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12 *Pro hac vice application forthcoming

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 KELVIN HERNANDEZ ROMAN,
16 MIGUEL AGUILAR ESTRADA,
17 BEATRIZ ANDREA FORERO
CHAVEZ, on behalf of themselves and
others similarly situated,

18 Petitioners-Plaintiffs,

19 v.

20 CHAD F. WOLF, Acting Secretary, U.S.
Department of Homeland Security;
21 MATTHEW T. ALBENCE, Deputy
Director and Senior Official Performing
the Duties of the Director, U.S.
22 Immigration and Customs Enforcement;
23 DAVID MARIN, Director of the Los
Angeles Field Office, Enforcement and
24 Removal Operations, U.S. Immigration
and Customs Enforcement; and JAMES
25 JANECKA, Warden, Adelanto ICE
Processing Center,

26 Respondents-Defendants.
27
28

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) Case No. 5:20-cv-00768

) **ADELANTO COVID**

) **PETITIONERS'-PLAINTIFFS'**
) **NOTICE OF MOTION AND**
) **MOTION FOR PROVISIONAL**
) **CLASS CERTIFICATION**

) PROPOSED HEARING DATE:
) APRIL 22, 2020

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD: PLEASE
2 TAKE NOTICE that, on April 22, 2020,¹ or at the nearest available date at which
3 counsel may be heard, Plaintiffs-Petitioners Kelvin Hernandez Roman, Miguel
4 Aguilar Estrada, and Beatriz Andrea Forero Chavez (“Plaintiffs”) will, and hereby
5 do, move this Court to provisionally certify the following Proposed Class for
6 purposes of the preliminary injunctive relief sought by Plaintiffs:
7

8 All immigrants incarcerated at the Adelanto Immigration and Customs
9 Enforcement Processing Center.
10

11 The Motion is based on this Notice of Motion, the accompanying
12 Memorandum of Points and Authorities, the supporting declarations, all pleadings
13 and papers filed in this action, and such additional papers and arguments as may be
14 presented at or in connection with the hearing.

15 Plaintiffs have simultaneously filed an Ex Parte Application to Expedite
16 Hearing on this Motion. On April 13, 2020 at 10:13 am, Plaintiffs informed
17 Assistant United States Attorneys Joanne Osinoff, Daniel Beck, and Hillary Burrelle
18 via email of their intent to file this Motion and inquired about their availability to
19 meet and confer. The United States Attorney’s Office informed Plaintiffs that they
20 intend to oppose this motion and were available to confer on April 14, 2020.
21

22 DATED: April 13, 2020

Respectfully submitted,
LATHAM & WATKINS LLP
/s/ Amanda Barnett
AMANDA BARNETT
Counsel for Plaintiffs-Petitioners

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27
28 ¹ Plaintiffs have proposed this date in their simultaneously filed Ex Parte Application
to Expedite Hearing.

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18 Petitioners-Plaintiffs,

19 v.

20 CHAD F. WOLF, Acting Secretary, U.S.
21 Department of Homeland Security;
22 MATTHEW T. ALBENCE, Deputy
Director and Senior Official Performing
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23 Immigration and Customs Enforcement;
24 DAVID MARIN, Director of the Los
Angeles Field Office, Enforcement and
Removal Operations, U.S. Immigration
25 and Customs Enforcement; and JAMES
26 JANECKA, Warden, Adelanto ICE
Processing Center,

27 Respondents-Defendants.
28

) Case No. 5:20-cv-00768

) **ADELANTO COVID**

) **PETITIONERS'-PLAINTIFFS'**
) **MEMORANDUM OF POINTS**
) **AND AUTHORITIES IN**
) **SUPPORT OF MOTION FOR**
) **PROVISIONAL CLASS**
) **CERTIFICATION**

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11 *Baharona-Gomez v. Reno*,

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13 *Carrillo v. Schneider Logistics, Inc.*,

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15 *Castillo v. Barr*,

16 No. CV2000605TJHAFMX, 2020 WL 1502864 (C.D. Cal. Mar.

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18 *Cervantez v. Celestica Corp.*,

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20 *Civil Rights Educ. & Enf’t Ctr. v. Hosp. Props. Trust*,

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24 *Fraihat v. Wolf*,

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6 *Hum v. Dericks*,
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8 *Kincaid v. City of Fresno*,
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10 *Kuang v. United States Dep’t of Def.*,
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12 *Lyon v. United States Immigration & Customs Enforcement*,
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14 *Meyer v. Portfolio Recovery Assocs., LLC*,
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16 *Parsons v. Ryan*,
 17 754 F.3d 657 (9th Cir. 2014)..... 7, 11

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21 *Rannis v. Recchia*,
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23 *Robidoux v. Celani*,
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25 *Robles Rodriguez v. Wolf*,
 26 No. 5:20-CV-00527 (C.D. Cal. Apr. 3, 2020) ECF Nos. 35-39, 42-
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28 *Rodriguez v. Hayes*,
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1 **I. INTRODUCTION**

2 Petitioners-Plaintiffs (“Plaintiffs”) are immigrants held at the Adelanto ICE
3 Processing Center (“Adelanto”) under conditions that all but assure they will become
4 victims of the COVID-19 global pandemic. COVID-19, as the Court knows, is a
5 highly infectious viral contagion spreading at an exponential rate across the United
6 States, including in the areas surrounding Adelanto. The only known effective
7 measure to protect people from COVID-19 infection is “social distancing,” or
8 remaining physically separated from known or potentially-infected individuals. *See*
9 Decl. of Robert B. Greifinger in Support of Mot. for a Prelim. Inj. (“Greifinger
10 Decl.”), ¶ 4, 11; Decl. of Dr. Todd Schneberk in Support of Mot. for a Prelim. Inj.
11 (“Schneberk Decl.”) ¶ 33.

12 Under current population levels, social distancing is not possible in Adelanto.
13 The Court has already found as much,¹ and the Government does not dispute it.² It
14 is therefore only a matter of time until the virus enters Adelanto and spreads like
15 wildfire—as it has in jails, prisons, and detention centers across the country.
16 Plaintiffs therefore seek a class-wide preliminary injunction to ensure that social
17 distancing is enforced at Adelanto until the threat of the virus passes.

18 The Court has already acted decisively in the face of this danger by granting
19 numerous applications for temporary restraining orders from immigrants in

21 ¹ *See, e.g., Hernandez v. Wolf*, TRO and Order to Show Cause at 13, No. 5:20-cv-
22 0617-TJH (C.D. Cal. April 1, 2020), ECF No 17 (“Hernandez has not been
23 protected. He is not kept at least 6 feet apart from others at all times. He has been
24 put into a situation where he has been forced to touch surfaces touched by other
25 detainees, such as with common sinks, toilets and showers. Moreover, the
26 Government cannot deny the fact that the risk of infection in immigration detention
27 facilities – and jails – is particularly high if an asymptomatic guard, or other
28 employee, enters a facility.”).

² *See Robles Rodriguez v. Wolf*, Opp. Br. to Application for TRO at 19, No. 5:20-
cv-00-627-TJH (C.D. Cal. March 31, 2020) ECF No. 28 (describing social
distancing as a “desirable strategy” but arguing that implementing social distancing
would essentially require “shuttering” Adelanto).

1 Adelanto. However, Adelanto has the capacity to detain more than 1,900 detainees.
2 *See* Schneberk Decl. ¶ 23. As each day passes, the Court will likely become
3 inundated with more individual claims for release, if it has not already. Which
4 applicants have the ability to file claims will depend on their access to a lawyer. The
5 result will be an arbitrary and inefficient process where most Adelanto detainees will
6 remain detained and at grave risk of contracting COVID-19.

7 To avoid this situation, Plaintiffs move for provisional class certification in
8 order to seek a class-wide preliminary injunction. As the United States District Court
9 for the District of Massachusetts recently concluded in certifying a class of
10 immigration detainees challenging their detention under unconstitutional conditions
11 in the face of the COVID-19 pandemic, “At bottom, a common question of law and
12 fact in this case is whether the government must modify the conditions of
13 confinement—or, failing that, release a critical mass of Detainees—such that social
14 distancing will be possible and all those held in the facility will not face a
15 constitutionally violative substantial risk of serious harm. Crucial to the Court’s
16 determination is the troubling fact that even perfectly healthy detainees are seriously
17 threatened by COVID-19. To be sure, the harm of a COVID-19 infection will
18 generally be more serious for some petitioners than for others. Yet it cannot be
19 denied that the virus is gravely dangerous to all of us.” *Savino v. Souza*,
20 Memorandum & Order at 21, No. 1:20-cv-10617 (D. Mass. 2020), ECF No 64.

21 The same is true here. *All* detainees in Adelanto are at risk; their ability to
22 obtain relief should not depend on their access to lawyers. *Rodriguez v. Hayes*, 591
23 F.3d 1105, 1123 (9th Cir. 2009) (certification of class of detained immigrants
24 warranted because it would “obviate the severe practical concerns that would likely
25 attend [class members] were they forced to proceed alone.”); *Cervantez v. Celestica*
26 *Corp.*, 253 F.R.D. 562, 567 (C.D. Cal. 2008) (“Class actions have two primary
27 purposes: to further judicial economy by avoiding multiple suits and to protect the
28

1 rights of persons who ‘might not be able to present claims on an individual basis.’”)
2 (quoting *Haley v. Medtronic, Inc.*, 169 F.R.D. 643, 647 (C.D. Cal. 1996)).

3 To respond to this crisis, Plaintiffs propose as one possible means of
4 remedying Proposed Class Members’ injuries that this Court issue an injunction to
5 implement a truncated system for considering Proposed Class Members’ claims for
6 release. The proposal is modeled on the system now utilized for ICE detainees in the
7 District of Massachusetts. *See Savino v. Sousa*, Mem. & Order at 7, 29, No. 20-cv-
8 10617-WGY (D. Mass. Apr. 8, 2020), ECF No. 64 (emphasis added).³

9 Federal courts in the Ninth Circuit “routinely grant provisional class
10 certification for purposes of entering [preliminary] injunctive relief” under Rule
11 23(b)(2), when the plaintiffs establish that the four prerequisites in Rule 23(a) are
12 also met. *Carrillo v. Schneider Logistics, Inc.*, No. 11-cv-8557, 2012 WL 556309,
13 at *9 (C.D. Cal. Jan. 31, 2012) (citing *Baharona-Gomez v. Reno*, 167 F.3d 1228,
14 1233 (9th Cir. 1999)); *see also Meyer v. Portfolio Recovery Assocs., LLC*, 707 F.3d
15 1036, 1041 (9th Cir. 2012) (finding district court did not abuse its discretion by
16 provisionally certifying class for purpose of entering preliminary injunction);
17 *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1202 (N.D. Cal. 2017) (provisionally
18 certifying class of detained immigrant children), *aff’d* 905 F.3d 1137 (9th Cir. 2018).

19 Rule 23’s requirements are easily satisfied here. The Court should therefore
20 provisionally certify the following Proposed Class for the purposes of the
21 preliminary injunction Plaintiffs seek:

22
23
24 ³ Under that system, until such time as Defendants have implemented social
25 distancing at Adelanto, this Court would entertain release requests submitted in
26 simple two-page forms containing the essential information this Court needs:
27 biographical information; proposed release plan (residence address and related
28 information); medical conditions; and criminal history. Defendants may respond in
submissions of similar length if they wish to contest any particular release order.
They may also present to the Court at any time proof that they have implemented
social distancing within the facility, which would obviate the need to utilize the
expedited procedures

1 All immigrants incarcerated at the Adelanto Immigration and Customs
2 Enforcement Processing Center.

3 **II. ARGUMENT⁴**

4 **A. The Proposed Class Meets The Requirements Of Rule 23(a)(1)-(4)**

5 1. Numerosity

6 Rule 23(a)(1) requires that the class be “so numerous that joinder of all
7 members is impracticable.” Fed. R. Civ. P. 23(a)(1). “There is no magic number”
8 for determining when the numerosity requirement has been satisfied,” and “[c]ourts
9 have certified classes with as few as thirteen members.” *Hum v. Dericks*, 162 F.R.D.
10 628, 634 (D. Haw. 1995). Plaintiffs need only “show some evidence of or reasonably
11 estimate the number of class members.” *Kincaid v. City of Fresno*, 244 F.R.D. 597,
12 601 (E.D. Cal. 2007) (citation omitted). Where, as here, a plaintiff “seek[s] only
13 injunctive and declaratory relief, the numerosity requirement is relaxed and plaintiffs
14 may rely on [] reasonable inference[s] . . . that the number of unknown [members]
15 is sufficient to make joinder impracticable.” *Civil Rights Educ. & Enf’t Ctr. v. Hosp.*
16 *Props. Trust*, 317 F.R.D. 91, 100 (N.D. Cal. 2016) (internal quotation marks
17 omitted) (citing *Sueoka v. United States*, 101 Fed. App’x. 649, 653 (9th Cir. 2004)).

18 The Proposed Class is sufficiently numerous. Plaintiffs seek relief on behalf
19 of all persons detained at Adelanto. Currently, there are approximately 1,300
20 detainees.⁵ That number standing alone satisfies the numerosity requirement. *See*
21 *Rannis*, 380 Fed. App’x at 651 (“In general, courts find the numerosity requirement
22 satisfied when a class includes at least 40 members.”); *see also Lyon v. United States*
23 *Immigration & Customs Enforcement*, 300 F.R.D. 628, 636 (N.D. Cal. 2014)

24
25
26 ⁴ Plaintiffs incorporate by reference the factual background discussed in the
27 accompanying Memorandum in Support of Plaintiffs’ Motion for a Preliminary
Injunction. *See* Mem. in Support of Mot. for a Prelim. Inj. Pt. II.

28 ⁵ *See Robles Rodriguez v. Wolf*, Decl. of Gabriel Valdez, ¶ 14 No. 5:20-cv-00-627-
TJH (C.D. Cal. March 31, 2020), ECF No. 28-1.

1 (finding proposed class of ICE detainees of approximately 1,500 detainees
2 sufficiently numerous).

3 Furthermore, “the [lack of] ability to individually bring suit counsels in favor
4 of finding numerosity.” *Pole v. Estenson Logistics, LLC*, No. CV 15-07196 DDP
5 (EX), 2016 WL 4238635, at *5 (C.D. Cal. Aug. 10, 2016); *see also Robidoux v.*
6 *Celani*, 987 F.2d 931, 936 (2d Cir. 1993) (holding that because putative class
7 members “are also economically disadvantaged” this factor weighed in favor of class
8 certification). Most Proposed Class members cannot file individual lawsuits because
9 they lack counsel and cannot file *pro se*. *See* Compl. ¶ 5. Moreover, absent class
10 certification, the Court will be flooded with dozens, perhaps hundreds, of individual
11 claims—enough to strain judicial resources, while nonetheless leaving many
12 vulnerable individuals without relief. *Rodriguez*, 591 F.3d at 1123.

13 2. Commonality

14 Rule 23(a) next requires that there be “questions of law or fact common to the
15 class.” Fed. R. Civ. P. 23(a)(2). However, all questions of law and fact need not be
16 common to satisfy Rule 23(a). *Ellis v. Costco Wholesale Corp.*, 657 F.3d 970, 981
17 (9th Cir. 2011). Instead, commonality requires plaintiffs to demonstrate that their
18 claims “depend upon a common contention . . . [whose] truth or falsity will resolve
19 an issue that is central to the validity of each one of the claims in one stroke.” *Wal-*
20 *Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). Commonality can be satisfied
21 by a single common issue. *See, e.g., Abdullah v. U.S. Sec. Assocs., Inc.*, 731 F.3d
22 952, 957 (9th Cir. 2013) (Commonality “does not . . . mean that *every* question of
23 law or fact must be common to the class; all that Rule 23(a)(2) requires is a single
24 *significant* question of law or fact.”) (citations and internal quotation marks omitted).

25 When a plaintiff is seeking injunctive and declaratory relief, commonality is
26 present “where the lawsuit challenges a system-wide practice or policy that affects
27 all of the putative class members.” *Unknown Parties v. Johnson*, 163 F. Supp. 3d
28 630, 635 (D. Ariz. 2016) (quoting *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir.

1 2001)). Indeed, suits for injunctive or declaratory relief “by their very nature often
2 present common questions satisfying Rule 23(a)(2).” 7A Mary J. Kane, *Fed. Prac.*
3 *& Proc. Civ.* § 1763 (3d ed. 2018); *see also Rodriguez*, 591 F.3d at 1122-25 (finding
4 commonality satisfied in habeas class action involving challenges to prolonged
5 immigration detention without bond hearing).

6 The Proposed Class meets the commonality requirement because all class
7 members are subject to the same practices: Defendants’ unwillingness or inability to
8 institute social distancing and related measures at Adelanto. While it is true that
9 COVID-19 poses a higher likelihood of serious illness or death for certain class
10 members, it is also true that *all* detainees are at risk. *See* Schneberk Decl. ¶¶ 16-19.
11 Up to twenty percent of COVID-19 hospitalizations in the United States are of
12 people under 44. *Id.* And while some young people who become seriously ill from
13 COVID-19 have medical conditions, many do not. *Id.* For example, in New York,
14 about a third of people in their 30s who died from the virus had no pre-existing
15 conditions. *Id.* As another court recently found, “To be sure, the harm of a COVID-
16 19 infection will generally be more serious for some petitioners than for others. Yet
17 it cannot be denied that the virus is gravely dangerous to all of us.” *Savino v. Souza*,
18 Memorandum & Order at 21, No. 1:20-cv-10617 (D. Mass. 2020), ECF No 64.

19 The claims brought by the named Plaintiffs on behalf of the Proposed Class
20 raise a number of common questions of law and fact, including:

- 21 a) Whether the Proposed Class Members are able to adequately social
22 distance in Adelanto at all times, and whether the Proposed Class
23 Members are in fact adequately social distancing in Adelanto;
- 24 b) Whether the failure to institute social distancing subjects the Proposed
25 Class to a heightened risk of serious illness and death violates the
26 Proposed Class Members’ Fifth Amendment Due Process rights.

27 This Proposed Class presents a much easier case than other classes that have
28 been held to meet the commonality requirement. For example, in *Lyon* the court held

1 that a proposed class challenging ICE’s policies regarding detainee access to phone
2 calls at three northern California detention centers was sufficiently common to meet
3 the requirements of Rule 23, notwithstanding variations between facilities. 300
4 F.R.D. at 642 (“[T]he overarching claim is that ICE detainees in these facilities are
5 denied effective access to telephones and that this impedes communications with
6 counsel, family, and others The fact that the precise practices among the three
7 facilities may vary does not negate the application of a constitutional floor equally
8 applicable to all facilities.”). The court certified a similar class in *Unknown Parties*
9 *v. Johnson*. 163 F. Supp. 3d at 636-40 (finding commonality satisfied when proposed
10 class challenged various conditions of confinement at eight Customs and Border
11 Patrol facilities near Tucson, Arizona). Here, there is only one facility and only one
12 overarching issue: whether ICE officials have violated Plaintiffs’ Fifth Amendment
13 rights by exposing them “to a serious, communicable disease . . . that is more than
14 very likely to cause a serious illness.” *See Castillo v. Barr*, No.
15 CV2000605TJHAFMX, 2020 WL 1502864 (“Castillo TRO”), *9 (C.D. Cal. Mar.
16 27, 2020) (citing *Helling v. McKinney*, 509 U.S. 25, 32 (1993)). That obviously
17 presents a common issue amenable to class treatment.

18 3. Typicality

19 Federal Rule of Civil Procedure 23(a)(3) requires that “the claims . . . of the
20 representative parties [be] typical of the claims . . . of the class.” “[T]he typicality
21 requirement is permissive and requires only that the representative’s claims are
22 reasonably coextensive with those of absent class members; they need not be
23 substantially identical.” *Rodriguez*, 591 F.3d at 1124 (quotation marks omitted).
24 “The test of typicality is ‘whether other members [of the class] have the same or
25 similar injury, whether the action is based on conduct which is not unique to the
26 named plaintiffs, and whether other class members have been injured by the same
27 course of conduct.’” *Parsons v. Ryan*, 754 F.3d 657, 685 (9th Cir. 2014) (citation
28 omitted). Typicality is satisfied “when each class member’s claim arises from the

1 same course of events, and each class member makes similar legal arguments to
2 prove the defendant’s liability.” *Rodriguez*, 591 F.3d at 1124 (quotation omitted).

3 The Proposed Class meets the typicality requirement because the named
4 Plaintiffs and Proposed Class members are all individuals who are detained at
5 Adelanto, and their claims all arise from the same failure to adequately implement
6 social distancing at Adelanto in response to COVID-19. *See* Compl. ¶ 46. Finally,
7 they all will suffer the same harm: the significant and avoidable risk of serious
8 illness or death. Schneberk Decl. ¶¶ 14-19; *see, e.g., Kuang v. United States Dep’t*
9 *of Def.*, 340 F. Supp. 3d 873, 892 (N.D. Cal. 2018) (finding typicality requirement
10 met when “named Plaintiffs and putative class members have all suffered, and
11 continue to suffer, the same general injury”).

12 4. Adequacy of Representation

13 Rule 23(a)(4) requires that the “representative parties will fairly and
14 adequately protect the interests of the class.” The adequacy inquiry asks: “(1) do the
15 named plaintiffs and their counsel have any conflicts of interest with other class
16 members and (2) will the named plaintiffs and their counsel prosecute the action
17 vigorously on behalf of the class?” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020
18 (9th Cir. 1998). This requirement “tend[s] to merge with the commonality and
19 typicality criteria of Rule 23(a).” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591,
20 626 n.20 (1997) (internal quotation marks omitted).

21 Both requirements are plainly satisfied here. First, there is no conflict between
22 the named Plaintiffs and other members of the Proposed Class. The named Plaintiffs
23 and other class members have the same injury and seek the same relief—namely, (1)
24 a declaration that conditions of confinement for all individuals held at the Adelanto
25 Detention Facility are currently unconstitutional under the Fifth Amendment Due
26 Process Clause because they do not permit social distancing; and (2) a Writ of
27 Habeas Corpus or an injunction remedying those practices. *See* Compl. ¶¶ 81-85;
28 *Kuang*, 340 F. Supp. 3d at 892 (finding adequacy requirement met in part because

1 “named Plaintiffs have a similar alleged injury as the rest of the proposed class”).
 2 Second, the named Plaintiffs have confirmed their willingness to vigorously
 3 prosecute this action, and their commitment to ensuring “that all people facing the
 4 current dangerous conditions in Adelanto benefit from this case just as [they] do.”
 5 Decl. of Ruth Calvillo in Support of Mot. for a Prelim. Inj. ¶ 27; *see also* Decl. of
 6 Erika Roman in Support of Mot. for a Prelim. Inj.; Decl. of Lesly Gaona in Support
 7 of Mot. for a Prelim. Inj.; Decl. of Christina Avalos in Support of Mot. for a Prelim.
 8 Inj.⁶

9 Moreover, the Proposed Class is represented by counsel from the American
 10 Civil Liberties Union Foundation of Southern California and Latham and Watkins
 11 LLP. Counsel has extensive experience litigating class action lawsuits and other
 12 complex cases in federal court, including civil rights lawsuits on behalf of
 13 imprisoned immigrants. *See* Decl. of Jessica Bansal. Counsel will vigorously
 14 represent the Proposed Class.

15 **B. The Proposed Class Meets The Requirements Of Rule 23(b)(2)**

16 In addition to satisfying the four prerequisites of Rule 23(a), the Proposed
 17 Class qualifies for class treatment under Rule 23(b)(2). Rule 23(b)(2) requires
 18 Plaintiffs establish that “the party opposing the class has acted or refused to act on
 19 _____

20 ⁶ ICE has placed severe restrictions on attorneys’ ability to access their clients at
 21 Adelanto, including limitations on in-person visits unless attorneys bring their own
 22 personal protective equipment, which is obviously in very short supply. *See*
 23 Motion for TRO at 10-17, *Torres v. Nielsen*, Case No. 18-cv-02602 (C.D. Cal),
 24 Dkt. No. 127-1 (describing current limitations on attorney-client communication at
 25 Adelanto and seeking emergency relief to ensure detainees maintain basic access to
 26 counsel during the COVID-19 pandemic); Decl. of Gabriel Valdez (“Valdez
 27 Decl.”) ¶ 26 *Robles Rodriguez v. Wolf*, Case No. 5:20-cv-00627-TJH-GJS (C.D.
 28 Cal. Apr. 7, 2020), ECF No. 45-1. In addition, ICE provides no effective way for
 attorneys to conduct confidential calls with clients detained at Adelanto. *See* Mot.
 for TRO at 10-17, *Torres v. Nielson*, Case No. 18-cv-02602 (C.D. Cal. Mar. 26,
 2020), ECF No. 127-1. As a result, and because of the urgency of the situation, in
 lieu of declarations from Plaintiffs-Petitioners themselves, the attorneys
 representing Plaintiff-Petitioners in their administrative removal proceedings have
 provided declarations describing the facts of their cases. A temporary restraining
 order requiring that the government take steps to improve access to counsel at
 Adelanto was granted on April 11, 2020. *Torres v. Nielson*, Case No. 18-cv-02602
 (C.D. Cal), Dkt. No. 144.

1 grounds that apply generally to the class, so that final injunctive relief or
2 corresponding declaratory relief is appropriate respecting the class as a whole.” Fed.
3 R. Civ. P. 23(b)(2).

4 “Rule [23](b)(2) was adopted in order to permit the prosecution of civil rights
5 actions.” *Walters v. Reno*, 145 F.3d 1032, 1047 (9th Cir. 1998). As a result, “[i]t is
6 sufficient’ to meet the requirements of Rule 23(b)(2) [that] ‘class members complain
7 of a pattern or practice that is generally applicable to the class as a whole.’”
8 *Rodriguez*, 591 F.3d at 1125-26 (citation omitted) (finding that class of noncitizens
9 detained during immigration proceedings met Rule 23(b)(2) criteria because “all
10 class members [sought] the exact same relief as a matter of statutory or, in the
11 alternative, constitutional right”); *id.* at 1125 (“The fact that some class members
12 may have suffered no injury or different injuries from the challenged practice does
13 not prevent the class from meeting the requirements of Rule 23(b)(2).”).

14 The class Plaintiffs seek to certify is a paradigm Rule 23(b)(2) class. First,
15 Defendants are acting on grounds that are generally applicable to the class because
16 they subject all members of the Proposed Class to the same policies or practices—
17 namely, the class as a whole is not able to practice adequate social distancing and
18 protect themselves from COVID-19 infection. *See* Compl. ¶ 1. Second, the
19 injunctive relief requested by Plaintiffs is appropriate for the class as a whole. The
20 class requests uniform relief in the form of 1) a declaration that Defendants’ current
21 detention practices in Adelanto violate the Fifth Amendment Due Process Clause
22 because they do not permit social distancing as necessary to minimize infection with
23 COVID-19; and (2) an injunction mandating social distancing, including by
24 establishing expedited release procedures available to *all* Class members, so as to
25 bring Adelanto’s population to a level where Defendants can implement appropriate
26 social distancing for all remaining detainees.⁷ *See id.* at 23-24. In order to comply

27
28 ⁷ Plaintiffs describe this proposed procedure in more detail in their Proposed Order
Granting their Motion for Preliminary Injunction.

1 with that injunction, Defendants must quickly release enough detainees to ensure
2 that those remaining at the facility are able to engage in appropriate social
3 distancing.⁸

4 Because this remedy would afford the same relief to all members of the
5 Proposed Class, certification under Rule 23(b)(2) is appropriate. See *Parsons*, 754
6 F.3d at 689 (finding declaratory and injunctive relief proper as to class where “every
7 [member] . . . is allegedly suffering the same (or at least a similar) injury and that
8 injury can be alleviated for every class member by uniform changes in . . . policy
9 and practice”); *Rodriguez*, 591 F.3d at 1126 (certifying Rule 23(b)(2) class of
10 imprisoned immigrants where class sought uniform procedure for release, because
11 “relief from a single practice is requested by all class members”).

12 **C. Class Treatment Is Necessary To Conserve Judicial Resources And**
13 **Avoid Arbitrary Relief**

14 In the past several weeks, this Court has seen a flurry of requests for relief
15 from immigrants detained in Adelanto. The Court has acted decisively. See *Castillo*
16 TRO at *6 (granting temporary restraining order on behalf of two Adelanto
17 detainees); *Fraihat v. Wolf*, TRO and Order to Show Cause, No ED-CV2000590-
18 TJH, at *12 (C.D. Cal. Mar. 30, 2020) (granting temporary restraining order on
19 behalf of one Adelanto detainee); *Robles Rodriguez v. Wolf*, No. 5:20-CV-00527
20 (C.D. Cal. Apr. 3, 2020), ECF Nos. 35-39, 42-43 (granting temporary restraining
21 orders on behalf of six Adelanto detainees). Moreover, in doing so, the Court has
22 explained that “[u]nder the Due Process Clause, a civil detainee cannot be subject to
23 the current conditions of confinement.” *Castillo* TRO, at *5. That holding is true for
24 all Proposed Class Members.

25 ⁸ While Defendants may object that the proposed remedy does not run to all Class
26 members (because not all of them need to be released to comply with Plaintiffs’
27 demand), this objection misunderstands Plaintiffs’ claim. Plaintiffs seek to stop the
28 government from holding all Class members in unsafe conditions. Granting the
relief sought here would provide that relief for everyone. Whether inside or outside
the facility, all Class members would see the ongoing violation of their Fifth
Amendment rights remedied.

1 The only way for the Adelanto detainees to have equal access to potentially
2 life-saving relief is a class-wide remedy. The Court has already stated, “Unless an
3 Adelanto habeas case is filed as a class action, each case shall be limited to a single
4 petitioner.” *Castillo v. Barr*, Minute Order, No. 5:20-cv-00605-TJH (C.D. Cal. Apr.
5 7, 2020), ECF No. 37. Should the Court deny Plaintiffs’ motion for provisional class
6 certification, dozens, perhaps hundreds of individual Adelanto detainees will likely
7 file claims for relief depending on their access to lawyers or equivalent humanitarian
8 outreach. The result will be vastly underinclusive and likely unfair. *All* of the
9 Proposed Class Members are at grave risk of COVID-19 infection under their current
10 conditions of confinement regardless of whether their circumstances permit them to
11 file individual claims. The only just solution is to adjudicate the rights of detainees
12 at Adelanto as a single unit, and provide system-wide relief compelling ICE to do
13 what the Fifth Amendment demands.

14 **III. CONCLUSION**

15 The Court should provisionally certify the Proposed Class.

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17

Respectfully submitted,

18

LATHAM & WATKINS LLP

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Dated: April 13, 2020

20

/s/ Amanda Barnett

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AMANDA BARNETT

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Counsel for Plaintiffs

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13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 KELVIN HERNANDEZ ROMAN,
16 BEATRIZ ANDREA FORERO
17 CHAVEZ, MIGUEL AGUILAR
ESTRADA, on behalf of themselves and
all others similarly situated,

18 Petitioners-Plaintiffs,

19 v.

20 CHAD F. WOLF, Acting Secretary, U.S.
21 Department of Homeland Security;
22 MATTHEW T. ALBENCE, Deputy
Director and Senior Official Performing
the Duties of the Director, U.S.
23 Immigration and Customs Enforcement;
24 DAVID MARIN, Director of the Los
Angeles Field Office, Enforcement and
25 Removal Operations, U.S. Immigration
and Customs Enforcement; and JAMES
26 JANECKA, Warden, Adelanto ICE
Processing Center,

27 Respondents-Defendants.
28

) Case No. 5:20-cv-00768

) **ADELANTO COVID**

) **DECLARATION OF JESSICA
KARP BANSAL**

DECLARATION OF JESSICA KARP BANSAL

I, JESSICA KARP BANSAL, declare and state as follows:

1. I am a senior staff attorney with the American Civil Liberties Union of Southern California. I am duly licensed to practice law in the State of California. I am counsel of record for Plaintiffs-Petitioners in this action. I have knowledge of the facts set forth herein, and if called upon to testify as a witness thereto, I could and would competently do so under oath.

2. I have been a member of the California bar since 2011 and the New York bar since 2010. I graduated from Columbia Law School in 2009. Following graduation, I served as a judicial clerk to the Honorable Stephen Reinhardt of the Ninth Circuit Court of Appeals. From 2010 to July 2019, I worked at the National Day Laborer Organizing Network, where I held the titles of Staff Attorney, Litigation Director, and Legal Director. I joined the staff of the ACLU in August 2019. I am a member of the Bar of the State of California, the Bar of the State of New York, and am admitted to several federal courts, including the Central District of California, the Northern District of California, and the United States Court of Appeals for the Ninth Circuit.

3. The ACLU of Southern California is one of the largest regional affiliates of the American Civil Liberties Union and is dedicated to defending and securing important constitutional rights and to extend these rights to people who have been excluded from their protection. The ACLU of Southern California has extensive expertise in class action litigation and immigrants' rights litigation, and has participated in numerous cases in federal court related to policies and practices of the federal immigration system.

4. I have substantial experience litigating cases involving immigrants' rights. I have spent my entire legal career working on immigrants' rights cases. I have represented immigrants in a number of cases addressing systemic issues in the federal immigration system through class actions. For example, I am currently

1 co-lead counsel in a class action challenging federal immigration enforcement
2 policies. *See Gonzalez v. ICE*, 416 F. Supp. 3d 995 (C.D. Cal. 2019) (finding that
3 ICE violated the Fourth Amendment by systemically issuing detainers to class
4 members without probable cause). I am also counsel in a class action challenging
5 the lack of appointed legal representatives for immigrants with serious mental
6 abilities. *See Franco-Gonzalez v. Holder*, Case No. 2:10-02211-DMG-DTB (C.D.
7 Cal. 2011), 2011 U.S. Dist. LEXIS 158130 (C.D. Cal. Nov. 21, 2011) (granting
8 class certification). I previously served as class counsel in *Valle del Sol v. Whiting*,
9 challenging an Arizona state law that sought to regulate immigration and
10 criminalize the solicitation of day labor. *See Valle del Sol v. Whiting*, No. CV-10-
11 01061-PHX-SRB, 2015 WL 12030514, at *9 (D. Ariz. Sept. 4, 2015).

12 5. In addition, I have represented immigrants in a number of non-class
13 cases raising complex legal issues. For example, I serve or have served as co-lead
14 counsel in *Ramos v. Nielsen*, (challenging the termination of Temporary Protected
15 Status), *Bhattarai v. Nielsen*, Case No. 3:19-cv-00731 (N.D Cal. 2019) (same), and
16 *Puente v. Arpaio*, Case No. CV-14-01356 (D. Ariz. 2014) (challenging worksite
17 raids in Maricopa county on constitutional grounds).

18 6. My colleague and proposed class counsel, Michael Kaufman, is an
19 experienced immigrants' rights litigator at the ACLU of Southern California. Mr.
20 Kaufman graduated with distinction from Stanford Law School in 2007. Following
21 graduation, he served as a judicial clerk to the Honorable Sidney Thomas of the
22 Ninth Circuit Court of Appeals. He was then a Skadden Fellow at the Lawyers'
23 Committee for Civil Rights of the San Francisco Bay area, where he worked on
24 immigrants' rights and workers' rights issues. He joined the staff of the ACLU of
25 Southern California in October 2010. He is a member of the Bar of the State of
26 California, and admitted to practice before several federal courts, including the
27 Northern District of California, the Central District of California, and the United
28 States Court of Appeals for the Ninth Circuit.

1 7. Mr. Kaufman has extensive experience litigating class actions
2 involving the constitutional rights of immigrants. Mr. Kaufman is currently lead
3 counsel in several class action challenging federal immigration policies in the
4 detention context. *See Gonzalez v. Sessions*, 325 F.R.D. 616 (N.D. Cal. 2018)
5 (ordering class certification in a case challenging the federal government’s policy
6 of detaining immigrants for prolonged periods without access to a bond hearing);
7 *Hernandez v. Sessions*, 2016 WL 7116611 (C.D. Cal. Nov. 10, 2016) (ordering
8 class certification in a case challenging immigration officials’ failure to consider
9 noncitizens’ ability to pay a bond in setting conditions of release); *Alfaro Garcia v.*
10 *Johnson*, Case No. 4:14-cv-1775-YGR (N.D. Cal. 2014) (ordering class
11 certification in case challenging unlawful delays in detained asylum seekers’
12 cases); *Rodriguez v. Hayes*, 578 F.3d 1032 (9th Cir. 2010) (ordering class
13 certification in case challenging the prolonged detention without a bond hearing of
14 a class of detained immigrants). In 2014, he was named California Lawyer of the
15 Year, along with his co-counsel, for his work on the *Rodriguez* class action
16 litigation. In 2016, he was named California Lawyer of the Year, along with his co-
17 counsel, for his work on the *Alfaro Garcia* class action litigation.

18 8. Mr. Kaufman also has extensive working on immigrants’ rights cases
19 outside of class actions. For example, he served as co-lead counsel in *Santiago, et.*
20 *al v. City of Los Angeles, et. al*, Case No. 2:15-cv-08444-BRO (C.D. Cal. 2015)
21 (challenging the seizure and destruction of street vendors’ property on
22 constitutional and statutory grounds); lead counsel in *Molina-de La Villa v. Holder*,
23 App. Case No. 12-73462 (9th Cir. 2014) (seeking to establish the right to
24 collaterally attack a removal order based on subsequent judicial decision); lead
25 counsel in *Ali, et al. v. Holder, et al.*, Case No. 2:11-cv-4503-AHM-SP (C.D. Cal.
26 2010) (challenging the revocation of a visa in retaliation for client’s exercise of his
27 right to counsel); and counsel in *Comite de Jornaleros de Redondo Beach v. City of*
28 *Redondo Beach*, 657 F.3d 936 (9th Cir. 2011) (en banc) (striking down ordinance

1 targeting day laborers on First Amendment grounds).

2 9. My colleague and proposed class counsel Ahilan Arulanantham is
3 Senior Counsel with the ACLU Foundation of Southern California. Mr.
4 Arulanantham is also an experienced class action litigator in the area of
5 immigrants' rights. He has served as lead or co-lead counsel in several class
6 actions, including as lead counsel in a class action lawsuit challenging the
7 prolonged detention of immigrants without bond hearings, *Rodriguez v. Robbins*,
8 804 F.3d 1060 (9th Cir. 2015), *rev'd and remanded*, *Jennings v. Rodriguez*, 138
9 S.Ct. 830 (2018); co-lead counsel in a class action challenging the lack of
10 appointed legal representatives for immigrants with serious mental disabilities,
11 *Franco v. Holder*, No. 2:10-cv-02211-DMG-DTB (C.D. Cal.), 2011 U.S. Dist.
12 LEXIS 158130 (C.D. Cal. Nov. 21, 2011) (granting class certification) and 2013
13 U.S. Dist. LEXIS 186258 (C.D. Cal. Apr. 23, 2013) (granting permanent
14 injunction ordering the government to provide free legal representation to
15 immigrants with serious mental disabilities); co-lead counsel in a class action
16 against the federal government challenging the use of forcible drugging in
17 effectuating removal orders, *Diouf v. Chertoff*, No. 2:07-3977-TJH-CT (C.D. Cal.
18 2007); lead counsel in a group action challenging the unlawful practice of denying
19 access to counsel for people at immigration interviews, *National Lawyers' Guild v.*
20 *Chertoff*, No. 2:08-1000-GW-SH (C.D. Cal. 2008); and co-lead counsel in a class
21 action challenging unlawful conditions of confinement at an immigration detention
22 center in Los Angeles, *Castellano v. Napolitano*, No. 2:09-cv-2281-PA-VBK (C.D.
23 Cal. 2009).

24 10. My colleague and proposed class counsel, Michelle (Minju) Cho, is an
25 immigrants' rights litigator at the ACLU of Southern California. Ms. Cho
26 graduated from Yale Law School in 2016. After graduation, she clerked for Judge
27 Kim Wardlaw of the Ninth Circuit Court of Appeals and Justice Goodwin Liu of
28 the Supreme Court of California. She worked as a Skadden Fellow in the Impact

1 Litigation unit of Asian Americans Advancing Justice-Los Angeles for one year,
2 and is now working at the ACLU for the second year of her fellowship. She is a
3 member of the Bar of the State of California, and is admitted to several federal
4 courts, including the Central District of California, the Northern District of
5 California, and the United States Court of Appeals for the Third Circuit.

6 11. Ms. Cho has experience working on immigrants' rights cases,
7 including class actions. Currently, she is counsel in *Wagafe v. Trump*, Case. No.
8 2:17-cv-00094-RAJ (W.D. Wash. 2017) (class action lawsuit challenging a U.S.
9 Citizenship and Immigration Services national security vetting program). While at
10 Advancing Justice-Los Angeles, she was previously counsel in *Chhoeun v. Marin*,
11 Case No. 8:17-cv-01898 (C.D. Cal. 2017) (class action lawsuit challenging ICE's
12 enforcement practices against Cambodian nationals). She also previously
13 represented immigrants in non-class cases raising complex issues, including
14 *Bhattarai v. Nielsen*, Case No. 3:19-cv-00731 (N.D. Cal. 2019) (challenging the
15 termination of Temporary Protected Status for Honduras and Nepal), and *La*
16 *Clinica de la Raza v. Trump*, Case No. 4:19-cv-04980 (N.D. Cal.) (challenging the
17 promulgation of the Trump administration's new public charge rule).

18 12. The ACLU of Southern California has capacity to thoroughly and
19 vigorously litigate the claims in this case and properly represent the plaintiff class,
20 and intends to commit all necessary resources to do so. If appointed class counsel,
21 I will ensure that Mr. Kaufman, Mr. Arulanantham, Ms. Cho and I zealously
22 represent the interests of the class to the best of our collective ability.

23
24 I declare under penalty of perjury under the laws of the State of California and the
25 United States that the foregoing is true and correct.

26
27 Executed this 13th day of April at Los Angeles, California.

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/s/Jessica Karp Bansal

JESSICA KARP BANSAL