UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.H.A., **K.A**, **H.D.**, **D. Doe**, **M. Doe**, on behalf of themselves and others similarly situated, *and* **THE ADVOCATES FOR HUMAN RIGHTS,** *Plaintiff-Petitioner and Plaintiffs,* **v.** **PAMELA BONDI**, in their official capacity as Attorney General of the United States; **KRISTI NOEM**, in her capacity as Secretary of the United States Department of Homeland Security; **TODD M. LYONS**, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement; **DAVID EASTERWOOD** in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement; *and* **JOSEPH B. EDLOW,** in his official capacity as Director, U.S. Citizenship and Immigration Services, *Defendants-Respondents*.	Case No. 0:26-cv-00417-JRT-DLM **PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO DISSOLVE TRO**

INTRODUCTION

Defendants ask this Court to dissolve the Temporary Restraining Order (ECF No. 41) ("TRO"), or alternatively, stay the TRO pending appeal. But none of the arguments presented by Defendants alter this Court's conclusion that the *Dataphase* factors weigh heavily in Plaintiffs' favor. Defendants seize upon the word "custody" in the refugee adjustment statute to attempt to justify upending decades of agency practice and force an untenable interpretation which would result in the unconstitutional detention of all unadjusted refugees on the anniversary of their arrival in the United States, in violation of

their due process rights under the Fifth Amendment and the prohibition on unreasonable seizure under the Fourth Amendment. Defendants attempt to justify their draconian reading by relying on misleading arguments related to vetting and conjured problems to justify their sledgehammer approach of arresting and detaining all refugees—despite the fact that they seek to detain even refugees who have already applied for adjustment of status. But as this Court and numerous other courts have already held, nothing in the Immigration and Nationality Act ("INA") authorizes the detention of refugees simply because they have not yet received adjusted status. It is imperative that the Court allow the class-wide relief provided for in its TRO to stand in order to prevent further devastating irreparable harm to refugee communities throughout Minnesota.

Moreover, independent grounds exist to deny Defendants' motion. Defendants' request for dissolution merely seeks reconsideration of the TRO, rather than attempting to show that the grounds for issuing the TRO no longer exist. And because the TRO is not appealable, there is no basis for a stay pending appeal. Additionally, rather than include the evidence purportedly supporting their motion, Defendants rely on self-serving declarations concerning documents supposedly in their possession. Defendants have refused to produce these documents, even when requested. The Court should deny Defendants' motion, and order the immediate production of the evidence that Defendants intend to rely upon in their opposition to a preliminary injunction.

BACKGROUND

The Court has ruled on Plaintiffs' Motion for Temporary Restraining Order twice in the preceding week and is familiar with the facts of the case, so Plaintiffs will summarize

them only briefly here. *See* TRO (ECF No. 41); Memorandum Opinion on Motion for Clarification ("MOMC") (ECF No. 49).

In early January 2026, DHS and USCIS launched Operation PARRIS. The stated purpose of the Operation is to target and reexamine the legal status of Minnesota's 5,600 refugees who have not yet secured permanent resident status. Since Operation PARRIS began, Defendants have implemented a practice of warrantless arrest and days or more of detention—of individuals previously screened and admitted into the United States as refugees.

Named Plaintiffs are refugees who have been lawfully present in the United States for a year or more. They have not been charged with any ground of deportability under the INA. They have not been declared flight risks or dangers. Nor have any of them been charged with a crime. They were detained by armed ICE agents while driving to work or outside their homes, or they live in fear of detention after ICE agents knocked on their door seeking to detain them or detained refugee family members.

Defendants take the position that refugees are subject to mandatory detention pursuant to 8 USC § 1159 if they have not been granted adjustment of status at the one-year mark—departing from 45 years of agency interpretation and practice under the Refugee Act of 1980. *See, e.g.*, Defs.' Memo ISO Mot. to Dissolve ("Defs.' Mot."), ECF No. 56 at 6.

This Court rejected Defendants' interpretation of the word "custody" in section 1159 as mandating Defendants' detention policy for four reasons. First, it held that a much narrower purpose was contemplated by the statute: temporary return "to the control of DHS

because they have the responsibility to inspect and examine the refugee for admission." TRO at 18. Second, ICE's 2010 guidance instructs that detention cannot be based on lack of adjustment. *Id*. Third, the Supreme Court has interpreted almost identical language as not authorizing detention. *Id.* at 19 (citing *Clark v. Martinez,* 543 U.S. 371, 386 (2005)). And lastly, Defendants' interpretation would lead to the illogical result of "subject[ing] *every* refugee to detention, *unless* USCIS conducted the inspection and examination precisely at the one-year mark." *Id*. at 19 (emphasis in original). This Court also held that Defendants lacked authority to detain Plaintiffs based on any other provision of the INA, including section 1225, based on the fact that refugees were already admitted to the United States and therefore are not "arriving [non-citizens]." *Id.* at 17.

The Court further decided that class-wide relief was appropriate based on the likelihood that Plaintiffs satisfied all of the Rule 23 requirements for class certification, as the challenged policy targets a class of thousands; the question of the lawfulness of Defendants' policy of arresting and detaining unadjusted refugees is capable of class-wide resolution and likely violates the rights of all class members, each of whom is at risk of arrest and detention for the same reason; and Defendants have acted on grounds that apply generally to the putative class by adopting a policy of targeting Minnesota's 5,600 unadjusted refugees for arrest and detention. TRO at 26-29.

On January 30, 2026, Defendants moved to dissolve the TRO pursuant to Federal Rule of Civil Procedure 65(b)(4) and alternatively moved for a stay pending appeal. ECF No. 55. Defendants' memorandum in support of their motion relies heavily on citations to self-serving affidavits, rather than any actual evidence. *See, e.g.*, Defs.' Mot. at 12 ("The

record refutes the notion that DHS is detaining any refugee longer than necessary."), 13 (asserting that DHS rescinded the 2010 ICE Directive). On February 2, 2026, counsel for Plaintiffs contacted Defendants' counsel to request expedited production of the materials comprising the factual basis for Defendants' motion. *See* Declaration of Jordan C. Hughes ("Hughes Decl."), Ex. 1. Counsel for Defendants declined the request to meet and confer and stated they do not believe any expedited production is warranted.[1] *Id*.

LEGAL STANDARD

On a motion to dissolve a TRO, courts consider "whether the grounds for originally granting the TRO continue to exist." *MiTek Inc. v. McIntosh*, No. 4:23-cv-960, 2023 WL 5528034, at *1 (E.D. Mo. Aug. 28, 2023). A TRO may be dissolved "if the restrained party demonstrates that circumstances have changed such that a TRO is no longer necessary or that the restrained party would be severely injured by continued injunctive relief." *Id.* (citing 13 James Wm. Moore et al., Moore's Federal Practice, § 65.40 (3d ed. 2023)). However, a court "should not dissolve a TRO if it believes the TRO is necessary to preserve the status quo and prevent irreparable harm." *Id.*

ARGUMENT

[1] Defendants failed to meet and confer with Plaintiffs' counsel prior to filing their January 30 motion, rendering this motion procedurally improper for failure to comply with Local Rule 7.1(a). Defendants' meet and confer statement (ECF No. 57) merely alludes to a notice of an intent to file a motion, which was emailed in the context of a conversation concerning whether Defendants would comply with the TRO and which did receive a prompt response concerning its impact on compliance. *See* Hughes Decl. Ex. 1. Despite Defendants' statement, when Plaintiffs' counsel requested a meet and confer concerning aspects of Defendants' motion and the potential production of documents, Defendants declined to meet. *Id*.

The Court should deny Defendants' motion to dissolve the TRO because the grounds upon which the TRO was granted only a week ago continue to exist and there has been no change in circumstances that would render the TRO unnecessary. *See id*. Plaintiffs will continue to face irreparable harm if the TRO is lifted and the balance of harms and public interest continue to weigh heavily in Plaintiffs' favor. Nothing in Defendants' briefing or declarations alters the conclusion that Plaintiffs are likely to succeed on the merits of their claims that Defendants' policy violates the INA. Nor, as explained below, does anything in Defendants' motion justify narrowing the scope of the TRO.

I. Plaintiffs are likely to succeed on the merits of their claim that the INA does not authorize arrest and detention of unadjusted refugees.

As this Court has already concluded, Plaintiffs are likely to succeed on the merits of their claim that Defendants' policy of arresting and detaining lawfully present refugees is not authorized by 8 U.S.C. § 1159 and that the INA's detention provisions do not provide any basis for their detention. TRO at 16. Nothing in Defendants' motion changes that conclusion.

A. Section 1159(a) does not mandate arrest or detention of unadjusted refugees.

As Plaintiffs argue at length in their prior briefing, the term "custody" must be read in context, and here it is clear that it cannot mean arrest or detention. *See* Ps' Memo. ISO Mot. for TRO (ECF No. 16-2) at 17-24. Section 1159, entitled "Adjustment of status of refugees," provides for refugees to "return or be returned" to custody for the limited purpose of "inspection and examination for admission to the United States." 8 U.S.C. §

1159(a). As this Court correctly concluded, "[i]n the context of that limited purpose, 'custody' is best read to mean 'responsibility' or 'control,' rather than prolonged detention." TRO at 18. This is consistent with how DHS and its predecessor agency, the Immigration and Naturalization Service ("INS"), interpreted the provision for more than four decades. Since the passage of the Refugee Act in 1980, the agencies have read section 1159 to require only that refugees be reviewed for adjustment of status and potentially appear for an interview before DHS—not mandatory detention. *See* Ps' Memo. ISO Mot. for TRO at 21-23 (summarizing interpretations of the "custody" requirement by DHS and its predecessor agency since the Refugee Act's enactment as being met through procedures requiring refugees to apply for adjustment of status and authorizing the agency to compel them to appear for an interview). To credit Defendants' assertion that the provision "clear[ly]" contemplates the mandatory detention of refugees, Defs.' Mot. at 6, would require holding that every single administration since the passage of the Refugee Act—including the first Trump administration—has blatantly violated the law by not detaining refugees pending adjustment. But they did not, and Defendants cannot will into existence a detention mandate that is not there.

Defendants argue that because "custody" is used elsewhere in the INA to refer to detention, the Court "should interpret 'custody' to mean the same in § 1159." Defs.' Mot. at 9. The INA uses "custody" to signify multiple things. *See, e.g.*, 8 U.S.C. § 1101(a)(27)(J)(i) ("a juvenile . . . placed under the custody of[] an agency or department of a State[] or an individual"); 8 U.S.C. § 1429 (person naturalizing "shall be entitled to the production of . . . documents and records . . . in the custody of the Service"). Most

pertinently, in construing near-identical language, the Supreme Court concluded that "nothing in this text . . . affirmatively authorizes detention" at all, contrary to Defendants' characterization. *Clark v. Martinez,* 543 U.S. 371, 385 (2005); *see* Defs.' Mot. at 13. The only basis for detention identified in *Clark* was from the second part of the sentence in the parole provision, providing that a formerly paroled noncitizen's "case shall continue to be dealt with in the same manner as that of any other applicant for admission." *Clark*, 543 U.S. at 385 (quoting 8 U.S.C. § 1182(d)(5)(A)). It is nonsensical to interpret section 1159, which does not contain any such language, to provide a "standalone grant of detention authority." Defs.' Mot. at 13. Defendants justify their distorted read of *Clark* by arguing that without the custody requirement, "refugees could simply opt out of re-vetting by refusing to present themselves[.]" *Id*. But the statute never mentions "re-vetting" — Defendants concede that the statute authorizes only "inspection and examination for admission." *Id.*; *see also* Ps' Memo. ISO Mot. for TRO at 25-26 (noting the absence of any authority to detain refugees for potential status termination, which is governed by a separate part of the INA). Congress would have had no reason to be concerned that refugees would "opt out" of applying to or returning to a DHS office to adjust status and obtain their green cards.[2]

[2] Defendants also argue that because the INA provision governing asylee adjustment of status does not require a return to custody, this difference means Congress intended for refugees to be detained. Defs.' Mot. at 9 n.3. But unlike refugees, asylees are not required to apply for adjustment of status and DHS is not required to grant their application even if they meet minimum requirements. 8 U.S.C. §1159(b). The difference in language is not because Congress intended to detain refugees, but because the agency is not required to adjust asylees for whom adjustment of status is discretionary; therefore, there is no need to require asylees to return to custody for an adjustment interview.

Defendants also cherry-pick references from the detention provisions of the INA to support their reading. *See* Defs.' Mot. at 9-10 (claiming that because "custody" in 8 U.S.C. §1226(c)–titled "Apprehension and detention of aliens"–means "detention," it must do so in section 1159). But, contrary to Defendants' assertion, Defs.' Mot. at 8, section 1159 is *not* a detention provision. *See Jennings v. Rodriguez,* 583 U.S. 281, 291 (2018) (describing the "four general immigration detention statutes" as sections 1225(b), 1226(a), 1226(c) and 1231(a) of the INA, and *not* including 8 U.S.C. § 1159). And it would be illogical to conclude that simply because the term custody refers to detention in the *detention* statute, it must do so in the context of the refugee adjustment statute. *See Util. Air Regul. Grp. v. EPA*, 573 U.S. 302, 320 (2014) (the presumption of consistent usage "readily yields to context.") (internal quotation omitted); *see also United States v. Pulsifer*, 39 F.4th 1018, 1022 (8th Cir. 2022), *aff'd*, 601 U.S. 124 (2024) ("Any presumption of consistent usage [can be] overcome . . . by [] contextual differences.").

Defendants similarly cherry-pick their preferred dictionary definition of custody and inapposite references to support their definition. *Compare* Defs.' Mot. at 8 (citing passages from the Supreme Court decision in *Jennings* considering various dictionary meanings of detention (not custody) within the detention statutes), *with* TRO at 18 (Black's Law Dictionary defines "custody as, among other things, 'responsibility for taking care of' and 'the care and control of a thing'"). And they misconstrue the Supreme Court's decision in *Jennings v. Rodriguez*, which concerned the lawfulness of prolonged detention pursuant to the detention provisions of the INA, to claim that section 1159 mandates detention until

a refugee is admitted as an immigrant. But *Jennings*, which concerned the INA's mandatory detention policies, is simply irrelevant here.

Finally, Defendants repeatedly misconstrue this Court's use of the term "prolonged detention" (to distinguish between the impermissible detentions carried out under Defendants' policy and the brief custody experienced during a typical adjustment of status interview) to claim an unwarranted focus by the Court on the *length* of detention. Defs.' Mot. at 11. But this Court was correct to hold that section 1159 contemplates custody "on a limited basis" and that any continued detention must be justified by another section of the INA that provides detention authority. TRO at 17.

B. Defendants' purported secret rescission of the 2010 ICE Directive is not supported by evidence, and in any case is arbitrary and capricious.

Since 2010, ICE's own guidance interpreting section 1159 instructed officers that refugees who have not yet applied for adjustment to LPR status cannot be detained on that basis alone. TRO at 18. In their motion to dissolve this Court's TRO, Defendants revealed for the first time that on December 18, 2025—mere weeks before launching Operation PARRIS and their detention policy—DHS purportedly issued a memorandum rescinding the 2010 ICE directive (Policy No. 11039.1) in an attempt to reverse decades of agency policy and practice. *See* ECF No. 56-2, Rich Decl. ¶ 6. The only evidence provided of this memorandum is a reference in a declaration by Tauria Rich, the Deputy Field Office Director for Enforcement and Removal Operations ("ERO")'s St. Paul Field Office. Defendants argue that as a result, Plaintiffs' *Accardi* claim must fail.

To satisfy their burden on a Rule 65(b)(4) motion to dissolve, Defendants must "demonstrate[] that circumstances have changed." *MiTek Inc.*, 2023 WL 5528034, at *1. In other words, Defendants must provide an evidentiary support for their allegations. Where a party moving to dissolve an injunction provides only self-serving declarations, without supporting evidence, dissolution should be denied. *See, e.g.*, *Fed. Trade Comm'n v. Johnson*, No. 2:10-cv-02203, 2011 WL 3497161, at *2 (D. Nev. Aug. 10, 2011) (explaining that parties seeking to dissolve an injunction bear the burden of showing materially changed circumstances, which cannot be met by self-serving declarations that lack supporting evidence); *see also MiTek Inc.*, 2023 WL 5528034, at *2 (denying dissolution where defendant offered conclusory, unsupported arguments and failed to present evidence undermining the basis for the TRO); *Orantes-Hernandez v. Gonzales*, 504 F. Supp. 2d 825, 860–61 (C.D. Cal. 2007) (denying in large part the government's motion to dissolve because government provided insufficient proof that "that the purposes of the injunction have been fully satisfied"); *Ideavillage Prods. Corp. v. Bling Boutique Store*, No. 16-cv-9039, 2017 WL 1435748, at *3 & *3 n.1 (S.D.N.Y. Apr. 21, 2017) (denying motion to modify preliminary injunction where the movants relied on self-serving declarations "without providing supporting evidence").

Defendants cite the asserted rescission of Policy No. 11039.1, as well as the contours of Operation PARRIS, without providing any of the referenced or alluded to documents. Plaintiffs contacted Defendants' counsel to request the production of the

referenced documents, and Defendants refused to produce them.[3] *See* Hughes Decl. Ex. 1. The Court need not credit Defendants' say-so as evidence to support their motion and should not modify or dissolve a TRO on such an undeveloped record.[4]

Nor are Defendants' contentions sufficient to demonstrate a basis for dissolving the TRO, even if they were credited by the Court. If Policy No. 11039.1 was rescinded, as Defendants allege, such recission would not absolve Defendants of their duty to comply with the Administrative Procedure Act ("APA")'s requirements for reasoned decision-making. Their *sub silentio* reversal of prior agency practice weeks before springing a drastic arrest and detention policy on the entire state of Minnesota's refugees falls woefully short of those requirements and provides an additional basis for Plaintiffs' APA claims, on which they are likely to be successful. *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (an agency cannot "depart from a prior policy *sub silentio* or simply disregard rules that are still on the books.").

C. Defendants' policy is not authorized by section 1159's limited purpose.

This Court has repeatedly held that section 1159 "permits custody for a specific and limited function: to allow DHS to conduct the inspection necessary to adjudicate adjustment of status under § 1159(a)(2)." TRO at 15. As this Court recognized, regulations

[3] To preserve the status quo, the court should order immediate production of all documents cited or relied on in Defendants' motion, including the rescission memo, documents related to Defendants' re-vetting and screening processes and documents related to Operation PARRIS. See infra at V.

[4] In order for a refugee to prove their claim they must explain in detail what persecution they suffered, the basis for the persecution, and what they fear will happen to them if they return to their country of origin, among other details. See refugee definition at 8 U.S.C. 1101(a)(42).

demonstrate that section 1159 contemplates a limited encounter, such as an interview, rather than the prolonged detention of unadjusted refugees lacking any ground for removability. *See id.*; 8 C.F.R. § 209.1(b), (d) (describing the adjustment process as requiring submission of an application and interviews on a case-by-case basis). And Defendants themselves concede that the word custody in section 1159 does not mandate detention and may be interpreted as referring to presence at an interview, representing that "DHS sometimes schedules an appointment" whereupon the refugee "'return[s]' to custody for an interview." Defs.' Mot. at 7.

Defendants' arguments and their own assertions lay bare the true purpose of their draconian arrest and detention policy: to sow fear among refugees by subjecting them to sudden warrantless arrests, shackling them and transporting them to far-off detention centers for however long Defendants deem necessary, where they are forced to undergo comprehensive refugee re-vetting interviews – including retraumatizing recounting of their refugee claims[5] -- often in facilities notorious for terrible conditions. *See* U.H.A. Decl, ECF No. 16-5 ¶¶ 18-30; *see also* Kernan Decl. ¶ 14 (describing how refugees detained under Operation PARRIS are "comprehensively interviewed about their refugee claim, identity, conduct, and any other relevant information contained in their USCIS record"); *see also*

[5] Defendants also claim that "in placing [the inspection] at the one-year mark", Congress accommodated the refugee's interests in "escaping imminent prosecution" (presumably meaning persecution) by ensuring "an immediate admission." Defs.' Mot. at 14. To the extent Defendants suggest that a refugee is subject to removal to their country of origin, that is untrue. See infra at I.D. While Congress intended to grant refugees the benefit of LPR status after one year, it did not intend to pluck them from their jobs and communities and hold them in detention centers while USCIS decides their adjustment of status applications.

Rich Decl. ¶ 10 (explaining how DHS first transfers refugees to "long-term facilities"). Once detained, these refugees are faced with frustrating and often insurmountable barriers to accessing legal counsel, such as the imposition of requirements that attorneys provide handwritten signatures from clients detained out of state as a condition for their presence at an interview, often resulting in even more prolonged detention. *See* ECF No. 19-3 (setting forth purported requirement of a hand-signed document for attorney appearances, even for detained refugees); Rich Decl. ¶ 17 (admitting that timely coordination with attorneys is "infeasible" if there is no G-28 attorney-client representation form already on file).

Defendants admit that their policy is to first arrest refugees, then detain them in a "long-term facility," and finally, to schedule an interview. *See* Rich Decl. ¶ 10 ("Once an alien is in ICE custody, interviews are scheduled related to this initiative within 48 hours of the alien being transferred to a long-term facility."). This policy – which is not authorized anywhere in the plain text of section 1159 – is designed to *guarantee* excessively prolonged detention and cannot be reconciled with the straightforward purpose of section 1159 which requires "return to custody" for the purpose of an interview. Defendants attempt to minimize the terrifying nature of their policy by claiming that "the majority" of refugees detained under the policy have been released, despite conceding that many releases were a direct result of the dozens of habeas petitions filed in this District. Rich Decl. ¶¶ 11, 14 (describing how length of detention varies, based on court orders, habeas petitions and ability to contact attorneys to schedule interviews). Nor do Defendants provide any other legitimate justification for detaining refugees. Defendants also

completely fail to explain their detention of refugees who voluntarily appeared at Defendants' appointed date and time, only to be shackled and detained. *See Mohamed v. Bondi*, 26-CV-00367 ECF 1 ¶ 3 (Jan. 16, 2026) (indicating petitioner, a refugee, voluntarily appeared for an interview, but was detained).

Defendants suggest that their initiative targets only refugees who fail to voluntarily return, such as for an adjustment of status interview. *See* Defs.' Mot. at 6 n.2. Yet, the challenged policy targets all unadjusted refugees in Minnesota, regardless of whether they have already filed an application to adjust their status to lawful permanent residents, following which they would ordinarily be notified to attend an interview. *See* ECF No. 16-4, Patota Decl. ¶ 12-13 (reporting that "at least" a third of individuals who reported being subjected to Defendants' policy confirmed that they had already filed applications to adjust status); *see also* ECF No. 16-7, Decl. of H.D. (Plaintiff targeted despite having applied for a green card).

Defendants' argument that their interpretation of the "return to custody" language is justified to prevent refugees "flouting the statute" is similarly baseless. Defs.' Mot. at 7-8, 13. Defendants rely on the bald statement that "a portion of" refugees do not apply to adjust status following their admission, *see* Kernan Decl. ¶ 6, to conjure up a bizarre hypothetical of refugees who would opt out of applying for permanent residence absent arrest powers, undermining Congress' scheme of adjustment of status of refugees. Defs.' Mot. at 13. Should Defendants wish to "return" refugees to custody for inspection, they

have the option of requiring them to attend an orderly interview, as has been the practice for years. *See* ECF No. 16-3, Allegra Decl. ¶ 4.[6]

Finally, Defendants claim that if section 1159's "or be returned" to custody language is read so as not to permit arrests, such an interpretation would render the term superfluous. Defs.' Mot. at 8. There are numerous ways in which this term could be read, such as requiring an individual to attend an interview with appropriate notice, without violating individuals' Fourth and Fifth Amendment rights by subjecting them to abrupt, warrantless arrests. This Court recognized Plaintiffs' "weighty and persuasive" constitutional claims, and as discussed below, the Court should decline to adopt an interpretation that interferes with Plaintiffs' constitutional rights. *See* TRO at 20, n. 21.

D. Section 1159 does not incorporate the inapplicable detention authority under 1225(b).

While maintaining that section 1159(a) provides independent detention authority, Defendants also claim that section 1225(b)—which includes provisions relating to detention of certain noncitizens in expedited removal and removal proceedings—simultaneously authorizes the detention of the putative class. Even if this latter argument could be reconciled with their insistence that refugees are being detained for adjustment of status interviews, *see* Defs.' Mot. at 9-10, it fails.

[6] Defendants appear to suggest that the statute contemplates the detention of refugees under 1225(b), even though they are not "applicants for admission," because the version of 1225(b) in effect in 1980 was not limited to "applicants for admission." ECF No. 56 at 10–11. But section 1159 has never referenced section 1225(b) specifically, see infra I.D. and the version of section 1225(b) in effect in 1980 explicitly refers to the detention of noncitizens "at the port of arrival" who are attempting "to land".

First, the provisions of section 1225 relating to detention by definition do not apply to refugees. Section 1225(b) applies only to "applicants for admission," defined in 1225(a) as noncitizens "present in the United States who ha[ve] not been admitted or who arrive[] in the United States." 8 U.S.C. § 1225(a), (b).[7] More specifically, paragraphs (b)(1) and (b)(2) apply only to noncitizens "arriving in the United States and certain other [noncitizens] who have not been admitted or paroled," 8 U.S.C. § 1225(b)(1), or individuals "seeking admission" into the United States, *id.*, § 1225(b)(2). As the Court already found, nothing in section 1225 provides for the detention of noncitizens, like refugees, who are not "arriving," *see* 8 C.F.R. 1.2, and necessarily *were admitted* when they came to the United States as refugees. TRO at 17; *see* 8 U.S.C. § 1157(c)(1) (providing for refugee admission); 8 U.S.C. § 1101(a)(13)(A) (a noncitizen is "admitted" following "the lawful entry of the [noncitizen] into the United States after inspection by an immigration officer"); *cf.* 8 U.S.C. § 1182(d)(5) (in part of statute establishing parole authority, explicitly saying that parole should not be regarded as an admission and further providing that absent "compelling circumstances," a refugee must be "admitted as a refugee under section 1157" rather than "paroled" into the country). Even though DHS has attempted to widen section 1225(b)(2)'s reach in recent months, the agency itself concedes, as it must, that it does not apply to noncitizens who have been admitted to the United States. *See Jose J.O.E. v. Bondi*, 797 F. Supp. 3d 957, 963 (D. Minn. 2025) (quoting DHS guidance

[7] Section 1225(a)(3) provides that "All [noncitizens]. . . who are applicants for admission or otherwise seeking admission or readmission to... the United States shall be inspected by immigration officers;" section 1225 (d)(3) provides for the power to administer oaths and take evidence; and section 1225(d)(4) provides for subpoena authority.

saying that noncitizens who have been admitted to the United States are detainable under section 1226, not section 1225(b)(2), pending removal proceedings). The fact that a refugee seeking to adjust their status applies for admission *as an immigrant*—which is how DHS treats all adjustment of status applicants and why people who adjust to LPR status typically have two separate admissions, *see Matter of Alyazji*, 25 I. & N. Dec. 397, 399–405 (BIA 2011)—does not erase the historical fact that they have already been admitted as a refugee.[8]

Second, even for those noncitizens to whom the detention provisions in section 1225 *do* apply, detention is permissible only for removal proceedings. *See* 8 U.S.C. § 1225(b)(1)(B) (providing for detention during expedited removal credible fear process and pending further consideration of asylum application following credible fear finding); (b)(2) (providing for detention "for a proceeding under 1229a"). But Defendants claim to be detaining people for the purpose of adjustment of status, not removal proceedings, *see* Defs.' Mot. at 9-10, and nothing in the TRO prevents Defendants from properly charging and detaining individuals with grounds of deportability and detaining such individuals pursuant to section 1226(a) or (c). *See Pereida v. Wilkinson*, 529 U.S. 224, 227 (2021) (explaining that a removal proceeding begins with the filing of a Notice to Appear); *cf. Jose J.O.E.,*, 797 F. Supp. 3d at 969 (pushing back on DHS's assertion that petitioner was detained under section 1225 when there was no evidence that he was arrested or detained under that section).

[8] Nor do Defendants provide any explanation as to why their arrest of refugees without a warrant and without probable cause of removability or flight risk complies with the INA or the Fourth Amendment. See Memo ISO Mot. For TRO at 34-37.

Third, Defendants read far too much into section 1159's reference to 1225. That Congress stated that the "inspection and examination for admission . . . as an immigrant" would proceed "in accordance with 1225, 1229a, and 1231" does not suggest an intent to detain refugees under 1225(b) while the agency considers whether to adjust their status. Instead, it merely lays out how the inspection and potential subsequent steps should proceed. Section 1225 provides the general statutory framework for inspections by immigration officers which applies beyond individuals who are "applicants for admission," *see, e.g.*, 8 U.S.C. § 1225(a)(3), (d)(3), (4).[9] After that inspection, if the person is charged as removable, section 1229a provides the authority to place them in removal proceedings, *see* 8 U.S.C. § 1229a; and after removal proceedings result in an order of removal, section 1231 provides for the person's detention and ultimate removal, *see* 8 U.S.C. § 1231. Nothing in section 1159 suggests the reference to 1225 was a roundabout way of incorporating a detention authority that, by its terms, does not apply to lawfully admitted refugees.

E. Defendants' interpretation of the term "custody" would render the statute unconstitutional.

[9] Defendants' suggestion that "issues exist that will prevent eventual certification under Rule23" lays bare the weakness of their arguments against certification. Defs.' Mot. at 17. They seem to suggest that the detained subclass failed the numerosity prong of 23(a) because "less than 36 refugees" were detained as of January 29, according to Defendants' declarant. Id. Yet joinder would still be clearly impracticable, particularly given that Defendants do not dispute that they would detain thousands more were they given the chance. See Reid v. Donelan, 297 F.R.D. 185, 189 (D. Mass.); see also Defs' Mot. at 3 (noting that 72 refugees have been detained so far).

Even if section 1159 was ambiguous, the canon of constitutional avoidance dictates that where possible, a statute must be construed to avoid "not only the conclusion that it is unconstitutional but also grave doubts upon that score." *Almendarez-Torres v. United States*, 523 U.S. 224, 237 (1998) (quoting *United States v. Jin Fuey Moy*, 241 U.S. 394, 401 (1916)).

Here, there is a serious likelihood that "the statute will be held unconstitutional" if Defendants' interpretation prevails. *Id*. at 238. Under the Constitution, infringement on the fundamental liberty interest of being free from imprisonment is prohibited, except when "narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993); *see Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). As Plaintiffs' memorandum of law in support of the motion for a TRO explains, *see* Ps' Memo ISO Mot. for TRO at 31, the only legitimate justification for immigration detention is ensuring appearance at removal proceedings and preventing danger to the community during any such proceedings. *Id.* Defendants do not even purport to claim that either constitutionally permissible justification exists here, and as such, detention is unconstitutional. Other courts in this District agree. *See, e.g., Jama A.O. v. Bondi*, No. 26-cv-420 (DWF/ECW), 2026 WL 185767, at *2-4 (D. Minn. Jan. 23, 2026) ("To the extent that Jama is being detained as he awaits determination on his LPR application, adjustment of status under [§ 1159] is not a sufficient ground to place [refugees] in removal proceedings, and therefore not a proper basis for detaining them."). In addition, Defendants' interpretation violates Plaintiffs' procedural due process rights by depriving Plaintiffs of the opportunity to be heard at all prior to detention, or even following detention. Given the lack of process, the risk of

erroneous deprivation of liberty interests is extremely high. *See Mathews v. Eldridge,* 424 U.S. 319, 335 (1976); *cf. Mohammed H. v Trump*, 786 F. Supp. 3d 1149, 1158 (D. Minn. 2025) (detention arbitrary where there was "no chance to contest the Government's case for detention").

II. The Balance of Harms and the Public Interest Favor Upholding the TRO.

A. Defendants are not harmed by following the law, and the public interest favors enjoining Defendants' policy.

Where, as here, the government is a party, the balance of equities and public interest merge. *See Nken v. Holder*, 556 U.S. 418, 435 (2009). Defendants have, for 45 years, implemented section 1159 and the adjustment of status of refugees without subjecting refugees to mandatory detention at the one-year mark after their admission. *See* Ps.' Memo ISO Mot. for TRO at 21–24. Other than an inability to pursue their political priorities, Defendants point to no actual evidence that they are harmed by abiding by the process they have followed for years, as set out in their own regulations—having refugees apply and potentially require them to attend an interview. *See* 8 C.F.R. 209.1. Defendants cannot be permitted to devise a hypothetical problem as a justification to terrorize refugees.

The TRO is narrow: it prevents Defendants from carrying out the unlawful arrest and detention of Plaintiffs on the basis that they are unadjusted refugees. It "does not affect USCIS's responsibility to conduct reinspections to adjust refugees' status;" it "does not impact DHS's lawful enforcement of immigration laws;" and it is "temporary" until the propriety of a preliminary injunction can be fully briefed and decided by the Court. TRO

at 30; *see also* MOMC at 5, n.2 (noting Defendants requested two weeks to brief their response to the TRO motion).

Further, it protects people who pose no threat, *see* TRO at 30 (Plaintiffs "are not committing crimes on our streets, nor did they illegally cross the border . . . [they] have a legal right to be in the United States, a right to work, a right to live peacefully"), and ensures protection of their constitutional rights, which "is always in the public interest." *Fantasysrus 2, L.L.C. v. City of E. Grand Forks, Minn.*, 881 F. Supp. 2d 1024, 1033 (D. Minn. 2012) (internal citation omitted). Operation PARRIS is a resource-intensive process of arresting class members who have violated no immigration laws, detaining them in Minnesota or flying them to detention facilities in Texas, and conducting in-detention interviews that USCIS has for years conducted at its offices. It is an unlawful and unconstitutional retribution campaign against refugees, not implementation of the INA's adjustment of status provision. *See Shaik v. Noem*, 801 F. Supp. 3d 825, 836–37 (D. Minn. 2025) (there is "substantial public interest in a federal agency following its own [rules] . . . and in Americans trusting their own government to follow the rule of law"); *cf. Org. for Black Struggle v. Ashcroft*, 978 F.3d 603, 609 (8th Cir. 2020) (a government does not suffer irreparable harm by being precluded from enacting unconstitutional legislation). It would cost Defendants little to return to the status quo.

B. Plaintiffs will suffer irreparable injury without the TRO

As this Court has already held, Plaintiffs have suffered irreparable injury as a result of Defendants' policy and will continue to suffer irreparable injury if the TRO is dissolved. Plaintiffs are at risk of being arrested on the way to work or while at home with their

families. *See* U.H.A. Decl. ¶ 9; D. Doe Decl. ¶¶ 7–8. They are at risk of being detained or re-detained in ICE detention centers thousands of miles from home in "distant states, often without the ability to communicate with counsel, family, or the community." TRO at 21; *see* U.H.A. Decl. ¶¶ 18–30; D. Doe Decl. ¶¶ 9–11. Once detained, they face the specter of interviews aimed at stripping their status without counsel and while exhausted and afraid. D. Doe Decl. ¶ 12; B.B. Decl. ¶¶ 16–20; *see also* Suppl. Mot., ECF No. 19. Fearing detention, they have been separated from their families or are in hiding. K.A. Decl. ¶ 12; H.D. Decl. ¶¶ 10, 16. They will unquestionably experience irreparable harm if this Court dissolves or stays the TRO. "The stories of terror and trauma recounted by Named Plaintiffs in their Amended Petition make this harm impossible to ignore." TRO at 20. As the Court found, loss of liberty alone constitutes irreparable harm. *Id.* at 21 (citing *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018)). Worse, ICE's now-routine, "extraordinary" "violation of court orders" renders putative class members' detention "unauthorized, and seemingly unaccountable." *Id.* (quoting *Juan T.R. v. Noem*, Civil No. 26-107, Docket No. 7 at 2–3 (D. Minn. Jan. 26, 2026)). This factor "strongly favors Plaintiffs." *Id*. at 22.

III. There is No Basis to Change the Scope of the TRO.

The scope of the Court's TRO is appropriate and necessary to preserve the status quo and prevent further irreparable harm to the Class and Detained Subclass in this case.

A. Class-wide Relief is Appropriate

The scope of the TRO is entirely appropriate, and the Court should not entertain Defendants' request to modify the TRO to apply only to Named Plaintiffs. The Supreme Court recently affirmed that "courts may issue temporary relief to a putative class" prior to

class certification. *A. A. R. P. v. Trump*, 605 U.S. 91, 98 (2025) (citing W. Rubenstein, Newberg & Rubenstein on Class Actions § 4:30 (6th ed. 2022 and Supp. 2024)).

Defendants argue "[t]he Eighth Circuit's recent opinion in *Tincher v. Noem* suggests that temporary relief to a putative class is unnecessary when the Court is not at risk of losing jurisdiction." Defs.' Mot. at 17 (citing *Tincher v. Noem* No. 26-1105, 2026 WL 194768, at *1 (8th Cir. Jan. 26, 2026)). Not so. In *Tincher*, which involved a preliminary injunction, not a TRO, the Eighth Circuit concluded that the putative class had "*no* chance of getting certified." *Tincher,* 2026 WL 194768, at *1. There, the preliminary injunction granted relief to a broad and difficult to ascertain putative class of "[a]ll persons" who may engage in various protest activities, whose claims that the Eighth Circuit found to "involve different conduct, by different officers, at different times, in different places, in response to different behavior." *Id.* Nothing in *Tincher* suggests that, contrary to the Supreme Court's statement in *A.A.R.P.*, courts are inhibited from issuing temporary relief to a putative class.

B. The TRO is not Overbroad

Defendants argue that the TRO is overbroad because (they claim) it does not permit return of refugees to DHS custody under §1159 "for even a minute" and prevents any arrest or detention whatsoever. This argument is a red herring. First, the Court did not prohibit *any* arrest of unadjusted refugees. It merely prohibited arrest *solely* on the ground that a person is an unadjusted refugee. The government remains authorized to arrest refugees where there is probable cause of removability, or an individualized determination of flight risk. *See* 8 U.S.C. 1357(a)(2); 8 C.F.R. §287.8(c)(2)(i). Second, the Court's order does not

prevent Defendants from complying with section 1159's custody provision by issuing an interview notice and requiring a refugee to attend an adjustment interview, *see* TRO at 17, as has been the agency's practice for decades. *See* 8 C.F.R. 209.1; *see also* ECF No. 16-15, Raufer Decl.; ECF No. 16-13, Drobnick Decl. 7. What this Court's Order does forbid is Defendants' campaign of warrantless arrest and detention of all unadjusted refugees simply because they have not yet adjusted status, regardless of their lack of flight risk or probable cause of removability.

C. Section 1252(f)(1)'s Limitation on Injunctive Relief Does Not Apply.

Defendants argue that the TRO is barred by 8 U.S.C. § 1252(f)(1). Defs.' Mot. at 17–18. This is incorrect for several reasons. First, section 1252(f)(1) bars only injunctive relief that enjoins or restrains the operation of Part IV of the INA, which does not include 8 U.S.C. § 1159. Second, a stay pursuant to the APA—the basis of Plaintiffs' claims—is not barred by § 1252(f)'s limitation on injunctive relief. Third, this Court has broad discretion pursuant to the All Writs Act to preserve its jurisdiction over this case by preventing Defendants from abducting a putative class and spiriting them out of state.

Even if the TRO were considered an injunction, which it is not, *see infra*, a class-wide injunction prohibiting Defendants from arresting and detaining lawfully present, unadjusted refugees would not run afoul of § 1252(f)(1) because § 1159, the purported detention authority on which Defendants rely, is not among the provisions covered by 1252(f)(1). *Biden v. Texas*, 597 U.S. 785, 798 (2022) (Part IV refers only to "sections 1221 through 1232 of the INA," as amended by IIRIRA.). A claim related to "improper . . . termination" of lawful status is merely "collateral to Part IV of the INA." *Shaik v. Noem*,

801 F. Supp. 3d 825, 833 (D. Minn. 2025) (holding that unlawful revocation of student visa status did not fall under Part IV, and an "injunction to only enjoin DHS from detaining or removing" plaintiffs "solely because" of such revocation "would not enjoin or restrain any provision of the INA whole cloth; it would merely disrupt a ripple effect[.]").

Defendants argue that Plaintiffs are detained "in accordance" with § 1225, and that somehow that brings their detention into Part IV. Defs.' Mot. at 18. But as explained above, Defendants do not even claim to be detaining refugees for removal proceedings pursuant to 1225(b), which plainly does not apply to refugees in any event. *See supra* Part I.B. Defendants' own words leave no doubt about the claimed basis for detention: "§ 1159 provides *an independent statutory authority* for detention." Defs.' Mot. at 12 (emphasis added). At best, Defendants' arguments suggest there may be some "collateral" impact on Part IV, which this Court has warned does not bring a claim under 1252(f)(1). *Shaik*, 801 F. Supp. 3d at 833 (citing *Al Otro Lado v. Exec. Off. for Immigr. Rev.*, 138 F.4th 1102, 1127 (9th Cir. 2025)).

Further, section 1252(f)(1) "[b]y its plain terms, and even by its title, is nothing more or less than a limit on injunctive relief." *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 481 (1999). It does not preclude relief under the APA, which is the basis for Plaintiffs' claims. *Garland v. Aleman Gonzalez*, 596 U.S. 543, 571 (2022) (Sotomayor J., concurring in part) ("the Court does not purport to hold that § 1252(f)(1) affects courts' ability to 'hold unlawful and set aside agency action, findings, and conclusions' under the Administrative Procedure Act. 5 U.S.C. § 706(2).").

Finally, all the TRO does is temporarily freeze Defendants' unlawful terror campaign while this case proceeds to the preliminary injunction phase. This is akin to a stay, not an injunction, because it prevents agency action by "suspending the source of authority to act . . . not by directing an actor's conduct." *Nken*, 556 U.S. at 428-29. Courts have broad discretion under the All Writs Act to preserve their jurisdiction during the pendency of a case. 28 U.S.C. § 1651. The TRO this Court issued does nothing more than maintain the status quo ante prior to the unleashing of Defendants' unlawful policy. TRO at 8 (citing *Tumey v. Mycroft AI, Inc*., 27 F.4th 657, 664 (8th Cir. 2022)). It does not enjoin Defendants' operation of Part IV of the INA, thus section 1252(f) does not apply.

IV. The TRO Should Not be Stayed Pending Appeal.

Rule 62(d) of the Federal Rules of Civil Procedure allows a court "in its discretion [to] suspend, modify, restore, or grant an injunction during the pendency of the appeal." *United States v. City of St. Paul*, 193 F.R.D. 640, 640 (D. Minn. 2000), *aff'd*, 258 F.3d 750 (8th Cir. 2001). When assessing a party's motion to stay an injunction pending appeal, the Court looks to four factors: "'(1) the likelihood of the movant's success on the merits, (2) whether the movant will be irreparably harmed absent a stay, (3) whether issuance of the stay will substantially injure the non-moving party and (4) the public interest.'" *SD Voice v. Noem*, 570 F. Supp. 3d 743, 746 (D.S.D. 2021) (internal citations omitted); *see also, e.g.*, *In re Workers' Compensation Refund*, 851 F. Supp. 1399, 1401 (D. Minn.1994). "'Because the burden of meeting this standard is a heavy one, more commonly stay requests will not meet this standard and will be denied.'" *Brady v. Nat'l Football League,* 779 F. Supp. 2d 1043, 1046 (D. Minn. 2011) (internal citation omitted).

As the Court has already noted, *see* MOMC at 6 n. 3, the TRO is not appealable. Rule 62(d) permits a district court to stay "an interlocutory order or final judgment" pending appeal. Fed. R. Civ. P. 62(d). "Since a temporary restraining order is not a final order or one of the interlocutory orders specifically made appealable by 28 U.S.C. § 1292, [a Circuit Court] is without jurisdiction to entertain a direct appeal of such an order" except by the "extraordinary remedy of mandamus." *In re Bhd. of Ry., Airline & S.S. Clerks, Freight Handlers & Exp. & Station Emps*., 605 F.2d 1073, 1074 (8th Cir. 1979); *accord Off. of Pers. Mgmt. v. Am. Fed'n of Gov't Emps., AFL-CIO*, 473 U.S. 1301, 1303–04 (1985). Because the TRO cannot be appealed, it cannot be stayed pending appeal.

Defendants provide no argument for why they believe the TRO is appealable, and the argument is therefore waived. *See United States v. Frausto*, 636 F.3d 992, 997 (8th Cir. 2011). In any event, Defendants do not meet their heavy burden of showing that they are entitled to the extraordinary relief of a stay. This Court has already considered the factors that counsel now against a stay when it weighed the factors that led it to issue the TRO. *Kansas v. United States*, 124 F.4th 529, 533 (8th Cir. 2024) ("Substantial overlap exists between [the] factors [governing a stay pending appeal] and the factors governing preliminary injunctions . . . because similar concerns arise whenever a court order may allow or disallow anticipated action before the legality of that action has been conclusively determined.") (internal citation omitted) (cleaned up). For those reasons and the reasons set forth above, the Defendants have not established a likelihood of success on the merits of the appeal nor any risk of harm from being required to comply with the law during the

limited time the TRO is in effect, while Plaintiffs and the putative class members would be at immediate risk of deprivation of their liberty should a stay be granted.

V. To Enable Plaintiffs to Meaningfully Respond to this Motion and Defendants' Forthcoming Preliminary Injunction Opposition, the Court Should Order Defendants to Provide the Documents that Underly their Motion.

As explained above, Defendants' motion relies on their declarants' assertions regarding documents they have not provided. *See supra* Part I.B. To ensure that the preliminary injunction hearing scheduled for February 19, 2026 proceeds on an accurate and complete record the Court should order the immediate production of any documents cited or relied upon in Respondents' Motion and supporting materials, including:

1. The December 18, 2025 memorandum rescinding ICE Policy No. 11039.1 and the correspondence by Liana Castano to all ERO personnel regarding the same (Rich Decl. ¶ 6);
2. The list provided by USCIS to ERO officials in Minnesota (Rich Decl. ¶ 8);
3. The notification to Minnesota's ERO Field Office regarding Operation PARRIS, the operations plan for Operation Parris, and the document laying out the process for interviews (Rich Decl. ¶¶ 9-10);
4. Document(s) discussing the results of "review of refugee vetting and screening processes" (Kernan Decl. ¶¶ 8-9);
5. Guidance from the "prior administration" prioritizing speed of processing over national security (Kernan Decl. ¶ 9);

6. The USCIS process and protocol to review refugees (Kernan Decl. ¶¶ 12, 14–19);
7. The March 25, 2025 USCIS report from its review of recently admitted refugees from the Western Hemisphere (Kernan Decl. ¶¶ 10–11); and
8. Any evidence of fraud, public safety, and/or national security concerns forming the basis of the USCIS September 30, 2025 announcement associated specifically with lawfully admitted refugees in Minnesota (Kernan Decl. ¶ 21).

CONCLUSION

Plaintiffs respectfully request that the Court deny Defendants' Motion to dissolve the TRO, deny their motion to Stay the TRO Pending Appeal, and grant Plaintiffs' request for an order to produce documents.

Dated: February 3, 2026

Respectfully submitted,

/s/E. Michelle Drake

E. Michelle Drake, Bar No. 0387366
John G. Albanese, Bar No. 0395882
Joseph C. Hashmall, Bar No. 0392610
Hans Lodge, Bar No. 0397012
Marika K. O'Connor Grant, Bar No. 0506179
Ariana Kiener, Bar No. 0402365
Bryan Plaster Bar No. 0402792
Katherine Raths, Bar No. 0403443
Jordan Hughes, Bar No. 0403614
Soledad Slowing-Romero, Bar No. 0506668
BERGER MONTAGUE PC
1229 Tyler Street NE, Suite 205
Minneapolis, MN 55413
T. 612.594.5999
F.612.584.4470
emdrake@bergermontague.com
jalbanese@bergermontague.com
hlodge@bergermontague.com

jhashmall@bergermontague.com
moconnorgrant@bergermontague.com
akiener@bergermontague.com
bplaster@bergermontague.com
kraths@bergermontague.com
jhughes@bergermontague.com
sslowingromero@bergermontague.com

Kimberly Grano*
Ghita Schwarz*
Mevlüde Akay Alp*
Pedro Sepulveda*
International Refugee Assistance Project
One Battery Park Plaza, 33rd Floor
New York, New York 10004
Telephone: (646) 939-9169
Facsimile: (516) 324-2267
kgrano@refugeerights.org
gschwarz@refugeerights.org
makayalp@refugeerights.org
psepulveda@refugeerights.org

Megan McLaughlin Hauptman**
International Refugee Assistance Project
650 Massachusetts Avenue NW, Suite 600
Washington, D.C. 20001
Telephone: (516) 732-7116
Facsimile: (516) 324-2267
mhauptman@refugeerights.org

Bardis Vakili (Cal. Bar No. 247783)**
Sarah E. Kahn (Cal. Bar No. 341901)**
CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW
1505 E 17th St. Ste. 117
Santa Ana, CA 92705
Tel: (909) 274-9057
bardis@centerforhumanrights.org
sarah@centerforhumanrights.org

** Pro hac vice applications pending*
*** Admitted pro hac vice*

Counsel for Plaintiff-Petitioner and Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.H.A., **K.A**, **H.D.**, **D. Doe**, **M. Doe**, on behalf of themselves and others similarly situated, *and* **THE ADVOCATES FOR HUMAN RIGHTS,**

Plaintiff-Petitioner and Plaintiffs,

v.

PAMELA BONDI, in their official capacity as Attorney General of the United States;

KRISTI NOEM, in her capacity as Secretary of the United States Department of Homeland Security;

TODD M. LYONS, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;

DAVID EASTERWOOD in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement; *and*

JOSEPH B. EDLOW, in his official capacity as Director, U.S. Citizenship and Immigration Services,

Defendants-Respondents.

Case No. 0:26-cv-00417-JRT-DLM

LOCAL RULE 7.1(f) CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1, the undersigned hereby certifies that PLAINTIFFS' OPPOSITION TO MOTION TO DISSOLVE complies with Local Rule 7.1(h)'s type-size requirement as it was prepared in Microsoft Word 365 using 13-point proportional font. Pursuant to Local Rule 7.1(f), the undersigned further certifies that the OPPOSITION

complies with the type-volume requirement as it contains 8,335 words, according to Microsoft Word 365's word count feature, including headings, footnotes, and quotations.

Dated: February 3, 2026

Respectfully submitted,

/s/E. Michelle Drake
E. Michelle Drake, Bar No. 0387366
John G. Albanese, Bar No. 0395882
Joseph C. Hashmall, Bar No. 0392610
Hans Lodge, Bar No. 0397012
Marika K. O'Connor Grant, Bar No. 0506179
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Jordan Hughes, Bar No. 0403614
Soledad Slowing-Romero, Bar No. 0506668
BERGER MONTAGUE PC
1229 Tyler Street NE, Suite 205
Minneapolis, MN 55413
T. 612.594.5999
F.612.584.4470
emdrake@bergermontague.com
jalbanese@bergermontague.com
hlodge@bergermontague.com
jhashmall@bergermontague.com
moconnorgrant@bergermontague.com
akiener@bergermontague.com
bplaster@bergermontague.com
kraths@bergermontague.com
jhughes@bergermontague.com
sslowingromero@bergermontague.com

Kimberly Grano*
Ghita Schwarz*
Mevlüde Akay Alp*
Pedro Sepulveda*
International Refugee Assistance Project
One Battery Park Plaza, 33rd Floor
New York, New York 10004
Telephone: (646) 939-9169
Facsimile: (516) 324-2267
kgrano@refugeerights.org

gschwarz@refugeerights.org
makayalp@refugeerights.org
psepulveda@refugeerights.org

Megan McLaughlin Hauptman**
International Refugee Assistance Project
650 Massachusetts Avenue NW, Suite 600
Washington, D.C. 20001
Telephone: (516) 732-7116
Facsimile: (516) 324-2267
mhauptman@refugeerights.org

Bardis Vakili (Cal. Bar No. 247783)**
Sarah E. Kahn (Cal. Bar No. 341901)**
CENTER FOR HUMAN RIGHTS & CONSTITUTIONAL LAW
1505 E 17th St. Ste. 117
Santa Ana, CA 92705
Tel: (909) 274-9057
bardis@centerforhumanrights.org
sarah@centerforhumanrights.org

* *Pro hac vice applications pending*
** *Admitted pro hac vice*

Counsel for Plaintiff-Petitioner and Plaintiffs