

Nos. 26-1294, 26-3344

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

FERNANDO GOMEZ RUIZ; et al.,

Plaintiffs-Appellees,

v.

UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; et al.,

v.

Defendants-Appellees,

CORECIVIC, INC.,

Intervenor-Appellant.

On Appeal from the United States District Court
for the Northern District of California,
No. 3:25-cv-09757-MMC
Hon. Maxine M. Chesney

CORECIVIC, INC.'S CONSOLIDATED OPENING BRIEF

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, Appellant CoreCivic Inc. certifies that it has no parent company, and that no publicly held corporation owns 10% or more of its stock.

RESPECTFULLY SUBMITTED this 2nd day of July, 2026.

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JURISDICTIONAL STATEMENT

On November 12, 2025, Plaintiffs-Appellees filed this putative class action in the Northern District of California challenging the conditions of their immigration detention. (Dkt. 1.)¹ On February 10, 2026, the district court granted Plaintiffs' motions for a preliminary injunction and for provisional class certification. (1-ER-0025.) On March 3, 2026, Intervenor-Appellant CoreCivic, Inc. filed a motion to intervene for purposes of appealing the February 10, 2026 Order. (Dkt. 82.) On March 4, 2026, CoreCivic filed a timely notice of appeal (Appeal No. 26-1294) from the February 10, 2026 Order. (2-ER-0196.) *See* [Fed. R. App. P. 4\(a\)\(1\)\(B\)](#).

On March 27, 2026, the district court entered a Memorandum of Decision “set[ting] forth in greater detail its reasons for” the February 10, 2026 Order. (1-ER-0010.) On March 30, 2026, the district court entered an Order appointing a monitor to supervise a portion of the injunctive relief. (1-ER-0002.) On April 13, 2026, Defendants-Appellees filed a notice of appeal (Appeal No. 26-2302) from the February 10, 2026 Order, the March 27, 2026 Memorandum of Decision, and the March 30, 2026 Order. (Dkt. 127.)

¹ “Dkt.” refers to the district court record. “Doc.” refers to this Court’s docket in No. 26-1294.

On May 13, 2026, the district court granted CoreCivic’s request to intervene.² (2-ER-0037.) On May 22, 2026, it clarified that CoreCivic’s intervention included and extended to its right to appeal the February 10, 2026 Order, the March 27, 2026 Memorandum of Decision, and the March 30, 2026 Order. (2-ER-0035.) CoreCivic filed a timely notice of appeal (Appeal No. 26-3344) from those orders on May 22, 2026.³ (2-ER-0033.) *See id.* On June 16, 2026, this Court consolidated CoreCivic’s two appeals (Nos. 26-1294, 26-3344). (Doc. 19.1)

This Court has jurisdiction to review the district court’s preliminary injunction and provisional class certification orders under [28 U.S.C. § 1292\(a\)\(1\)](#).⁴ *See also Paige v. State of Cal.*, 102 F.3d 1035, 1039 (9th Cir. 1996) (extending appellate jurisdiction to a class certification order that is “inextricably bound up with” a preliminary injunction).

² The district court initially denied CoreCivic’s motion to intervene without prejudice believing that Defendants’ notice of appeal mooted the purpose underlying CoreCivic’s request to intervene. (Dkt. 131 at 4.) But after Defendants informed the district court that their notice of appeal was merely protective, as the Solicitor General had not yet determined whether to proceed with the appeal (Dkt. 132 at 1-2.), the district court granted intervention. (2-ER-0037.)

³ At the district court clerk’s direction (Dkt. 150), CoreCivic (timely) refiled its notice of appeal on May 26, 2026. (2-ER-0031.) *See id.*

⁴ On March 24, 2026, this Court issued an order directing the parties to address whether it has jurisdiction of Appeal No. 26-1294. (Doc. 5.1.) The district court’s grant of CoreCivic’s motion to intervene since moots any jurisdictional ambiguity. *See Montana Wildlife Fed’n v. Haaland*, 127 F.4th 1, 25-26, 34 (9th Cir. 2025).

PERTINENT AUTHORITIES

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” [U.S. Const. amend. I.](#)

“No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.” [U.S. Const. amend. V.](#)

ISSUES PRESENTED

1. Does the preliminary injunction violate Rule of Civil Procedure 65's specificity requirement?
2. Does the preliminary injunction impermissibly order overbroad relief?
3. Did the district court abuse its discretion in granting the preliminary injunction where Plaintiffs failed to establish that they are entitled to systemwide preliminary injunctive relief on their claims?
4. Did the district court abuse its discretion in granting provisional class certification without conducting a rigorous analysis of the evidence?

STATEMENT OF THE CASE

I. Relevant Facts.

A. CoreCivic's Immigration Detention Services.

For more than 40 years, CoreCivic has housed immigration detainees at the behest of the federal government. (2-ER-0199, ¶ 10.) Since 2008, CoreCivic has operated 28 immigration detainee facilities, 21 facilities in 2026. (*Id.*, ¶¶ 11, 12.) The California City Correctional Facility ("Facility") is one of those facilities. (4-ER-0536, ¶ 3.) Located in California City, California, the Facility had been in continuous use from 2000 through 2024, first as a federal detention center and then as a California state prison (from 2013 to March 2024). (4-ER-0545, ¶ 32; Dkt. 15, ¶¶ 3, 26.) Thereafter, CoreCivic maintained the Facility with on-site staff and spent significant money upgrading the facility in 2025. (4-ER-0545, ¶¶ 32-33.)

B. The California City Correctional Facility.

In April 2025, CoreCivic entered into an agreement with Immigration and Customs Enforcement (“ICE”) to house immigration detainees at the Facility. (Dkt. 45-1, ¶ 3; Dkt. 15, ¶ 3.) Prior to its reactivation, the California City Department of Public Safety inspected and approved the Facility. (4-ER-0545, ¶ 34.) The Facility began receiving ICE detainees on August 27, 2025. (*Id.*, ¶ 35.)

1. Health Care.

CoreCivic is contractually required to comply with the 2025 National Detention Standards (“NDS”), including standards pertaining to health care. (2-ER-0200, ¶ 17; 4-ER-0552, ¶ 78 n.6.) CoreCivic’s health care policies conform with not only the NDS but also the standards promulgated by the National Commission on Correctional Health Care and American Correctional Association, the two most widely recognized accrediting bodies for detention settings. (2-ER-0200, ¶ 20.) ICE reviewed and approved CoreCivic’s policies. (*Id.*, ¶ 21.) The Facility has an on-site health care unit, which includes a waiting area, medical exam rooms, a dental room with multiple dental chairs, a telehealth room, a lab, an x-ray room, mental health offices, four negative pressure cells, two medical observation cells, and a mental health watch cell. (4-ER-0561, ¶ 146.)

a. Staffing.

CoreCivic’s contract sets forth a required health care staffing pattern, which ICE regularly monitors for compliance. (2-ER-0200, ¶¶ 18-19.) Medical is staffed

on-site twenty-four hours a day, seven days per week. (4-ER-0548, ¶ 53.) Mental health staff is on-site seven days a week and available twenty-four hours a day, seven days per week. (*Id.*, ¶¶ 52-53.) Dental staff are on-site five days a week. (*Id.*) There is an on-site phlebotomist and a contracted mobile radiologist. (*Id.*)

b. Intake Screening.

The NDS requires that, within 12 hours of arrival, a detainee receive “an initial medical, dental, and mental health screening and be asked for information regarding any known acute, emergent, or pertinent past or chronic medical conditions.” (2-ER-0201, ¶ 25; 4-ER-0656, ¶ 19.) A “health care professional or a specially trained detention officer” must conduct the initial health screening. (2-ER-0203-204, ¶¶ 35, 37; 4-ER-0656, ¶ 19.) The NDS defines a “health care practitioner” as “an individual who is licensed, certified, or credentialed by a state, territory, or other appropriate body to provide health care services within the scope and skills of the respective health care profession.” (2-ER-0203, ¶ 35.)

Detainees arriving at the Facility go through a Pre-Screening and an Intake Screening. (4-ER-0548, ¶¶ 58; 4-ER-0561, ¶ 140; 4-ER-0656, ¶ 20.) The Pre-Screening, conducted before a detainee is booked into the Facility, identifies emergent and urgent needs requiring either an immediate hospital transfer or an initial provider referral. (4-ER-0656, ¶¶ 20-21.) The Pre-Screening is conducted by a registered nurse (“RN”) or Licensed Vocational Nurse (“LVN”) under the

supervision of an on-duty RN and includes taking a basic medical history, observing a detainee's physical condition, and recording vital signs. (*Id.*)

An RN or LVN conducts an Intake Screening upon the detainee's arrival at the Facility, which includes a more detailed inquiry. (2-ER-0206, ¶ 46; 4-ER-0561, ¶¶ 142-143; 4-ER-0657, ¶ 22.) The Intake Screening determines whether the detainee needs an emergent, urgent, or routine referral. (4-ER-0657, ¶ 23.) Emergent referrals are seen immediately, urgent referrals are seen within 24 hours, and routine referrals occur within 2-14 days. (*Id.*)

c. Comprehensive Assessments.

The NDS requires that the Facility complete a comprehensive health assessment, including a physical examination and mental health screening, within 14 days of a detainee's arrival. (2-ER-202, ¶¶ 26, 38-44; 4-ER-0659, ¶ 30.) These assessments must be completed by a physician, physician assistant, nurse practitioner ("NP"), RN (with documented initial and annual training by a physician), or other health care practitioner. (*Id.*) An NP or physician performs the comprehensive health assessment at the Facility within 14 days of the detainee's arrival. (2-ER-206, ¶ 46; 4-ER-0659, ¶ 31.)

d. Specialists.

CoreCivic has contracts with Adventist Health Tehachapi Valley and the Kern County Medical Center for imaging and/or specialty care. (4-ER-0663, ¶ 46; 4-ER-0548, ¶ 56.)

e. Emergency Services.

The NDS requires that a facility “have a written plan” for 24-hour emergency services, and that detention and health care staff “be trained to respond to health-related emergencies.” (2-ER-0202, ¶¶ 29-30.) CoreCivic contracts with Hall Ambulance for emergency services, transports, and evacuations. (*Id.*, ¶ 29 n.6; 4-ER-0548, ¶ 54; 4-ER-0663, ¶ 44.) There are two helicopter landing areas on-site for medical evacuations. (*Id.*) Detainees experiencing medical emergencies are transported to a hospital. (4-ER-0548, ¶ 55; 4-ER-0663, ¶ 45.) Detention and health services staff are trained to provide an emergency response and respond to the detainee within four minutes. (4-ER-0661, ¶ 37.)

f. Continuity of Care.

The Facility uses the Allscripts Electronic Health Record to track detainee medical history. (4-ER-0654, ¶ 11.) The Facility’s outside laboratory provider has a direct connection to the Allscripts system, and when laboratory results are available, they are automatically loaded into the system. (*Id.*, ¶ 14.) Daily tests and administered medication are also entered into the system. (*Id.*, ¶¶ 16-17.)

If a detainee is transferred from another facility, the detainee's records, including a summary of prior diagnoses and prescribed medications, are scanned into the Allscripts system. (*Id.*, ¶¶ 13; 4-ER-0657, ¶ 25.) Until the detainee is seen by a provider for an intake examination and new medication is entered, the Facility continues dispensing the medications provided during transport. (*Id.*) When medications were not provided by the sending facility, the Facility will attempt to obtain them from a backup pharmacy. (4-ER-0658, ¶ 27.) With the opening of the California City Pharmacy on October 27, 2025, and an agreement to stock medications commonly prescribed at the Facility, backup prescriptions are conveniently obtained. (*Id.*)

Detainees with chronic medical conditions are identified through a review of intake records, intake screening, initial health appraisal, sick call, or other health encounters, and are enrolled in a Chronic Care Clinic for their respective condition(s). (4-ER-0662, ¶¶ 38-40.) Detainees enrolled in the Chronic Care Clinic receive an initial visit within 30 days of enrollment by a provider, who takes a targeted history and physical examination of the detainee and places necessary medication and diagnostic orders or specialty care referrals. (*Id.*, ¶ 41.) All detainees enrolled in the Chronic Care Clinic are required to be seen for follow-up appointments with a provider at least every six months unless needed more frequently. (*Id.*, ¶¶ 42-43.)

g. Medication.

When a formulary medication is ordered and entered into the Allscripts system, it is automatically transmitted to the Facility's contracted pharmacy provider, Clinical Solutions Pharmacy ("CSP"), to be filled. (4-ER-0657, ¶ 26.) CSP typically fills orders the same day they are received and transmits them via overnight shipping to the Facility. (*Id.*) When a non-formulary medication is ordered and entered, it is flagged for review and approval; once approved, it is fulfilled. (*Id.*) Most medications are administered by a nurse twice per day during pill call. (4-ER-0562, ¶ 150; 4-ER-0661, ¶ 36.)

h. Sick Call Requests.

The NDS requires that a facility "have procedures to ensure that all request slips are received and triaged by the medical staff within 24 hours of receipt of that request," and that a "health care practitioner" "review the request and determine when the detainee will be seen based on the acuity of the problem." (2-ER-0202, ¶ 28.) Detainees at the Facility may request medical, mental health, and dental care by submitting a written sick call request. (4-ER-0561, ¶¶ 145, 156; 4-ER-0661, ¶ 34.) Written sick call requests are collected each night, triaged, and prioritized to determine if a face-to-face encounter is needed. (4-ER-0661, ¶ 34.) Sick call requests designated as an "Emergency" are seen immediately; requests designated "Urgent" are seen within 24 hours; and requests designated "Routine" are seen

within 72 hours. (*Id.*; 4-ER-0664, ¶ 54.) Detainees can also make verbal sick call requests. (4-ER-0561, ¶ 145; 4-ER-0661, ¶¶ 35-36.)

2. Legal Access.

The NDS requires “legal visitation seven days a week, including holidays.” (2-ER-0208, ¶ 55.) The Facility must “permit legal visits for a minimum of eight hours per day on regular business days, and a minimum of four hours per day on weekends and holidays.” (*Id.*) Prior to the preliminary injunction, the Facility’s legal visitation hours were 8:00 am to 8:00 pm daily (12 hours), exceeding the NDS. (*Id.*, ¶ 56.)

Each housing unit has eight partitioned telephones for detainees to place outgoing telephone calls. (4-ER-0565, ¶¶ 167-168, 170.) The telephones are not located near detention officer posts, and officers are not able to overhear conversations. (4-ER-0566, ¶ 171.) If filled to capacity, the detainee-telephone ratio exceeds the NDS requirements. (4-ER-0566, ¶ 169.) To make an unmonitored/unrecorded call to a court or an attorney, a detainee can request to privatize the telephone number(s). (*Id.*, ¶ 179.) Attorneys can also privatize their telephone numbers. (4-ER-0567, ¶ 180.)

Detainees are informed how to schedule confidential attorney calls and virtual attorney visits (“VAVs”) during orientation, and the procedures are also outlined in the detainee handbook. (4-ER-0568, ¶ 185; 4-ER-0569, ¶ 193.) Detainees may

request private legal calls, which are conducted privately in staff offices. (4-ER-0567, ¶ 186.) Prior to the injunction, the Facility had 10 VAV booths and 12 Video Tele-Conference booths, which are typically used for court proceedings but can also be used for virtual attorney visits if needed. (4-ER-0568, ¶¶ 187-188.) In-person legal visits generally took place in the legal visitation area, which is non-contact but allows for passing legal documents between the participants. (*Id.*, ¶ 189; 2-ER-0053, ¶ 7.) However, contact legal visits were permitted with Facility approval. (4-ER-0568, ¶ 189.)

VAVs, legal calls, and in-person legal visits have always been available between 8:00 a.m. and 8:00 p.m. daily and were scheduled in 30 or 60-minute increments. (*Id.*, ¶ 190.) There was no limit on the number of VAVs, legal calls, or in-person legal visit requests, but a detainee could not have more than one appointment with the same legal representative in a day. (*Id.*, ¶ 191.) Available time slots for VAVs, legal calls, and in-person legal visits were seldom, if ever, completely filled on any given day. (4-ER-0569, ¶ 192; 4-ER-0571, ¶ 205.)

Prior to the implementation of DFAS, the electronic scheduling system that ICE is Congressionally mandated to use for legal visits, the Facility received a large volume of calls and emails to schedule VAVs, legal calls, and in-person legal visits. (4-ER-0569-570, ¶¶ 195-200; 2-ER-0208, ¶ 57.) Between August 27, 2025, when the first detainees arrived, and December 8, 2025, the Facility received 5,014 emails.

(4-ER-0569-570, ¶¶ 195–200.) Between October 1, 2025, and December 9, 2025, there were 602 VAVs completed. (4-ER-0572, ¶¶ 208-209.) In November 2025, 167 attorneys conducted VAVs, 50 attorneys conducted facilitated legal calls, and 198 attorneys had both VAVs and facilitated legal calls. (*Id.*, ¶ 211.)

In addition to VAVs, legal calls, and in-person legal visits, detainees and their counsel may also communicate by legal mail. (4-ER-0573, ¶ 215.) The dayrooms each have a legal kiosk with legal materials for detainee use. (4-ER-0567, ¶ 182.) Notary services and copies of legal materials are free of charge. (*Id.*) The detainee tablets also offer legal materials and research applications, including Lexis Nexis. (*Id.*, ¶ 184.)

3. Clothing and Temperature Controls.

At intake, detainees are issued three uniform sets (consisting of a uniform top and uniform pants), a jacket, five t-shirts, five pairs of underwear, five pairs of socks, one pair of shoes, and, for female detainees, bras. (4-ER-0551, ¶¶ 71, 73.) Detainees who arrive from another facility with gray sweatshirts and sweatpants are permitted to keep them. (*Id.*, ¶ 74.) Sweatshirts and sweatpants are also available for purchase at the on-site commissary. (*Id.*) In addition to clothing, all detainees are issued linens, including two sheets, at least one blanket, two towels, two hand towels, and one pillowcase. (*Id.*, ¶¶ 72-73.) All areas of the Facility accessible to detainees have central air conditioning and heating. (4-ER-0545, ¶ 36.) Temperatures in the

housing areas are thermostatically controlled and maintained at between 68 degrees and 72 degrees year-round. (*Id.*, ¶ 37.) Staff measure temperatures at least twice a week. (*Id.*)

4. Recreation.

The NDS requires a facility to offer outdoor recreation (weather permitting) “at least one hour per day, five days per week; or, six or more hours per week, at least four days per week.” (2-ER-0207, ¶ 51; 4-ER-0553, ¶ 91.) At the Facility, detainees were initially offered outside recreation at least one hour per day, five or more days a week, with the goal of seven days a week (weather permitting). (4-ER-0553, ¶ 91.) Prior to the preliminary injunction, the Facility had been consistently offering outdoor recreation for one hour a day, seven days a week. (2-ER-0207, ¶ 50.) The outdoor recreation yards contain basketball hoops, a track, and space for group sports, including soccer and volleyball. (4-ER-0554, ¶ 94.) The Facility also has an indoor gym with exercise equipment. (2-ER-0207, ¶ 53; 4-ER-0554, ¶ 95.)

C. Plaintiffs’ Lawsuit.

On November 12, 2025, seven detainees at the Facility filed a class action complaint, naming ICE, the Department of Homeland Security, and three federal officials (in their official capacities) as Defendants. (Dkt. 1.) Four Plaintiffs arrived within two days of the Facility’s reopening, two Plaintiffs arrived approximately one week after the Facility’s reopening, and one Plaintiff arrived less than two months

after the Facility’s reopening. (4-ER-0536-538, ¶¶ 7-13; 4-ER-0545, ¶ 35.) Relevant here, they alleged violations of their First and/or Fifth Amendment rights with respect to the provision of health care, legal access, and certain conditions of their detention. (Dkt. 15, ¶¶ 268-289.) Plaintiffs filed their complaint in the Northern District of California. (Dkt. 1.) CoreCivic is not a named Defendant in the action.

D. Plaintiffs’ Motions for Preliminary Injunction and Class Certification and Defendants’ Motion to Transfer.

On December 1, 2025, just three months after the Facility reopened, Plaintiffs requested a preliminary injunction and class certification. (Dkt. 21; Dkt. 22.)

Plaintiffs’ proposed preliminary injunction sought an order requiring Defendants “to develop and submit ... a detailed plan to ensure adequate medical and mental healthcare,” including: “adequate” health care staffing; a “comprehensive” intake screening by an RN or “qualified medical provider”; a “timely,” “thorough” Initial Appraisal; “timely” access to specialists; “timely” emergency services; “consistent” and “appropriate” medications; and “timely” responses to sick call requests. (6-ER-1184-1185.) It further sought an order requiring Defendants to “ensure that detained individuals have timely and confidential access to attorneys[,] ... [r]easonable, consistent, and adequate access to adequate outdoor recreation spaces[,] [and the] [p]rovision of temperature-appropriate clothing and blankets.” (6-ER-1188-1189.) The proposed injunction

appointed a third-party monitor to inspect the Facility, review Defendants’ proposed medical plans, and “provide feedback to the Court” for implementation.⁵ (6-ER-1187.) Plaintiffs sought to certify a class consisting of “all persons who are now, or in the future will be, in the legal custody of [ICE] and detained at [the Facility].” (6-ER-1218.) In support of their claims, Plaintiffs submitted declarations containing anecdotal allegations from expert and detainee witnesses alleging isolated and sporadic incidents at the Facility. (5-ER-0679-6-ER-1181.)

Defendants opposed class certification and any preliminary injunction. (Dkt. 38; Dkt. 46.) Defendants’ submissions included declarations from the Facility’s Warden, Christopher Chestnut, and CoreCivic’s Regional Medical Director, Dr. Susan Tiona, who explained the Facility’s practices and policies. (4-ER-0536-670.) They acknowledged some health care delays shortly after the Facility’s reactivation but explained that the issues had been addressed with corrective measures and did not result in any adverse patient outcomes, including regarding the Plaintiffs and detainees who submitted declarations. (4-ER-0654, ¶ 9; 4-ER-659-661, ¶¶ 31-32; 4-ER-0663-665, ¶¶ 47-48, 52-57.) Dr. Tiona also rebutted many of Plaintiffs’ health care expert’s claims. (4-ER-0665-669, ¶¶ 56-71.)

⁵ The proposed preliminary injunction sought additional relief but because the district court did not include it in the ordered preliminary injunction, it is not relevant to this appeal.

Defendants also moved to transfer venue to the Eastern District of California, where the Facility and virtually all witnesses and evidence are located. (Dkt. 37; Dkt. 56.)

E. The February 6, 2026 Hearing.

The district court, the Honorable Maxine Chesney, held a hearing to discuss the motions on February 6, 2026. The court acknowledged at the outset that the case should be transferred to the Eastern District of California but “wanted to see if [it] could do something” before transferring the case. (3-ER-0254-255; 3-ER-0287; 3-ER-0290; 3-ER-0325-328; 3-ER-0342; 3-ER-0400; 3-ER-0412.) It expressed concern that it could not “help [Plaintiffs] out” once it issued a transfer order and “want[ed] to do [something] in advance of sending it,” so it decided to “hold on to” the case until it ordered injunctive relief. (*Id.*; 3-ER-0328; 3-ER-0400.)

The district court began with an unwarranted presumption: because “a lot of” immigration detainees “are ill, and a number of them very seriously,” and because CoreCivic “runs prisons” “to make money,” CoreCivic does not know how to “deal with” immigration detainees and “really weren’t prepared for this.” (3-ER-0251-253; 3-ER-0325-326; 3-ER-0331-332; 3-ER-0338.) It also told the parties that it “looked at this, not in the depth that I would have liked to have had the time to do that,” and that it is “certainly not a prison expert.” (3-ER-0254; 3-ER-0354.)

At the outset, the district court acknowledged that it cannot issue a preliminary injunction that “simply say[s] ... you have to do a better job, you got to get a better this, you got to get a better that.” (3-ER-0252-253.) It added: “You can’t have an order where every two minutes people are coming in saying you’re violating it, no, we aren’t, yes, you are, and it’s unclear how specific it is.” (3-ER-0288.)

The district court then reviewed Plaintiffs’ proposed preliminary injunction. (3-ER-0300.) It immediately rejected it:

I can’t do this. I mean, it’s got all kinds of generic things well beyond what you were doing on the medical to start with. You have things like timely and responsive emergency services. There’s no way I can make an order that’s just general like that. How is anybody going to know what they have to comply with?

(3-ER-0302.) But, at Plaintiffs’ urging, it contemplated whether appointing a monitor to decipher compliance with the health care injunctions could cure those inadequacies:

This can perhaps work if you have a monitor who is going to make a determination about whether they’re doing it. Otherwise, I mean, there’s no point in just telling someone do it right. ... It says do it correctly. And ordinarily, that would not be a workable, in and of itself, injunctive order because then people would come back we are doing it fine. We’re doing the, you know, et cetera, et cetera, and that’s why I was looking for specifics. But if you have a monitor that is in a position to make determinations, possibly -- but I’m not absolutely certain about that and we’ll just -- we’ll take it one step at a time. As I said, particularly concerned about intake and how one could tell someone how to do at intake other than just do intake right. Okay. But then you

have all of these other problems that maybe you do need some kind of a referee for – that’s on the scene or can be there. But, again, these are very general concepts. ... So they are – they’re conclusions about how something should be done, okay, timely. Timely is not get somebody there at a particular time, it’s do it in, you know, proper expediency. And, again, without somebody there, you could never tell whether anybody was following it or not unless you had a giant hearing on every one of these.

(3-ER-0304-305.) The district court stated that it was unsure how it could go about fashioning a remedy: “I’m not sure ... I really don’t know what the answer is.” (3-ER-0252-253.) Plaintiffs’ counsel told the court that it did not have to figure out how to “fix these issues.” (3-ER-0292-293.)

Regarding Plaintiffs’ health care allegations, the district court stated that there was no indication that detainee “complaints ... are being ignored.” (3-ER-0277.) Rather, “it looks to me like they’re trying to do their best as opposed to saying I don’t care about these people ... they are trying to do their best.” (3-ER-0343.) The court also stated that “it’s not so much that each individual there is going to need medical care.” (3-ER-0327.)

The district court then made some preliminary observations about the specific proposed health care injunction.

“Adequate” Staffing

The district court stated this was “a very general phrase, have enough people,” but “they are raising staffing concerns about everything and of course the answer to

that is get more staff. And if the Government is paying these people to run the thing, then they can go get more staff.” (3-ER-0295-296; 3-ER-0312.)

“Comprehensive” Intake

The district court stated: “if you didn’t have a monitor, there’s no way this would work.” (3-ER-0312.) The court also questioned the definition of a “qualified medical provider.” (*Id.*)

“Thorough” Initial Appraisals

The district court questioned whether “everybody has to be seen by a doctor or just certain people need to be seen by a doctor ... [e]ven if there’s nothing wrong with them.” (3-ER-0313.) Plaintiffs’ counsel admitted that an Initial Appraisal was not necessary “if there are no medical issues whatsoever that require to be seen by a doctor.” (*Id.*)

“Timely” Specialists

The district court stated: “if you have somebody there who is watching it, then maybe one could figure out if it’s being done timely.” (3-ER-0315.)

“Timely” Emergency Services

Plaintiffs’ counsel admitted that “this is something that ... is happening at the facility.” (3-ER-0315.) The court agreed “it didn’t seem like that was so much the problem.” (3-ER-0316.)

The district court also spoke about Plaintiffs’ request for other provisions of injunctive relief, including several over which it expressed concern. It characterized Plaintiffs’ access to counsel allegations as an “inconvenien[ce],” not an emergent situation. (3-ER-0295.)

In-Person Visits

Plaintiffs’ counsel agreed that there are “opportunities for in-person legal visits.” (3-ER-0345.) The district court stated that it was “not quite sure how to” give Plaintiffs what they are asking for ... but maybe people at counsel table ... can come up with something about how to describe where these attorney visits should be allowed.” (3-ER-0370-371.)

Contact Visits

The district court stated that “there should be something other than, you know, stooping under Plexiglass.” (3-ER-0353-354.) It instructed Plaintiffs: “Figure out how you’re going to frame it because right now all you have is visits that aren’t through a pane of glass.” (3-ER-0371.) Plaintiffs’ counsel acknowledged that attorney contact visits are permitted with Facility approval. (3-ER-0354-356.)

Telephone Access

The district court reviewed the photographs of the VAVs and stated: “these look pretty good.” (3-ER-0360.) Plaintiffs’ counsel acknowledged that, as far as privacy, “that’s as good as it’s going to get.” (*Id.*) The court stated:

[A]s far as how long [a detainee can speak with an attorney on the telephone], that presents a little bit of a problem ... 30 minutes might be too short. I don't know. ... I have no way of knowing, and that's one of the problems of why this is somewhat difficult to try to come up with things of a very specific nature. ... So I don't have a parameter at the moment but I'm willing to try to at least pick something.

(3-ER-0362-365.) The court further stated that it is “not sure what would be reasonable” as far as how quickly a legal call must be scheduled, and that it does not “have anybody who can tell me by monitoring the situation what would be reasonable.” (3-ER-0375-376.) “[W]ithout knowing everything that they're dealing with with the equipment that it just makes it difficult. But I could pick something that at least is more immediate.” (3-ER-0393.)

Regarding Plaintiffs' clothing and recreation requests, the district court admitted that it did not have enough information.

Clothing

The district court stated: “I don't think you have to make people buy their uniforms. And their uniforms should be adequate for whatever the conditions are.” (3-ER-0295-296.) But it acknowledged that it is “not really down there to test the quality of what's being provided I don't really know what the temperature is like there. ... I'm not even in the environments of it that people who, you know, know a little bit more about that area would know more about these things than I do” (3-ER-0379-380.)

Recreation

The district court stated: “I don’t know enough about what’s usually allowed, what they can provide, that starts to get a little bit more problematic.” (3-ER-0377.) Plaintiffs’ counsel agreed that the Facility is complying with the NDS. (3-ER-0382-384.) The court added that Plaintiffs’ expert had not provided any sort of constitutional benchmark:

This is one of the problems with my having to specify some of these details without having a better understanding of what the facility looks like. ... So what should we do? I really don’t know that I can pick a number of hours a day. ... I don’t know exactly what to say. I could say seven days a week but that’s just one more hour a day. And maybe an hour a day isn’t enough, but at the moment, I don’t have anything more from him as to what might be a standard. ... so I’m just not sure what to do here. ... You know, it’s pretty hard for me without something more.

(3-ER-0385-391.)

Near the end of the hearing, as the court and Plaintiffs’ counsel grappled with the difficulties of crafting an injunction, the court stated: “I didn’t know I was going to get involved with this. I was inclined to grant the transfer and you have suggested there are things that are problematic that once I’m into it, I may as well talk to you about it and see what I can do.” (3-ER-0373.) The court further stated that, although it went through the filings, it did not have time to fully evaluate all of the submitted evidence. (3-ER-0380; 3-ER-0384.) Other than the non-medical and Plexiglass

items, it was “just at a loss as to what might be workable. ... some of the other things are problematic for me.” (3-ER-0386-387.)

Plaintiffs’ counsel urged the court to provide some relief now, before transferring the case: “our preference would be for you to decide this promptly even if it means narrowing somewhat our preferred relief.” (3-ER-0387.) Plaintiffs’ counsel also offered to submit a revised proposed preliminary injunction. (3-ER-0394.) But the court did not think that would help things:

The problem is I’m not sure that I can – I’ll be in any better shape. You say maybe we’ll just not make it as extreme and then maybe the judge will think it’s okay and I don’t know that I can do that because I – it’s pulling numbers out of the air is the problem and I don’t really have a way of deciding it. ... It makes it very hard for me to try to see what would be relevant. So I’m stuck. I don’t mind giving him another couple of days of at least an hour of outdoor. It’s not much and I just don’t see why that would make a major difference to them. But -- and I’d be willing to say within 48 hours of a request and at least then somebody could find out what’s going on with their client. I don’t know if it should be 48 business hours. I don’t know that lawyers are, you know, making requests outside of business hours. ...

(3-ER-0395-396.)

At the end of the hearing, and despite her strong reservations, the district court granted most of Plaintiffs’ health care proposals, including appointing a monitor, which it “didn’t come out ... planning to do.” (3-ER-0399-401.) In fact, the court stated that it could not grant the health care proposals unless it also appointed a

monitor: “I either don’t do anything or I do this with a monitor. ... otherwise, I can’t issue this order. It’s just too loosey-goosey. ... the only way item one is workable is with a monitor.” (3-ER-0404.)

The district court also granted most of Plaintiffs’ access to counsel proposals, with some modification. (3-ER-0405.) For example, at Plaintiffs’ counsel’s request, it ordered that each legal call be extended to 90 minutes and each legal visit last up to three hours, adding, “I think it’s more than most will need.” (3-ER-0406-408.) Regarding outdoor recreation, the court ordered “at least one hour per day, seven days per week,” adding, “I just can’t imagine this is going to create major problems” but “if the plaintiffs want to say now we looked in it and should be more, if the defendant says those extra two days are just impossible, somebody down there can deal with that.” (3-ER-0408; 3-ER-0410.)

The district court’s discussion about class certification was brief. It stated at the beginning of the hearing that “certain of the problems are alleged to be systemic or system wide rather. But other problems appear to be more of an individual nature or would require individual.” (3-ER-0354.) After that, there was no substantive discussion about Rule 23’s elements or evidence supporting those elements. Instead, the court stated toward the end of the hearing: “And to the extent you are worried that someone will say this order only covers the named plaintiffs, I will grant the

provisional class so that everybody there will be able to, you know, avail themselves of the order.” (3-ER-0412.)

The district court concluded the hearing by again telling the parties: “I hadn’t originally planned – I wanted to familiarize myself but I hadn’t gotten every single detail down because I hadn’t really planned on going forward on everything else. I think we’ve worked out the best we can once I had made it a decision about transfer.” (3-ER-0419.) It ordered Plaintiffs’ counsel to prepare a revised order to reflect her rulings and further ordered the parties to confer and submit an agreed-upon monitor. (3-ER-0412-413; 3-ER-0417-418.)

F. The February 10, 2026 Order.

On February 9, 2026, Plaintiffs submitted a revised proposed preliminary injunction and class certification order. (2-ER-0236-240.) On February 10, 2026, the district court signed the proposed order, rubber stamping the substance. (1-ER-0025-29.) The February 10, 2026 Order started with a prefatory note:

Pursuant to Federal Rules of Civil Procedure 65 and 23, and having reviewed the Parties’ filings and the argument of counsel, the Court finds that Plaintiffs have demonstrated that they are likely to prevail on the merits of their claims; that they will suffer irreparable harm if the Court does not issue relief; that the balance of equities tips in their favor; that the public interest lies in issuing a preliminary injunction; and that all the requirements of Rule 23(a) and Rule 23(b)(2) have been satisfied.

(1-ER-0027.) At the February 6, 2026 hearing, there had been no discussion or findings regarding whether Plaintiffs were likely to prevail on their substantive claims or would suffer irreparable harm absent the ordered injunctive relief, the balance of equities, the public’s interest, or any of Rule 23’s elements.

In Paragraph 1, the Order ordered Defendants to “ensure” the following:

- a. adequate health care staffing;
- b. comprehensive, documented medical intake screening, performed by a qualified medical provider within 12 hours of a person’s arrival;
- c. thorough Initial Appraisals performed timely by a primary care provider;
- d. timely approval and access to medical specialists;
- e. timely and responsive emergency services;
- f. continuity of medical care upon intake and thereafter, including timely completion of active medical orders, access to scheduled provider appointments, and consistent provision of medication;
- g. timely access to prescribed medications; and
- h. a responsive “sick call” request system.

(*Id.*) To “ensure compliance” with the above and “monitor its implementation, including through review of medical records and on-site inspection and interviews with patients and staff,” Paragraph 2 ordered Defendants “to provide access to a qualified, independent, third-party monitor (“External Monitor”) for a period of 120 days, subject to renewal by court order.” (1-ER-0027.)

Regarding access to counsel, clothing, and recreation, Paragraphs 3 and 4 ordered the following:

- 3) Defendants are ordered to ensure that detained individuals have timely and confidential access to attorneys, including but not limited to by all by allowing:
 - a. in-person legal visitation seven days per week from 8:00 a.m. to 8:00 p.m., in private and confidential settings, with each legal visit lasting up to three (3) hours in length;
 - b. contact attorney visits that do not take place through a pane of glass, absent documented security grounds to deny such contact;
 - c. scheduling of confidential legal calls with legal representatives of up to 90 minutes each, to take place within two (2) business days of a request; and
 - d. provision of written information regarding protocols for attorney-client communication to all individuals detained at California City.
- 4) Defendants are further ordered to ensure that detained individuals are provided with the following, with exceptions only necessary for individualized, documented security concerns;
 - a. Temperature-appropriate clothing and blankets free of charge;
 - b. Reasonable, consistent, and adequate access to adequate outdoor recreation spaces, for at least 1 hour per day, 7 days per week.

(1-ER-0028.)

The Order's class certification ruling was as follows:

Plaintiffs' Motion for Class Certification (ECF No. 21) is **PROVISIONALLY GRANTED** as to the Class, and the Provisional Class is defined as: All persons who are now, or in the future will be, in the legal custody of U.S. Immigration and Customs Enforcement ("ICE") and detained at California City Detention Facility ("California City"). The Provisional Class is certified as to the practices and relief identified in this Order. It is further **ORDERED** that [all named Plaintiffs] are hereby appointed to be the named representative of the Provisional Class. It is further **ORDERED** that Plaintiffs' counsel ... are hereby appointed as counsel for the Provisional Class.

(1-ER-0028-29.) There was no analysis of Rule 23's elements. The parties thereafter submitted proposed monitors. (Dkt. 76, 77.)

G. The March 5, 2026 Hearing.

On March 3, 2026, CoreCivic filed a motion to intervene and a motion to stay pending appeal. (Dkt. 82, 86.) Its motion to stay outlined many of the deficiencies in the February 10, 2026 Order, including that it did not comply with Rule 65's specificity requirement, discuss the preliminary injunction factors, or provide any basis or analysis for certifying a provisional class. (Dkt. 86.)

On March 5, 2026, the district court held a hearing to appoint the monitor. (Dkt. 96.) It stated that it had reviewed CoreCivic's motion to stay and agreed that its Order did not include the requisite findings or "reasoning":

There's no question that the Court should have summed up at the end of the hearing all of the findings in – in detail,

which I did not do, and part of it is because I essentially launched into this entire inquiry at the request of Plaintiffs' counsel

(2-ER-0113-114; 2-ER-0136-137.) But it maintained that “all of those items are in the record. Did I point them out at that time? No, I didn't. And I should have. And if I had to, then somebody on appeal is going to say there's a real problem with this order.” (2-ER-0137-138; 2-ER-0192.) Plaintiffs' counsel asked if they could submit a proposed memorandum in support of the court's February 10, 2026 Order. (2-ER-0185-186; 2-ER-0190-191.) The court stated it would be “happy to receive it.” (2-ER-0186.)

The district court also criticized the injunctive relief that it ordered. It said that the health care provisions are littered with “adjectives ... that are just simply going to create in all likelihood some dispute,” for example, it requires “adequate” health care staffing, “comprehensive” intake screening, “thorough” initial appraisals, “responsive” sick call request system, and “timely” emergency services, medical orders, and access to medications. (2-ER-0105-109.) In response, Plaintiffs' counsel confirmed that these orders provide no notice as to what is required, telling the court that the monitor can simply “look[] at the outcomes,” ask “are people getting what they need,” and decide whether it can “be traced to staffing. There is no specific ratio that gets assessed.” (*Id.*) The court seemingly rejected that find-out-after-it's-too-late approach:

So, that is not an objective standard in the typical sense. ... So ... going to be essentially if people are getting what somebody thinks they need, fine. And if ... they're not getting what somebody thinks they need, then there's going to be a discussion about that.

(2-ER-0106.) The court further stated that these are “pretty far removed from the average person’s understanding,” which “may present some problems” and are “up for grabs.” (2-ER-0108-109.)

The “generic” terms also pose notice and compliance issues: “[A] lot will depend on what that monitor is using as a guideline, and then whether the Court accepts that guideline or a different one.” (2-ER-0104.) The court agreed with Defendants’ concern that the monitor could “hold[] the facility to a standard higher than the law requires. ... and then everybody can fight about that.” (2-ER-0116.) It stated that, although some of the presented evidence involved “situations that were so far removed from the adjectives that it wasn’t a hard call, ... it could get more difficult. I understand that.” (2-ER-0109-110.) It further acknowledged that the allegations by two Plaintiffs were “odd situations. It isn’t what’s going on throughout the system.” (2-ER-0108-109.) The court also took issue with the words “qualified medical provider,” which it foresaw would “come up as being a dispute,” and inquired about the meaning of “primary care provider.” (2-ER-0110-113.)

The district court concluded by stating: “I’ve bought myself, you know, a lot of headaches here with all of you by being, you know, essentially implored to do

something.” (2-ER-0176.) Nonetheless, the court did not modify the preliminary injunction, appointed Dr. Muthusamy Anandkumar to be the monitor, and ordered the parties to submit a proposed order regarding the scope of the monitor’s access. (2-ER-0182.)

H. The March 27, 2026 Memorandum of Decision and March 30, 2026 Order.

On March 13, 2026, Plaintiffs submitted a proposed order regarding the scope of Dr. Anandkumar’s appointment. (2-ER-0078-84.) They also submitted a proposed memorandum of decision, attempting to provide findings and justification for the February 10, 2026 Order. (2-ER-0057-77.)

On March 27, 2026, the district court issued a Memorandum of Decision, which largely adopted Plaintiffs’ proposed memorandum with stylistic changes. (1-ER-0009-24.) The Memorandum purports to “set forth in greater detail its reasons for” the February 10, 2026 Order. (1-ER-0010.) After recounting some of the evidence submitted in conjunction with the preliminary injunction briefing, the Memorandum states (in headings) that “Plaintiffs are likely to succeed on” their constitutional claims for inadequate medical care, attorney access, and conditions of confinement, “Plaintiffs have shown they are suffering irreparable harm,” and the “balance of equities and the public interest favor an injunction.” (1-ER-0017-22.) Each section includes a summary of supporting evidence and applicable law. (*Id.*) A final section states that “Plaintiffs have satisfied the requirements of Rule 23(a),”

recites those elements, and in near-threadbare and conclusory fashion, finds each element satisfied. (1-ER-0022-24.)

On March 30, 2026, the district court signed Plaintiffs’ proposed order regarding the scope of Dr. Anandkumar’s appointment with a few edits. (1-ER-0004-8.) The court inserted that the appointment was pursuant to her equitable authority, not Rule 706 of the Rules of Evidence. (1-ER-0004.) The court subsequently issued an order granting Defendants’ motion to transfer venue to the Eastern District of California. (Dkt. 113.)

SUMMARY OF THE ARGUMENT

Driven by its desire to grant relief to Plaintiffs before it relinquished control of the case, the district court ordered Defendants (and inexorably CoreCivic) to “do something.” The court admitted that it wasn’t sure what that required and that an “average person” would not know what to do. It nonetheless rubber-stamped Plaintiffs’ bucket list and vested authority to a third-party monitor to decide—after-the-fact—whether CoreCivic did “enough” to comply, under penalty of contempt. This was an egregious error.

The preliminary injunction violates Rule 65 because its terms are undefined, impermissibly vague, and fails to give fair notice of what is required for compliance. The district court acknowledged these shortcomings, but its solution—appointing an external monitor to subjectively define those terms post hoc—did not cure that error;

it compounded it. Many of the injunctive orders are also impermissibly overbroad and extend to allegations where no harm had been established. Indeed, the district court admitted it had not reviewed the evidence as thoroughly as it should have. But at Plaintiffs' insistence, it rushed a ruling.

In addition, the February 10, 2026 Order contains no findings or analysis of the preliminary injunction and class certification requirements. The Memorandum of Decision did not cure those defects. Despite stating that Plaintiffs were likely to succeed on all systemic claims, there is no discussion and/or record support for many of the claims and elements. And although it includes a heading and brief discussion of Rule 23's elements, it is apparent that the district court did not conduct the requisite "rigorous analysis" of those elements, the evidence, and Plaintiffs' claims. Had it done so, many of Plaintiffs' claims would not have been certified. This Court should vacate both orders.

ARGUMENT

I. The Preliminary Injunction Order Violates Rule 65.

A. Standard of Review and Relevant Law.

A preliminary injunction's compliance with Rule 65 is reviewed de novo. *See Premier Commc'ns Network, Inc. v. Fuentes*, 880 F.2d 1096, 1100 (9th Cir. 1989).

Rule 65 requires that an injunction "must: (A) state the reasons why it issued; (B) state its terms specifically; and (C) describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required."

Fed. R. Civ. P. 65(d)(1). “[T]he specificity provisions of Rule 65(d) are no mere technical requirements.” *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974).

“[O]ne basic principle built into Rule 65 is that those against whom an injunction is issued should receive fair and precisely drawn notice of what the injunction actually prohibits.” *Granny Goose Foods, Inc. v. Brotherhood of Teamsters*, 415 U.S. 423 (1974). “The Rule was designed to prevent uncertainty and confusion on the part of those faced with injunctive orders, and to avoid the possible founding of a contempt citation on a decree too vague to be understood.” *Schmidt*, 414 U.S. at 476. This Court has “interpreted the rule and its policy to require that ‘the language of injunctions be reasonably clear so that ordinary persons will know precisely what action is proscribed.’” *Portland Feminist Women’s Health Ctr. v. Advocs. for Life, Inc.*, 859 F.2d 681, 685 (9th Cir. 1988) (citation omitted). “The terms of the injunction should be clear enough to be understood by a lay person, not just by lawyers and judges.” *Vasquez Perdomo v. Noem*, 148 F.4th 656, 679 (9th Cir. 2025).

B. The Preliminary Injunction Terms Are Undefined and Impermissibly Vague.

The February 10, 2026 Order falls far short of Rule 65(d)(1)’s specificity requirement. In Paragraph 1, the district court enjoins CoreCivic (and Defendants) to ensure: (a) “**adequate** health care staffing,” “**comprehensive**” medical intake screening performed by a “**qualified medical provider**”; (c) “**thorough**” and

“**timely**” initial appraisals performed by a “**primary care provider**”; (d) “**timely** approval and **access**” to medical specialists; (e) “**timely and responsive** emergency services”; (f) “**continuity** of medical care upon intake and **thereafter**, including **timely** completion of active medical orders, **access** to scheduled provider appointments, and **consistent** provision of medication”; (g) “**timely access** to prescribed medications;” and (h) “a **responsive** ‘sick call’ request system.” (1-ER-0027, ¶ 1, emphasis added.)

The Order provides no definitions or objective criteria for determining what is “adequate,” “comprehensive,” “thorough,” “timely,” “responsive,” or “consistent,” or what constitutes “continuity,” “thereafter,” a “qualified medical provider,” or a “primary care provider.” (*Id.*) These “adjectives” and terms lack any specificity and deprive Defendants and CoreCivic of fair notice of what they must do to comply with the preliminary injunction and avoid a finding of contempt. (2-ER-0201, ¶¶ 22, 23.) See [*Reno Air Racing Ass’n, Inc. v. McCord*, 452 F.3d 1126, 1133 \(9th Cir. 2006\)](#) (holding that an order enjoining use of a “trademark ... and confusingly similar variations thereof,” without identifying the trademark or describing it with specificity, violated Rule 65). Indeed, after reviewing Paragraph 1, the district court flagged these same issues, both at the February 6, 2026 hearing and March 5, 2026 hearing, and confirmed that these terms are standardless,

unobjective, and enforceable at the whim of the monitor. (See Sections I.E, I.G., *supra*.)

Paragraphs 3 and 4 suffer the same flaws. CoreCivic (and Defendants) must provide “**timely and confidential** access to attorneys,” “[t]emperature-**appropriate** clothing and blankets,” and “[r]easonable, consistent, and adequate access to adequate” outdoor recreation.” (1-ER-0028, ¶¶ 3, 4, emphasis added.) None of these terms are defined, nor is there any objective criteria. See *Union Pac. R. Co. v. Mower*, 219 F.3d 1069, 1072 (9th Cir. 2000) (holding phrase “any information or communication of a confidential nature,” including those “described in the accompanying findings of fact and conclusions of law,” was impermissibly vague). Although the Order provides minimum requirements for the legal access provisions (“including but not limited to”), there is no limit, leaving CoreCivic to guess as to what else/more is required. See *FEC v. Furgatch*, 869 F.2d 1256, 1263 (9th Cir. 1989) (finding order prohibiting “similar violations” impermissibly vague).

Simply put, the preliminary injunction order provides no specificity, definitions, benchmarks, standards, or any other objective guidance for an ordinary person to understand what is prohibited or required for compliance. See *U.S. Sec. & Exch. Comm’n v. Murphy*, 50 F.4th 832, 852 n.9 (9th Cir. 2022) (noting that, although this Court has not adopted a per se rule against “obey the law” injunctions,

they must not be impermissibly vague). It cannot stand. See *Longshoremen's Ass'n, Loc. 1291 v. Phila. Marine Trade Ass'n*, 389 U.S. 64, 76 (1967).

The district court did not cure the Rule 65 violation with respect to the health care provisions by appointing a monitor “[t]o ensure compliance with Paragraph (1) and the provision of constitutionally adequate health care.” (1-ER-0027, ¶ 1.) The monitor’s appointment did not give any more concrete meaning to or notice of the terms in the Order. To the contrary, the court left it for the monitor to determine whether CoreCivic (and Defendants) did enough to comply with its generic, non-objective terms. That does not satisfy Rule 65. CoreCivic and Defendants are entitled to *advance* notice of specific terms, not to find out that they could be subject to contempt after-the-fact, depending on the monitor’s subjective (unannounced) yardstick. “A court is required to frame its orders so that those who must obey them will know what the **court** intends to forbid.” *Diapulse Corp. of Am. v. Carba, Ltd.*, 626 F.2d 1108, 1111 (2d Cir. 1980) (emphasis added). A court cannot vest a monitor “with discretion to determine the terms of the injunctions themselves.” *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 145 (2d Cir. 2011); cf. *Melendres v. Skinner*, 113 F.4th 1126 (9th Cir. 2024) (holding that, whereas in *Mickalis* the district court “essentially commanded the defendant to obey a broad category of laws generally and delegated authority to the special master to fill in the huge gaps created by that vague and general requirement,” the district court’s injunctions in *Melendres*

were “specific directives” and did “not create ambiguity as what [the defendant] must do,” therefore allowing the special master to enforce compliance).

II. The Preliminary Injunction Is Impermissibly Overbroad.

A. Standard of Review and Relevant Law.

“This Court reviews the scope of a preliminary injunction for an abuse of discretion.” *Los Angeles Press Club v. Noem*, 171 F.4th 1179, 1190 (9th Cir. 2026). A preliminary injunction must be “tailored to eliminate only the specific harm alleged.” *E. & J. Gallo Winery v. Gallo Cattle Co.*, 967 F.2d 1280, 1297 (9th Cir. 1992). “The scope of injunctive relief is dictated by the extent of the violation established” *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979). “[O]nly if there has been a systemwide impact may there be a systemwide remedy.” *Dayton Bd. of Ed. v. Brinkman*, 433 U.S. 406, 420 (1977).

“[I]njunctive relief should be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs.” *McCormack v. Hiedeman*, 694 F.3d 1004, 1019 (9th Cir. 2012) (citation omitted); accord *United States v. Odessa Union Warehouse Co-op*, 833 F.2d 172, 175 (9th Cir. 1987) (“The essence of equity jurisdiction is the power of the court to fashion a remedy depending upon the necessities of the particular case.”). “[W]here a court seeks to correct a constitutional violation established in the course of litigation, the court’s exercise of equitable discretion must heel close to the identified violation and respect ‘the

interests of [government] authorities in managing their own affairs, consistent with the Constitution.” *Gilmore v. California*, 220 F.3d 987, 1005 (9th Cir. 2000) (citation omitted). “An overboard injunction is an abuse of discretion.” *Park Vill. Apartment Tenants Ass’n v. Mortimer Howard Tr.*, 636 F.3d 1150, 1160 (9th Cir. 2011).

B. The Health Care and Legal Access Provisions Are Overbroad.

The injunctive relief ordered in Paragraph 1 is impermissibly overbroad because it seeks to cure alleged violations for which there was no identified systemwide harm. For example, despite not finding any specific harms relating to health care staffing, emergency medical services, or sick call responses, the district court ordered the provision of “adequate health care staffing,” “timely and responsive emergency medical services,” and a “responsive ‘sick call’ request system.” (1-ER-0027, ¶ 1(a), (e), (h).) See *Brinkman*, 433 U.S. at 417 (“[I]nstead of tailoring a remedy commensurate with the three specific violations, the Court of Appeals imposed a systemwide remedy going beyond their scope”); *Ball v. Rodgers*, 492 F.3d 1094, 1119 (9th Cir. 2007) (holding injunctive relief that addressed different statutory violations were impermissibly overbroad).

The district court also ordered Defendants and CoreCivic to provide access for legal visitation and legal calls despite no findings that the current policies or the alleged restrictions caused or were likely to cause any actual injury. (1-ER-0028,

¶ 3(a)-(d).) There is also no record support that the additional terms, such as providing three-hour long legal visits or scheduling of legal calls up to 90 minutes within two business days of a request, are necessary to eliminate any such harm. (*Id.*, ¶ 3(a), (c).) *See, e.g., Lewis v. Casey*, 518 U.S. 343, 359-60 (1996) (finding “two instances were a patently inadequate basis for a conclusion of systemwide violation and imposition of systemwide relief.”); *Brinkman*, 433 U.S. at 407 (findings did “not overcome the disparity between the evidence of constitutional violations and the sweeping remedy finally decreed.”). At a minimum, these injunctive provisions should be vacated.

III. The District Court Abused Its Discretion in Granting the Preliminary Injunction.

A. Standard of Review and Relevant Law.

The grant of a preliminary injunction is reviewed for an abuse of discretion. *Fraihat v. U.S. Immigr. & Customs Enf’t*, 16 F.4th 613, 635 (9th Cir. 2021). “Within this inquiry, [the Court reviews] the district court’s legal conclusions de novo and its factual findings for clear error.” *Id.* A district court commits reversible error if it: “(1) based its decision on erroneous legal standards; (2) relied on clearly erroneous findings of fact; or (3) otherwise abused its discretion.” *United States v. BNS Inc.*, 858 F.2d 456, 460 (9th Cir. 1988).

“[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of

persuasion.” *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (quotation and citation omitted). This burden is “doubly demanding” where, as here, the plaintiff seeks a preliminary injunction that goes well beyond maintaining the status quo and requires a party to take affirmative action. *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015). “Such ‘mandatory preliminary relief’ is subject to heightened scrutiny and should not be issued unless the facts and law clearly favor the” plaintiff. *Dahl v. HEM Pharms. Corp.*, 7 F.3d 1399, 1403 (9th Cir. 1993).

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). “Likelihood of success on the merits is ‘the most important’ *Winter* factor” and a “threshold inquiry.” *Disney Enters., Inc. v. VidAngel, Inc.*, 869 F.3d 848, 856 (9th Cir. 2017).

B. The District Court Erred in Finding that Plaintiffs Were Likely to Succeed on the Merits of Their Systemic Claims.

The February 10, 2026 Order did not analyze or make findings supporting any of the *Winter* factors. The Memorandum of Decision did not cure that deficiency. As discussed below, Plaintiffs failed to establish that they were likely to succeed on the merits of their claims because the systemic challenges were based on anecdotal, isolated, and sporadic allegations at a facility that had been open less than five

months (only three months at the time Plaintiffs filed their motion). This was not sufficient time and duration to establish systemic violations warranting a systemwide remedy. See *Lewis*, 518 U.S. at 358; *Brinkman*, 433 U.S. at 417. The district court also neglected to address critical elements of Plaintiffs’ claims.

1. Plaintiffs’ Fifth Amendment Health Care Claim.⁶

To prevail on their Fifth Amendment medical-indifference claim, Plaintiffs must show that Defendants recklessly disregarded a serious risk of harm. *Fraihat*, 16 F.4th at 636-37. This “reckless disregard standard is a formidable one.” *Id.* It requires the plaintiff to prove four elements:

- (i) the defendant made an intentional decision with respect to the conditions under which the plaintiff was confined;
- (ii) those conditions put the plaintiff at substantial risk of suffering serious harm; (iii) the defendant did not take reasonable available measures to abate that risk, even though a reasonable official in the circumstances would have appreciated the high degree of risk involved—making the consequences of the defendant’s conduct obvious; and (iv) by not taking such measures, the defendant caused the plaintiff’s injuries.

Id. at 636 (citation omitted). The third element requires a showing that Defendants acted objectively unreasonable, which turns on the facts and circumstances of each particular case. *Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018). “Neither ‘mere lack of due care,’ nor ‘an inadvertent failure to provide adequate

⁶ Neither the February 10, 2026 Order nor the Memorandum Decision address Plaintiffs’ claims under the Rehabilitation Act. (1-ER-0009-29.)

medical care,’ nor even ‘medical malpractice,’ without more, is sufficient to meet this standard.” *Fraihat*, 16 F.4th at 636 (citations omitted). Plaintiffs must show that Defendants “disregard[ed] an **excessive** risk” to their health and safety. *Id.* (emphasis added).

In finding systemic deficiencies in medical care, the Memorandum Decision cites primarily to Dr. Todd Wilcox’s opinions that health care fell below the standard of care. (1-ER-0012–15.) But Dr. Wilcox drew his conclusions after reviewing just seventeen cherry-picked medical charts and detainee declarations acquired by Plaintiffs’ counsel. (5-ER-0814, ¶¶ 6-8.) These were woefully deficient. For example, in concluding that initial screenings are not confidential, Dr. Wilcox cited only two detainees’ declarations that alleged intake interviews occurred in a hallway or lobby. (5-ER-0819, ¶ 25.) Dr. Wilcox’s conclusion that intakes were not timely was apparently based on only four medical charts. (*Id.*, ¶ 26.) And his conclusion that detainees endure medication lapses was based on just two detainee declarations. (5-ER-0820, ¶ 27.)

In finding that referrals to medical providers are systematically delayed, the Memorandum of Decision cites Dr. Wilcox’s conclusion that “[p]atients with time-sensitive medical need, or who present abnormal vitals, are not timely referred to the provider.” (1-ER-0013, citing 5-ER-0821, ¶ 30.) But Dr. Wilcox drew that conclusion from just one medical chart and one detainee declaration. (5-ER-0821,

¶ 30.) The detainee declaration shows only that the detainee was seen by a “nurse” who prescribed him antibiotics for a wound, not by a doctor. (5-ER-0933 ¶ 6-10.) Dr. Wilcox merely assumed that the “nurse” was not a licensed provider authorized to prescribe medication or working under the supervision of such a provider.

In finding systemic delays and failures in the sick call process, the Memorandum of Decision relies on Dr. Wilcox’s conclusions after reviewing only eleven medical charts and two cited detainee declarations. (1-ER-0013.) The Memorandum of Decision also noted “poor clinical judgment,” inadequate recordkeeping, and substandard care based on Dr. Wilcox’s review of just a few medical charts and one cited detainee declaration. (*Id.*) The issues he identified, however, varied from changes to a prescription, to missed medication, to his difference of opinion as to the treatment provided. (5-ER-0828, ¶ 49; 5-ER-0832, ¶ 63; 5-ER-0838-839, ¶¶ 81-84; 5-ER-0841, ¶ 90; 5-ER-0850, ¶ 109; 3-ER-0453-455, ¶¶ 19-20, 24.)

More importantly, the Memorandum of Decision does not include any findings that Defendants recklessly disregarded a systemwide substantial risk of serious harm or that they did not take reasonable measures to abate the risk. *See Fraihat*, 16 F.4th at 636. Indeed, neither element is even mentioned in the Memorandum of Decision. (1-ER-0009-24.) To the contrary, the district court acknowledged at the February 6, 2026 hearing that Defendants were not recklessly

disregarding any risk of harm to detainees; rather, they were doing their best to mitigate any such risk. (3-ER-0277; 3-ER-0327; 3-ER-0343.) It also acknowledged that there were not medical issues “going on throughout the system.” (3-ER-0254; 2-ER-0180-109.) The court was simply concerned with providing some relief before transferring the case, and it wanted to extend that relief to everyone. Based on the evidence presented, the determination that Plaintiffs are likely to succeed on their systemwide Fifth Amendment claim was erroneous.

2. Plaintiffs’ First and Fifth Amendment Legal Access Claims.

Although the constitutional right to attorney access “requires that certain minimum standards be met[,] it does not require the maximum or even the optimal level of access.” *Sands v. Lewis*, 886 F.2d 1166, 1169 (9th Cir. 1989), *overruled on other grounds*, *Lewis*, 518 U.S. at 350. The Memorandum of Decisions provides no findings for Paragraphs 3(a) (legal visitation seven days per week from 8:00 a.m. to 8:00 p.m., with legal visits lasting up to three hours), 3(c) (legal calls up to 90 minutes within two business days of a request), and 3(d) (providing attorney-access protocols to detainees). The Facility had already offered legal visits during that time frame and allowed legal calls and visits up to 60 minutes. (2-ER-0208, ¶¶ 55-56, 190.) There are no findings that these policies were not fulfilled on a systemwide basis. The isolated and sporadic experiences of nine attorneys and one paralegal, who experienced different issues for different reasons, are hardly sufficient to

establish a systemic challenge. (4-ER-0569-572, ¶¶ 197-207.) Further, the record shows that the issues some attorneys reported were caused by their own failure to follow the Facility’s scheduling procedures, the attorney’s request for dates and times for VAVs that had already been reserved, the attorney’s particular request to be scheduled for a week or more later, or the result of safety and security needs. (4-ER-0570-571, ¶¶ 201-206.)

The Memorandum of Decision’s finding that “Defendants employ an essentially blanket policy preventing in-person contact visits” (1-ER-0020) is controverted by the record, including by Plaintiffs’ counsel. Contact visits are permitted with Facility approval. (3-ER-0354-356; 4-ER-0568, ¶ 189.) The Memorandum of Decision states that the Facility’s existing policies are “overly restrictive” (1-ER-0021), but it does not explain how a 60-minute legal call or visit is constitutionally deficient, and a 90-minute legal call and 3-hour legal visit is constitutionally required. The district court admitted that it did not know where to draw the line. (3-ER-0362-365.)

Moreover, Plaintiffs cannot establish an attorney-access claim by merely showing that the facility’s attorney visitation and legal call policies are “subpar in some theoretical sense.” *Lewis*, 518 U.S. at 351. Rather, they must establish an actual injury by showing that Defendants’ actions impeded their ability to bring a claim. *Id.* at 351-53. Plaintiffs did not present any evidence that they or any other

detainee were actually prevented from bringing a legal claim. *See id. at 349* (holding “that the success of [plaintiffs’] systemic challenge was dependent on their ability to show widespread actual injury, and that the court’s failure to identify anything more than isolated instances of actual injury renders its finding of a systemic ... violation invalid.”). Plaintiffs’ failure to establish, and the lack of any finding, that an actual injury occurred, much less widespread and systemic injuries, is fatal to their legal-access claim. *See id. at 359*.

Finally, the Memorandum of Decision does not even mention *Turner v. Safely*, 482 U.S. 79 (1987). It was Plaintiffs’ burden to show that any restrictions on their legal access are **not** reasonably related to a legitimate government interest. *Overton v. Bazzetta*, 539 U.S. 126, 132 (2003); *Turner*, 482 U.S. at 89. (4-ER-0556-574, ¶¶ 109-110, 137, 170-171, 177, 179-181, 188-189, 190-192, 195-200, 208-209, 219-220.) That omission is fatal to the preliminary injunction. *See Casey v. Lewis*, 4 F.3d 1516, 1523 (9th Cir. 1993) (“It is incumbent upon the [plaintiffs] to point to an alternative that accommodates their rights at de minimis cost to security interests.”), *overruled on other grounds by Healy v. Milliman, Inc.*, 164 F.4th 701, 708 (9th Cir. 2026).

3. Plaintiffs’ Fifth Amendment Conditions Claims.

The Fifth Amendment prohibits imposing punitive detention conditions without an adjudication of guilt. *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).

“Whether it [is] a jail, a prison, or a custodial center, the purpose of the facility is to detain,” which inherently restricts a detainee’s movement and choice. *Id.* at 538. “And the fact that such detention interferes with the detainee’s understandable desire to live as comfortably as possible and with as little restraint as possible during confinement does not convert the conditions or restrictions of detention into ‘punishment.’” *Id.* at 537.

A restriction is only punitive where it: (1) “is intended to punish”; (2) “is excessive in relation to its non-punitive purpose”; (3) “or is employed to achieve objectives that could be accomplished in so many alternative and less harsh methods.” *Fraihat*, 16 F.4th at 647. But “if a particular condition or restriction of ... detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to ‘punishment.’” *Wolfish*, 441 U.S. at 539. “Courts must be mindful that these inquiries spring from constitutional requirements and that judicial answers to them must reflect that fact rather than a court’s idea of how best to operate a detention facility.” *Id.* at 539.

a. Temperature-Appropriate Clothing.

The district court ordered temperature-appropriate clothing and free blankets even though Detainees are issued clothing, including a jacket, and linens, including at least one blanket, at intake, and can purchase additional warm clothing at the commissary. (4-ER-0551, ¶¶ 71-74.). That order was based on the declarations of

several detainees, who alleged they were “very cold.” (1-ER-0017.) These isolated allegations are insufficient to sustain a systemic constitutional violation, particularly where the housing areas are temperature controlled at between 68 and 72 degrees. (4-ER-545, ¶ 37.) *See Lewis*, 518 U.S. at 348-49. Indeed, at least twenty other detainee declarants did *not* allege that they were too cold in the Facility or denied temperature-appropriate clothing.

Nor do these allegations amount to punishment. Rather, they suggest that, at most, the temperature was uncomfortable for some. But “very cold” temperatures are insufficient to establish a claim because only prolonged exposure to extreme temperatures amounts to punishment. Plaintiffs’ own expert agreed that providing “temperature control to prevent cold or excessive heat” is a reasonable living condition. (5-ER-0788, ¶ 5.) *Cf. Keenan v. Hall*, 83 F.3d 1083, 1091 (9th Cir. 1996) (dismissing conditions of confinement claim that average temperature was “well above” or “well below” room temperature as suggesting “only that the temperature was not comfortable” under objective prong of Eighth Amendment). There is also no evidence that CoreCivic (or Defendants) recklessly disregarded a systemic substantial risk of serious harm.

b. Outdoor Recreation.

The district court ordered outdoor recreation one hour per day, seven days a week even though the Facility had already offered that. (2-ER-0207, ¶ 50; 4-ER-

0553, ¶ 91.) That order was based on “a review of the declarations submitted by [seven] detainees,” which, it found, “reflects an inconsistent practice as to outdoor access, with the times varying between four and seven hours of outdoor recreation per week, i.e., one hour per day at most.” (1-ER-0017-18.) This is hardly evidence of a systemic deficiency, particularly considering that nineteen other detainee declarants did not allege they were denied adequate outdoor recreation time. The Memorandum of Decision states that prisoners in solitary confinement receive more outdoor recreation. (1-ER-0021.) But that does not convert the Facility’s policy into an unconstitutional one. Finally, there is also no evidence that CoreCivic (or Defendants) recklessly disregarded a systemic substantial risk of serious harm.

C. The District Court Erred in Finding that Plaintiffs Established Irreparable Harm.

A preliminary injunction “cannot issue merely because it is possible that there will be an irreparable injury to the plaintiff.” *Am. Trucking Ass’n, Inc. v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009). “The person or entity seeking injunctive relief must ‘demonstrate that irreparable injury is likely in the absence of an injunction.’” *Park Vill.*, 636 F.3d at 1160. At the preliminary injunction stage, the plaintiff must make a “clear showing” of an actual injury for each separate claim. *See LA All. for Hum. Rts. v. County of Los Angeles*, 14 F.4th 947, 956-57 (9th Cir. 2021). “An injunction will not issue if the person ... seeking injunctive relief shows a mere ‘possibility of some remote future injury’ or a ‘conjectural or hypothetical

injury.’” *Park Vill.*, 636 F.3d at 1160 (internal citations omitted). A “‘threatened injury must be **certainly impending** to constitute injury in fact,’ and ... ‘[a]llegations of **possible** future injury’ are not sufficient.” *Clapper v. Amnesty Int’l USA*, 568 U.S. 398, 409 (2013) (alteration and emphasis in original).

As discussed above, Plaintiffs failed to demonstrate any actual injury, much less widespread actual injuries to sustain systemwide preliminary injunctive relief. See *Lewis*, 518 U.S. at 349, 359; see also *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (“Speculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction.”). The Memorandum of Decision concluded that this factor is satisfied based on the previous conclusion that Plaintiffs were likely to succeed on their claims and a constitutional violation “unquestionably constitutes irreparable injury.” (1-ER-0022.) Because that prior conclusion is wrong, this one is wrong as well.

D. The District Court Erred in Balancing the Equities and Weighing the Public Interests.

Where, as here, the government is a party, the balance of equities and the public interest factors merge. *Drakes Bay Oyster Co. v. Jewell*, 747 F.3d 1073, 1092 (9th Cir. 2014). The Memorandum of Decision concluded that these factors favor an injunction because “it is always in the public interest to prevent the violation of a party’s constitutional rights” and “avoiding ‘preventable human suffering’ outweighs any administrative or financial concerns that Defendants may have.” (1-

ER-0022, citations omitted.) But these factors do not favor an injunction because, as discussed above, Plaintiffs did not establish that they are likely to succeed on their constitutional claims or establish irreparable harm.

IV. The District Court Erred in Granting Provisional Class Certification.

A. Standard of Review and Relevant Law.

A class certification order is reviewed for an abuse of discretion. *Yokoyama v. Midland Nat. Life Ins. Co.*, 594 F.3d 1087, 1091 (9th Cir. 2010). The district court abuses its discretion when its class certification determination is “premised on a legal error,” *id.*, or “on impermissible legal criteria,” *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 980 (9th Cir. 2011).

“[The class action is ‘an exception to the usual rule that litigation is conducted by and on behalf of the individual named parties only.’” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 348 (2011) (citation omitted). “To come within the exception, a party seeking to maintain a class action ‘must affirmatively demonstrate his compliance’ with Rule 23. *Comcast Corp. v. Behrend*, 569 U.S. 27, 33 (2013) (citing omitted). “Parties seeking class certification bear the burden of demonstrating that they have met each of the four requirements of Federal Rule of Civil Procedure 23(a) and at least one of the requirements of Rule 23(b).” *Ellis*, 657 F.3d at 979-80.

B. The Provisional Class Certification Order Must Be Vacated if the Preliminary Injunction Is Vacated.

Because the “class certification ruling ... depended on, and was in service of, [the] preliminary injunction,” if the preliminary injunction fails, “the class certification order necessarily fails as well, regardless of whether class certification was otherwise proper under Federal Rule of Civil Procedure 23.” *Fraihat*, 16 F.4th at 635.

C. The District Court Failed to Conduct a Rigorous Analysis.

Rule 23 “does not set forth a mere pleading standard.” *Wal-Mart*, 564 U.S. at 351. “Plaintiffs wishing to proceed through a class action must actually prove—not simply plead—that their proposed class satisfies each requirement of Rule 23.” *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651, 664 (9th Cir. 2022) (citation omitted). Each Rule 23 element must be satisfied by “a preponderance of the evidence.” *Id.* at 665. The district court also has an obligation to conduct a “rigorous analysis” and determine that Rule 23’s elements “have been satisfied.” *Comcast*, 569 U.S. at 33 (quoting *Wal-Mart*, 564 U.S. at 350-51). “The Court cannot take the parties at their word, but instead must review the evidence and consider the parties’ claims and defenses.” *Miller v. Grand Canyon Univ., Inc.*, 540 F. Supp. 3d 625, 632 (N.D. Tex. 2021). It must then “‘detail with specificity its reasons’ behind its conclusions, ‘explain and apply the substantive law governing the plaintiffs’ claims to the relevant facts and defenses,’ and ‘articulate why the

issues are or are not fit for classwide resolution.” *Id.* (quoting *Chavez v. Plan Benefit Servs., Inc.*, 957 F.3d 542, 546 (5th Cir. 2020)). In other words, “courts cannot rubber-stamp class certification motions.” *Fox v. County of Saginaw*, No. 1:19-CV-11887, 2025 WL 2419232, at *7 (E.D. Mich. Aug. 21, 2025).

The February 6, 2026 hearing and February 10, 2026 Order included no Rule 23 analysis or findings, and it appears that the Memorandum of Decision simply rubber-stamped Plaintiffs’ proposed order. The Memorandum of Decision also provides only formulaic and conclusory findings. This is insufficient to give any reviewing court confidence that a “rigorous analysis” was in fact conducted. *See B.K. by next friend Tinsley v. Snyder*, 922 F.3d 957, 977 (9th Cir. 2019) (vacating and remanding class certification order where “the district court did not make factual findings”).

Had the district court conducted a rigorous analysis, it would not have determined that all named Plaintiffs had standing and typical claims to represent all aspects of the class. *See Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 n.6 (2016) (plaintiff must have standing to bring a class claim); *E. Texas Motor Freight Sys. Inc. v. Rodriguez*, 431 U.S. 395, 403 (1977) (holding “a class representative must be part of the class and possess the same interest and suffer the same injury as the class members”).

Plaintiff Ruiz Canizales does not allege he was denied attorney access or outdoor recreation. (6-ER-1063-1069, ¶¶ 48-101.) He even admits that “there is yard time at this facility” and that he does not have an immigration lawyer. (6-ER-1062, ¶ 42; 6-ER-1067, ¶ 86.) He complains that it is “very cold,” but does not claim he was denied temperature-appropriate clothing. (6-ER-1064, ¶ 53; 6-ER-1069, ¶ 100.) He also admits that he received emergency response services when he told a nurse he had anxiety. (6-ER-1064-1065, ¶¶ 61-62.) His primary complaint is that he is deaf and the Facility does not provide accommodations. (6-ER-1059-1069, ¶¶ 14-101.) But the district court did not find Plaintiffs were likely to succeed on their Rehabilitation Act claim or certify a disability subclass. (1-ER-0009-24.) He thus lacks standing and is not typical of any class claim.

Plaintiff Gomez Ruiz does not allege he was denied attorney access or outdoor recreation. (5-ER-0966-967, ¶¶ 14-18.) Although he alleges a denial of temperature-appropriate clothing, his allegation that “the air conditioning is very cold” (5-ER-0967, ¶ 17) is legally insufficient to establish a claim. Gomez Ruiz also alleges inadequate medical treatment for his diabetes and a foot ulcer, but he does not claim that he was denied adequate health care staffing, intake screening, initial appraisals, access to medical specialists, emergency services, or sick call. (5-ER-0965-967, ¶¶ 5-18.) He thus lacks standing and is not typical of the class claims in Paragraph 1(a), (b), (c), (d), (e), and (h), Paragraph 3(a)-(d), and Paragraph 4(a), (b).

Plaintiff Viera Reyes does not allege he was denied attorney access, temperature-appropriate clothing, or outdoor recreation. (6-ER-1091, ¶¶ 22-28.) Indeed, he admits he has “access to the yard about one hour a day.” (*Id.*, ¶ 23.) Although he alleges inadequate treatment for his prostate and other medical conditions, he does not claim he was denied adequate health care staffing, initial appraisals, or emergency services. (6-ER-1089-1091, ¶¶ 6-21.) He thus lacks standing and is not typical of the class claims in Paragraph 1(a), (c), and (e), Paragraph 3(a)-(d), and Paragraph 4(a), (b).

Plaintiff Roque Campos does not allege he was denied attorney access, temperature-appropriate clothing, or outdoor recreation. (5-ER-0950-951, ¶¶ 36-49.) Although he alleges inadequate treatment for a heart condition and other medical conditions, Roque Campos does not claim he was denied adequate health care staffing, intake screening, initial appraisals, or emergency services. (5-ER-0947-950, ¶¶ 15-35.) He admits he receives emergency services. (5-ER-0947, ¶ 14.) Roque Campos thus lacks standing to seek a preliminary injunction and is not typical of the class claims in Paragraph 1(a), (b), (c), and (e), Paragraph 3(a)-(d), and Paragraph 4(a), (b).

Plaintiff Keo does not allege he was denied attorney access. (6-ER-0998-1000, ¶¶ 6-20.) Nor does he claim he was denied appropriate clothing for cold temperature. (*Id.*, ¶¶ 6-43.) To the contrary, he claims that “[i]t was very hot in the

building so [people exercising indoors] had taken off their shirts.” (6-ER-0999, ¶ 15.) Keo also alleges denial of accommodations for a hearing disability (6-ER-1002-1003, ¶¶ 33-38), but the district court did not grant a preliminary injunction relating to or certify a class for the Rehabilitation Act claim. (1-ER-0009-24.) Although he alleges inadequate specialty care for chronic medical conditions, he does not claim he was denied adequate health care staffing, intake screening, initial appraisals, emergency services, prescribed medications, or sick call. (6-ER-1000-1002, ¶¶ 21-32.) He thus lacks standing to seek a preliminary injunction and is not typical of the class claims in Paragraph 1(a), (b), (c), (e), (g), and (h), Paragraph 3(a)-(d), and Paragraph 4(a).

Plaintiff Guevara Alarcon alleges he was denied contact legal visitation but does not allege an actual injury. (3-ER-0496, ¶ 4.) He admits he had access to outdoor recreation, but he was escorted back into the Facility on one occasion for a lockdown. (5-ER-0961, ¶ 43.) He alleges that he was denied temperature-appropriate clothing and his cell was “freezing cold,” but this is legally insufficient to establish a claim. (5-ER-0955, ¶ 8; 5-ER-0960, ¶ 39; 3-ER-0496, ¶ 6; 3-ER-0498, ¶ 13.) He also alleges he was denied accommodations (5-ER-0957, ¶ 21), but the district court did not rule on or certify the Rehabilitation Act claim (1-ER-0009-24.) Although he alleges inadequate treatment for various medical conditions, he does not claim he was denied adequate health care staffing, initial appraisals, access to

medical specialists, and emergency services. He lacks standing to seek a preliminary injunction and is not typical of the class claims in Paragraph 1(a), (c), (d), and (e), Paragraph 3(a)-(d), and Paragraph 4(a), (b).

Plaintiff Mendiola Escutia does not allege that he was denied access to his immigration lawyer. (6-ER-1021-1022, ¶¶ 14-17.) To the contrary, he admits that he has access to his immigration lawyer but alleges that lawyers generally have had difficulty scheduling an appointment, and that other detainees are making calls to their lawyers from the dayroom on monitored lines. (*Id.*) He also does not allege he was denied access to outdoor recreation or temperature-appropriate clothing. (6-ER-1021-1023, ¶¶ 9-22.) He alleges inadequate nursing staffing but does not allege any resulting injury. (6-ER-1021, ¶ 11.) Although he alleges a delay in receiving medication, braces, and specialty shoes for his medical conditions, he does not claim he was denied intake screening, initial appraisals, access to medical specialists, emergency services, continuity of care, or sick call. (6-ER-1023, ¶ 23.) He thus lacks standing to seek a preliminary injunction and is not typical of the class claims in Paragraph 1(b), (c), (d), (e), (f), and (h), Paragraph 3(a)-(d), and Paragraph 4(a), (b).

In sum, no named Plaintiff has sufficiently shown that he has suffered an actual injury with respect to the alleged denials of attorney access and outdoor recreation. Nor has any named Plaintiff sufficiently alleged an inadequate staffing

claim or a denial of emergency services. Thus, all of them lack standing and are not typical of the class for any of the claims in Paragraph 1(a) (healthcare staffing), 1(e) (emergency services), Paragraph 3 (attorney access), and Paragraphs 4(a) (temperature-appropriate clothing) and 4(b) (outdoor recreation).

CONCLUSION

For these reasons, the Court should vacate the February 10, 2026 Order, the March 27, 2026 Memorandum of Decision, and the March 30, 2026 Appointment Order.

RESPECTFULLY SUBMITTED this 2nd day of July, 2026.

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STATEMENT OF RELATED CASES

Defendants-Appellees' appeal in *Gomez, et al. v. United States Immigration and Customs Enforcement, et al.*, No. 26-2302, arises from the same underlying matter and is taken from the same rulings challenged in this Consolidated appeal. However, this Court denied Plaintiffs-Appellees' request to consolidate Appeal No. 26-2302 with these Consolidated Appeals. (Doc. 19.1.)

RESPECTFULLY SUBMITTED this 2nd day of July, 2026.

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**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME
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This brief contains 13,721 words, excluding the items exempted by Fed. R. App. P. 32(f). The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

I certify that this brief complies with the word limit of Cir. R. 32-1.

RESPECTFULLY SUBMITTED this 2nd day of July, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing on this date with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the Appellate Electronic Filing system.

Description: CORECIVIC INC.'S CONSOLIDATED OPENING BRIEF

RESPECTFULLY SUBMITTED this 2nd day of July, 2026.

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