay pending appeal and lifted the administrative stay. No. 26-4902, Dkt. 22.1 at 7.

3 On August 25, 2026, the Medical Monitor contacted counsel to request a
4 procedure for communicating with the Court, Dkt. 123 at 13–14. On August 27,
5 Plaintiffs sought an emergency status conference to address the monitors’ duties
6 following the lifting of the administrative stay, *id.* at 4, 13–14. The next day, the Court
7 made three modifications to the monitoring section of the Preliminary Injunction. It
8 clarified when the monitors’ first reports were due (October 1, 2026), provided
9 facility access for “any additional persons assisting the monitors” and “the Court and
10 its staff,” and delineated the scope of permissible ex parte communications with the
11 monitors. Dkt. 130 at 2–4. On September 11, after the parties stipulated to replace the
12 grievance provision with a detainee comment system, Dkt. 144, the Court entered a
13 First Amended Preliminary Injunction incorporating those provisions. Dkt. 147. This
14 amended injunction also specified additional procedures governing facility access,
15 electronic records, inspections, and communications with the monitors, as detailed in
16 the comparison chart below. *See infra* § IV.B.1.b. Defendants raised objections to
17 certain provisions at the September 4 hearing but did not seek a stay until October 9.
18 Dkt. 157 at 12:15–15:24, 22:21–26:8, 33:22–36:12; Dkt. 185-1.

19 On September 15, the Court issued an Order to Show Cause based on
20 Defendants’ failures to provide access to the monitors as ordered. First, Defendants
21 had not trained the Medical Monitor on their electronic health-records system,
22 provided remote access to those records, or produced requested patient lists. Dkt. 155
23 at 2. Second, facility staff had prevented the Conditions Monitor from using her own
24 camera during an inspection. *Id.* at 2–3. The Court ordered Defendants to explain
25 those failures and warned of possible sanctions. *Id.* at 3. Defendants thereafter
26 submitted daily status reports describing their compliance efforts and represented that
27 the monitors had obtained access to their electronic health-records system and the
28

1 requested patient lists. Dkts. 156, 159, 163, 165, 167. On September 22, the Court
2 discharged the Order to Show Cause. Dkt. 171 at 1.

3 The access problems nonetheless persisted. In his October 1 report, the Medical
4 Monitor reported that he could not assess medical care at Adelanto because
5 Defendants had not provided full access to medical records and the facility. Dkt. 176
6 at 2. The Conditions Monitor reported delays entering the facility, restrictions on
7 photographing conditions, and unanswered requests for information. Dkt. 177 at 2–3.
8 On October 2, the Court directed Defendants to respond in writing by October 7 to
9 three outstanding categories of requests from the Medical Monitor and 21 requests
10 from the Conditions Monitor. The Court also directed Defendants to produce the
11 authorization letter required by the First Amended Preliminary Injunction and
12 scheduled an October 9 status conference. Dkt. 178 at 1–4. In their October 7
13 response, Defendants described the documents and access they had provided,
14 represented that GEO had answered the Conditions Monitor’s requests, and
15 acknowledged that certain responses remained outstanding or required
16 supplementation. Dkt. 181 at 1–2.

17 On October 9—42 days after the August 28 order and 28 days after the
18 September 11 order—Defendants filed this ex parte application, Dkt. 185, and a
19 second notice of appeal, Dkt. 183. The following day, Defendants filed an emergency
20 motion for a stay pending appeal and an immediate administrative stay in the Ninth
21 Circuit. No. 26-6685, Dkt. 3.1. The Ninth Circuit has since consolidated the appeals
22 and expedited briefing. Defendants’ opening brief in the second appeal is due October
23 23, and Plaintiffs’ consolidated answering brief is due November 13. No. 26-4902,
24 Dkt. 32.1 at 2. Plaintiffs’ response to the emergency stay motion is due October 14.
25 Id. at 1.

1 **III. LEGAL STANDARDS**

2 **A. Ex Parte Relief Requires Extraordinary Circumstances.**

3 Ex parte relief is appropriate only when the applicant shows that it will suffer
4 irreparable prejudice if required to proceed by noticed motion and that the claimed
5 emergency did not arise through its own fault. *Mission Power Eng'g Co. v. Cont'l*
6 *Cas. Co.*, 883 F. Supp. 488, 492 (C.D. Cal. 1995). The ex parte procedure is not a
7 substitute for the ordinary motion calendar or a means of obtaining preferential
8 treatment over other litigants. *Id.* at 490–92.

9 **B. A Stay Pending Appeal Is Not a Matter of Right.**

10 A stay pending appeal “is not a matter of right, even if irreparable injury might
11 otherwise result,” but “an exercise of judicial discretion.” *Nken v. Holder*, 556 U.S.
12 418, 433 (2009) (citation omitted). The applicant bears the burden of showing (1) “a
13 strong showing that he is likely to succeed on the merits”; (2) that he “will be
14 irreparably injured absent a stay”; (3) that a stay will not “substantially injure the
15 other parties interested in the proceeding”; and (4) “where the public interest lies.” *Id.*
16 at 434 (citation omitted). The first two factors are “the most critical.” *Id.* (citation
17 omitted). The applicant must show that irreparable harm is probable, not merely
18 possible, *Leiva-Perez v. Holder*, 640 F.3d 962, 968 (9th Cir. 2011), and likely to occur
19 before the appeal is decided, *Al Otro Lado v. Wolf*, 952 F.3d 999, 1007 (9th Cir. 2020).

20 **IV. ARGUMENT**

21 **A. The Government Has Not Justified Extraordinary Ex Parte Relief.**

22 Ex parte applications are reserved for extraordinary circumstances. Ex parte
23 motions are justified only where (1) the applicant shows it “will be irreparably
24 prejudiced if the underlying motion is heard according to regular noticed motion
25 procedures;” and (2) the applicant “is without fault in creating the crisis that requires
26 ex parte relief.” *Mission Power Eng'g Co.*, 883 F. Supp. at 492.

27 First, Defendants have not shown that ordinary motion procedures would cause
28 irreparable prejudice. Defendants waited 42 days after Dkt. 130 was entered and 28

1 days after Dkt. 147 was entered before seeking a stay. Defendants’ only basis for
2 emergency relief is their complaint that the Amended Orders “are being enforced
3 under express warnings of daily sanctions and civil contempt.” Dkt. 185 at 2, 19. But
4 those consequences are still hypothetical. Potential enforcement of an injunction is
5 not a basis to stay the underlying order, particularly not on an emergency timeline.
6 Further, Defendants’ arguments concerning the Court’s retained supervisory
7 authority lack merit. Failure to hear a meritless motion on an expedited schedule
8 “cannot be prejudicial.” *Mission Power Eng’g Co.*, 883 F. Supp. at 492.

9 Second, Defendants’ noncompliance prompted the enforcement proceedings
10 they now invoke to justify emergency relief. The Court issued its September 15 Order
11 to Show Cause after Defendants failed to provide the monitors with required access
12 to records and impeded their inspections. Dkt. 155 at 2–3. After Defendants took steps
13 toward compliance, the Court discharged that order without sanctions. Dkt. 171 at 1.
14 When access and information requests remained outstanding, the Court again directed
15 Defendants to respond in writing. Dkt. 178 at 1–4. These proceedings show that the
16 Court has provided a forum for resolving implementation disputes, not that an
17 emergency warrants a stay.

18 If Defendants believed a particular monitoring requirement was impracticable
19 or required clarification, they could have raised that concern with the Court. Instead,
20 they seek to disrupt the monitoring framework, without explaining why targeted relief
21 would be inadequate. *See Mission Power Eng’g Co.*, 883 F. Supp. at 492.

22 Defendants’ delay and their role in precipitating the enforcement proceedings
23 defeat their request for exceptional treatment. Ex parte applications deprive opposing
24 counsel of the ordinary briefing schedule and require the Court to act without the
25 benefit of full adversarial presentation. Defendants’ application is the kind of
26 procedural shortcut that Local Rule 7-19, this Court’s Standing Order, and *Mission*
27 *Power* are designed to prevent. The Court may deny the application on this procedural
28 ground alone. It should also deny the requested stay on the merits.

B. Defendants Have Not Established Grounds for a Stay Pending Appeal.

Defendants cannot satisfy any of the four factors governing a stay pending appeal. They are unlikely to succeed on their challenges to the Amended Orders, identify no irreparable injury from continued monitoring, and overlook the substantial harm a stay would impose on the certified classes. The public interest likewise favors maintaining effective oversight while appellate review proceeds.

1. Defendants Are Unlikely to Succeed on Appeal.

This Court has “inherent power to enforce compliance with [its] lawful orders.” *United States v. Yacoubian*, 24 F.3d 1, 5 (9th Cir. 1994) (citation omitted). It is “not reduced to issuing injunctions . . . and hoping for compliance.” *Frew ex rel. Frew v. Hawkins*, 540 U.S. 431, 440 (2004) (citation omitted). Here, this Court and the Ninth Circuit have already found that Defendants are unlikely to succeed in their appeal of the Initial Order. No. 26-4902, Dkt. 22.1 at 2–5; Dkt. 118 at 2. Following Defendants’ failures to provide the monitors the access needed to comply with the Initial Order, the Court added logistical provisions to ensure that the monitors received the access the Initial Order already required. *See Sw. Marine*, 242 F.3d at 1166. Further, this Court explicitly retained authority to supervise the implementation of its Initial Order—the Preliminary Injunction created a review process for Defendants’ remedial plan and ordered the appointment of two independent monitors to ensure compliance with its injunction throughout the litigation. *See* Initial Order ¶ 5. Contrary to Defendants’ characterization, neither of the Amended Orders “change[s] the subject of the appeal” of the Initial Order. Dkt. 185. For the reasons below, Defendants are unlikely to succeed on their appeal of the Amended Orders.

a. This Court Retained Authority to Supervise Implementation of the Preliminary Injunction.

Defendants’ appeal of the Initial Order did not freeze this Court’s supervision of the injunction. Although a notice of appeal ordinarily divests a district court of

1 jurisdiction over matters involved in the appeal, that rule “is not absolute.” *Sw.*
2 *Marine, Inc.*, 242 F.3d at 1166. Rule 62(d) expressly authorizes a district court to
3 “suspend, modify, restore, or grant an injunction” while an appeal is pending. Fed. R.
4 Civ. P. 62(d). The limit is whether the modification preserves the status quo without
5 materially altering the issues on appeal. *Sw. Marine*, 242 F.3d at 1166–68; *Napster*,
6 284 F.3d at 1098–99 (9th Cir. 2002). Where an injunction governs ongoing conduct,
7 preserving the status quo may require further judicial action as new facts emerge.
8 *Hoffman ex rel. NLRB v. Beer Drivers & Salesmen’s Local Union No. 888*, 536 F.2d
9 1268, 1276 (9th Cir. 1976). That flexibility is especially important in institutional-
10 reform litigation, where district courts confront the “flinty, intractable realities of day-
11 to-day implementation.” *Melendres v. Arpaio*, 784 F.3d 1254, 1265 (9th Cir. 2015)
12 (citation omitted).

13 The distinction is between implementing existing obligations and adjudicating
14 new rights. In *Sw. Marine*, the Ninth Circuit upheld modifications specifying a testing
15 method and an eighteen-month construction deadline because they effectuated the
16 original injunction. 242 F.3d at 1166–68. Similarly, *A&M Records*, 284 F.3d at 1098–
17 99, permitted revised filtering procedures to enforce an existing injunction.
18 *McClatchy Newspapers v. Cent. Valley Typographical Union No. 46*, 686 F.2d 731,
19 734–35 (9th Cir. 1982), illustrates the limit. There, the district court ordered
20 employees reinstated when the original judgment had decided only whether their
21 contractual job guarantees survived a strike. The Ninth Circuit vacated the new order
22 because it adjudicated a remedy not previously decided and affected substantial rights
23 beyond the appeal. *Id.* at 735.

24 This case falls on the implementation side of that line. The Initial Order
25 established independent monitoring, including unannounced inspections, reasonable
26 access to detainees and records, monthly reports, and judicial consideration of a
27 remedial plan. Initial Order ¶ 5(a)–(g). The Amended Orders did not revisit the
28 Court’s constitutional findings or change the substantive protections afforded the

class. They specified how the monitoring already ordered would operate. Defendants may challenge those specifications on appeal, but the original appeal did not deprive this Court of authority to make its injunction effective.

b. The Challenged Provisions Implement Obligations Already Contained in the Initial Order.

The Court ordered independent monitoring on July 16—not August 28 or September 11. The Initial Order required Defendants to permit unannounced inspections, provide the monitors “reasonable access” to the facility, records, staff, and detainees, establish channels for detainee comments, and facilitate monthly reports. Initial Order ¶ 5(c)–(f). The Amended Orders specified how those obligations would operate in practice. That is the kind of modification *Sw. Marine* approved: there, the district court converted “reasonably expeditious” construction into an eighteen-month deadline and clarified that testing “at the surface” required sampling the surface microlayer; the Ninth Circuit upheld these changes as “minor adjustments that effectuated the underlying purposes of the original requirements.” 242 F.3d at 1166–68. The same relationship between existing duties and implementing procedures appears here:

Initial Order	Amended Orders	Basis for Clarification
Inspections. Unannounced inspections and reasonable access to the facility, staff, detainees, and records. ¶ 5(d).	Assisting personnel, inspection equipment, confidential interviews, and accompaniment by Court staff or Marshals “as needed.” Dkt. 147 ¶ 5(d).	The Conditions Monitor was prevented from using her camera and had to rely on photographs taken by the warden, which required ICE approval before release. Dkt. 155 at 2–3.

Initial Order	Amended Orders	Basis for Clarification
Electronic records. Reasonable access to relevant physical and electronic health records. ¶ 5(d).	Read-only, 24/7 access, on-site or remote, and training on electronic-records systems. Dkt. 147 ¶ 5(f).	Defendants had not provided the Medical Monitor with system orientation, remote access, or requested patient lists. Dkt. 155 at 2. Those deficiencies continued to impair his work in October. Dkt. 176 at 2.
Facility entry. Access sufficient to conduct unannounced inspections. ¶ 5(d).	Authorization letter directing expedited security screening and entry within ten minutes, subject to applicable security protocols. Dkt. 147 ¶ 5(d).	Gives effect to the existing requirement of unannounced inspections by establishing a definite entry procedure.
Detainee comments. Free physical and electronic channels for detainees to communicate directly with monitors. ¶ 5(f).	Locked boxes, tablet submissions through Plaintiffs' counsel, confidentiality protections, and explanatory notices. Dkt. 147 ¶ 5(h).	Makes the comment system operational and establishes procedures for transmitting information to the monitors and both sides' counsel.
Reporting and communications. Monthly reports to the Court and parties containing findings and recommendations. ¶ 5(c).	Supplemental reports; communications with the Court, counsel, and class members; quarterly reporting of specified ex parte contacts. Dkts. 130, 147 ¶ 5(c), (j).	Allows monitors to raise time-sensitive compliance issues between monthly reports while preserving the Court's authority to resolve disputes.

Initial Order	Amended Orders	Basis for Clarification
Monitoring scope. Independent monitoring of medical care, disability accommodations, and conditions of confinement, including review of the remedial plan. ¶ 5.	Expressly includes compliance with paragraphs 1–4 of the injunction. Dkt. 147 ¶ 5.	Connects the monitors’ work to the substantive obligations the Court imposed in July.

c. Defendants’ Rule 65(d) Arguments Do Not Establish Likely Success.

The Court has already made extensive findings establishing systemic medical-care and inspection-access deficiencies at Adelanto, and the monitoring provisions in the Initial Order were tailored to those findings. Dkt. 121 at 12–18, 23–37; 1-ER-2–43. The Initial Order authorized unannounced inspections, access to relevant records, and independent reporting. Initial Order ¶ 5. The challenged orders make those responsibilities workable. They specify entry procedures, electronic-records access, and the monitors’ authority to use appropriate inspection equipment. Dkt. 147 ¶ 5(d), (f). These measures implement the Court’s monitoring requirements rather than impose new standards for detention conditions. In *Melendres v. Skinner*, 113 F.4th 1126, 1132–33 (9th Cir. 2024), the Ninth Circuit upheld supplemental monitoring procedures imposed to address deficiencies in an existing prison-compliance regime, finding that modification was warranted by the defendants’ failures to fully implement prior court orders. Defendants’ narrow reading of the Initial Order also conflicts with the Ninth Circuit’s instruction that injunctions must not be interpreted with “narrow literalism” that creates loopholes. *See Epic Games, Inc. v. Apple Inc.*,

1 161 F.4th 1162, 1177 (9th Cir. 2025) (quoting *Schering Corp. v. Ill. Antibiotics Co.*,
2 62 F.3d 903, 906 (7th Cir. 1995)).

3 Defendants' procedural objection also fails on the record. The Court circulated
4 proposed amendments before the September 4 hearing, at which Defendants objected
5 to several provisions on the record. No. 26-6685, Dkt. 3.3, Ex. A at 2; Dkt. 157 at
6 12:15–15:24, 22:21–26:8, 33:22–36:12. That is the notice and opportunity *Armstrong*
7 *v. Brown* contemplated. 768 F.3d 975, 980–81 (9th Cir. 2014); *see also Hawaii v.*
8 *Trump*, 871 F.3d 646, 659 n.8 (9th Cir. 2017) (upholding district court's modification
9 of preliminary injunction and noting that arguments not raised before the district court
10 during the modification process were waived).

11 The orders also satisfy Rule 65(d)'s specificity requirement. The First
12 Amended Preliminary Injunction identifies concrete obligations: Defendants must
13 authorize entry within ten minutes; provide read-only electronic-records access; and
14 permit inspections with appropriate personnel and equipment, subject to security
15 protocols. Dkt. 147 ¶ 5(d), (f). Those directives tell Defendants what they must
16 provide. Their objection concerns the breadth of the requirements, not their clarity.
17 Fed. R. Civ. P. 65(d)(1)(B)–(C).

18 Defendants' argument that Plaintiffs contradicted themselves by defending the
19 Initial Order while seeking implementation guidance also fails. An injunction can
20 define Defendants' obligations without prescribing every possible step needed to
21 fulfill them. Plaintiffs' request for implementation guidance was therefore entirely
22 consistent with their position that the Initial Order satisfied Rule 65(d).

23 **d. Monitor Communications Do Not Supplant Judicial**
24 **Decision-Making.**

25 Defendants conflate monitoring with adjudication. The monitors gather
26 information and make recommendations; the Court decides whether to adopt them.
27 Dkt. 147 ¶ 5. The Ninth Circuit recognized precisely that distinction when it denied
28 Defendants' earlier stay request, explaining that the monitors' recommendations

1 “must be adopted by the district court before they become effective.” No. 26-4902,
2 Dkt. 22.1 at 5 (citing *Skinner*, 113 F.4th at 1139–40). The Amended Orders preserve
3 that allocation of authority.

4 In *Skinner*, 113 F.4th at 1135–39, the Ninth Circuit upheld a monitor’s
5 authority to implement remedial measures because the district court retained authority
6 to review the monitor’s decisions. Indeed, the monitor there exercised greater
7 operational authority than the monitors here, who cannot finally adjudicate
8 compliance disputes.

9 By contrast, *Armstrong* invalidated a provision allowing a court-appointed
10 expert to resolve compliance disputes without judicial review. 768 F.3d at 987–88.
11 But the court expressly permitted experts to “make recommendations . . . subject to
12 review by the district court.” *Id.* at 987. That is precisely the arrangement here. The
13 monitors may investigate and recommend corrective measures, but only this Court
14 may determine noncompliance or order relief. Dkt. 147 ¶ 5. And the Court has
15 exercised that authority: when the monitors reported compliance problems, it required
16 Defendants to respond and ultimately discharged its Order to Show Cause without
17 sanctions. Dkts. 155, 171. The monitors inform the Court’s decisions; they do not
18 make them.

19 Nor do confidential communications transfer judicial authority to the monitors.
20 *Cobell v. Norton*, 334 F.3d 1128, 1141–44 (D.C. Cir. 2003) concerned a monitor
21 whose expansive investigative role raised questions about impartiality. *Skinner*
22 distinguished *Cobell* on that basis. 113 F.4th at 1135 n.12. And *U.S. v. Florida*, 172
23 F.4th 1201, 1248–49 (11th Cir. 2026), held that authorizing ex parte monitor
24 communications is not inherently improper.

25 The Court’s proceedings confirm that Defendants retain an opportunity to be
26 heard. The monitors’ reports go to both sides. Dkt. 147 ¶ 5(c). When the monitors
27 reported access problems, the Court ordered Defendants to respond, considered their
28 submissions, and discharged the September Order to Show Cause without sanctions.

1 Dkts. 155–171. Rule 706 likewise requires disclosure of the Medical Monitor’s
2 findings and permits examination of the expert. Fed. R. Evid. 706(b). Confidential
3 communications do not displace those safeguards or permit coercive relief based on
4 material factual assertions Defendants cannot contest. The record shows judicial
5 supervision, not adjudication by the monitors.

6 **2. Defendants Have Not Shown Irreparable Harm.**

7 Defendants identify no irreparable injury that a stay would prevent. They
8 waited 42 days after Dkt. 130 and 28 days after Dkt. 147 before seeking relief. As the
9 Ninth Circuit explained in *Al Otro Lado*, a government that has operated under an
10 injunction for weeks possesses “the best evidence of harms likely to occur”: evidence
11 of what actually happened. 952 F.3d at 1007. Yet Defendants point principally to acts
12 already completed, including modifying ICE’s agreement with GEO, providing
13 access to electronic medical records, and disclosing information through the
14 monitoring process. Dkt. 185 at 16–17. A stay cannot undo those acts. And
15 Defendants offer no concrete evidence that continued monitoring before the appeal is
16 decided will cause irreparable harm.

17 The remaining harms are speculative or unsubstantiated. Defendants identify
18 no quantified costs attributable to the challenged provisions, a deficiency the Ninth
19 Circuit noted when denying their earlier stay request. No. 26-4902, Dkt. 22.1 at 5–6
20 & n.2. Burdens of “money, time and energy,” however real, “are not enough.” *Al Otro*
21 *Lado*, 952 F.3d at 1007–08 (citation omitted). Admitting monitors within ten minutes
22 and providing read-only access to records impose administrative burdens, not
23 irreparable injury. Defendants’ objections to future inspections, class notices, and
24 confidential monitor communications largely repeat their merits arguments,
25 addressed above. Nor does the prospect of contempt establish likely irreparable harm.
26 When Defendants reported progress in providing medical-records access and patient
27 lists, the Court discharged its September Order to Show Cause without sanctions. Dkt.
28 171 at 1. Its October 2 order likewise required written responses to outstanding

1 monitoring requests—not sanctions or a finding of contempt. Dkt. 178 at 1–4.
2 Defendants offer no reason to expect a different approach going forward.

3 Nor does *Trump v. CASA, Inc.*, 606 U.S. 831, 860–61 (2025), establish
4 irreparable harm here. There, the Supreme Court found irreparable harm because the
5 challenged injunctions likely exceeded the district courts’ authority and prevented the
6 Government from enforcing its policies against nonparties. The Ninth Circuit has
7 already held that the Initial Order in this case “does not implicate” *CASA*, because it
8 prescribes Defendants’ obligations “to a certified class of detainees in a single
9 detention facility.” No. 26-4902, Dkt. 22.1 at 3–4. The subsequent monitoring
10 provisions do not change that essential distinction. They do not enjoin enforcement
11 of any statute or executive policy against nonparties; they implement the Court’s
12 existing injunction through access to the facility and its records. Defendants have not
13 shown that those provisions exceed the Court’s authority, much less that their
14 continued operation will cause the irreparable harm recognized in *CASA*.

15 **3. A Stay Would Substantially Injure Plaintiffs and the Class.**

16 Defendants insist the class loses nothing because the Initial Order’s “reasonable
17 access” terms would remain in force. Dkt. 185 at 18. But those provisions were
18 already in force when Defendants obstructed the monitors’ access. *See* Initial Order ¶
19 5(d); Dkt. 155 at 2–3; Dkts. 176–177. The additional logistical provisions in the
20 Amended Orders ensure that the monitors actually have the access necessary to fulfill
21 their duties.

22 The Amended Orders did not expand the substantive scope of the monitors’
23 responsibilities; they specified procedures for exercising the access the Initial Order
24 already authorized. Initial Order ¶ 5(d). That became necessary because Defendants
25 treated every gap in the Initial Order as a reason not to act. Staff held the Conditions
26 Monitor in the lobby for 45 minutes for lack of “authority” from ICE and refused her
27 access to her camera, Dkt. 177 at 2, and ICE delayed records access because “no court
28 order was in place requiring remote access,” Dkt. 148 ¶ 8. The Medical Monitor could

1 not assess medical care records at all. Dkt. 176 at 2. Only after the obligations were
2 spelled out did Defendants provide remote access and send the authorization letter.
3 Dkt. 185 at 4, 17; Dkt. 181 at 1–2.

4 A stay would reopen those gaps while serious problems remain unverified.
5 Even on her abbreviated first visit, the Conditions Monitor found mold throughout
6 the West-building shower rooms, which staff had been painting over rather than
7 remediating, and live larvae on the floors. Dkt. 177 at 6–7. She also found worn,
8 cracked mattresses; recreation and visitation falling short of the injunction; excessive
9 nighttime headcounts; and no system for identifying or accommodating detainees
10 with disabilities. *Id.* at 8–14, 24–26. Medical care remains entirely unassessed. Dkt.
11 176 at 2. Defendants answer that paragraphs 1 through 4 remain enforceable “by
12 motion.” Dkt. 185 at 18. Defendants’ answer presents the solution that the Ninth
13 Circuit has expressly sought to avoid: a strict reading and constant motion practice to
14 dispute interpretations that run contrary to the spirit of the injunction. *See Epic*
15 *Games*, 161 F.4th at 1177. Even if such practice were allowed, enforcement requires
16 evidence, and the Court appointed independent monitors to gather it. Nor has ICE’s
17 on-site presence filled the gap; the warden told the Conditions Monitor that fixes such
18 as certified water filtration were waiting on ICE approval. Dkt. 177 at 4, 7. The
19 Amended Orders’ explicit terms are what allow monitoring to function as the Court
20 intended when it entered the Initial Order, and Defendants should not be permitted to
21 use a stay to hinder monitor access.

22 **4. The Public Interest Favors Effective, Reviewable Supervision.**

23 “It is always in the public interest to prevent the violation of a party’s
24 constitutional rights.” No. 26-4902, Dkt. 22.1 at 6 (quoting *Youth 71Five Ministries*
25 *v. Williams*, 160 F.4th 964, 978 (9th Cir. 2025)). The Ninth Circuit applied that
26 principle to this injunction in August, and it applies with equal force to the procedures
27 necessary to verify compliance. A stay would leave the injunction in force while
28 depriving the Court of its independent means of assessing whether Defendants obey

1 it. The public also has an interest in orderly appellate review, but a stay is not
2 necessary to protect it. The Ninth Circuit has consolidated and expedited Defendants'
3 appeals, with briefing scheduled to conclude November 20. No. 26-4902, Dkt. 32.1
4 at 1–2. That review can proceed while the monitors continue their work. Nothing in
5 the public interest favors disabling independent oversight of a detention facility while
6 the legality of that oversight is reviewed.

7 **C. Alternatively, Any Relief Should Be Provision-Specific.**

8 Even if the Court finds that a particular provision requires clarification or
9 narrowing, a blanket stay is unwarranted. The Amended Orders contain distinct
10 measures governing facility access, records, detainee comments, and reporting, each
11 designed to address obstacles to effective monitoring. Any concern about one
12 provision can be addressed through clarification or narrowly tailored relief as to that
13 provision while preserving the others. Such an approach would preserve measures
14 necessary to verify compliance with an injunction that remains in force.

15 **V. CONCLUSION**

16 For these reasons, Plaintiffs respectfully request that the Court deny
17 Defendants' application.
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1 Dated: October 13, 2026

Respectfully Submitted,

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WORD COUNT CERTIFICATE

The undersigned counsel of record for Plaintiffs certifies that this Opposition contains 5,100 words, which complies with the word limit of L.R. 11-6.1.

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