No. 25-4864

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

OSNY SORTO-VASQUEZ KIDD; INLAND COALITION FOR IMMIGRANT JUSTICE; COALITION FOR HUMAN IMMIGRANT RIGHTS,

Plaintiffs-Appellees,

v.

MARKWAYNE MULLIN, et al.,
U.S. Department of Homeland Security (DHS), et al.,

Defendants-Appellant.

On Appeal from the United States District Court
for the Central District of California
No. 2:20-cv-03512-ODW-JPR (Wright, II, J.)

DEFENDANTS'-APPELLANT'S REPLY BRIEF

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TABLE OF CONTENTS

INTRODUCTION 1

ARGUMENT 2

I. Both Organizational Plaintiffs and the Speculative Class of Unnamed Individuals Lack Article III Standing 2

A. Plaintiffs Have Failed to Demonstrate Organizational Standing 3

B. Plaintiffs Have Failed to Demonstrate Associational Standing Because Declaratory Relief Requires a Showing of Real and Immediate Future Harm 10

II. The District Court's Order Should Be Reversed Based on the Court's Erroneous Fourth Amendment Analysis 18

A. The District Court and Plaintiffs Misread *Lundin* by Reading a Bright-Line Rule, Which Improperly Restricts ICE's Lawful Use of an Implied License to Execute Knock-and-Talks 19

B. Civil Immigration Enforcement Requires Distinct Analysis Under the Fourth Amendment 23

III. The District Court's APA Ruling Is Incorrect, as the Court Erred by Interpreting the Regulation in Isolation 27

CERTIFICATE OF COMPLIANCE

CERTIFICATE OF SERVICE

TABLE OF AUTHORITIES

CASES

Abel v. *United States*,
362 U.S. 217 (1960) 25

Alderman v. United States,
394 U.S. 165 (1969)..... 16

Arizona All. for Retired Americans v. Mayes,
No. 22-16490, 2026 WL 2277101 (9th Cir. August 7, 2026) .....4, passim

Armstrong v. Davis,
275 F.3d 849 (9th Cir. 2001) 17

Bernhardt v. County of Los Angeles,
279 F.3d 862 (9th Cir. 2002).....17

B.K. by next friend Tinsley v. Snyder,
922 F.3d 957 (9th Cir. 2019)..... 18

City of Los Angeles v. *Lyons*,
461 U.S. 95 (1983) 3, 15

Clapper v. Amnesty Int'l USA,
568 U.S. 398 (2013).....3, passim

Coolidge v. New Hampshire,
403 U.S. 443 (1971) 25

Ctr. for Biological Diversity v. Exp.-Import Bank of the United States,
894 F.3d 1005 (9th Cir. 2018) 3

DaimlerChrysler v. Cuno,
547 U.S. 332 (2006)..... 2, 3

E. Bay Sanctuary Covenant v. Biden,
993 F.3d 640 (9th Cir. 2021) 5

FDA v. All. for Hippocratic Med.,
602 U.S. 367 (2024) .....3, passim

Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.,
82 F.4th 664 (9th Cir. 2023) 5

Florida v. Jardines,
569 U.S. 1 (2013) 20, 22

Friends of the Earth, Inc. v. Laidlaw Env't Servs., Inc.,
528 U.S. 167 (2000) 3

Gonzalez v. ICE,
975 F.3d 788 (9th Cir. 2020) 26, 30

Havens Realty Corp. v. Coleman,
455 U.S. 363 (1982) 4, 8, 9

Healy v. Milliman, Inc.,
164 F.4th 701 (9th Cir. 2026) 17

Hunt v. Wash. St. Apple Adver. Comm'n,
432 U.S. 333 (1977) 11

Illinois v. Gates,
462 U.S. 213 (1983) 20

Immigrant Defenders Law Center v. Noem,
145 F.4th 972 (9th Cir. 2025) 4, 8

INS v. Lopez-Mendoza,
468 U.S. 1032 (1984) 25

Martin v. *Sundial Marine Tug & Barge Works, Inc.*,
12 F.4th 915 (9th Cir. 2021) 23

Matias Rauda v. *Wilkinson*,
844 Fed. Appx. 945 (9th Cir. 2021) 24, 25, 29

Mayfield v. United States,
599 F.3d 964 (9th Cir. 2010) 17

Noem v. Vasquez Perdomo,
146 S. Ct. 1 (2025) 1, 12, 13

Payton v. New York,
445 U.S. 573 (1980) 26

Perez Cruz v. Barr,
926 F.3d 1128 (9th Cir. 2019) 28, 29

Rakas v. Illinois,
439 U.S. 128 (1978) 16

Sanchez v. Sessions,
904 F.3d 643 (9th Cir. 2018) 28

Summers v. Earth Island Inst.,
555 U.S. 488 (2009) 13, 14, 18

Swift & Co. v. Hocking Valley Ry. Co.,
243 U.S. 281 (1917) 24

Trump v. CASA de Maryland, Inc.,
606 U.S. 831 (2025) 16

United States v. Carloss,
818 F.3d 988 (10th Cir. 2016) 20

United States v. Esqueda,
88 F.4th 818 (9th Cir. 2023) 20

United States v. Grey,
959 F.3d 1166 (9th Cir. 2020) 26

United States v. *Lundin*,
817 F.3d 1151 (9th Cir. 2016) 19, 20, 21

United States v. *Vargas-Amaya*,
389 F.3d 901 (9th Cir. 2004) 31

Virginia House of Delegates v. Bethune-Hill,
587 U.S. 658 (2019) 3

Zuniga v. Garland,
86 F.4th 1236 (9th Cir. 2023) 30

STATUTES

8 U.S.C. § 1226(a) 24, 27, 30

REGULATIONS

8 C.F.R. § 236.1(b)(2) 31

8 C.F.R. § 287.5(e) 27, 30

8 C.F.R. § 287.8(b)(2) 28

8 C.F.R. § 287.8(c)(2)(ii) 31

8 C.F.R. § 287.8(c)(2)(iv) 31

8 C.F.R. § 287.8(f) 31

8 C.F.R. § 287.8(f)(2) ..... 27, passim

8 C.F.R. § 287.9 31

INTRODUCTION

This Court should reverse the district court's grant of Plaintiffs' motion for summary judgment. Despite calls to the contrary, Plaintiffs and "[t]he Judiciary [do] not set immigration policy or decide enforcement priorities." *Noem v. Vasquez Perdomo*, 146 S. Ct. 1, 5-6 (2025) (Kavanaugh, J., concurring in the grant of a stay). Rather, the Judiciary is tasked with deciding cases and controversies according to the Constitution and federal statutes. *Id.* Plaintiffs' brief seemingly attempts to frame Defendants' brief as conceding a critical finding and containing a smoking gun: that ICE conducts knock-and-talks in the Los Angeles area of responsibility (AOR). However, Defendants have continuously maintained that there was a policy and practice of ICE conducting knock-and-talks in the region, but that these knock-and-talks were lawful and comply with both the Constitution and regulations. Plaintiffs' arguments to the contrary are unfounded.

Plaintiffs attempt to improperly manufacture standing where none exists. The district court also erroneously concluded that ICE's knock-and-talk policies and practices violate the Fourth Amendment, as it improperly applied a bright-line rule, and failed to consider that civil immigration enforcement requires a distinct analysis. Finally, the court erred its

interpretation of the relevant immigration regulation's use of the term "warrant" in rendering the Administrative Procedure Act (APA) ruling.

ARGUMENT

I. Both Organizational Plaintiffs and the Speculative Class of Unnamed Individuals Lack Article III Standing

As a threshold matter, this Court should reverse the district court's decision because neither the Organizational Plaintiffs nor the speculative class of unnamed individuals have standing to seek prospective relief. Nothing in Plaintiffs' brief rebuts Defendants' argument that there is no standing here. Organizational Plaintiffs fail to establish that Defendants have impaired their core business activities to warrant organizational standing, and Plaintiffs additionally lack associational standing both for their members and as class representatives because they identify no individuals with a concrete injury related to a knock-and-talk. *See* Defendants' Opening Brief (Def. Br.) 15-36. While Plaintiffs attempt to frame Defendants' arguments regarding their lack of standing as "late-breaking," they do not and cannot contest that this Court must address standing on appeal, especially when Defendants have properly raised it. *See* Plaintiffs' Answering Brief ("Pl. Br.") 15-16.

It is well-established that Plaintiffs must establish standing for each claim and each form of relief they seek. *See DaimlerChrysler v. Cuno*, 547

U.S. 332, 352 (2006); *Friends of the Earth, Inc. v. Laidlaw Env't Servs., Inc.*, 528 U.S. 167, 185 (2000). As noted in Defendants' brief, while the district court did not separately address standing in granting Plaintiffs' request for summary judgment, this Court *must* address standing on appeal, as standing cannot be waived and indeed must be addressed whenever it is in doubt. *See Virginia House of Delegates v. Bethune-Hill*, 587 U.S. 658, 662-63 (2019) (noting standing is a jurisdictional consideration that cannot be waived by the parties); *Ctr. for Biological Diversity v. Exp.-Import Bank of the United States*, 894 F.3d 1005, 1011 (9th Cir. 2018). To seek prospective relief, plaintiffs must show a real and immediate risk of future injury to them, and cannot rely merely on past conduct or generalized allegations. *See Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 412 (2013); *City of Los Angeles* v. *Lyons*, 461 U.S. 95, 105-06 (1983).

A. Plaintiffs Have Failed to Demonstrate Organizational Standing

Both CHIRLA and ICIJ lack organizational standing to seek relief, as they have failed to establish Defendants have impaired their core business activities. The Supreme Court has recognized that "organizations may have standing 'to sue on their own behalf for injuries they have sustained'" as long as the organization "satisf[ies] the usual standards for injury in fact, causation, and redressability that apply to individuals." *FDA v. All. for*

Hippocratic Med., 602 U.S. 367, 395-96 (2024) (*Alliance*) (citing *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379, n.19 (1982)). Organizational standing exists only when the Defendant's conduct directly impairs the organization's ability to carry out a pre-existing core service causing harm, and not when it merely frustrates policy goals or prompts voluntary advocacy expenditures. *See Alliance*, 602 U.S. at 395-96 (noting an organization must show it experienced an injury or will imminently be injured by defendant's conduct).

This Court recently clarified the necessary requirements for organizational standing in *Arizona All. for Retired Americans v. Mayes*, --- F.4th ---, No. 22-16490, 2026 WL 2277101 (9th Cir. Aug. 7, 2026) (en banc) (*Arizona All.*). The En Banc Court clarified this Court's organizational standing case law in light of the Supreme Court's decision in *Alliance*. *Id.* Pertinent to this case, *Arizona All.* overruled a series of earlier Ninth Circuit cases which espoused a theory of organizational standing which did not require challenged conduct to directly affect and interfere with an organization's core business activities. *Id.* at *7. In their answering brief, Plaintiffs rely heavily on this earlier series of cases to support their theory of organizational standing. Pl. Br. 31, 34-36. Specifically, they rely on *Immigrant Defenders Law Center v. Noem*, 145 F.4th 972 (9th Cir. 2025),

E. Bay Sanctuary Covenant v. Biden, 993 F.3d 640 (9th Cir. 2021), and *Fellowship of Christian Athletes v. San Jose Unified Sch. Dist. Bd. of Educ.*, 82 F.4th 664 (9th Cir. 2023) (en banc). Pl. Br. 31, 34-36. *E. Bay Sanctuary* and *Fellowship of Christian Athletes* were expressly overturned (as was the underlying analysis in *Immigrant Defenders*), specifically with respect to their holdings on organizational standing. *Arizona All.*, 2026 WL 2277101, at *7 & n.2 ("To the extent that the *Immigrant Defenders* organizational standing analysis relied on *East Bay Sanctuary*, that analysis is overruled.").

The standing arguments rejected in *Arizona All.* are like the arguments raised by Plaintiffs here. In that case, the organizations contended that the relevant state provision would interfere with their voter-registration activities. *Id.* at *3, 8. The organizations argued that to prevent harm, they would have to "spend time and resources asking voters about their past registrations and assisting them with canceling those old registrations when they register in a new county." *Id.* at *8. The En Banc Court in *Arizona All.* reiterated that "pure issue advocacy cannot create a concrete or particularized injury because standing doctrine 'screens out plaintiffs who might have only a general legal, moral, ideological, or policy objection to a particular' action." 2026 WL 2277101, at *6 (citing *Alliance*, 603 U.S. at 381). The Court stressed that organizational plaintiffs must have more than

general objections to a legally protected interest. *Id.* Further, the Court reaffirmed that an organization can only show that they "suffered an injury-in-fact if the frustration of its mission comes from an action that 'directly affect[s] and interfere[s] with [its] core business activities.'" *Id.* (citing *Alliance*, 603 U.S. at 395). Ultimately, the plaintiffs in *Arizona All.* could not show actual or imminent injury to their core business activities based on the change in voter registration to warrant standing, and instead were left with only a loss of time and resources based on their own actions. *Id.* at *8. That alleged hardship—expenditure of time and resources—rejected by this Court is precisely the hardship alleged by Plaintiffs here to support their organizational standing claim. *See* Pl. Br. 30-36 (arguing that Defendants' actions have "frustrated the missions of both CHIRLA and ICIJ" and caused organizational Plaintiffs "divert resources to address the government's knock-and-talk policy[.]"). Any reasonable reading of *Arizona All.* forecloses organizational standing because the challenged conduct does not directly affect and interfere with Organizational Plaintiffs' core activities.

Defendants' knock-and-talk actions do not provide the type of direct organizational injury required to satisfy Article III. Both CHIRLA and ICIJ have failed to show that Defendants' use of knock-and-talks in the Los Angeles AOR "directly" affects their pre-existing "core business activities."

Arizona All., 2026 WL 2277101, at *7-8; *Alliance*, 603 U.S. at 395. While the district court never analyzed Article III standing directly, its implicit finding necessarily presupposed this organizational standing injury. *See* 1-ER-8. That approach cannot be reconciled with the Supreme Court's decision in *Alliance* and this Court's decision in *Arizona All.*

Plaintiffs' brief first argues that Defendants' knock-and-talk policies caused harm to their core mission by instilling fear in immigrants from interacting and benefiting from their organizational services. Pl. Br. 30-32. Both CHIRLA and ICIJ's core missions effectively boil down to advocacy for immigrants, and the evidence in this case fails to demonstrate those core missions were impaired in any meaningful way, and in fact demonstrates the opposite. Pl. Br. 30 (citing 2-SER-270, 2-SER-338). However, Plaintiffs' supposed "harm" fall woefully short, and their evidence of people being afraid to interact with their organizations does not establish such extensive evidence of harm. Indeed, Plaintiffs' answering brief is notable in that it does not point to any specific examples or individuals for whom they have been unable to provide services to based on ICE's use of knock-and-talks. *See* Pl. Br. *generally*. In fact, both CHIRLA and ICIJ's examples of their members' fear are two declarations from their organization's staff who allege that they have heard that immigrant members are discouraged from getting involved

with the organizations based on ICE's home arrest practices. *See* Pl. Br. 30-31 (citing 2-SER-273 and 2-SER-340). Ultimately, Plaintiffs' claim that ICE's knock-and-talk policies have instilled fear in their members does not demonstrate organizational standing, as such speculative, third-party reactions to general enforcement practices are too attenuated to qualify as a concrete organizational injury. *See also Arizona All.*, 2026 WL 2277101, at *8 ("This fear cannot support standing because it 'lacks record support and is highly speculative.'") (citing *Alliance*, 602 U.S. at 390); *Clapper*, 568 U.S. at 409-14.

Next, Plaintiffs assert that they have had to "divert resources to address the government's knock-and-talk policy, separate and apart from those organizations' expenditure of resources to pursue this case," and they repeatedly rely on the now-overturned reasoning in *Immigrant Defenders*, 145 F.4th at 988. *See* Pl. Br. 33-36; *Arizona All.*, 2026 WL 2277101, at *7 n.2. Plaintiffs' opening brief once again affirms that they have only identified *voluntary* resource expenditure in modifying some of their functions to reflect their "general legal moral, ideological, or policy objection" to ICE's knock-and-talk guidance. *See* Pl. Br. 33-36; *Havens*, 455 U.S at 379; *Alliance*, 602 U.S. at 368-70. Neither organization alleges that ICE's Fourth Amendment guidance disabled any existing service, altered the conditions

necessary to deliver that service, or prevented staff from performing core operational functions. *See Havens*, 455 U.S at 379. In fact, Plaintiffs merely assert that CHIRLA was forced to "shift scarce resources from its other core work to provide emergency assistance to its members who [were] affected by ICE's home arrest practices[,]" such as by bolstering its Know Your Rights programing and by providing "pro bono or low-cost legal representation to those subjected to ICE's unlawful practices." Pl. Br. 33 (citing 2-SER-272). Further, Plaintiffs assert that ICIJ was forced to divert "considerable resources to respond to issues created by ICE home arrests" such as "conduct[ing] intake with community members, document[ing] their stories, try[ing] to place their cases with attorneys, help[ing] to identify sponsors and secure bond, and provid[ing] other humanitarian support." Pl. Br. 33 (citing 2-SER-340) (internal quotations omitted).

CHIRLA and ICIJ's allegations, however, place them squarely within types of actions that both *Arizona All.* and *Alliance* held would not suffice to establish organizational standing. CHIRLA's allegations describe discretionary diversions of resources, rather than a direct impairment of core "services." *Havens*, 455 U.S at 379; *see also* 3-ER-404-05, Nos. 129-34. Further, ICIJ's allegations underscore that its asserted harm is resource diversion, not impairment. *See* 3-ER-398-402, Nos. 106-21. Neither

organization alleges that Defendants' practices made an existing program impossible or even impracticable to operate. *See, e.g.*, Pl. Br. 33-36. In fact, these initiatives naturally fall into the organizations' existing programs. *See* 3-ER-371-72, Nos. 15-16. As explained by the Court in *Arizona All.*, the key question to be asked is "whether the challenged conduct 'directly affected and interfered with' the plaintiff organizations' core activities." 2026 WL 2277101, at *7 (*citing Alliance*, 602 U.S. at 395). Here, Plaintiffs cannot demonstrate that Defendants' knock-and-talk practices directly affected and interfered with their core activities, rather than falling directly within their mission and reflecting voluntary organizational choices, and thus this Court should hold that they cannot demonstrate organizational standing. *See id.* at *6-8.

B. Plaintiffs Have Failed to Demonstrate Associational Standing Because Declaratory Relief Requires a Showing of Real and Immediate Future Harm

CHIRLA and ICIJ additionally lack associational standing both for their members and as class representatives because they identify no individuals with a concrete injury and this Court cannot find associational standing where the record demonstrates none. Associational standing requires proof that an organization's "members would otherwise have standing to sue in their own right" and "neither the claim asserted nor the

relief requested requires the participation of individual members in the lawsuit." *Alliance*, 602 U.S. at 398 (Thomas, J., concurring) (quoting *Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977)).

1. Plaintiffs fail to demonstrate associational standing because neither their filings before the district court, nor their answering brief, identifies even pseudonymously a single member who faces an imminent risk of experiencing a knock-and-talk conducted by the Defendants. *See* Pl. Br. 16-29; 3-ER-365-418. Without a member who "would otherwise have standing to sue," the Supreme Court in *Hunt* has held that this ends the inquiry. 432 U.S. at 343; *see also Arizona All.*, 2026 WL 2277101, at *4 n.1 (finding that the organization failed to identify "a member who had a current voter registration canceled based on the Cancellation Provision or who intended to engage in protected conduct arguably prohibited by the Felony Provision" and therefore could not demonstrate associational standing).

Plaintiffs provide generalized allegations that their members have or will be subjected to an ICE knock-and-talk, but neither organization clearly identifies who these members are, or whether they are likely to be subjected to a knock-and-talk in the future beyond their mere speculation. *See*

generally 3-ER-365-418. Plaintiffs' opening brief fails to cure this defect.[1] Specifically, Plaintiffs argue that many of CHIRLA's members are undocumented and therefore could be subjected to or live in a house where someone could be subjected to an ICE arrest. Pl. Br. 19. Additionally, Plaintiffs' claim that a "sizable percentage" of ICIJ's members are "subject to removal or live with someone who is subject to removal." Pl. Br. 19-20 (citing 2-ER-81-82). Plaintiffs' answering brief points to two examples of alien individuals who theoretically could experience an ICE knock-and-talk in the future. *See* Pl. Br. 20-23. Plaintiffs' point to "A.Z.T." and "R.C.C.", both CHIRLA members who live together in Los Angeles and reside in the United States without permission as illegal aliens, as members who could one day be subjected to an ICE knock-and-talk because they heard that it happened to others in their area. Pl. Br. 20-21. By this speculative logic, every illegal alien in the district, which is "[a]bout 10 percent of the people in the Los Angeles region . . . meaning about 2 million illegal immigrants out of a total population of 20 million," would have standing. *Vasquez Perdomo*, 146 S.

[1] While Plaintiffs' claim that Defendants have a policy and practice of using knock-and-talks and that Defendants do not dispute this on appeal, this is not the "smoking gun" they believe it is. Pl. Br. 18-19. At no point have Defendants disputed that they previously conducted knock-and-talks. *See* Def. Br. 5. Rather, Defendants maintain that these knock-and-talk policy and practices are *not* unconstitutional.

Ct. at *1 (Kavanaugh, J., concurring). Plaintiffs further their speculative claim by arguing that because the government has A.Z.T.'s address, it makes it even more likely that ICE could conduct a knock-and-talk one day at his home. Pl. Br. 23 (citing 2-ER-218). This theory, however, is speculative and essentially asserts that "some of [Plaintiffs'] members might be affected," a theory the Supreme Court in *Summers* rejected as incompatible with Article III because it fails to link the claimed harm to any identifiable individual.[2] 555 U.S. at 496-97.

Plaintiffs' next point to declarations from CHIRLA members "O.S. and J.S.", submitted with their opposition to Defendants' request for a stay with the district court, who claimed that ICE knocked on their door to no avail and that ICE later arrested J.S. outside on his way to his car. Pl. Br. 21-22 (citing 1-SER-018). According to Plaintiffs' both O.S. and J.S. fear a future knock-and-talk because ICE could "com[e] to their door to conduct a

[2] While Plaintiffs' answering brief argues that *Summers* is inapplicable because they are not claiming that standing based on "the sheer number of people who are members of their organizations[.]" Pl. Br. 24 n.13. Rather, they claim that they have made the greater showing that their specific members are targets of the government's knock-and-talk arrest policy. *Id.* However, as explained, they have failed to point to a member who underwent an *unlawful* ICE knock-and-talk, or who has more than a mere speculative chance of one in the future. *See Clapper*, 568 U.S. at 416 (noting that subjective fear of a future alleged harm "is not certainly impending" and "cannot manufacture standing.").

warrantless arrest again." Pl. Br. 21-22 (citing 1-SER-018). Once again, this hypothetical fear of a future ICE knock-and-talk is exactly the type of speculative fear *Summers* and this Court have warned against for demonstrating associational standing. 555 U.S. at 496-97; *Clapper*, 568 U.S. at 401. Plaintiffs' allegations do not satisfy the requirement to identify any member who faces a non-speculative threat of such conduct.

Further, Plaintiffs' citation to the various narratives filed with their summary judgment motion to support their contention that ICE conducted unlawful knock-and-talks for these individuals is once again misguided. *See* Pl. Br. 22 n.11. The narratives cited do not demonstrate the prohibited behavior Plaintiffs claim to have happened. *See id.* Instead, the narratives show ICE's use of ruses, instances where the alien was not actually home, or where the alien or another individual either voluntarily identified themselves or stepped outside. *See* 2-SER-199-267 (describing various ruses and instances where alien stepped outside); 1-SER-173-96 (describing ICE ruses). While some of their members may have previously been subjected to ICE knocking on their door, these declarations fail to establish a nonspeculative showing that any member will once again face it in the future. Additionally, Plaintiffs' claims related to ruses were ultimately settled and not before the district court in the underlying order. Plaintiffs have therefore

still failed to point to a single member who experienced a knock-and-talk separate and apart from an alleged ruse. *See id.* 28-29.

Thus, Plaintiffs' brief, complaint, and motion for summary judgment only provide generalized assertions without a member-linked injury, they cannot demonstrate associational standing. *See Clapper*, 568 U.S. at 401.

2. Even if Plaintiffs' members and class members underwent an ICE knock-and-talk in the past, Organizational Plaintiffs and class members lack standing to pursue declaratory relief under *Lyons* based on their failure to demonstrate any real and immediate future harm. 461 U.S. at 101-11. While Plaintiffs attempt to distinguish their claim from *Lyons* by arguing that they do not rely on speculative assertions that their members will provoke law enforcement action, their views are contradicted by the speculative declarations and evidence. Pl. Br. 25-29. Plaintiffs also attempt to distinguish *Lyons* by arguing that there is an unlawful policy in place. Pl. Br. 27. However, even under *Lyons*, the existence of a policy does not suffice to establish standing for prospective relief. 461 U.S. at 107 n.7 ("to have a case or controversy with the City that could sustain [his claim for injunctive relief], Lyons would have to credibly allege that he faced a realistic threat from the future application of the City's policy").

Plaintiffs have seemingly attempted to project standing onto those individuals who have no stake in this case and essentially on behalf of an entire region, and the district court ostensibly followed suit in certifying this class and improperly granting their motion for summary judgment. Plaintiffs cannot salvage standing by purporting to represent unnamed residents of the Los Angeles AOR who may in the future experience an ICE knock-and-talk for the purpose of civil immigration enforcement. *See, e.g.*, *Trump v. CASA de Maryland, Inc.*, 606 U.S. 831, 849 (2025).

3. Additionally, it is inappropriate for the Organizational Plaintiffs to assert standing and allege Fourth Amendment violations based on their groups' members or the speculative class members. *See Alderman v. United States*, 394 U.S. 165, 174 (1969); *Rakas v. Illinois*, 439 U.S. 128, 133-34 (1978) (declining to extend the rule of standing in Fourth Amendment cases to the petitioners, as petitioners themselves did not experience any Fourth Amendment violation). While Plaintiffs claim that this assertion is unsupported, they fail to recognize that Fourth Amendment claims are too fact-specific and context-dependent to satisfy the requirements of organizational standing or class actions. *See, e.g.*, Pl. Br. 28-29.

4. Finally, Plaintiffs mistakenly argue that this Court should review the District Court's implicit associational standing holding for clear error,

rather than de novo review. Pl. Br. 15-20. Plaintiffs argue that this Court must affirm a district court's determination that "plaintiffs are likely to suffer threatened harm in the future unless that determination is clearly erroneous or incorrect as a matter of law." Pl. Br. 15 (citing *Mayfield v. United States*, 599 F.3d 964, 970 (9th Cir. 2010)). Plaintiffs argue that Defendants erred by failing to mention the clear-error standard of review and only relying on de novo standard applied to summary-judgment orders. Pl. Br. 16 n.5; *see, e.g.*, *Healy v. Milliman, Inc.*, 164 F.4th 701, 705 (9th Cir. 2026). However, Plaintiffs themselves concede that questions of standing are typically reviewed de novo. Pl. Br. 16 n.5. Nevertheless, Plaintiffs' reading of *Mayfield*'s limited holding is misguided. In fact, *Mayfield* itself explicitly stated that standing is reviewed de novo, and the clear error standard applies only to a *narrow*, subsidiary factual question rather than the overall standing determination. 599 F.3d at 970 (explaining that standing is a question of law reviewed de novo) (citing *Bernhardt v. County of Los Angeles,* 279 F.3d 862, 867 (9th Cir. 2002)). Specifically, *Mayfield* noted that the Court would review for clear error or find incorrect as a matter of law the district court's finding that an "alleged threatened injury is sufficiently likely to occur[.]" 599 F.3d at 970 (citing *Armstrong v. Davis*, 275 F.3d 849, 861 (9th Cir. 2001)). Plaintiffs cannot invoke *Mayfield* to shield their entire associational

standing claim from this Court's de novo review. Nevertheless, based on the lack of record support noted above for their claims supporting associational standing, it is clear the district court erred even if this Court were to review its implicit standing findings for clear error.[3] *See* 1-SER-7; *see also B.K. by next friend Tinsley v. Snyder*, 922 F.3d 957, 965 (9th Cir. 2019).

Therefore, no Organizational Plaintiff or class member has shown a real and immediate threat that they—not someone else—will in the future be subject to an ICE knock-and-talk. Thus, the district court lacked jurisdiction to issue prospective relief related to the Fourth Amendment and APA claims, and this Court should reverse the lower court's judgment. *See Summers*, 555 U.S. at 498.

II. The District Court's Order Should Be Reversed Based on the Court's Erroneous Fourth Amendment Analysis

The district court and Plaintiffs' brief misinterpret Fourth Amendment case law. *See* 1-ER-11-18; Pl. Br. 37-57. This Court should reverse the district court because ICE's practice of using knock-and-talks does not violate the Fourth Amendment. As explained in Defendants' brief, this Court need not reach whether ICE officers have an administrative warrant when they

[3] While Plaintiffs cite to the district court's class-certification order for its finding that Plaintiffs demonstrated that their members have been impacted by home arrest practices, they fail to recognize that this also included ruses, which is not at issue in this appeal. *See* Pl. Br. 17 n.6 (citing 2-ER-264).

execute knock-and-talks, because the court erroneously failed to recognize that ICE, like any other person or law enforcement agent, has an implied license to enter the curtilage to approach a resident's door and that the Supreme Court has held that an officer does not need a warrant to arrest a person in the doorway of a home. Def. Br. 37-44.

A. The District Court and Plaintiffs Misread *Lundin* by Reading a Bright-Line Rule, Which Improperly Restricts ICE's Lawful Use of an Implied License to Execute Knock-and-Talks

In holding that Defendants' knock-and-talk practices violated the Fourth Amendment, the district court misapplied this Court's decision in *United States v. Lundin*, 817 F.3d 1151 (9th Cir. 2016), as creating a bright-line rule to improperly restrict the implied license to enter a home's curtilage. 1-ER-14-18. The court's Fourth Amendment holding relied on *Lundin* stating that it "stands for the clear proposition that 'the knock and talk exception to the warrant requirement does not apply when officers encroach upon the curtilage of a home with the intent to arrest the occupant.'" 1-ER-16 (citing *Lundin*, 817 F.3d at 1160). The court held that ICE's practice of conducting knock-and-talks "with the intent and purpose of arresting the occupant does not fall within the scope of the implied license," and is barred by *Lundin*. 1-ER-17. However, the district court misapplied *Lundin*, as Fourth Amendment inquiries require a totality-of-the-circumstances

approach where a court balances various factors in determining the reasonableness of the challenged officer's actions. *See, e.g.*, *Illinois v. Gates*, 462 U.S. 213, 234 (1983); *United States v. Carloss*, 818 F.3d 988, 994 (10th Cir. 2016) (rejecting any bright-line rules regarding the implied license and knock-and-talks). While the *Lundin* panel did state that the "knock and talk exception to the warrant requirement does not apply when officers encroach upon the curtilage of a home with the intent to arrest the occupant," 817 F.3d at 1159-60, *Lundin* did not purport to create a categorical rule that overrules the required Fourth Amendment analysis. Def. Br. 37-44. By reading *Lundin* to assert a bright-line rule that no officer can *ever* enter a curtilage with intent to arrest the occupant, and applying it to find that ICE's policies violated the Fourth Amendment, the district court misread the case and interpreted it in a way that provides unsupportable results. *See* 1-ER-14-18; *see also United States v. Esqueda*, 88 F.4th 818, 826-27 (9th Cir. 2023) (holding that officers did not exceed the scope of the implied license and noting that *Florida v. Jardines*, 569 U.S. 1 (2013) was "primarily concerned with the scope of an implicitly licensed physical intrusion").

Plaintiffs' argue that *Lundin* does stands for a bright-line rule, which essentially confirms the district court's error. Pl. Br. 39 (citing *Lundin*, 817 F.3d at 1160 and noting that it "held unequivocally" that the knock-and-talk

exception to the warrant requirement does not apply when an officer encroaches the curtilage with the intent to arrest the occupant). Plaintiffs assert that Defendants seek to relitigate *Lundin* and that the Court's decision "leaves ample room for district courts to consider all circumstances of a case in determining whether an officer 'encroach[ed] upon the curtilage of a home with the intent to arrest the occupant[.]'" Pl. Br. 40-41 (citing *Lundin*, 817 F.3d at 1160). Plaintiffs are mistaken, as reading *Lundin* to assert a bright-line rule that approaching the door of an occupant's home with the intent to arrest him is *always* a violation of the Fourth Amendment does not comport with the necessary totality-of-the-circumstances approach courts must follow when reviewing the reasonableness of the challenged officer's actions. There is seemingly no room for an ICE officer to ever approach an alien's home and knock with the intent to arrest the occupant, unless according to Plaintiffs that officer is equipped with a judicial warrant. Pl. Br. 41. This is not what the Fourth Amendment and the exception to the warrant requirement stand for, and the district court and Plaintiffs erred in relying on *Lundin* to outright bar ICE's knock-and-talks policies and practices as violating the Fourth Amendment. *See, e.g.*, 1-ER-14-18. This conclusion directly impedes not only ICE's ability to conduct knock-and-talks, but also prevents any court, both judicial or administrative, from evaluating the

reasonableness of ICE's conduct of a possible knock-and-talk on a case-by-case and totality-of-the-circumstances approach. *See Jardines*, 569 U.S. at 10 (noting that courts must employ an objectively reasonable inquiry for the scope of whether an officer exceeded the scope of an implied license).

Plaintiffs further claim that Defendants only distinguish *Lundin* based on its reliance on officer's timing. Pl. Br. 39-40. However, this misreads Defendants' brief, which highlighted *Lundin*'s timing distinction as one example of a significant difference between ICE's knock-and-talk policies, while also noting that the district court judge's reliance on *Lundin* failed to consider that reasonableness inquiries must occur on a case-by-case basis. Def. Br. 43-44. Moreover, Defendants reaffirm their argument that the district court clearly applied a bright-line rule by failing to address the specifics of any of Plaintiffs' provided narratives relating to alleged knock-and-talks in analyzing the constitutionality of these practices, as almost all of Plaintiffs' narratives submitted as uncontroverted facts were in fact contested by Defendants and serve as evidence of ICE's use of ruses, rather than incantational knock-and-talks. *See* 1-ER-17; *see also* 1-ER-6 n.8.

Ultimately, this Court should reverse the district court's holding that ICE's knock-and-talk policies and practices violate the Fourth Amendment, as it misinterpreted *Lundin* to establish a bright-line rule.

B. Civil Immigration Enforcement Requires Distinct Analysis Under the Fourth Amendment

Importantly, this Court can reverse the district court's Fourth Amendment holding based on the court's flawed *Lundin* analysis alone, without reaching the viability of ICE's use of administrative warrants. However, the Court may also find the district court erred in its holding that ICE's use of administrative warrants is not sufficient under the Fourth Amendment. *See* Def. Br. 44-50; 1-ER-10-14.

The district court erred in relying on a stipulation by the parties to limit the scope of discovery, as Defendants below argued that the presence of administrative warrants was not a defense and that this stipulation ultimately formed the basis for the district court's ruling on a legal question. *See* Def. Br. 45; 1-ER-11-12; 3-ER-363, Stip. 22; *see also Martin* v. *Sundial Marine Tug & Barge Works, Inc.*, 12 F.4th 915, 919 (9th Cir. 2021) (declining to enforce a party's stipulation on "a legal question"). Plaintiffs argue that Defendants' claim that the district court relied on the stipulation in ruling on a legal question is meritless, as they assert that the court's decision was not a decision on the legal effect of warrants or other conclusion of law. Pl. Br. 44-45. However, the court's choice to rely on the stipulation and reject any claims Defendants raised relating to the presence of lawful administrative warrants to justify their use of knock-and-talk on aliens in Los Angeles

plainly represents a legal conclusion Defendants did not intend to stipulate away. *See Swift & Co. v. Hocking Valley Ry. Co.*, 243 U.S. 281, 289-90 (1917) ("If the stipulation is to be treated as an agreement concerning the legal effect of admitted facts, it is obviously inoperative; since the court cannot be controlled by agreement of counsel on a subsidiary question of law.").

Nonetheless, Defendants maintain that the district court's alternative analysis regarding administrative warrants is flawed. Administrative warrants issued under the authority of the INA are civil warrants, as opposed to criminal warrants, and the court erred when it rejected Defendants' attempted distinction of *Lundin* based on the use of administrative warrants. 1-ER-16; *see generally* 8 U.S.C. § 1226(a). In doing so, the district court failed to recognize that unlike the police in *Lundin*, ICE officers often do in fact have arrest warrants when they perform knock-and-talks. *See* 2-ER-251, No. 28. According to Plaintiffs, however, ICE's use of an administrative warrant will essentially never comply with the Fourth Amendment and will never be legal. *See* Pl. Br. 47-48. This claim and the court's conclusion, however, directly contrasts with this Court's unpublished decision in *Matias Rauda* v. *Wilkinson*, 844 Fed. Appx. 945, 948 (9th Cir. 2021), which specifically declined to extend *Lundin* to the removal context and held that the presence of an administrative warrant allowed "the officers to solicit

consent to entry for the limited purpose of enforcing the civil immigration laws" and did not present a Fourth Amendment violation. 844 Fed. Appx. at 948 (citing *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1042 (1984)); *see* 1-ER-15-16.

Finally, Plaintiffs' argument that the court properly rejected *Abel v. United States* is farfetched and inappropriately questions Defendants' credibility. Pl. Br. 48-52. The Supreme Court in *Abel* expressed strong approval for administrative warrants when it affirmed a conviction for conspiracy to commit espionage based on evidence seized by immigration officers following the execution of an administrative warrant. 362 U.S. 217, 221-22 (1960). Defendants' brief explicitly acknowledged that the Supreme Court in *Abel* did note that the petitioner had waived any argument that the administrative warrant used by the INS agents did not satisfy Fourth Amendment standards, but pointed out that the Court nevertheless discussed the Executive Branch's statutory authority to arrest aliens under an administrative warrant, while underscoring that the "constitutional validity of this longstanding administrative arrest procedure in deportation cases" has never meaningfully been challenged. *Id.* at 230, 233. Plaintiffs argue that the Supreme Court's decision in *Abel* was decided before the Court's decisions in *Coolidge v. New Hampshire*, 403 U.S. 443, 449 (1971),

and *Payton v. New York*, 445 U.S. 573 (1980), which they claim made "clear that a warrant issued by a neutral and detached magistrate is presumptively necessary before officers arrest a person in their abode[.]" Pl. Br. 49 (quotations omitted). However, neither of those cases deal directly with immigration administrative warrants, and cannot be read to overturn the discussion of immigration administrative warrants found in *Abel*. *See also United States v. Grey*, 959 F.3d 1166, 1177-78 (9th Cir. 2020) (holding that the warrant requirement is subject to the administrative search exception, which states "government investigators conducting searches pursuant to a regulatory scheme need not adhere to the usual warrant or probable-cause requirements"). Ultimately, the court and Plaintiffs' reasoning would render every almost ICE administrative warrant invalid, an argument that leads to absurd results and cannot be what Congress in creating the scheme for administrative warrants, or the regulatory drafters, intended. *See Gonzalez v. ICE*, 975 F.3d 788, 825 (9th Cir. 2020) (noting "*Abel*'s recognition that Congress may delegate certain decisions to executive officials in the immigration context without violating the Fourth Amendment").

Thus, if this Court reaches ICE's use of administrative warrants, it should hold that the district court's finding is inconsistent with these principles and reverse.[4]

III. The District Court's APA Ruling Is Incorrect, as the Court Erred by Interpreting the Regulation in Isolation

Finally, even assuming final agency action, the district court's APA holdings are legally flawed, as the court erred in its interpretation of the relevant immigration regulation's use of the term "warrant," and Plaintiffs arguments to the contrary are unpersuasive. The district court first erred as it premised the findings on an isolated view of 8 C.F.R. § 287.8(f)(2) and the reference to a "warrant" to mean a judicial warrant, rather than considering other parts of the regulations and the INA, which authorize immigration officials to issue both *administrative* search and arrest warrants. *See, e.g.*, 8 C.F.R. § 287.5(e); 8 U.S.C. § 1226(a). Plaintiffs understandably struggle to find caselaw that supports the district court's findings, and instead argue that Ninth Circuit caselaw supports the proposition that the regulation at issue requires judicial warrants. *See* Pl. Br. 57-58. However, neither *Sanchez v.*

[4] To the extent Plaintiffs once again assert that Defendants' practices with administrative warrants led to officers tricking residents to give their consent, Pl. Br. 55-56, this is directly related to the ruse claims that have already been settled, and fail to show any improper ICE knock-and-talk actions.

Sessions, 904 F.3d 643 (9th Cir. 2018), nor *Perez Cruz v. Barr*, 926 F.3d 1128 (9th Cir. 2019), on which they rely, stand for the proposition that "warrant" as defined in § 287.8(f)(2) means judicial warrant, rather than an administrative warrant. *See* Pl. Br. 57-58. While Plaintiffs argue that *Sanchez* held that the regulations reflected "constitutional restrictions" and "incorporated Fourth Amendment guarantees", Plaintiffs leave out the necessary context under which the Ninth Circuit viewed the specific regulation at issue in that case, 8 C.F.R. § 287.8(b)(2). Pl. Br. 57-58. Specifically, *Sanchez* dealt with the Fourth Amendment's protections relating to unlawful stops and whether the immigration officers had the requisite reasonable suspicion for the stop in question. 904 F.3d at 651 (holding that 8 C.F.R. § 287.8(b)(2) "all but parrots this [Fourth Amendment] standard: it provides that immigration officers may not briefly detain a person for questioning unless the officer has a reasonable suspicion, based on specific articulable facts, that the person being questioned" is an alien illegally in the United States). At no point did the Court in *Sanchez* address the meaning of the term "warrant" in the regulations. *Id.* Additionally, Plaintiffs assert that *Perez Cruz* supports the court's decision, as it held "the regulatory standards" under 8 C.F.R. § 287.8(b)(2) are "at least as stringent as those imposed by the Fourth Amendment[,]" and thus the

regulations referral to warrant must mean a judicial warrant. Pl. Br. 57-58 (citing *Perez Cruz*, 926 F.3d at 1137). While Plaintiffs acknowledge Defendants' argument that *Perez Cruz* dealt with criminal search-and-arrest warrants, they argue that this is not determinative because it shows that the regulations overall must be as stringent as the Fourth Amendment. But this view of both *Perez Cruz* and *Sanchez* is an overbroad understanding of these holdings. While both cases acknowledged that the portions of the regulations at issue were meant to follow the Fourth Amendment, neither case dealt with whether an administrative warrant constituted a "warrant" under § 287.8(f)(2).

Further, Plaintiffs' and the court's interpretation of "warrant" to mean a judicial warrant is inconsistent with this Court's decision in *Matias Rauda*, which acknowledged the regulation and specific section at issue here, 8 C.F.R. § 287.8(f)(2), in finding that ICE officers did not act unlawfully by knocking on the front door of the residence for the purpose of effectuating an administrative arrest without a judicial warrant. *Matias Rauda*, 844 Fed. Appx. at 948. This case clearly supports the contention that § 287.8(f)(2)'s use of the term "warrant" is not limited to judicial warrants, and ICE's use of an administrative warrant to knock on an alien's door does not automatically violate the Fourth Amendment. *See id.* While Plaintiffs assert that to comply

with the Fourth Amendment, § 287.8(f)(2)'s use of the term warrant must refer to a judicial warrant, this interpretation fails to recognize that immigration enforcement is a unique area of law that cannot be held to the stringent requirements of criminal law and procedure. *See Zuniga v. Garland*, 86 F.4th 1236, 1241 (9th Cir. 2023) (noting the Court has "never suggested that the use of an administrative warrant transforms a civil immigration proceeding into a criminal trial subject to *Miranda*'s prophylactic rules."); *Gonzalez*, 975 F.3d at 825 ("consistent with the Fourth Amendment, immigration authorities may arrest individuals for civil immigration removal purposes pursuant to an administrative arrest warrant issued by an executive official"). Ultimately, caselaw does not support Plaintiffs' and the court's interpretation that 8 C.F.R. § 287.8(f)(2)'s reference to "warrant" *must* refer to a judicial warrant to comply with the Fourth Amendment.

Additionally, both the district court and Plaintiffs incorrectly claim that the language of the regulations supports their view that "warrant" at § 287.8(f)(2) must mean a judicial warrant. *See* 1-ER-18-21; Pl. Br. 57-60. Notably, the regulations and the INA itself authorize immigration officials to issue both search and arrest warrants. *See*, *e.g.*, 8 U.S.C. § 1226(a); 8 C.F.R. § 287.5(e). The regulations also use the terms "warrant of arrest" and

"warrant" interchangeably, and are clearly referring to an administrative warrant. *See* 8 C.F.R. § 236.1(b)(2); 8 C.F.R. § 287.8(c)(2)(ii); 8 C.F.R. § 287.8(c)(2)(iv). If the agency had intended to limit "warrant" in § 287.8(f) to a "judicial warrant," it could have done so—it did something similar, for example, in § 287.9, which references "criminal search warrants."

Plaintiffs argue that the history of the regulations support the court's holding that § 287.8(f)'s reference to warrant meant a judicial warrant. Pl. Br. 58-59. Plaintiffs claim that "by the time the government promulgated section 287.8(f)(2), it was already well established that the Fourth Amendment's warrant requirement refers to a judicial warrant." Pl. Br. 58. However, Plaintiffs fail to provide a citation for this contention, and instead assumes it to be true despite the regulations clear reference to administrative warrants as warrants throughout the text. Further, Plaintiffs' reference to *United States v. Vargas-Amaya*, 389 F.3d 901, 904 (9th Cir. 2004), for the proposition that "warrant" at 8 C.F.R. § 287.8(f) must mean judicial warrant based on the common use of the term, does not account for the fact that this cannon of statutory construction was specifically evaluating a statute, rather the immigration regulations, which as noted above use warrant, administrative warrant, and search warrant interchangeably, while specifically referring to judicial warrant when intending *not* to refer to an

administrative warrant.[5] Therefore the court erred in holding that Defendants' knock-and-talk policies constituted an APA regulatory and constitutional violation, and this Court should reverse.

CONCLUSION

For the foregoing reasons, this Court should reverse the district court's order granting summary judgment for Plaintiffs.

Respectfully submitted,

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[5] While Plaintiffs caution that the regulation must refer to a judicial warrant, otherwise it would allow immigration officers to enter into the homes of aliens, Plaintiffs at no point before the district court argued that ICE was inappropriately entering homes of aliens based on an administrative warrant, and thus there is no dispute that entries into the home without consent are not at issue in this case. *See* Def. Br. 53 n.9. The administrative warrants here govern ICE's knock-and-talk policies and officers entering the curtilage. *See* 2-ER-250, No. 25; *see, e.g.*, 2-ER-148-76.

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 6,983 words, excluding the portions of the brief exempted by Federal Rule of Appellate Procedure 32(f). I further certify that this brief complies with the typeface and typestyle requirements of Federal Rule of Appellate Procedure 32(a)(5) and (a)(6) because it has been prepared in proportionally-spaced Georgia type, 14-point.

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Dated: August 26, 2026

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate ACMS system on August 26, 2026.

I further certify that all participants in the case are registered ACMS users and that service will be accomplished by the appellate ACMS system.

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