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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

FERNANDO GOMEZ RUIZ, *et al.*,

Plaintiffs,

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT, *et al.*,

Defendants.

No. 3:25-cv-09757-MMC

**DEFENDANTS' OPPOSITION TO
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Date: Friday, February 6, 2026
Time: 9:00 a.m.
Location: Courtroom 7, 19th Floor
Judge: Hon. Maxine M. Chesney

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1 I. INTRODUCTION

2 Plaintiffs Fernando Gomez Ruiz, Fernando Viera Reyes, Jose Ruiz Canizales, Yuri Alexander
 3 Roque Campos, Sokhean Keo, Gustavo Guevara Alarcon, and Alejandro Mendiola Escutia (collectively,
 4 “Plaintiffs”) are aliens detained at the California City Detention Facility (“CCDF” or the “facility”) who
 5 challenge alleged conditions of confinement, adequacy of medical care, and access to counsel at CCDF.
 6 *See generally* ECF No. 15 (“FAC”). Plaintiffs have moved to certify a class of “[a]ll persons who are
 7 now, or in the future will be, in the legal custody of [ICE] and detained at [CCDF],” and a subclass of
 8 “[a]ll persons who are now, or in the future will be, in the legal custody of [ICE] and detained at
 9 [CCDF] . . . who have disabilities within the meaning of the Rehabilitation Act.” ECF No. 21 (“Mot.”).

10 The Court should deny Plaintiffs’ motion. First, Plaintiffs have not shown that members of the
 11 proposed class or subclass “have suffered the same injury,” and thus fail to establish commonality. *Wal-*
 12 *Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 351 (2011); Fed. R. Civ. P. 23(a)(1). Plaintiffs’ allegations
 13 about conditions at the facility are fact-specific, individualized, and reflect “dissimilarities” among
 14 Plaintiffs themselves, between Plaintiffs and the proposed classes, and within the proposed classes.
 15 *Wal-Mart*, 564 U.S. at 351 (“Dissimilarities within the proposed class are what have the potential to
 16 impede the generation of common answers.”). The proposed classes encompass every single detainee
 17 who will ever be detained at CCDF, regardless of custody classification or gender, whether or not they
 18 have or are likely to experience any issues with conditions of confinement, medical care, or access to
 19 counsel. Second, Plaintiffs have not established that their claims are typical of the claims of the
 20 proposed class, or that they will adequately protect their interests. Fed. R. Civ. P. 23(a)(3)–(4).
 21 Plaintiffs’ claims arise from unique incidents and relate to their specific custody classification, and are
 22 therefore not sufficiently “aligned” or “interrelated” with the proposed classes. *Hanon v. Dataproducts*
 23 *Corp.*, 976 F.2d 497, 508 (9th Cir. 1992); *Senne v. Kan. City Royal Baseball Corp.*, No. 14-cv-00608-
 24 JCS, 2021 WL 3129460, at *19 (N.D. Cal. July 23, 2021). Finally, and for similar reasons, Plaintiffs
 25 fail to establish a risk of inconsistent adjudications or that their allegations “apply generally to the
 26 class[es], so that final injunctive relief or corresponding declaratory relief is appropriate respecting the
 27 class[es] as a whole.” Fed. R. Civ. P. 23(b)(1)(A), (b)(2). For these reasons, Defendants respectfully
 28 request that the Court deny Plaintiffs’ motion for class certification.

II. BACKGROUND

Plaintiffs filed this action on November 12, 2025. *See* ECF No. 1. In their operative FAC, Plaintiffs allege that in April 2025, ICE contracted with CoreCivic to open CCDF, a former prison, as a migrant detention center, and that in the last several months, ICE began detaining people at CCDF. FAC ¶¶ 25–27, 30–33. Plaintiffs allege that individuals detained at CCDF are “impermissibly subject[ed] . . . to conditions constituting punishment, den[ied] . . . adequate medical care and reasonable disability accommodations, and restrict[ed] . . . access to counsel.” *Id.* ¶ 41. Plaintiffs allege that the conditions of confinement and medical care at CCDF violate their (and the proposed class members’) Fifth Amendment rights; that limitations on access to counsel violate their First and Fifth Amendment rights; and that alleged failures to accommodate disabilities by providing equal access to phone calls, outdoor recreation, medical encounters, housing units, and staff, and by denying access to auxiliary aids and assistive devices, violates the Rehabilitation Act. *Id.* ¶¶ 268–94.

Specifically, Plaintiffs assert that detainees have inadequate access to loved ones; are frequently subjected to searches and lockdowns; and structured programming, housing conditions, and meals are inadequate. *Id.* ¶¶ 12–123. Plaintiffs also allege that detainees receive inadequate medical care; are deprived of necessary medications and treatment; and receive inadequate responses to their sick call slips and healthcare grievances. *Id.* ¶¶ 124–183. They further allege that while at CCDF, detainees have inadequate means to access counsel, as scheduling constraints limit the availability of confidential phone and video attorney calls. *Id.* ¶¶ 184–202. Finally, Plaintiffs allege that CCDF’s “Disability, Identification, Assessment and Accommodation” policy is inadequately implemented. *Id.* ¶¶ 204–45.

Defendants have responded to Plaintiffs’ factual allegations with declarations by CCDF Warden Christopher Chestnut, ECF No. 38-1 (“Warden Chestnut Decl.”); Susan Tiona, M.D., CoreCivic’s Clinical Director for Correctional Medicine Associates and Regional Medical Director, ECF No. 38-2 (“Dr. Tiona Decl.”); Dwan Morris, CCDF Food Service Director, ECF No. 38-3 (“Morris Decl.”); and Maxwell Walker, Regional Dietician, ECF No. 38-4 (“Walker Decl.”), submitted in opposition to Plaintiffs’ motion for preliminary injunction, and the declaration of (A)SDDO David Landin, the ICE Enforcement and Removal Operations (“ERO”) representative responsible for overseeing CoreCivic’s operation of CCDF, ECF No. 37-1 (“(A)SDDO Landin Decl.”), filed with Defendants’ transfer motion.

A. Plaintiffs' Motion for Class Certification

On December 1, 2025, Plaintiffs moved for class certification. *See generally* Mot. Plaintiffs' proposed class is defined as:

[a]ll persons who are now, or in the future will be, in the legal custody of [ICE] and detained at [CCDF].

Plaintiffs also seek to certify a subclass, defined as:

[a]ll persons who are now, or in the future will be, in the legal custody of [ICE] and detained at [CCDF] . . . who have disabilities within the meaning of the Rehabilitation Act.

Id. at 10.

Plaintiffs argue that they meet each of the Rule 23 requirements for class certification. They assert numerosity because “[a]pproximately 800 or more people are currently detained at California City,” and approximately “well over 40 people” encompass the proposed subclass. *Id.* at 17. They assert commonality based on alleged common questions of law and fact regarding whether (i) CCDF is run in a manner that creates punitive and prison-like conditions, *id.* at 18–20; (ii) there are adequate policies and practices governing healthcare, *id.* at 20; (iii) there is sufficient access to counsel, *id.* at 20–21; and (iv) there has been a failure to provide disability accommodations under the § 504, *id.* at 21–23. Plaintiffs assert typicality because they are allegedly exposed to “‘a substantial risk of serious harm by the challenged [Defendants’] policies and practices,’ which apply facility-wide to all . . . Plaintiffs.” *Id.* at 23 (quoting *Parsons v. Ryan*, 754 F.3d 657, 685 (9th Cir. 2014)). Plaintiffs assert that the subclass’s claims are typical because Plaintiffs Ruiz Canizales and Keo “suffer a refusal or failure to afford them accommodations as required by statute, and are objects of discriminatory treatment on account of their disabilities[.]” *Id.* Finally, Plaintiffs assert adequacy based on their representations that they and their counsel will fairly and adequately represent the interests of the classes, and that they have no conflicts of interest with other class members. *Id.* at 23–25.

With respect to the requirements of Rule 23(b)(2), Plaintiffs allege that they “seek a uniform injunction against practices and policies that affect the [c]lass as a whole, and Mr. Ruiz Canizales and Mr. Keo seek a uniform injunction against policies that affect the [s]ubclass as a whole.” *Id.* at 25–26. Finally, Plaintiffs assert that they meet the requirements of Rule 23(b)(1) because, they allege, CCDF “[p]olicies operate on a facility-wide basis and cannot feasibly be administered differently for individual

1 persons without creating conflicting obligations[.]” *Id.* at 27.

2 **B. Plaintiffs’ Class and Subclass Representatives**

3 All Plaintiffs seek to represent the proposed class. *Id.* at 14. Plaintiffs Jose Ruiz Canizales and
4 Sokhean Keo seek to represent the proposed subclass. *Id.*

5 Two Plaintiffs have been released from the facility. Plaintiff Gomez Ruiz was transferred to
6 CCDF on October 20, 2025; was classified as [REDACTED]
7 [REDACTED]; and was released from the facility on December 4, 2025. Warden
8 Chestnut Decl. ¶ 12. Plaintiff Ruiz Canizales was transferred to the facility on August 29, 2025; was
9 classified as [REDACTED] based on offenses of domestic violence with corporal injury and making
10 criminal threats; and was also released from the facility on December 4, 2025. *Id.* ¶ 13.

11 The remaining Plaintiffs remain detained at CCDF. Plaintiff Roque Campos was transferred to
12 the facility on September 5, 2025. *Id.* ¶ 8. He was classified as [REDACTED] based on an
13 arrest for domestic violence with willful infliction of corporal injury. He was placed in restrictive
14 housing on November 27, 2025 for medical observation after returning from the hospital following
15 [REDACTED]. *Id.* He was released into general population housing on November
16 28, 2025. *Id.* Plaintiff Viera Reyes was transferred to the facility on August 29, 2025. *Id.* ¶ 10. He was
17 classified as [REDACTED] based on a murder conviction and [REDACTED]. *Id.* Plaintiff
18 Guevara Alarcon was transferred to the facility on August 29, 2025. *Id.* ¶ 9. He was classified as [REDACTED]
19 [REDACTED] based on an attempted murder conviction and [REDACTED]. *Id.* He was
20 placed in restrictive housing on September 20, 2025 for a disciplinary charge and received a seven day
21 restrictive housing sanction. *See id.* Plaintiff Mendiola Escutia was booked into the facility on
22 September 4, 2025. *Id.* ¶ 7. He was classified as [REDACTED] based on a homicide conviction and a
23 [REDACTED]. *Id.*

24 Plaintiff Keo, the sole remaining proposed subclass representative, was transferred to the facility
25 on August 29, 2025. *Id.* ¶ 11. He was classified as [REDACTED] based on convictions for robbery and
26 aggravated assault and [REDACTED]. *Id.* He was placed in restrictive housing on
27 November 12, 2025 for a disciplinary charge and released into general population housing on November
28 18, 2025. *See id.* Plaintiff Keo previously submitted a habeas petition in the Eastern District of

California challenging his alleged prolonged detention, which the district court dismissed based on his mandatory detention “due to his prior conviction for aggravated felonies, including conspiracy to commit home invasion robbery, and shooting a firearm at an occupied dwelling.” *Id.*

C. CoreCivic Policy and Procedure for Medical Care at CCDF

Pursuant to the operative NDS, all detainees receive “a medical screening within 12 hours of arrival . . . , which may be done by a nurse, other health care practitioner, or a specially trained detention officer.” Dr. Tiona Decl. ¶ 19. Once detainees are prioritized for screening, a nurse conducts an initial intake screening and conducts a more detailed inquiry into allergies or medication sensitivities; physical deformities; prosthetic devices; history of alcohol/tobacco/drug use; special health care needs or current medical complaints; recent hospitalizations, operations or surgeries; previously scheduled specialty appointments; current pain; current medications; skin problems; special diets; dental issues; history and vaccination for chicken pox and shingles; and a detailed mental health screening. *Id.* ¶ 23. Responses to these questions determine whether a detainee will receive an emergent, urgent, or routine referral to an RN, LIP, dental, or mental health staff. *Id.* Emergent referrals are to be seen immediately, urgent referrals are seen within 24 hours, and routine referrals occur within 2-14 days. *Id.* ¶ 24. Based upon the prioritization of the initial intake screening, detainees are seen by a provider for their initial health examination within 14 days. *Id.* ¶ 31.

While there have been some delays in conducting intake examinations, changes at the facility have decreased wait times — including improvements in staffing patterns, changes in health services administration, and increased training and oversight of nursing and onsite physician staff, as well as the ability of CoreCivic to dispatch additional providers from other facilities. *Id.* ¶ 32. Improved effectiveness of the screening and prioritization process has also ensured that detainees with urgent needs are seen by a provider most quickly. *Id.* The facility also has many bilingual staff, and where bilingual staff are not available for interpretation, the facility utilizes (and health staff documents the use of) interpretation services. *Id.* ¶ 33.

Detainees can access health services by completing a paper sick call request form and submitting it in the locked box in their housing unit. *Id.* ¶ 34. These are collected by health services personnel each night and are triaged to determine if a face-to-face encounter is needed, and if so, to determine the

1 priority for nursing sick call or provider referral. *Id.* Sick call requests are classified as “emergency” to
2 be seen immediately; “urgent” to be seen within 24 hours; and “routine” to be seen by a nurse within
3 three days or a provider within two to 14 days. *Id.* Detainees often fill out sick call requests which do
4 not require a referral, such as seeking medication refills or medical records, which are also noted during
5 triage and returned to the detainee. *Id.* Detainees in restrictive housing are seen by medical staff who
6 make daily rounds in those units, and may advise staff of any requests for medical, mental health, or
7 dental care. *Id.* ¶ 35. In addition, because pill call is conducted multiple times a day by health services
8 staff in each housing unit, detainees have multiple additional opportunities to report urgent concerns
9 directly to medical staff. *Id.* ¶ 36.

10 Detainees with chronic medical conditions (i.e., cardiovascular disease, pulmonary disease,
11 diabetes, infectious disease, seizure disorder, sickle cell, other medical conditions, and mental illness)
12 are identified during intake through a review of intake records, intake screening, initial health appraisal,
13 sick call, or other health encounters, and are enrolled in a “Chronic Care Clinic” for their respective
14 conditions. *Id.* ¶ 38. CoreCivic’s policy is that patients enrolled in a Chronic Care Clinic receive an
15 initial visit within 30 days of enrollment. During the initial visit, the provider takes a targeted history
16 and physical examination of the patient and places orders for any necessary medications, vaccinations,
17 monitoring, diagnostic studies, laboratory tests, or specialty care referrals. *Id.* ¶ 41. CoreCivic also
18 contracts with Hall Ambulance to provide emergency medical transports by ground and air for detainees
19 with emergent medical conditions who must be transferred to an emergency department. *Id.* ¶ 44.
20 Detainees experiencing medical emergencies are typically transported to Tehachapi Hospital, Antelope
21 Valley Medical Center in Lancaster, or Mercy Hospital in Bakersfield. *See id.* ¶ 45.

22 In addition, all detainees have an equal opportunity to participate in services, programs, and
23 activities, in the least restrictive and most integrated setting possible. *Id.* ¶ 49. Detainees requesting an
24 accommodation may submit verbal or written requests to the Health Services Administrator, who serves
25 as the Disability Compliance Coordinator, through the sick call process. *Id.* Since September 2025, the
26 facility has made many improvements in patient care access and rectified delays. *Id.* ¶ 54. Sick call
27 requests are being processed more quickly, and detainees whose requests are classified as “urgent” are
28

1 seen the same day the request is received. *Id.* All other patients are seen within 72 hours of their sick
2 call requests. *See id.*

3 The facility has also corrected potential deficiencies identified in the initial weeks of operation
4 through improved medical personnel staffing patterns, changes in health services administration,
5 training of nurses in sick call protocols, and training of the on-site medical doctor regarding patient care
6 responsibilities and documentation. *Id.* ¶ 55. In addition, the facility has specifically addressed the
7 complaints of Plaintiffs and the detainees who submitted declarations in support of Plaintiffs’ motion for
8 preliminary injunction, and who are still at the facility. *Id.* ¶¶ 56–57.

9 **D. Meals at CCDF**

10 With respect to meal service at CCDF, “detainees are provided three hot meals per day.” Morris
11 Decl. ¶ 9. The Food Service Director eats the same meals on his shifts. *Id.* ¶ 18. Portions are measured,
12 monitored, and inspected. *Id.* ¶¶ 15–17. CCDF also utilizes a Regional Dietician who specializes in the
13 provision of food service and nutritional consultation for detention and correctional facilities. *See*
14 Walker Decl. ¶ 6. The Dietician is responsible for, among other duties, designing and evaluating
15 existing menus to provide nutritionally adequate meals pursuant to specifications, directives, and
16 guidelines of the correctional institutions, detention facilities, and government agencies. *Id.* ¶ 7.
17 Nutritional adequacy and calorie count are based on dietary reference intakes, which comply with
18 nutritional standards set by the National Institute of Health and the Recommended Daily Allowances
19 from the National Academies of Sciences. *Id.* ¶ 9. These nutritional guidelines are standards followed
20 throughout the corrections food service industry. *Id.*

21 The menus meet American Correctional Association nutritional requirements. *Id.* ¶ 15. Medical
22 and religious diets are also available. *Id.* ¶¶ 17–18. Regular menus are developed and provided on a
23 five-week cycle. *Id.* ¶ 16. The types and portions of food items are varied, and menus specify portion
24 sizes. *Id.* Menus vary daily and weekly to provide detainees with nutritious and varied fare. *Id.*; *see*
25 *also* Morris Decl. ¶ 26 (noting that contrary to one of Plaintiffs’ declarants’ assertions, potatoes are not
26 served every day). All menus include both fruit and vegetables. *Id.* ¶ 25.

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1 III. LEGAL STANDARD

2 Class certification is an “exception to the usual rule that litigation is conducted by and on behalf
3 of the individual named parties only.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 348 (2011). To
4 justify this exception, the burden falls squarely on Plaintiffs to establish that their proposed class and
5 subclass satisfy the stringent requirements of Rule 23(a) and at least one prong of Rule 23(b). *See*
6 *Amchem Prods., v. Windsor*, 521 U.S. 591, 614 (1997). This mandate exists because class certification
7 imposes significant legal and practical consequences, including binding absent members and altering the
8 procedural posture of the case. Thus, Plaintiffs must demonstrate that their proposed class and their
9 proposed subclass meet the fundamental prerequisites of numerosity, commonality, typicality, and
10 adequacy. *See* Fed. R. Civ. P. 23.

11 Rule 23(a) requires a party seeking to certify a class to first demonstrate the following:

- 12 (1) the class is so numerous that joinder is impractical [(“numerosity”)];
- 13 (2) there are questions of law or fact common to the class [(“commonality”)];
- 14 (3) the claims or defenses of the named plaintiffs are typical of claims or defenses of the
15 class [(“typicality”)]; and
- 16 (4) the named plaintiffs will fairly and adequately protect the interest of the class
[(“adequacy of representation”).]

17 Fed. R. Civ. P. 23(a).

18 The Supreme Court has emphasized that “Rule 23 does not set forth a mere pleading standard,”
19 and a plaintiff “must affirmatively demonstrate his compliance with the Rule — that is, he must be
20 prepared to prove that there are *in fact* sufficiently numerous parties, common questions of law or fact,
21 etc.” *Wal-Mart Stores, Inc.*, 564 U.S. at 350 (emphasis in original); *Olean Wholesale Grocery Coop.,*
22 *Inc. v. Bumble Bee Foods LLC*, 31 F.4th 651, 664 (9th Cir. 2022) (*en banc*). Consequently, this Court
23 must conduct a “rigorous” class certification analysis, which may “entail some overlap with the merits
24 of the plaintiff’s underlying claim.” *Wal-Mart*, 564 U.S. at 351.

25 Additionally, “[w]hen appropriate, a class may be divided into subclasses that are each treated as
26 a class.” Fed. R. Civ. P. 23(c)(5). Plaintiffs “must actually *prove* — not simply plead — that their
27 proposed class satisfies each requirement of Rule 23,” otherwise certification must be denied.
28 *Halliburton Co. v. Erica P. John Fund, Inc.*, 573 U.S. 258, 275 (2014). If the Court is not fully satisfied

that all Rule 23 requirements are met, the Court cannot certify the class or subclass. *Wal-Mart*, 564 U.S. at 351–52.

After satisfying the requirements of Rule 23(a), the proposed class and subclass must also qualify under a Rule 23(b) subset. *Amchem*, 521 U.S. at 614. Rule 23(b)(1)(A) permits certification where “prosecuting separate actions by or against individual class members would create risk of . . . inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class.” Thus, Plaintiffs must prove that the proposed class and subclass are “sufficiently cohesive to warrant adjudication by representation.” *Amchem*, 521 U.S. at 623. To qualify under Rule 23(b)(2), Plaintiffs must demonstrate that Defendants acted or refused to act on grounds that apply generally to the class, making final injunctive relief appropriate for the class as a whole.

IV. ARGUMENT

A. Plaintiffs’ Proposed Classes Are Overbroad and Fail to Satisfy Commonality

Plaintiffs’ proposed classes lack commonality because they are overbroad. Rule 23(a)(2) requires Plaintiffs to identify questions of law and fact common to the class. *See Wal-Mart*, 564 U.S. at 351. Class claims must depend on a common contention that allows a court to resolve the central issue of each claim “in one stroke.” *Id.* at 350. “What matters to class certification is not the raising of common ‘questions’ — even in droves — but rather, the capacity of a class-wide proceeding to generate common *answers* apt to drive resolution of the litigation.” *Id.* (quotation marks omitted, emphasis in original). Courts must assess the “dissimilarities within the proposed class” that “have the potential to impede the generation of common answers” and explain why these dissimilarities do not defeat class certification. *Id.* A class definition may be fatally overbroad if it “sweeps within it persons who could not have been injured by the defendant’s conduct.” *Ross v. Lockheed Martin Corp.*, 267 F. Supp. 3d 174, 191 (D.D.C. 2017) (internal citations omitted).

Here, Plaintiffs’ proposed classes cover individuals who could not have been injured by Defendant’s conduct, as the proposed class sweeps so broadly as to cover every single detainee who either now or in the future will be detained at CCDF. *See* Mot. 10. Moreover, Plaintiffs assert that their proposed classes satisfy commonality because they will be subjected to Defendants’ policies, practices,

1 and procedures. *Id.* at 18–23. Yet Plaintiffs do not identify with specificity what policy, practice, or
 2 procedure they are challenging when broadly complaining about, e.g., inadequate meals, clothing,
 3 bedding, and hygiene supplies; cold temperatures in the facility; not being able to physically touch loved
 4 ones during visits; and the facility’s responses to disciplinary infractions. *Id.*

5 Furthermore, to prevail on a conditions-of-confinement claim, Plaintiffs must prove that
 6 operations at CCDF “pose an unreasonable risk of serious damage to [the detainees’] future health,”
 7 *Helling v. McKinney*, 509 U.S. 25, 35 (1993), and that Defendants were deliberately indifferent to
 8 Plaintiffs’ wellbeing, *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). The Ninth Circuit has applied an
 9 objective standard to some claims challenging conditions of confinement and requires a showing that an
 10 “intentional decision” was made to the conditions at issue. *See Roman v. Wolf*, 977 F.3d 935, 943 (9th
 11 Cir. 2020); *see also Gordon v. Cnty. of Orange*, 888 F.3d 1118, 1124–25 (9th Cir. 2018) (holding that
 12 claims challenging adequate medical care must be brought “under an objective deliberate indifference
 13 standard”). Such legal inquiries are fact-driven, implicating a cumulative and individualized analysis.
 14 *See Bell v. Wolfish*, 441 U.S. 520, 542 (1979) (analyzing affidavits and conducting an in person visit to
 15 the facility).

16 Plaintiffs’ own submissions to this Court confirm that the conditions at CCDF are fact-specific,
 17 individualized, and indeed vary materially among Plaintiffs themselves. *Compare* Gomez Ruiz Decl. ¶¶
 18 17–18 (referencing cold temperatures and visits with family members where physical contact was
 19 prohibited) *with* Viera Reyes Decl. ¶¶ 23–28 (referencing no contact family visits, insufficient access to
 20 outdoors and programming, lockdown during counts, and food and water quality), Ruiz Canizales Decl.
 21 ¶¶ 53–55, 91 (referencing cell size and cold temperatures, lockdown during counts, and non-
 22 denominational Christian religious services), Roque Campos Decl. ¶¶ 37–42 (referencing being placed
 23 in a dirty and dusty observation cell after trips to hospital), Keo Decl. ¶¶ 12, 14 (alleging that detention
 24 facility staff “speak to [detainees] disrespectfully” and subject detainees to invasive pat downs), Guevara
 25 Alarcon Decl. ¶¶ 38–39 (referencing being placed in administrative segregation for a disciplinary
 26 infraction), *and* Mendiola Escutia Decl. ¶¶ 10–13, 18–19 (expressing concerns about water quality,
 27 understaffing, and no contact family visits and the grievance submission process).

28 Plaintiffs’ experiences also depend on their custody classifications, which differ from other

1 proposed class members. *Compare, e.g.,* Ruiz Canizales [REDACTED] Warden Chestnut Decl. ¶ 12)
2 *with* Viera Reyes [REDACTED] *id.* ¶ 10), Roque Campos [REDACTED] *Id.* ¶ 8), and
3 Guevara Alarcon [REDACTED] *id.* ¶ 9). Plaintiffs have not established that their experiences, which
4 depend on their custody status and gender, are common to the class or subclass. Nor have Plaintiffs
5 established that their factual allegations are common to the class or subclass because many of those
6 allegations resulted from their specific actions. For example, Plaintiff Guevara Alcaron was placed in
7 restrictive housing because he admittedly refused to exit the shower during a critical incident lock-down.
8 *See id.* ¶ 9. Other Plaintiffs’ experiences, too, have resulted from their own subjective behavioral
9 choices. *See generally* Warden Chestnut Decl.

10 Similarly, Plaintiffs’ medical allegations reflect no qualitatively similar pattern of harm, but
11 instead illustrate myriad injuries, ailments, or illnesses among them ranging from [REDACTED] to
12 [REDACTED], and unrelated to any one source of conduct. *See generally* Guevara Alarcon Decl. &
13 Viera Reyes Decl. Further, some illnesses or injuries either predate Plaintiffs’ detention at CCDF or
14 reflect conditions not attributable to alleged inadequacies of medical care at the facility. Plaintiffs have
15 failed to allege that Defendants’ responses to medical concerns demonstrate not only common questions,
16 but common answers sufficient to warrant class certification. *See Wal-Mart*, 564 U.S. at 351.

17 Defendants also dispute Plaintiffs’ allegation that Defendants’ “policies and practices with
18 respect to attorney visitation impermissibly burden or interfere with access to counsel” in violation of
19 the First and Fifth Amendments. Mot. 20–21. Although Plaintiffs complain about scheduling
20 limitations and the availability of confidential phone and video calls with counsel, they stop short of
21 arguing that their right to counsel was outright denied. *Id.* Courts have held that the right to counsel in
22 immigration proceedings is violated only where conditions are “tantamount to denial of counsel.” *E.g.,*
23 *Biwot v. Gonzales*, 403 F.3d 1094, 1098 (9th Cir. 2005); *Lyon v. U.S. Immigration and Customs*
24 *Enforcement*, 171 F. Supp.3d 961, 975–76 (N.D. Cal. 2016) (limitations on telephone communication
25 policies did not violate immigration detainees’ statutory right to counsel). In any event, given factual
26 differences among the allegations, and among detainees, Plaintiffs have not established that their
27 contentions, if accurate, are common enough to warrant class-wide resolution.

28 Finally, as to the Rehabilitation Act claim and proposed subclass, Plaintiffs fail to demonstrate

that immigration detainees with different disabilities “suffer[] the same injury,” such that they are able to demonstrate a common question. *Wal-Mart*, 564 U.S. at 350 (cleaned up). Plaintiffs cite *Armstrong v. Davis*, 275 F.3d 849 (9th Cir. 2001) for the proposition that they can demonstrate a common question by showing that they suffer similar harm by being excluded from the same set of programs or activities. Mot. 13. Plaintiffs fail to make such a showing. Indeed, while one of the proposed class representatives claims to be unable to access programs or activities because of his disability, the other makes no such claim. *Compare* Ruiz Canizales Decl. ¶¶ 42–44, *with* Keo Decl.

In sum, Plaintiffs have failed to carry their burden of proving that all proposed class or subclass members suffer sufficiently common injuries, and that the basis for those injuries are also sufficiently common. To the contrary, the circumstances and conditions of detention vary based on individual circumstances, which is fatal to class-wide relief.

B. Plaintiffs’ Proposed Classes Fail to Satisfy Typicality and Adequacy

Rule 23(a)(3) requires that “the claims or defenses of the representative parties are typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). Typicality focuses on whether the class representatives’ claims and interests are sufficiently aligned with the class’s interest. *See Small v. Allianz Life Ins. Co. of N. Am.*, 122 F.4th 1182, 1201–02 (9th Cir. 2024). “Measures of typicality include whether other members have the *same or similar injury*, whether the action is based on conduct which is not unique to the named plaintiffs, and whether other class members have been injured by the same course of conduct.” *Id.* at 1202 (emphasis added, internal citations omitted).

Here, Plaintiffs have not demonstrated that their claims are typical of those of the proposed classes. Indeed, the grievances Plaintiffs allege vary significantly among the individual Plaintiffs, particularly with respect to their challenges to general detention conditions. *Compare* Gomez Ruiz Decl. ¶¶ 17–18 *with* Viera Reyes Decl. ¶¶ 23–28, Ruiz Canizales Decl. ¶¶ 53–55, 91, Roque Campos Decl. ¶¶ 37–42, Keo Decl. ¶¶ 12, 14, Guevara Alarcon Decl. ¶¶ 38–39, *and* Mendiola Escutia Decl. ¶¶ 10–13, 18–19. Plaintiffs also include allegations about the members of the proposed classes that are inconsistent with Plaintiffs’ own treatment, including alleged denial of access to prescription medications and medical treatment, FAC ¶¶ 124, 141–45, 151–55, and “extraordinary difficulty meeting with and speaking to their retained or prospective counsel,” *id.* ¶ 184. By contrast, Plaintiffs have

received extensive medical care during their detention at CCDF. *See, e.g.,* Roque Campos Decl. ¶¶ 21–35. Plaintiffs also have counsel with whom they meet and speak with at the facility. *See, e.g.,* Mendiola Escutia Decl. ¶¶ 14, 17 (stating that he “h[as] a lawyer for [his] immigration case” with whom he “h[as] talked” while at CCDF). At least one Plaintiff makes no specific allegations about his ability to communicate with counsel, yet challenges Defendants’ actions in this regard. *See generally* Gomez Ruiz Decl. And although Plaintiff Sokhean Keo challenges the facility’s disability accommodation policies, he does not allege that he was unable to access programs or activities because of his disability. *See generally* Keo Decl. For these reasons, Plaintiffs are not appropriate representatives of the proposed classes because the classes’ claims are not fairly encompassed by their own claims.

For similar reasons, Plaintiffs also have not satisfied the adequacy requirement. Rule 23(a)(4) requires named plaintiffs to be able to “fairly and adequately protect the interests of the class.” *Amchem*, 521 U.S. at 625. “[A] class representative must be part of the class and possess the same interest and suffer the same injury as the class members.” *Id.* at 625–26 (cleaned up). Plaintiffs have not shown that they have suffered the same injury as the class members they seek to represent. *See generally* Mot. 14–16. They have therefore failed to meet their burden of establishing their adequacy as class representatives.

C. Plaintiffs’ Proposed Classes Fail to Satisfy Rules 23(b)(1)(A) and (b)(2)

Plaintiffs also fail to satisfy the requirements of either Rule 23(b)(1)(A) or 23(b)(2). Rule 23(b)(1)(A) permits class certification if separate actions risk “inconsistent or varying adjudications with respect to individual class members that would establish incompatible standards of conduct for the party opposing the class.” Fed. R. Civ. P. 23(b)(1)(A). “[I]ncompatible standards of conduct” is interpreted as “incompatible standards of conduct required of the defendant in fulfilling judgments in separate actions.” *McDonnell Douglas Corp. v. U.S. District Court*, 523 F.2d 1083, 1086 (9th Cir. 1975). Here, Plaintiffs allege that there is a risk of inconsistent judgments because different courts may determine different requirements to impose on Defendants regarding the “many” “policies and practices at issue in this case.” Mot. 17–18. Yet apart from this broad and perfunctory assertion, Plaintiffs do not explain how separate lawsuits are likely to create inconsistent requirements for Defendants, particularly where they fail to specify precisely what policies, procedures, and practices they are specifically challenging.

Under Rule 23(b)(2), final injunctive or declaratory relief must be appropriate respecting the class as a whole. Fed. R. Civ. P. 23(b)(2). The “key to the (b)(2) class is the indivisible nature of the injunctive or declaratory remedy warranted — the notion that the conduct is such that it can be enjoined or declared unlawful only as to all of the class members or as to none of them.” *Wal-Mart*, 564 U.S. at 360 (citation omitted). Plaintiffs fail to meet Rule 23(b)(2)’s requirements because, as discussed above, the proposed classes include dissimilarly situated individuals, and the Court could therefore not enter a single declaratory judgment to resolve class-wide claims.

Plaintiffs also fail this requirement because 8 U.S.C. § 1252(f)(1) prohibits the Court from granting Plaintiffs the relief they seek, and any version of the relief sought that would not run afoul of § 1252(f)(1) would not address the alleged injuries of the proposed class. First, the Court lacks jurisdiction to enjoin or restrain Defendants from detaining individuals under 8 U.S.C. § 1225(b). Section 1252(f)(1) states that:

Regardless of the nature of the action or claim or of the identity of the party or parties bringing the action, *no court (other than the Supreme Court)* shall have jurisdiction or authority to enjoin or restrain the operation of the provisions of Part IV [of subchapter II of the INA], other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated.

8 U.S.C. § 1252(f)(1) (emphasis added). As the Supreme Court has explained, § 1252(f)(1)’s reference to “the ‘operation of’ the relevant statutes is best understood to refer to the Government’s efforts to enforce or implement them.” *Garland v. Aleman Gonzalez*, 596 U.S. 543, 550 (2022). Section 1252(f)(1) “generally prohibits lower courts from entering injunctions that order federal officials to take or refrain from taking actions to enforce, implement, or otherwise carry out” the covered statutory provisions of the INA. *Id.* Thus, to the extent Plaintiffs seek to restrain the government from detaining aliens on a class-wide basis, § 1252(f)(1) applies because the statutory authority for the detention of aliens present in the United States without being admitted a covered provision. *Id.*

Second, the Court should be hesitant to resolve Plaintiffs’ due process claims via class-wide relief. As the Supreme Court has cautioned, courts should consider “whether a Rule 23(b)(2) class action litigated on common facts is an appropriate way to resolve [plaintiffs’] Due Process Clause claims. ‘[D]ue process is flexible,’ we have stressed repeatedly, and it ‘calls for such procedural protections as the particular situation demands.’” *Jennings v. Rodriguez*, 583 U.S. 281, 314 (2018)

(quoting *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)); *see also Diaz v. Garland*, 53 F.4th 1189, 1213 (9th Cir. 2022) (noting that “the Due Process Clause does not mandate procedures that reduce the risk of erroneous deprivation to zero” and that [d]ue process is a flexible concept that varies with the particular situation”). Because Plaintiffs’ proposed classes, as defined, are highly varied, the Court should not enter a single, class-wide judgment to resolve Plaintiffs’ due process claims.

V. CONCLUSION

For the foregoing reasons, Defendants respectfully request that the Court deny Plaintiffs’ motion for class certification.

Respectfully submitted,

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