

SCOTT E. BRADFORD, OSB #062824

United States Attorney

District of Oregon

ARIANA N. GAROUSI, CSB #347758

Ariana.Garousi@usdoj.gov

NICHOLAS D. MEYERS, OSB #222743

Nicholas.Meyers@usdoj.gov

Assistant United States Attorneys

1000 SW Third Ave., Suite 600

Portland, Oregon 97204-2936

Telephone: (503) 727-1000

Attorneys for Respondents

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

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

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

Plaintiffs,

v.

**DEFENDANTS' REPLY IN
SUPPORT OF MOTION TO STAY**

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

Defendants.

Plaintiffs’ opposition obscures the narrow relief Defendants request. Defendants do not seek to stay the preliminary injunction, prevent its enforcement, or defer resolution of the pending motion to dismiss Counts 1–6. They seek only a temporary stay of discovery and further merits proceedings on the supplemental class claims while the Ninth Circuit considers threshold questions that will determine whether—and on what basis—those claims may proceed. Those questions include Article III standing, INA jurisdiction, APA reviewability, and the propriety of adjudicating individualized warrantless arrests on a classwide basis. *See* Brief for Appellants at 22–58, *Cruz Gamez v. Lyons*, No. 26-2090 (9th Cir. July 6, 2026) Dkt. 29.1. Proceeding with statewide class discovery before those foundational issues are resolved would impose substantial and potentially unnecessary burdens without depriving Plaintiffs of the protection of the existing injunction.

Notably, since Defendants filed their stay motion, a court in the Southern District of Ohio denied a preliminary injunction and granted a motion to dismiss in a class action presenting the same claims as MJMA. *Aguilar Peralta v. Dep’t of Homeland Sec.*, No. 2:26-cv-337, 2026 WL 2069917, at *1 (S.D. Ohio July 17, 2026). As the *Aguilar Peralta* Court pointed out, the plaintiffs failed to demonstrate they had standing to justify forward-looking relief because they did not show “an injury-in-fact, either through a certainly impending threat of future injury or a past injury with continuing adverse effects.”¹ *Id.* at *30. The same issue—whether Plaintiffs

¹ In *Hussen v. Noem*, which also presents class claims challenging DHS’s alleged policy of conducting unlawful warrantless arrests in Minnesota, the court found the plaintiffs did not have standing because they did not show there was “a likelihood that a future injury is certainly impending or that there is a substantial risk of future injury.” 822 F. Supp. 3d 944,

have Article III standing to seek forward-looking relief for speculative future injury—is at the center of the preliminary injunction appeal in MJMA. No. 26-2090, Dkt. 29.1 at 22–35. And that issue is of the utmost importance because it implicates this Court’s subject matter jurisdiction. Defendants merely contend that the question of subject matter jurisdiction should be resolved before continuing with this litigation.

Additionally, despite Plaintiffs’ mischaracterization, all relief related to the preliminary injunction, including any measures to enforce the preliminary injunction, would remain available to Plaintiffs if the Court grants the stay. This includes discovery to the extent the Court finds it necessary. Defendants tailored the scope of the requested stay to maintain the protection this Court already provided to Plaintiffs in granting the preliminary injunction.

Plaintiffs’ repeated description of appellate review of class certification as “hypothetical” misses the point. The pending preliminary injunction appeal already places the class certification issues before the Ninth Circuit. Defendants’ opening brief explains that the class certification rulings are inextricably intertwined with the preliminary injunction and asks the Ninth Circuit to reverse those rulings. *See* No. 26-2090, Dkt. 29.1.

Moreover, Plaintiffs’ reliance on *California v. Azar* is misplaced. Defendants do not contend that every preliminary injunction appeal automatically stays district court proceedings. Nor do Defendants ask this Court to apply the standard governing

1001 (D. Minn. 2026). In addition to serving as the basis for denying the preliminary injunction, the plaintiffs’ speculative future harm also informed the court’s decision to deny provisional class certification. *Id.* at 1005–06.

a stay of an injunction pending appeal. The relevant question under *Landis* is whether pausing further merits proceedings will promote the orderly course of justice and avoid concrete burdens that appellate review may render unnecessary. Here, the appeal presents threshold questions of standing, INA jurisdiction, APA reviewability, and class certification—not merely the propriety of temporary relief on a record that may later change. *See* No. 26-2090, Dkt. 29.1 at 22–58. *Dickinson* and *REACH* therefore remain instructive: both recognize that discovery need not continue when appellate resolution may eliminate or substantially narrow the claims on which that discovery would proceed. *See Dickinson v. Trump*, 174 F.4th 634, 650 (9th Cir. 2026); *REACH Cmty. Dev. v. U.S. Dep’t of Homeland Sec.*, 174 F.4th 1143, 1145 (9th Cir. 2026).

Defendants simply ask that this Court not put the cart before the horse. For the reasons explained herein and in Defendants’ motion, Dkt. 108, Defendants respectfully request the Court grant their motion to stay proceedings with respect to the supplemental class claims.

Respectfully submitted this 3rd day of August, 2026.

SCOTT E. BRADFORD
United States Attorney
District of Oregon

/s/ Ariana N. Garousi
ARIANA N. GAROUSI
Assistant United States Attorney
Attorneys for Defendants