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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

Eugene Division

M-J-M-A-; VICTOR CRUZ GAMEZ, Plaintiffs, v. JULIO HERNANDEZ, Seattle Field Office Director, Immigration and Customs Enforcement and Removal Operations ("ICE/ERO"); TODD LYONS, Acting Director of Immigration Customs Enforcement ("ICE"); U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, Secretary of the Department of Homeland Security ("DHS"); U.S. DEPARTMENT OF HOMELAND SECURITY; and TODD BLANCHE, Attorney General of the United States, Defendants.	Case No. 6:25-cv-02011-MTK **PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO STAY PROCEEDINGS**

INTRODUCTION

On October 30, 2025, Petitioner-Plaintiff M-J-M-A- filed a petition for habeas corpus after ICE officers detained her in a racialized dragnet targeting Woodburn, Oregon and seeking to detain anyone with an "immigration nexus." ECF 1, 88 at 4-11.[1] She then filed a motion to supplement the complaint, a motion to certify a class of similarly situated people subject to warrantless arrests in Oregon, and a motion for preliminary injunction, all of which were granted. ECF 59-61, 67, 80, 103. Defendants appealed the preliminary injunction on April 6, 2026, and filed a notice of an intent to appeal the class certification order on July 6, 2026, ECF 93, 107.

They now seek an asymmetrical stay order "targeted" at stopping the Plaintiffs, but not Defendants, from making a case. ECF 108 at 2. They ask the Court to prevent Plaintiffs from going forward in the case—but not them—pending resolution of their very-delayed appeal of the preliminary injunction and their hypothetical appeal of the class certification order. *Id*.

The motion to stay should be denied because, substantively, it is meritless and procedurally, it is a repetitive, dilatory tactic. First, on the merits of the stay, the Defendants have failed to satisfy their burden. Their factual assertions are wrong or unsupported. Any arguments resting on the Defendants' hypothetical appeal of the class certification order should be disregarded. As Defendants note, while they have filed a notice of appeal of the class certification order, that appeal will only move forward "if authorized by the Office of the Solicitor General." ECF 108 at 1, 5 ("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"). In several recent cases involving the same Defendants, Defendants have sought repeated extensions

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[1] For ease of reference, this motion refers to the Petitioner-Plaintiff and Plaintiff as "Plaintiffs" and the Respondents-Defendants as "Defendants".

while awaiting the Solicitor General's decision and have ultimately decided not to proceed with the appeal. *See e.g., Y.Z.L.H. v. Bostock, et al.*, No. 25-5579, Dkt. Nos. 4, 6, 7, 9, 13, 15 (9th Cir., dismissed June 29, 2026) (requesting four extensions of time and ultimately moving for a voluntary dismissal); *Ortega Gonzalez v. Noem, et al.,* No. 25-4224, Dkt. Nos. 11, 16, 19 (9th Cir., dismissed February 12, 2026) (requesting a stay in proceedings, an extension and ultimately moving for a voluntary dismissal). Thus, the class certification appeal is entirely speculative at this point and cannot be a valid basis for a stay of the proceedings before this Court. Defendants' appeal of the preliminary injunction is largely irrelevant to the matters they seek to stay at the district court level. As they note, they have not requested a stay of the preliminary injunction itself, ECF 108 at 2.

Second, the course of conduct in this case demonstrates dilatory conduct and repetitive argument; it is within the Court's discretion to deny the motion for these reasons, and it should do so. Defendants merely seek to short-circuit the Plaintiff's case and the discovery process. The management of the case is within the discretion of the District Court and they have had (and continue to have) a full and fair opportunity to litigate any discovery question that arises. The motion to stay should be denied.

LEGAL STANDARD

While "[a] district court has discretionary power to stay proceedings in its own court," *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005), the burden is on the moving party (in this case, Defendants) to show that a stay is warranted, *see Clinton v. Jones*, 520 U.S. 681, 708 (1997) (citation omitted). The district court must consider "the competing interests which will be affected by the granting or refusal to grant a stay," including "the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice." *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). "If there is even a fair possibility that the stay . . . will work damage to someone else," the moving party "must make out a clear case of hardship or inequity." *Lockyer*, 398 F.3d at 1112 (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936)). A stay is disfavored where the underlying suit seeks injunctive relief to remedy ongoing harm or to prevent future harm from occurring. *Lockyer*, 398 F.3d at 1112; *Cheverez v. Plains All Am. Pipeline, LP*, Case No. CV15-4113 PSG (JEMx), 2016 WL 4942328, at *3-5 (C.D. Cal. Feb. 25, 2016).

ARGUMENT

The motion to stay should be denied because Defendants have not met their burden to show that a stay is warranted. Granting the stay would not advance the orderly course of justice and would merely interpose unnecessary delay into the case.

I. The motion should be denied because it will not advance the orderly course of justice.

The orderly course of justice dictates that this case should go forward. *Lockyear*, 398 F.3d at 1109. The general rule is that cases should not be delayed "to await an interim ruling on a preliminary injunction." *California v. Azar*, 911 F.3d 558, 583 (9th Cir. 2018). "[B]ecause the fully developed factual record may be materially different from that initially before the district court, [the appellate court's] disposition of appeals from most preliminary injunctions may provide little guidance as to the appropriate disposition on the merits." *Id.* (cleaned up). Here, the Defendants "must make out a clear case of hardship or inequity in being required to go forward, if there is even a fair possibility that the stay for which he prays will work damage to someone else." *Landis*, 299 U.S. at 255. Application of *Landis* here demonstrates that the motion to stay should be denied. *Id.*

A. The stay requested by Defendants will work harm on Plaintiffs.

A stay will cause harm to Plaintiffs and will make the case overall harder to manage. A stay will cause harm to Plaintiffs for several reasons. First, relevant evidence regarding Defendants' unlawful warrantless arrest practices will be more difficult to obtain if this suit is unnecessarily delayed. *See Blue Cross and Blue Shield of Ala. v. Unity Outpatient Surgery Ctr., Inc.*, 490 F.3d 718, 724 (9th Cir. 2007) (citation and quotation marks omitted) ("Delay inherently increases the risk that witnesses' memories will fade and evidence will become stale."). Second, Defendants have already engaged in spoilation of evidence; a matter which is the subject of the ongoing discovery dispute that Defendants seek to postpone indefinitely, and this obstructs the Plaintiffs from making their case. *See* ECF 55, Tr. 232-33 (agent J-B- discloses that he destroyed the target package). Third, Plaintiffs will be hampered in their ability to enforce the terms of the preliminary injunction absent the availability of discovery on the supplemental complaint and the class certifications.

Defendants propose that a stay "expressly preserve[] Plaintiffs' ability to seek leave, on a specific showing, to raise a concrete allegation of noncompliance with the preliminary injunction." ECF 108 at 12.[2] While Plaintiffs would certainly seek such a condition if the Court were to grant a stay, this would merely reset the process and cause more litigation; it would switch the burden back to Plaintiffs, who have already proven the need for discovery to the district court. *See* ECF 13 ¶ 6. As previously mentioned during the June 25 conference, Plaintiffs have a distinct discovery process available to them as reflected on the approved briefing schedule and this process is

[2] There is a significant body of evidence developing that shows that Defendants are *not* complying with the Court's preliminary injunction order regarding warrantless arrests. *See* ECF 108 at 13 (Defendants asserting that the "preliminary injunction remains in force. Defendants are complying with it.").

necessary to gather information to further support their statutory and APA claims, as well as obtain information regarding class members, ECF 105 Tr. 54-55, especially those who were subjected to warrantless arrests prior to the Court's order but are part of the certified classes. Additionally, moving forward with the production of the administrative record and discovery will further support any efforts to enforce this Court's February 27 order by allowing Plaintiffs to review Respondents' policies and practices, and any changes made since.

A stay will make the case harder to manage. The current case management order will deliver this case to the district court for adjudication likely long before the interim appellate proceedings are presented to a panel for a decision. Even in their interim appeal, the Defendants waited until the last day of the appeal period and then have sought two very lengthy extensions in the briefing schedule for their opening brief. And again, any appeal by Defendants of the class certification order is purely hypothetical at this point, since they are merely in the ongoing "authorization process for such an appeal," ECF at 13, and protective appeals in similar cases have ultimately *not* been authorized by the Solicitor General, *see e.g. Y.Z.L.H. v. Bostock, et al.*, Dkt. No. 13; *Ortega Gonzalez v. Noem, et al.,* Dkt. 19 (9th Cir., dismissed February 12, 2026).

Even if this Court were to accept Defendants' proffered rationale, the balance of hardships would still weigh heavily against a stay. *Landis*, 299 U.S. at 255 (when deciding whether to grant a stay, courts must "weigh competing interests and maintain an even balance"). The inconvenience to Defendants of litigation does not outweigh the hardship to Plaintiffs resulting from the continued unlawful use of warrantless arrests.

B. There is no legally relevant hardship on the Defendants.

The Defendants have failed to articulate a legally relevant hardship or inequity under *Landis*. *Landis*, 299 U.S. at 254. *Lockyer*, 398 F.3d at 1009-1112. The only reason Defendants put forth in support of their stay is their perception that defending the case is a burden. ECF 108 at 9-10 ("A stay will avoid forcing the parties and the Court to litigate this case, including discovery disputes on an unstable foundation."); 10 (identifying "continued discovery would imposed burdens that may ultimately prove unnecessary"); 10 (describing the "discovery burden"); 11 (identifying burdens of "litigat[ing] complex issues"); 12 (specifying perceived burdens).

But this is not a "clear case of hardship or inequity." Defendants main concern is their "anticipated burden of class-wide discovery beyond the administrative record," which may require the parties to litigate discovery disputes. ECF 108 at 10. The burden Defendants theorize could happen (none of which *has* happened) is the ordinary work of litigation and, thus, it is not a legally relevant consideration under *Landis*. *Lockyer*, 398 F.3d at 1112. The Ninth Circuit has made clear that "being required to defend a suit, without more, does not constitute a 'clear case of hardship or inequity' within the meaning of *Landis*." *Lockyer*, 398 F.3d at 1112. What Defendants actually seek here is an end-run around their inability to immediately appeal this Court's determinations regarding the proper scope of discovery. *See Admiral Ins. Co. v. United States Dist. Ct.*, 881 F.2d 1486, 1490 (9th Cir.1989) ("In view of the strong policy against piecemeal appeals, interlocutory review of discovery orders is highly disfavored. Discovery orders are not final appealable orders under 28 U.S.C. § 1291, and courts have refused interlocutory review of such orders under the collateral order doctrine.") (internal citations omitted).

Defendants bemoan that their "discovery burden is no longer speculative" based on the Court's adoption of the Plaintiffs' proposed discovery scheduled at an adversarial, contested June 25, 2026 status conference. ECF 108 at 10. As Defendants acknowledge, the proper remedy for concerns with the District Court's discretionary discovery decisions is to raise those concerns with the District Court. *See* ECF 108 at 10 ("Defendants do not ask the Court to reconsider its decision to allow for extra-record discovery . . . ."); ECF 35, 40 (Petitioner's M-J-M-A-'s Motion to Compel Discovery & Respondents' Response); *GCB Commc'ns, Inc. v. U.S. S. Commc'ns, Inc*., 650 F.3d 1257, 1262 (9th Cir. 2011) (the circuit court will "review a district court's case management decisions for abuse of discretion"). This is especially true where the discovery sought relates to the original habeas petition (which is still pending). As it has been discussed before the Court, *see* ECF 105, Tr. at 24-25, the current requested discovery aims to clarify Petitioner's Fourth Amendment claims and not for the purposes of the certified classes, rather it is particularly relevant in light of Respondents' Motion to Dismiss counts one through six, ECF 100, and Petitioner-Plaintiffs have separate ability to seek discovery for those claims.

Further, regarding the preliminary injunction, Respondents already have monthly and individual request reporting obligations to Petitioner-Plaintiffs. *See* ECF 88 at 49. Defendants speculate about what information Plaintiffs may or may not seek in discovery and how initial requests "foreshadow what is to come with potential class-wide discovery", ECF 108 at 10-11; this argument builds speculation upon more speculation, as Defendants have not even been authorized to continue with their appeal of the class certification order. *See* ECF 108 at 10-11, 1, 4.

C. <u>The Defendants' conjectural and speculative burdens are not a "clear case of hardship or inequity."</u>

The individual instances of which Defendants complain would cause hardship or inequity are factually unsupported or untrue. Defendants have offered only vague, unsupported statements about the inconvenience of continued litigation and discovery. ECF 108 at 9-12. The Defendants complain that "discovery would burden active immigration-enforcement operations." ECF 108 at

12.[3] But this argument fails for several reasons. First, it is conjectural and speculative because Plaintiffs have not requested any discovery at all on the class and such requests if made are governed by specific rules. Second, it describes a course of conduct that is prohibited by the rules and point to no history in this case of similar conduct; unduly burdensome discovery is not permitted by the rules or, on a motion for good cause, discovery may be prohibited on topics, issues or types. *See* Fed. R. Civ. P. 26(b)(1) (prohibiting unduly burdensome discovery requests) and 26(c) (providing for orders to be issued for good cause to protect against undue burden). Third, the "collection, review, redaction, and potential production of records" is, of course, the normal work of litigation and there is no showing whatsoever how that would burden "active immigration-enforcement operations." ECF 108 at 12.[4] Fourth, their complaint about the "potential production of records" on a series of topics is a non-sequitur because there is already an expansive protective order in place. Finally, the burden of depositions is likewise speculative. Notably, the Supreme Court has allowed litigation to proceed against—including depositions of—a sitting President

[3] The Defendants inaccurately describe the course of discovery in the case thus far. ECF 108 at 12. They state that the "continued requests for far-reaching and burdensome discovery in MJMA's habeas petition" forecasts discovery for the class. *Id.* But that is untrue. The discovery requested by Plaintiff was supported by good cause and has been actively supervised by the Court to prevent undue burden. The "continued requests" is a misnomer because it is Defendants' failure to comply with the court-ordered discovery that has generated remedial requests.

[4] Plaintiffs are in no position to comment on how the Defendants allocate their vast available resources, both human and monetary, as the Government party in this suit. *See* Office of Adjudication, Recruitment and Management, *About the Office*, U.S. Department of Justice, (May 15, 2026) https://www.justice.gov/oarm/about-office (stating that the Department of Justice employs more than 10,000 attorneys nationwide); Ximena Bustillo, *ICE is now funded through end of Trump's term, raising worries about oversight,* NPR, https://www.npr.org/2026/06/09/nx-s1-5851664/house-reconciliation-vote-immigration-enforcement-ice-border-patrol. However, most of the work they point out in their motion, is everyday work of lawyers, not field agents. The present case is about immigration enforcement, particularly challenging the legality Defendants' policies and practices, so the course of litigation may touch aspects of the operations of those challenged policies and practices. The Defendants' obligation to follow the law is not—and never can be—a hardship or inequity.

because when properly managed, the discovery process is not inherently interruptive. *Clinton*, 520 U.S. at 702-703 (proper management of litigation against a sitting President will not impose an undue burden). In particular, "the obligation to . . . engage in conferral [about discovery obligations] does not rise to the level of hardship or inequity," even when it might result in "some duplicative work" for the government defendants. *See American Civil Liberties Union of Oregon v. United States Dep't of Homeland Sec.*, No. 3:17-cv-00575-HZ, 2017 WL 11699055 (D.Or. June 19, 2017) (refusing to grant a stay under *Landis* to similar government defendants pending resolution of a motion to transfer). Here, there is no evidence to suggest—and Defendants have come forward with no evidence whatsoever—that normal litigation would be a "clear case" of hardship or inequity to active-immigration enforcement operations.[5]

The cases cited by Defendants are inapposite. *Dickinson v. Trump* granted a stay of a preliminary injunction pending appeal because the panel concluded that the government had made a strong showing that it was likely to succeed on the merits of the appeal—a legal posture entirely distinct from the one raised in this motion. 174 F.4th 634, 642 (9th Cir. 2026); *see* ECF 108 at 3. The panel also, in a single line, stayed the district court proceedings below, but only because it

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[5] The Defendants keep asserting that this is strictly an APA case for which only record review is permitted. ECF 108 at 5, 10-11. Plaintiffs dispute that characterization but, even if it were true, in a related case in the District of Columbia challenging a similar policy, the (functionally) same Defendants produced an 11-page administrative record that contained "nothing that would aid [that] Court's review." *Escobar Molina, v. Dep't of Homeland Security*, 1 :25-cv-03417-BAH, ECF 102 (May 7, 2026) at 14; 38 (finding one of the eleven pages was a blank page); 44 ("Finally, defendants' last-ditch citation to the presumption of regularity is, bluntly stated, incredible. Nothing about an eleven-page administrative record renders this presumption appropriate.") (cleaned up). If the Defendants produce an adequate administrative record, then there may be no need to conduct additional discovery at all, and they can raise appropriate objections in the normal course. In this case already they have prevailed on several discovery requests originating from the habeas petition both in limiting the scope or eliminating the request entirely.

found the merits of the First Amendment claim "unlikely to succeed." *Id.* at 650. So too in *REACH Community Development v. U.S. Dep't of Homeland Sec.*, where the panel (the same as that in *Dickinson*) found that the federal government "made a strong showing that it is likely to succeed on the merits[,]" meaning discovery would be regarding a "meritless claim" and therefore an unnecessary expenditure of resources. 174 F.4th 1143, 1145 (9th Cir. 2026). Here, Defendants make no such argument regarding their likelihood of success on the merits on appeal, only arguing that the appeal 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." *See* ECF 108 at 10.

II. The motion should be denied because it is repetitive and dilatory.

The motion should be denied because it repeats the exact same arguments put forth in the joint status report. It is part of an emerging dilatory pattern by the Defendants. *Lockyer*, 398 F.3d at 1109 (describing discretionary power of district court to adjudicate stay motions). The stay motion repeats in relevant part the Defendants' proposed case management order. *Cf.* ECF 102 at 4-5. The stay motion had not yet been presented at that time, but certainly it could have been, to allow the Court to adjudicate all the case management questions; the Defendants set forth the same argument in their proposal. *Id.*; *cf.* Tr. of June 25, 2026 Status Conference at 49-52 (discussion of complexities caused by not having stay motion filed before the conference). The Court did not adopt their position. ECF 104. Yet, they have repeated the same points in their stay motion and there is no new factual information presented therein, so the Court should deny it.

The stay motion is part of an emerging pattern of dilatory conduct by the Defendants. As part of the proceedings, on October 31, 2025, the Court granted Petitioner's discovery request. ECF 13 ¶ 6. On November 1, 2025, Petitioner served Respondents with three Requests for

Production. ECF 36-1 at 6. Prior to the evidentiary hearing set for December 3, 2025, Respondents produced 46 pages of discovery. On November 18, 2025, Petitioner filed a Motion to Compel discovery because many relevant documents were not provided. ECF 35. On December 29, 2025, Petitioner served a renewed demand for production of responsive documents. No additional documents were produced so on January 22, 2026, a discovery conference was held and the Court ordered the production of specific items within 30 days of the order. ECF 69. On February 23, 2026, Respondents' counsel requested an extension to produce a limited number of documents, *see* ECF 86, which was granted by the Court, *see* ECF 87.

From February through May, Petitioner's counsel engaged in conferrals and numerous communications with Respondents in an attempt to resolve and work through the discovery issues, but were unable to resolve all the disputes. *See* June 9, 2026, Discovery Dispute Letter to the Court (detailing conferral timelines and disputes). On June 25, 2026, a second discovery conference was held for the Court to assist in resolving the disputes. Over seven months later, these disputes remain pending. The stay motion is part of this dilatory pattern of conduct—slow walking requests, piece-meal replies, and disregarding the Court's discovery orders—and it is within the Court's discretion to deny it for this reason alone.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court deny the motion to stay.

Dated: July 20, 2026. Respectfully submitted,

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