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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

M-J-M-A; Victor CRUZ GAMEZ,

Case No.: 6:25-cv-02011-MTK

Plaintiffs,

v.

**DEFENDANTS' MOTION TO STAY
PROCEEDINGS**

**JULIO HERNANDEZ; TODD
LYONS; U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT;
MARKWAYNE MULLIN; U.S.
DEPARTMENT OF HOMELAND
SECURITY; TODD BLANCHE,**

Defendants.

CERTIFICATION OF COMPLIANCE WITH LR 7-1

Pursuant to Local Rule 7-1, counsel for Defendants certifies that the parties conferred in good faith regarding the relief requested in this motion. Plaintiffs oppose this motion.

MOTION

Defendants respectfully move to stay further merits proceedings pending resolution of Defendants' appeal from the Court's preliminary injunction order and, if authorized by the Office of the Solicitor General, pending Defendants' appeal from the Court's class certification order. Defendants do not seek a stay of the preliminary injunction at this time. Defendants are complying with the preliminary injunction and do not ask the Court to suspend its operative terms. Nor do Defendants ask the Court to defer resolution of their pending motion to dismiss the habeas counts. Rather, Defendants seek a targeted stay of discovery and further merits proceedings until the threshold appellate issues that will define the proper scope of the class claims are resolved.

This is a modest request. Plaintiffs retain the interim protection the Court found warranted because the preliminary injunction remains in place. But broad discovery now—before the Ninth Circuit considers the preliminary injunction appeal and while the process for appeal authorization of the class certification order is ongoing—would impose substantial burdens on the government and likely require intrusive discovery into active immigration-enforcement operations, nonparty arrest files, officer communications, operational materials, law enforcement sensitive

practices, and agency-wide policies. The appellate proceedings may eliminate or materially narrow the claims, class theories, and remedial issues on which such discovery would proceed. A temporary stay will preserve resources, avoid unnecessary law enforcement sensitive and privilege disputes, and allow the parties and the Court to proceed on a more stable legal foundation.

The Ninth Circuit’s recent decisions in *Dickinson v. Trump*, 174 F.4th 634 (9th Cir. 2026), and *REACH Community Development v. U.S. Department of Homeland Security*, 174 F.4th 1143, 1151 (9th Cir. 2026), confirm that a stay of district court proceedings may be appropriate where an interlocutory appeal may resolve or substantially narrow threshold issues and where continued discovery would impose burdens that may ultimately prove unnecessary. That is precisely the posture here. Defendants’ appeal will address issues that go to the foundation of further proceedings, including Article III standing, Administrative Procedure Act (“APA”) reviewability, provisional class-wide relief, the scope of equitable authority, and the propriety of district-wide relief based on alleged warrantless arrest practices. While authorization for appeal of the order granting class certification is ongoing, such an appeal would raise related questions about whether, *inter alia*, individualized arrest determinations under 8 U.S.C. § 1357(a)(2) may be litigated on a class-wide basis.¹

The Court should therefore stay further merits proceedings, including responding to the supplemental complaint, producing an administrative record, or

¹ Per Justice Manual section 2-2.121, “All appeals to the lower appellate courts in cases handled by divisions of the Department and United States Attorneys . . . must be authorized by the Solicitor General. This includes interlocutory appeals and appeals to state appellate courts.” Thus, the process to decide whether to seek appeal of the order granting class certification remains underway.

conducting discovery, pending resolution of those appellate proceedings, while allowing the Court to decide the pending motion to dismiss and while leaving the preliminary injunction in place.

BACKGROUND

Plaintiff M-J-M-A- commenced this action by filing a petition for writ of habeas corpus after she was arrested and detained by immigration officers. After Defendants released her, she supplemented the pleadings to add Plaintiff Victor Cruz Gamez and to assert broader allegations challenging what Plaintiffs characterize as a policy or practice of warrantless civil immigration arrests in Oregon without the pre-arrest individualized probable cause determination required by 8 U.S.C. § 1357(a)(2) and 8 C.F.R. § 287.8(c)(2)(ii).

On January 9, 2026, Plaintiffs moved for preliminary injunctive relief. Dkt. 61. On February 4, 2025, the Court granted that motion. Dkts. 82, 88. The Court also provisionally certified an “Unassessed Escape Risk Class” consisting of persons who, since September 28, 2025, have been or will be arrested in the District of Oregon for alleged immigration violations without a warrant and without a pre-arrest individualized assessment of probable cause that the person poses an escape risk. Dkt. 82 at 2. The Court then preliminarily enjoined Defendants and their officers from enforcing their alleged policy or practice of making warrantless civil immigration arrests in the District of Oregon without a pre-arrest individualized determination by the arresting officer of probable cause that the person being arrested is likely to escape before a warrant can be obtained. *Id.* at 2–3. The Court

also imposed transmission and reporting obligations related to the injunction. *Id.* at 3. Defendants are complying with the preliminary injunction. Defendants do not seek to stay the preliminary injunction through this motion.

Since entry of the preliminary injunction, Defendants have filed a notice of appeal from the preliminary injunction order. Dkt. 93. Defendants have also filed a motion to dismiss the habeas counts. Dkt. 100. That motion argues that the habeas claims should be dismissed because Plaintiff M-J-M-A- has been released from custody, is no longer subject to the detention challenged in the habeas petition, and the habeas counts no longer present a live case or controversy. Defendants do not seek to stay resolution of that pending motion.

The Court also recently granted Plaintiffs' pending motion for class certification on June 24, 2026. Dkt. 103. Defendants continue to engage in the prescribed Department of Justice process for evaluating whether a petition for permission to appeal under Rule 23(f) is appropriate. A Rule 23(f) petition does not automatically stay district-court proceedings, but Rule 23(f) expressly permits either the district court or the court of appeals to order a stay. Fed. R. Civ. P. 23(f). Today, Defendants also filed a protective notice of appeal of the decision granting class certification in conjunction with the ongoing preliminary injunction appeal. Dkt. 107.

On June 25, 2026, the Court adopted Plaintiffs' proposed schedule for resolution of the class claims. Dkt. 104. Therein, the Court seemingly adopted Plaintiffs' proposal to conduct extra-record discovery by setting a fact discovery deadline of October 23, 2026, despite Plaintiffs' claims arising solely under the APA.

Defendants now seek a stay of further merits proceedings—including filing a responsive pleading to the supplemental complaint, producing the administrative record, and conducting any discovery—pending resolution of the preliminary injunction appeal. Defendants also seek a stay pending appeal authorization for the order granting class certification and, if authorized, pending appeal.

LEGAL STANDARD

A district court has inherent authority to manage its docket, including by staying proceedings when doing so promotes economy of time and effort for the Court, counsel, and the parties. *Landis v. N. Am. Co.*, 299 U.S. 248, 254–55 (1936); *Clinton v. Jones*, 520 U.S. 681, 706 (1997). In deciding whether to stay proceedings, courts consider the possible damage that may result from a stay, the hardship or inequity a party may suffer if required to go forward, and the orderly course of justice measured by whether a stay will simplify or complicate the issues, proof, and questions of law. *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). A stay may be appropriate pending resolution of related proceedings that bear on the case, even if those proceedings are not necessarily controlling. *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863–64 (9th Cir. 1979). And where an interlocutory appeal may resolve issues that define the proper scope of district court litigation, a stay may prevent the parties from expending resources on proceedings that the appeal may render unnecessary. *See Coinbase, Inc. v. Bielski*, 599 U.S. 736, 740–43 (2023).

The Court also has authority under Federal Rule of Civil Procedure 26(c) to protect a party from undue burden or expense, including by limiting, sequencing, or

staying discovery. The Supreme Court has recognized that trial courts have broad discretion to manage discovery and enter protective orders when justice requires. *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 36 (1984). That discretion is particularly important where discovery would reach sensitive law-enforcement materials, nonparty information, and operational records, and where threshold legal proceedings may substantially narrow the issues on which discovery may proceed.

The requested stay is temporary and targeted. It would not stay the preliminary injunction. It would not prevent the Court from deciding Defendants' pending motion to dismiss. And it would not prevent Plaintiffs from seeking leave, on a specific showing, to raise a concrete allegation of noncompliance with the preliminary injunction. It would simply stay merits proceedings of the class claims until appellate proceedings resolve threshold issues that will determine whether, and to what extent, proceeding on the class claims is appropriate.

ARGUMENT

I. The preliminary injunction appeal and a Rule 23(f) review, if authorized, will directly affect the proper scope of this case and any discovery.

The pending and potentially forthcoming appellate proceedings are not collateral to the future of this case. They go to the threshold questions that will define whether the class claims are viable and if broad class-wide discovery is appropriate at all.

Defendants' preliminary injunction appeal will present issues that bear directly on the permissible scope of further district court proceedings. Those issues

may include, *inter alia*, whether Plaintiffs have Article III standing to pursue broad prospective relief; whether Plaintiffs have identified final agency action reviewable under the APA; whether the Court properly inferred a district-wide policy or practice from the preliminary record; whether provisional class-wide relief was appropriate; and whether the scope of the preliminary injunction is consistent with the limits on equitable relief recognized in *Trump v. CASA, Inc.*, 606 U.S. 831 (2025), *Los Angeles Press Club v. Noem*, 171 F.4th 1179 (9th Cir. 2026), and *Dickinson*.

Further, the Court recently granted Plaintiffs' Motion for Class Certification, and Defendants are engaged in the process of seeking authorization for 23(f) review. If authorized, that petition will likely raise issues that overlap substantially with the discovery Plaintiffs are expected to seek, including whether the statutory standard for warrantless civil immigration arrests can be adjudicated on a class-wide basis; whether the "likely to escape" inquiry under 8 U.S.C. § 1357(a)(2) is inherently individualized; whether the proposed class definition improperly turns on merits determinations; and whether class-wide proceedings are appropriate where each arrest depends on facts known to a particular officer before a particular arrest.

Those issues matter now because discovery will follow the shape of the case. If the Ninth Circuit narrows or vacates the preliminary injunction, rejects provisional class-wide relief, holds that Plaintiffs lack a viable APA theory, or grants Rule 23(f) relief (if pursued), then the scope of discovery will change substantially. Discovery that might appear relevant under Plaintiffs' current class-wide theory may be unnecessary, disproportionate, or impermissible after appellate review. A stay will

avoid forcing the parties and the Court to litigate this case, including discovery disputes, on an unstable foundation.

II. *Dickinson* and *REACH* support staying district court proceedings while threshold appellate issues are resolved.

The Ninth Circuit's recent decisions in *Dickinson* and *REACH* are instructive. In *Dickinson*, the Ninth Circuit stayed not only the preliminary injunction but also the district court proceedings pending appeal. The court explained that the district court had suggested extensive discovery for both class certification and the merits, but that, because the government was likely to succeed and the provisional class was improperly granted, "discovery need not continue in the district court pending appeal." *Dickinson*, 174 F.4th at 650. The court also emphasized that provisional class certification requires actual proof of Rule 23's requirements and that broad relief cannot be justified merely by invoking the need for "complete relief." *Id.* at 645–46.

In *REACH*, the Ninth Circuit likewise granted the government's request to stay district court proceedings pending appeal. The court reasoned that because the plaintiffs' claim was unlikely to succeed, continuing discovery "would serve no other purpose than to cause parties and the court to expend resources unnecessarily." *REACH*, 174 F.4th at 1145.

Defendants do not contend that every appeal from a preliminary injunction automatically stays discovery. Indeed, the Ninth Circuit has cautioned that courts should not delay ordinary trial preparation merely to await an interim ruling on a preliminary injunction. *See California v. Azar*, 911 F.3d 558, 583-84 (9th Cir. 2018). But this case is different. Defendants seek a stay first in this Court; the requested

stay is directed at anticipated broad and sensitive discovery; Plaintiffs remain protected by the existing preliminary injunction; and the pending appeal, including the appeal of provisional class certification, and, if authorized, forthcoming Rule 23(f) petition will address threshold questions that define whether this proceeding and class-wide discovery may proceed at all.

Nor do Defendants ask the Court to stay the preliminary injunction itself. But *Dickinson* and *REACH* confirm the relevant principle: where an interlocutory appeal will likely resolve or narrow threshold issues, and where continued discovery would impose burdens that may ultimately prove unnecessary, a stay of district court proceedings is appropriate.

This case presents that concern. The preliminary injunction and provisional certification appeal as well as a Rule 23(f) petition, if authorized, will address the proper scope of any prospective relief, whether class-wide proceedings are appropriate, and whether Plaintiffs may use this case to pursue broad discovery into warrantless civil immigration arrests throughout Oregon. Until those issues are resolved, this case should not proceed.

III. Proceeding with discovery now would impose substantial hardship and risk unnecessary litigation over sensitive law-enforcement materials.

The discovery burden is no longer speculative. At the June 25, 2026, status conference, the Court adopted Plaintiffs' proposed schedule in its entirety. Dkt. 104. Over Defendants' objections, the schedule the Court adopted presupposes Plaintiffs will be able to seek extra-record discovery despite Plaintiffs' three class claims being

brought solely under the APA and that no certified administrative record has been produced yet. *Id.* That Plaintiffs already seek, and have seemingly already been granted, extra-record discovery confirms that discovery is moving beyond that which is typically contemplated under the APA.

At this time, Defendants do not ask the Court to reconsider its decision to allow for extra-record discovery without any showing from Plaintiffs that such discovery is warranted. The point is narrower: the dispute demonstrates that proceeding now will require the parties and the Court to litigate complex issues of scope, proportionality, privilege, law enforcement sensitivity, Privacy Act concerns, and nonparty privacy before threshold appellate issues are resolved. If the Ninth Circuit narrows the case, rejects class-wide relief, or holds that Plaintiffs' APA theory is not viable, producing the administrative record, let alone conducting discovery, may never be appropriate.

Moreover, the anticipated burden of class-wide discovery beyond the administrative record weighs in favor of the stay being granted. Plaintiffs' theory is not limited to the two named Plaintiffs' arrests. Plaintiffs allege a district-wide policy or practice. Based on the discovery requests propounded in MJMA's habeas petition despite having been released from custody two days after she was detained, Plaintiffs will likely seek discovery into warrantless civil immigration arrests across Oregon, including arrest narratives, I-213s, I-200s, field notes, body-worn camera footage, transport records, detention records, supervisory reviews, officer communications, operational plans, target packages, training materials, policy memoranda, deployment records, databases and database-use practices, and communications

among ICE, CBP, ERO, DHS, and possibly other federal components. The continued requests for far-reaching and burdensome discovery in MJMA's habeas petition only serve to foreshadow what is to come with potential class-wide discovery.

That discovery would burden active immigration-enforcement operations. It would require collection, review, redaction, and potential production of records involving nonparties, ongoing investigations, law enforcement techniques, officer safety considerations, targeting information, operational planning, and sensitive government systems. It would likely generate substantial privilege and protection disputes, including over law enforcement privilege, deliberative-process privilege, attorney-client privilege, work product, Privacy Act concerns, and nonparty privacy protections. It would also likely require depositions of arresting officers, supervisors, field office personnel, and agency designees, many of whom have ongoing operational responsibilities and do not reside in the District of Oregon.

Those burdens are not justified before threshold appellate issues are resolved. If the Ninth Circuit narrows the case, rejects class-wide relief, or holds that Plaintiffs' APA theory is not viable, production of the administrative record or discovery may never be appropriate. Even if some record must be produced or discovery conducted, appellate guidance will help define their necessity and proportionality. *See* Fed. R. Civ. P. 26(b)(1), 26(c).

The hardship to Defendants is concrete. It is not merely the ordinary burden of litigation. It is the burden of broad, sensitive, law enforcement discovery into active

immigration operations before appellate review determines whether Plaintiffs may pursue the case on that basis.

IV. Plaintiffs will not be prejudiced because the preliminary injunction remains in effect.

A stay of discovery and further merits proceedings will not prejudice Plaintiffs. The preliminary injunction remains in force. Defendants are complying with it. Plaintiffs therefore retain the interim relief the Court found necessary to prevent the harms alleged in their preliminary injunction motion.

That fact materially distinguishes this request from a stay of the preliminary injunction. Defendants do not ask the Court to remove Plaintiffs' interim protection while the appeal proceeds. Defendants ask only to pause further merits proceedings, including any answer deadline or discovery, until the appellate court resolves threshold issues that will shape the case. Plaintiffs do not need the merits to proceed to preserve the benefit of the preliminary injunction.

Nor would a stay prevent Plaintiffs from seeking relief if they contend Defendants are violating the injunction. Defendants propose that any stay expressly preserves Plaintiffs' ability to seek leave, on a specific showing, to raise a concrete allegation of noncompliance with the preliminary injunction. That safeguard ensures Plaintiffs are protected while avoiding broad merits and class-wide discovery that may prove unnecessary.

The stay can also be time limited and subject to status reports. Defendants propose that the parties file a joint status report every 45 days, or within 14 days after any material appellate development, and that either party may seek

modification of the stay for good cause. *See Landis*, 299 U.S. at 255 (a stay must be kept within reasonable bounds).

V. Judicial economy strongly favors a stay.

A stay will promote the orderly course of justice. The Court is currently considering Defendants' motion to dismiss the habeas counts. Defendants have appealed the preliminary injunction and provisional class certification. The Court also recently granted class certification, and the authorization process for such an appeal remains ongoing. Indeed, today Defendants filed a protective notice of appeal for the Court's order granting class certification. These proceedings will determine the claims, parties, theories, and remedies that remain in the case.

Proceeding with broad discovery now risks unnecessary motions practice and inefficient use of judicial resources. The parties are likely to dispute the scope of any discovery, privilege, law enforcement sensitivity, privacy protections, sequencing, and proportionality. Those disputes may be fundamentally altered by appellate rulings. It is far more efficient to await appellate guidance before launching into broad discovery that may be narrowed, restructured, or eliminated.

A stay will also avoid the risk of inconsistent litigation tracks. The Ninth Circuit may address whether provisional class-wide relief was proper, whether class-wide treatment is appropriate, whether Plaintiffs' claims may proceed under the APA, and whether the preliminary record supports districtwide prospective relief. At the same time, without a stay, the district court proceedings would move forward on

assumptions that those appellate proceedings may reject. A temporary pause will allow the case to proceed coherently.

CONCLUSION

Defendants respectfully request that the Court stay further merits proceedings—including filing a responsive pleading to the complaint, producing the administrative record, and conducting any discovery—pending resolution of Defendants’ preliminary injunction appeal and, if authorized, any class certification appeal. Defendants do not seek a stay of the preliminary injunction and do not seek to prevent the Court from resolving Defendants’ pending motion to dismiss the habeas counts. The Court should grant Defendants’ modest request for a stay.

Respectfully submitted this 6th day of July, 2026.

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/s/ Ariana N. Garousi
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