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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION

Lazaro MALDONADO BAUTISTA, *et al.*, on behalf of themselves and others similarly situated, *Plaintiffs-Petitioners*, v. Kristi NOEM, Secretary, Department of Homeland Security; *et al.*, *Defendants-Respondents*.	Case No. 5:25-cv-01873-SSS-BFM **PLAINTIFFS-PETITIONERS' REPLY IN SUPPORT OF MOTION TO ENFORCE JUDGMENT** Honorable Sunshine S. Sykes United States District Judge Hearing Date: February 13, 2026 Time: 2:00 pm Courtroom: N/A (via Zoom) Judge: Sunshine S. Sykes

INTRODUCTION

Defendants-Respondents' (Defendants) argue that "ordering [immigration judges (IJs)] to inform class members that they are entitled to a bond hearing while *Yajure Hurtado* remains binding on IJs would sow chaos in the immigration courts." Dkt. 110 (Opp.) at 5. But it is Defendants' insistence that "*Yajure Hurtado* remains binding" that is the source of chaos and what makes further relief both appropriate and necessary to give effect to the Court's declaratory judgment. *See* 28 U.S.C. § 2202. Notably, Defendants acknowledge that this Court retains authority to issue such relief "even as this declaratory judgment is pending on appeal." Opp. at 3 (citing *Horn & Hardart Co. v. Nat'l Rail Passenger Corp.*, 843 F.2d 546, 548 (D.C. Cir. 1988)). But with respect to the relief requested, Defendants fail to engage in the case law cited by Plaintiffs-Petitioners (Plaintiffs) and instead raise technical arguments regarding vacatur that do not apply. As for notice to the class and counsel, Defendants rely primarily on asserted burdens (extrapolated from one detention center), but any burden that such relief inflicts on Defendants is of their own making and pales in comparison to the burden their defiance has placed on detained class members (who suffer unlawful deprivation of liberty) and the hundreds of district courts around the country (that must continue to adjudicate multiple habeas petitions each week from class members seeking relief from Defendants' defiance of the declaratory judgment).

ARGUMENT

I. The Court's Declaratory Judgment Is Binding on the Parties.

Defendants plainly err in insisting that "IJs must still apply *Yajure Hurtado* because it remains a precedent decision." Opp. at 11. The Court's declaratory judgment is "legally binding on the parties"—including as to all Class Members. *Owner-Operator Indep. Drivers Ass'n, Inc. v. Swift Transp. Co.*, 632 F.3d 1111,

1123 (9th Cir. 2011).[1]

Defendants cite to regulations confirming the rulemaking authority of the Attorney General (AG), but again, they completely ignore that the AG and Executive Office for Immigration Review are Defendants in *this* lawsuit, and are accordingly bound by this Court's declaratory judgment confirming that Class Members are detained under 8 U.S.C. § 1226(a). Defendants cite to *Haaland v. Brackeen*, 599 U.S. 255 (2023), *see* Opp. at 12, but that case further supports class members' entitlement: "the point of a declaratory judgment is to establish a binding adjudication that enables the parties to enjoy the benefits of reliance and repose secured by res judicata." 599 U.S. at 293 (cleaned up).

Even under Defendants' theory that a declaratory judgment is only preclusive in subsequent litigation, Opp. at 13, every class member is currently in subsequent litigation (in removal and custody proceedings in immigration court), and yet Defendants refuse to recognize the judgment is preclusive as to the authority for their detention.[2] Defendants have even taken inconsistent positions on whether the

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[1] Defendants' quibble with the title of the motion, arguing that because there is no injunction there is nothing to enforce, but this only underscores their flawed analysis: they fail to recognize that a declaratory judgment is binding on the parties, and Congress enacted 8 U.S.C. § 2202 as a mechanism to enforce such a judgment. *See Samuels v. Mackell*, 401 U.S. 66, 72 (1971). ("[T]he Declaratory Judgment Act provides that after a declaratory judgment is issued the district court may enforce it by granting further necessary or proper relief." (citation modified)).

[2] The rules of res judicata apply in immigration proceedings. *See Oyeniran v. Holder*, 672 F.3d 800, 806 (9th Cir. 2012), *as amended* (May 3, 2012) ("It is beyond dispute that the doctrine of collateral estoppel (or issue preclusion) applies to an administrative agency's determination of certain issues of law or fact involving the same alien in removal proceedings."); *Duane Reade, Inc. v. St. Paul Fire & Marine Ins. Co.*, 600 F.3d 190, 196 (2d Cir. 2010) (citing Restatement (Second) of Judgments § 33; 18A Wright, Miller & Cooper, Federal Practice and Procedure § 4446, at 313 (2d ed. 2002)) (noting declaratory judgments generally trigger issue preclusion).

declaratory judgment is preclusive with respect to subsequent habeas petitions outside of the Central District. *See, e.g.*, Exh. A (Gov. Letter Brief); *see also* Exh. B (copy of *Montoya Cabanas v. Bradford*, No. 4:26-cv-00032 (S.D. Tex. Jan. 25, 2026), Dkt. 12) at 2–3 (rejecting the government's arguments against preclusive effect of the Court's declaratory judgment for class member detained in Texas). Accordingly, this Court should require Defendants to affirm that they are bound by this Court's judgment in subsequent habeas petitions with respect to *all* class members.

II. Notice to Class Members and Counsel Is Necessary and Proper to Effectuate Declaratory Relief.

Defendants do not dispute that the Court has authority to order notice pursuant to Fed. R. Civ. P. 23(c)(2) and (d)(1)(B), and may order additional notice as necessary or proper under 28 U.S.C. § 2202. The reporting and notice requirements the class requests are "oversight [that] can be a proper exercise of the district court's discretion[,] because it helps ensure compliance with [a court order]." *Thomas v. Cnty. of Los Angeles*, 978 F.2d 504, 510 (9th Cir. 1992) (citation modified); *see also Barahona-Gomez v. Reno*, 167 F.3d 1228, 1237 (9th Cir. 1999) (upholding notice requirement in class action that was necessary to "inform class members that equitable relief may be available, and to ensure that the INS did not mistakenly deport a class member"); *Rodriguez v. Robbins*, 715 F.3d 1127, 1130–31 (9th Cir. 2013) (noting district court required Defendants to identify class members and to provide them bond hearings); *Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 138 F.4th 1102, 1127 (9th Cir. 2025) (upholding requirement that Defendants "identify possible . . . class members and notify them about their class membership and the significance of the injunction"); *Rodriguez Vazquez v. Hermosillo*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2026 WL 102461, at *6, *10 (W.D. Wash. Jan. 14, 2026) (ordering notice to detained persons in class action related to this case);

Guerrero Orellana v. Moniz, ---F. Supp. 3d ----, 2025 WL 3687757, at *9 (D. Mass. Dec. 19, 2025) (similar).

Defendants attack the form of notice, asserting that it should be accomplished by posting in detention facilities. Opp. at 4–5. In support, they cite a Rule 23 advisory note, which merely explains that in the context of class certification, posting *may* be sufficient. *Id.* at 4. But "posting notice of the declaratory judgment in detention facilities, as the government suggests, would not adequately ensure that class members are informed of their rights." *Guerrero Orellana*, 2025 WL 3687757, at *9. This is because "class members may not speak English" or the other languages in which the notice is posted. *Id.* Individual notice is necessary to ensure that a noncitizen can seek relief "within a reasonable time and in such a manner as will allow [the noncitizen] to actually seek . . . relief in the proper venue." *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Such individual "service of written notice within the jurisdiction" is "the classic form of notice," and ensures that those whose rights Defendants are denying will know that a remedy exists. *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Moreover, the point of notice here is to allow people to enforce a declaratory judgment. But "giving notice to every . . . detainee," as Defendants propose to do via posting, "regardless of the basis for their detention, would be so overinclusive as to be counterproductive to enforcing the declaratory judgment." *Rodriguez Vazquez*, 2026 WL 102461, at *7; *see also id.* (explaining further benefits of more tailored notice).

Defendants also claim that individualized notice would be burdensome, citing difficulty in obtaining records and providing translations. Opp. at 4–5. The Court should reject this argument out of hand. "[A]ny burden on Defendants in furnishing notice is a self-inflicted result of their noncompliance with the Court's order." *Rodriguez Vazquez*, 2026 WL 102461, at *7. Defendants could alleviate any burden by simply complying with the Court's final declaratory judgment. *See, e.g.*,

Armstrong v. Brown, 857 F. Supp. 2d 919, 936 (N.D. Cal. 2012) (explaining that order enforcing prior injunction would "not be unduly burdensome" if Defendants simply provided the underlying relief), *aff'd*, 732 F.3d 955 (9th Cir. 2013).

Next, Defendants assert that oral notice from an IJ improperly shifts the burden of identifying class members and would "sow chaos." Opp. at 5. To the contrary, it is Defendants' failure to apply the declaratory judgment, and the misinformation relayed by IJs to class members, that is sowing chaos. It is precisely because IJs are the source of misinformation that makes it appropriate and necessary for them to notify Class Members that this Court has ruled they are eligible for bond. Moreover, IJs are "uniquely positioned to ascertain class membership." *Barahona-Gomez*, 167 F.3d at 1237, as they review the immigration and criminal history before rendering determinations on custody determinations and charges of removability. Defendants err in claiming that informing class members of their rights under the declaratory judgment amounts to "provid[ing] legal advice." Opp. at 6. This is plainly wrong, as *every single day*, IJs must conduct hearings, including bond hearings, where they must inform detained persons of their eligibility for bond, and master calendar hearings, where they must advise detained persons how they may submit certain applications and what evidence must be included. *See, e.g.*, Exec. Off. for Immigr. Rev., Immigration Court Practice Manual 4.15 (last visited Feb. 4, 2026)[3] (describing advisals IJs make at master calendar hearings). IJs even have an obligation to elicit evidence and develop a case where appropriate. *See, e.g.*, *Oshodi v. Holder*, 729 F.3d 883, 889 (9th Cir. 2013); *Agyeman v. INS*, 296 F.3d 871, 883-84 (9th Cir. 2002). Defendants' claim that requiring IJs to provide notice unlawfully requires them to provide legal advice is thus baseless.

[3] *Available at*: https://www.justice.gov/eoir/reference-materials/ic/chapter-4/15.

Defendants similarly err in opposing relief requiring them to provide class counsel with lists of class members and related information, ignoring the case law cited by Plaintiffs that as Defendants are "uniquely positioned" with control of the information, it is appropriate to require they provide it. Dkt. 107 (Mot.) at 6–8.

Defendants complain of "huge logistical hurdles that make this request impracticable," Opp. at 6, ignoring this is necessary because Defendants are ignoring this Court's declaratory judgment. Section 2202 exists for precisely this reason: to allow a court to "enforce its decrees and to make such orders as may be necessary to render them effective." *Gant v. Grand Lodge of Texas*, 12 F.3d 998, 1001 (10th Cir. 1993); *see also Samuels v. Mackell*, 401 U.S. 66, 72 (1971); *cf. Rodriguez Vazquez*, 2026 WL 102461, at *7 (explaining that any burden on Defendants is of their own making).[4] Moreover, any assessment must account for the immense burden that Defendants' noncompliance places on others. This includes the burden on class members—who are incarcerated, separated from their loved ones and employment—and the hundreds of judges across the country called to adjudicate the more than thousand requests for writs of habeas corpus that Defendants' actions have required.

Finally, Defendants oppose the class's request for Defendants to identify individuals who have been released pursuant to DHS's authority (and duty) to conduct initial bond determinations, prior to a hearing before an IJ. *See* 8 C.F.R. § 236.1(c)(2). The Court vacated ICE's July 8, 2025 memo asserting that class members are detained under 8 U.S.C. § 1225(b)(2) and declared them detained under

[4] Defendants also assert that class members seek "far more information than is necessary." Opp. at 7. But they do not explain how information requesting the result of bond hearings and other information related to those hearings is irrelevant in a case in which this Court has declared that class members have the right to a bond hearing. The requested information will help class counsel identify how class members are being unlawfully denied bond hearings.

§ 1226(a). *See generally* Dkt. 93. As a result, by statute and regulation, ICE must conduct custody determinations. But class counsel is not aware of a *single instance* in which Defendants have released anyone pursuant to this authority, suggesting widespread disregard for the Court's vacatur order. In fact, some IJs are denying bond hearings under the theory that ICE must first conduct a determination and has not done so. *See* Exh. C (Redacted IJ Order). Further relief is thus necessary to ensure Defendants are providing the custody determinations the statute requires.[5]

III. This Court Can and Should Vacate *Matter of Yajure Hurtado*.

Defendants also err in arguing that vacatur is not appropriate at this juncture. First, there is nothing preventing this Court from revisiting its prior decision not to vacate the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). As Plaintiffs explained in their motion, courts have repeatedly affirmed that a party may seek relief through a § 2202 motion that they "need not have . . . demanded, or even proved, in the original action for declaratory relief." Mot. at 9. Defendants fail to even address the case law provided by Plaintiffs establishing this Court's authority to now vacate the agency action. *See id.* (collecting cases).

Vacatur would not alter the pending decision on appeal because, unlike in *In re Padilla*, 222 F.3d 1184, 1190 (9th Cir. 2000), the parties' "substantial rights" were already announced in the declaratory judgment—i.e., that class members are eligible for bond hearings under § 1226 and the Board's reasoning in *Matter of Yajure Hurtado* was contrary to law—and granting vacatur here would not alter those pronouncements. Granting vacatur here merely flows from the legal conclusions this Court has already made regarding the proper detention statute that applies to class members and the availability of relief under the Administrative Procedure Act

[5] Relatedly, the Court should require that Defendants produce any guidance implementing the Court's vacatur and instructions to resume the processing of custody determinations under 8 C.F.R. § 236.1.

(APA). Dkt. 93 at 20, 35.[6] As Plaintiffs have demonstrated, intervening circumstances demonstrate why vacatur is necessary and proper now. Mot. at 1, 8–10.

Second, Defendants' arguments about the nature of the Board's decision misapprehend the nature of vacatur under the APA. Certainly, an Article III court is as empowered to vacate an agency decision establishing a rule as it is to vacate a regulation or any other rule promulgated by an agency. And courts do regularly vacate or enjoin the decisions of the BIA. *See, e.g.*, *Padilla v. Immigr. & Customs Enf't*, 953 F.3d 1134, 1141 (9th Cir. 2020) (affirming in part injunction against application of BIA decision that held individuals who passed their credible fear interviews were no longer bond-eligible), *cert. granted, judgment vacated on other grounds*, 141 S. Ct. 1041 (2021) *R.I.L-R v. Johnson*, 80 F. Supp. 3d 164, 190 (D.D.C. 2015) (enjoining detention policy that relied on BIA decision holding that deterrence of mass migration should be considered in custody determinations); *cf. Centro Legal de la Raza v. Exec. Off. for Immigr. Rev.*, 524 F. Supp. 3d 919, 980 (N.D. Cal. 2021) (staying regulations that codified the BIA's decision eliminating IJs and BIA use of administrative closure).

Defendants appear to suggest that a district court cannot vacate a BIA decision that is not filed by the parties to the original BIA decision. Opp. at 8. But this argument completely ignores the unique structure for review of BIA decisions. While parties generally must challenge decisions in the merits of their removal cases through the petition for review (PFR) process, the INA does *not* channel challenges to BIA decisions on *detention* into the petition for review process. *See, e.g. Jennings*

[6] Moreover, even the cases Defendants cite recognize that application of the law of the case doctrine "is discretionary." *United States v. Lummi Indian Tribe*, 235 F.3d 443, 452 (9th Cir. 2000) (citing *United States v. Mills*, 810 F.2d 907, 909 (9th Cir. 1987)).

v. Rodriguez, 583 U.S. 281, 293 (2018) (explaining why 8 U.S.C. § 1252(b)(9) does not channel detention challenges into the PFR process). Thus, there is no bar to the Court's review of a decision like *Yajure Hurtado* which falls outside the PFR process. *See* Dkt. 93 at 6–7 (explaining why § 1252(b)(9) does not apply here). Relatedly, Defendants point to the fact Plaintiffs were not parties to the *Yajure Hurtado* decision itself, but at the same time, Defendants concede (and in fact, argue) that *all* class members are bound by *Yajure Hurtado,* relying on that Board decision to deprive class members of their right to a bond hearing. Opp. at 11. Defendants cannot have it both ways.

Lastly, Defendants argue that the Court should refrain from vacatur while other courts are considering cases raising the same statutory issue. But vacatur is not a discretionary remedy. Where, as here, agency action is unlawful, "the ordinary result is that the rules are vacated." *E. Bay Sanctuary Covenant v. Garland*, 994 F.3d 962, 987 (9th Cir. 2020) (quoting *Nat'l Mining Ass'n v. U.S. Army Corps of Eng'rs*, 145 F.3d 1399, 1409 (D.C. Cir. 1998)). The Court should therefore follow the normal course and "vacate the unlawful agency action"—here, *Yajure Hurtado*. *Id*.[7]

IV. Defendants Have Made Frivolous Statements.

Defendants complain that Plaintiffs have not followed "the strict rules of Rule 11(c)(2).'" Opp. at 10. But Plaintiffs have not moved for sanctions under Rule 11(c)(2). Rather, they have highlighted Respondents' representations to this Court have repeatedly run afoul of Rule 11(b), providing Defendants an opportunity to withdraw those representations.

Specifically, Defendants continue to assert "IJs must still apply *Yajure Hurtado* because it remains a precedent decision." Opp. at 11. Their claim or

[7] As previously briefed and this Court already concluded, vacatur poses no problems with 8 U.S.C. § 1252(f)(1). *See* Dkt. 61 at 9; Dkt. 93 at 24–35.

contention is simply not "warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law." Fed. R. Civ. Pr. 11(b). Furthermore, Defendants also fail to address their misrepresentation in the prior filing, when in response to this Court's question, Dkt. 94, they asserted: "Respondents are complying with the Court's December 18, 2025 order," Dkt. 103 at 3. This blatantly false representation contradicts everything else submitted in their filings, including their concession as to the Chief IJ's internal guidance as to this Court's order. *Id.* at 5.

CONCLUSION

For the foregoing reasons, the Court should grant the relief requested as necessary and proper in response to Defendants' refusal to abide by the declaratory judgment.

Respectfully submitted this 5th day of February, 2026.

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CERTIFICATE OF COMPLIANCE

I, Niels Frenzen, certify that this brief contains 3,054 words and complies with the word limit of L.R. 11-6.1

DATED: February 5, 2026.

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