

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED FARM WORKERS, et al.,
v.
Plaintiffs,
NOEM, et al.,
Defendants.

Case No. 1:25-cv-00246 JLT CDB
ORDER RE DEFENDANTS' MOTION TO
STAY
(Doc. 115)

I. INTRODUCTION

Plaintiffs United Farm Workers, Oscar Morales Cisneros, Wilder Munguia Esquivel, Yolanda Aguilera Martinez, Juan Vargas Mendez, and Maria Guadalupe Hernandez brought the instant action against Defendants—including the Secretary of Homeland Security and the Chief of U.S. Border Patrol (USBP), among others—seeking declaratory and injunctive relief related to detentive stops and arrests by U.S. Border Patrol Agents in the Eastern District of California. (*See generally* Doc. 1.)

In early January 2025, USBP launched “Operation Return to Sender,” which targeted the Central Valley of California, located within the Eastern District of California, in efforts to stop, detain, and arrest people suspected of being in the country unlawfully. (*See* Doc. 1 at ¶¶ 1–2; Doc. 15-2 at 72.) In response, Plaintiffs filed the instant action alleging violations of 8 U.S.C. § 1357(a)(2), 8 C.F.R. § 287.8(c)(2)(ii), as well as the Fourth and Fifth Amendments to

1 the U.S. Constitution, seeking declaratory and injunctive relief. (Doc. 1 at 65–69.)

2 Plaintiffs subsequently filed a motion for provisional class certification, (Doc. 14), and a
 3 motion for preliminary injunction. (Doc. 15.) Defendants opposed both motions, arguing, among
 4 other things, that Plaintiffs lacked standing to pursue injunctive relief because “they cannot
 5 demonstrate any sufficient likelihood that they will be wronged again in a similar way because
 6 the issues raised in their Complaint have been resolved,” (Doc. 32 at 14), and relatedly, that
 7 Plaintiffs claims had been rendered moot by guidance (a “Muster”) issued by USBP on April 4,
 8 2025.

9 On April 29, 2025, the Court provisionally certified the Plaintiff classes and entered a
 10 preliminary injunction. (Doc. 47) (hereinafter, the “PI Order”). The Court enjoined Border Patrol
 11 from conducting detentive stops in this District unless, pre-stop, the detaining agent has
 12 reasonable suspicion that the person to be stopped is a noncitizen who is present within the
 13 United States in violation of U.S. immigration law. (*Id.* at 86.) Border Patrol was also enjoined
 14 from effecting warrantless arrests in this District unless, pre-arrest, the arresting agent has
 15 probable cause to believe that the noncitizen being arrested is likely to escape before a warrant
 16 can be obtained. (*Id.*) The Court further required Border Patrol to (1) submit documentation with
 17 articulable facts to support every immigration-related detentive stop; (2) comply with all
 18 requirements in DHS’s “Broadcast Statement of Policy” including documentation with articulable
 19 facts of flight risk; (3) issue guidance on how agents should determine the existence of reasonable
 20 suspicion; and (4) submit documentation showing that border patrol agents have been adequately
 21 trained. (*Id.* at 86–88.) On June 26, 2025, Defendants appealed from the PI Order. (Doc. 59.)¹

22 On July 14, 2025, Defendants filed a motion to dismiss in this Court, arguing, among
 23 other things, that “Plaintiffs lack standing to pursue prospective equitable relief because they have
 24 not demonstrated that their isolated encounters with USBP are likely to recur or that they will
 25 again be subjected to any unlawful conduct[,]” (Doc. 64 at 20); that Plaintiff “UFW cannot
 26 establish associational standing because its members lack standing themselves,” (*id.* at 24); and

27 ¹ As of the date of this order, briefing of the appeal is largely complete and the Ninth Circuit has indicated
 28 an intent to hear oral argument in April or May 2026. *See Docket, United Farm Workers of Am., et al. v. Noem, et al., No. 25-4047 (9th Cir.)*

1 that “Plaintiffs’ claims I-III concerning stops and arrests are moot,” (*id.* at 28).

2 On July 17, 2025, El Centro Border Patrol engaged in another immigration raid within this
3 District, at a Home Depot in Sacramento, California. (Doc. 94 at 10–11; Doc. 112 at 9–10.) On
4 August 29, 2025, Plaintiffs filed a motion to enforce the PI Order, arguing in part that Defendants
5 failed to comply with the PI when it carried out the Sacramento raid. (See Doc. 81.)

6 Meanwhile, on September 25, 2025, the Supreme Court stayed pending appeal a similar,
7 but not identical, preliminary injunction order entered in the Central District of California
8 addressing an alleged pattern of USBP agents engaging in detentive stops without reasonable
9 suspicion in that jurisdiction. *Noem v. Perdomo*, 606 U.S. __, 2025 WL 2585637 (Sept. 8, 2025).
10 The Ninth Circuit had denied a stay, rejecting the Government’s argument that *Los Angeles v.*
11 *Lyons*, 461 U.S. 95 (1983), precluded the *Perdomo* plaintiffs from establishing standing for
12 prospective injunctive relief because they failed to show a substantial likelihood that they were
13 likely to be stopped again, instead finding that the plaintiffs had established a “pattern of
14 officially sanctioned” unlawful stops and that this was sufficient to establish likelihood of
15 recurring injury. *Perdomo v. Noem*, 148 F.4th 656, 674–75 (9th Cir. 2025). Writing in
16 concurrence and only for himself, Justice Kavanaugh reasoned that under *Lyons*, “plaintiffs likely
17 lack Article III standing to seek a broad injunction restricting immigration officers from making
18 . . . investigative stops,” because they had “no good basis to believe that law enforcement will
19 unlawfully stop them in the future . . . and certainly no good basis for believing that any stop of
20 the plaintiffs is imminent.” *Id.* Alternatively, “even if plaintiffs had standing” Justice Kavanaugh
21 reasoned that the Government has a “fair prospect” of succeeding on the Fourth Amendment
22 issue. *Id.* at *3.

23 Defendants’ opening brief on appeal in this case, filed September 26, 2025, invoked
24 Justice Kavanaugh’s concurrence in *Perdomo* to argue that Plaintiffs cannot establish standing for
25 prospective injunctive relief because they cannot show that they “would likely be stopped or
26 arrested in the unlawful manner relevant to their requested relief—i.e., stopped without
27 reasonable suspicion or arrested without consideration of flight risk” given that “Plaintiffs’ single
28 interactions with Border Patrol, all of which occurred over the same 3-day period, months before

1 the injunction issued, established neither.” Brief of Defendants-Appellants at 23, *United Farm*
 2 *Workers v. Noem*, No. 25-4047, (9th Cir. Sept. 26, 2025), Dkt. 12.1 (“Def. Opening Appellate
 3 Br.”). Defendants also argue that intervening steps taken by USBP have rendered Plaintiffs’
 4 claims moot, pointing again to the April 4, 2025 Muster, as well as a second Muster issued after
 5 the PI Order. *Id.* at 35–36. Assuming Plaintiffs have Article III standing and that their claims are
 6 not technically moot, Defendants also argue that Plaintiffs “failed to show a sufficient likelihood
 7 of imminent irreparable injury to warrant a preliminary injunction,” such that the injunction
 8 should be vacated even if the Ninth Circuit finds the case is justiciable. *Id.* at 42–43; *see also id.*
 9 at 44 (“There is not a single instance in the record of an individual being stopped more than once
 10 by Border Patrol.”). Additionally, Defendants argue on appeal that the PI Order is an
 11 impermissible “follow the law” injunction and that 8 U.S.C. § 1252(f)(1) prohibits the kind of
 12 class-wide injunctive relief ordered by this Court. *See id.* at 35–44.

13 On October 17, 2025, Defendants moved to stay the litigation pending the outcome of the
 14 appeal. (Doc. 115.) The motion to stay is fully briefed and ripe for review. (Docs. 118, 123.) As
 15 indicated, (Doc. 122), the Court took the matter under submission without oral argument. For the
 16 reasons set forth below, the Court **DENIES** the motion to stay but finds it necessary *sua sponte* to
 17 stay certain aspects of the motion to dismiss.

18 II. DISCUSSION

19 A. Compulsory Stay of All Proceedings Pending Appeal

20 It is well established that the filing of a notice of appeal, including interlocutory appeal,
 21 automatically “divests the district court of its control over those aspects of the case involved in
 22 the appeal.” *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). This is a judge-
 23 made rule that is intended to “promote judicial economy and avoid the confusion that would
 24 ensue from having the same issues before two courts simultaneously.” *Nat. Res. Def. Council,
 25 Inc. v. Sw. Marine Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001). In *Coinbase, Inc. v. Bielski*, 599
 26 U.S. 736 (2023), the Supreme Court applied *Griggs* to find “that a district court is ‘require[d]’ to
 27 enter an ‘automatic stay’ pending appeal when a party exercises its statutory right under 9 U.S.C.
 28 § 16(a) (‘The Federal Arbitration Act’ or ‘FAA’) to an interlocutory appeal of the denial of a

1 motion to compel arbitration.” *California by & through Harrison v. Express Scripts, Inc.*, 139
 2 F.4th 763, 767 (9th Cir. 2025) (quoting *Coinbase*, 599 U.S. at 742–44 (2023)). This represents a
 3 departure from the general rule that because “the merits are not matters ‘involved in the
 4 appeal[]’” of a preliminary injunction, *G & M, Inc. v. Newbern*, 488 F.2d 742, 746 (9th Cir. 1973)
 5 (citation omitted), a district court has the power to proceed to other stages of the litigation,
 6 including a trial on the merits while an interlocutory appeal from a preliminary injunction is
 7 pending. *Big Country Foods, Inc. v. Bd. of Educ. of Anchorage Sch. Dist., Anchorage, Alaska*,
 8 868 F.2d 1085, 1087 (9th Cir. 1989) (“The purpose of a preliminary injunction is to preserve
 9 rights pending resolution of the merits of the case by the trial. It ordinarily does not obviate the
 10 need to proceed with preparation for trial and trial.”); *Am. Dev. Corp. v. Strack*, 81 F.3d 167 (9th
 11 Cir. 1996) (“Therefore, even though the appeal of the denial of the injunction was pending in the
 12 case at bar, the district court had jurisdiction to enter summary judgment [on the substantive
 13 merits].”).

14 Defendants urge “this Court [to] conclude that because the preliminary injunction appeal
 15 challenges this Court’s subject matter jurisdiction, a decision which will impact the entirety of the
 16 litigation, *Coinbase* and *Griggs* require the Court to stay litigation pending the appeal.” (Doc. 123
 17 at 9.)² Plaintiffs, on the other hand, argue that *Coinbase*’s holding is limited to the arbitration
 18 context, and *Griggs* only requires a stay where a district court is adjudicating the same issue that
 19 is pending before a court of appeals. (Doc. 118 at 6.)

20 In *Coinbase*, the question on appeal was “whether the case belongs in arbitration or
 21 instead in the district court” such that “the entire case [was] essentially ‘involved in the appeal.’”
 22 *Coinbase*, 599 U.S. at 741 (quoting *Griggs*, 459 U.S. at 58). The Supreme Court therefore held
 23 that an automatic “stay of lower court proceedings pending appeal is required when a district
 24 court denies a motion to compel arbitration.” *California*, 139 F.4th at 767 (citing *Coinbase*, 599
 25 U.S. at 741). The Fourth Circuit provided a helpful summary of *Coinbase*’s procedural history

27 ² Defendants argue that this “Court should stay proceedings entirely pending the appeal.” (Doc. 115 at 9
 28 (citation omitted).) This request, however, does not appear to encompass staying the enforcement of the PI
 Order. See Doc. 115 at 10 (“Plaintiffs would not suffer hardship as a result of a stay of proceedings,
 because they are currently protected by a preliminary injunction.”).

1 and reasoning:

2 Coinbase, a cryptocurrency platform operator, was sued by some of
 3 its users. *Id.* at 739. In reply, Coinbase sought to enforce a mandatory
 4 arbitration provision in its user agreement against the plaintiff users.
Id. at 738. But the district court denied its motion. *Id.* Coinbase noted
 5 an interlocutory appeal of the district court's denial under the Federal
 6 Arbitration Act, 9 U.S.C. § 16(a), and it simultaneously moved in the
 7 district court to stay proceedings pending that appeal. *Coinbase*, 599
 8 U.S. at 739. Despite the appeal, the district court denied Coinbase's
 9 motion, and the Ninth Circuit affirmed. *Id.*

10 The Supreme Court reversed. *Id.* at 747. Its conclusion flowed from
 11 an application of the “*Griggs* principle,” which states that an appeal
 12 “divests the district court of its control over those aspects of the case
 13 involved in the appeal.” *Id.* at 740 (quoting *Griggs*, 459 U.S. at 58.).
 14 It then added three important clarifications to the *Griggs* principle
 15 . . .

16 First, it explained that when the question on appeal just is “whether
 17 the litigation may go forward in the district court,” then “the entire
 18 case is essentially ‘involved in the appeal.’” *Id.* at 741 (quotations
 19 omitted). That’s the question an arbitrability appeal presents. It asks
 20 whether the district court, rather than an arbitrator, had any power to
 21 be the factfinder in the case at all. Because that question was the
 22 whole ballgame, the district court was divested of control over more
 23 or less the whole case. Any other rule would undercut the entire point
 24 of the appeal. *Id.* at 743 (“Absent an automatic stay of district court
 25 proceedings, Congress’s decision . . . to afford a right to an
 26 interlocutory appeal [of arbitrability] would be largely nullified”
 27 because “many of the asserted benefits of arbitration . . . would be
 28 irretrievably lost.”).

29 Second, the Court explained that this “automatic stay” is, well,
 30 automatic. As the name implies, and as other contexts confirm, an
 31 automatic stay is self-executing. *See* 11 U.S.C. § 362 (automatic stay
 32 in bankruptcy); Fed. R. Civ. P. 62(a) (automatic 30-day stay after
 33 orders); *see also In re Gruntz*, 202 F.3d 1074, 1081 (9th Cir. 2000)
 34 (discussing the self-executing nature of bankruptcy automatic stays).
 35 A district court is therefore immediately required to halt all
 36 proceedings covered by the *Griggs* principle when a proper notice of
 37 appeal is docketed, whether or not the parties ask it to. Rather than
 38 determine whether a discretionary stay is appropriate under the usual
 39 four-factor standard, *see Nken v. Holder*, 556 U.S. 418, 434 (2009),
 40 “the background *Griggs* principle applies regardless.” *Coinbase*, 599
 41 U.S. at 747.

42 Last, the Court made clear that because *Griggs* identifies a
 43 background principle, it applies even without congressional action.
 44 “When Congress wants to authorize an interlocutory appeal and to
 45 automatically stay the district court proceedings during that appeal,
 46 Congress need not say anything about a stay. At least absent contrary
 47 indications, the background *Griggs* principle already requires an
 48 automatic stay.” *Id.* at 743–44. Congress can, of course, make an
 49 exception to this rule. *See, e.g.*, 38 U.S.C. § 7292(b)(1) (“Neither the

1 application for, nor the granting of, an appeal under this paragraph
 2 shall stay proceedings in the Court of Appeals for Veterans
 3 Claims.”). But while Congress can specify when it doesn’t want an
 4 appeal to come with a stay, the default rule is that an appeal
 automatically stays all aspects of the case involved in the appeal. *See*
Coinbase, 599 U.S. at 744, n.6 (listing statutes).

5 *Id.* at 269–70.

6 Defendants argue here that like *Coinbase*, their appeal of the PI Order implicates
 7 “threshold legal, jurisdictional issues”—such as Article III standing and mootness—which will
 8 determine whether the entire case may proceed in this Court at all; therefore, “the entire case is
 9 essentially involved in the appeal.” (Doc. 123 at 3 (citation and quotation marks omitted).)
 10 Accordingly, Defendants argue that the entire case must be automatically stayed pending the
 11 outcome of the appeal. (Doc. 123 at 9.) As support, Defendants extensively discussed the Fourth
 12 Circuit’s opinion in *Martinsville*.

13 *Martinsville* involved an action removed to federal court pursuant to the federal officer
 14 removal statute, 28 U.S.C. § 1442. 128 F.4th at 268. The district court granted a motion to
 15 remand, but the removing party filed an appeal before the district court clerk could mail that
 16 remand order to the state court. *Id.* The Fourth Circuit concluded that the district court was
 17 automatically stayed from mailing the remand order under *Coinbase*, reasoning as follows:

18 Just as it did for denials of motions to compel arbitration, Congress
 19 expressly authorized interlocutory appeals when a district court finds
 20 federal-officer removal under § 1442(a) inappropriate and orders
 21 remand to the state court. 28 U.S.C. § 1447(d). Nothing in § 1447(d)
 22 overrides the background *Griggs* principle. *Cf. BP P.L.C. v. Mayor*
& City Council of Baltimore, 593 U.S. 230 (2021) (“[F]or suits
 23 against federal officers or agencies removed pursuant to 28 U.S.C.
 24 § 1442 . . . Congress has deemed it appropriate to allow appellate
 25 review before a district court may remand a case to state court.”)
 26 (emphasis added). And, just like a motion to compel arbitration, a
 remand order decides the foundational question: Which forum will
 hear the case? Necessarily, then, in both situations, essentially the
 whole case is “involved in the appeal,” and the lower court loses
 dominion over not just the remand order but most everything else in
 the case besides. *Coinbase*, 599 U.S. at 740. Doing otherwise would
 “largely defeat[] the point of the appeal.” *Id.* at 743 (quotation
 omitted).

27 *Id.* at 270. The Fourth Circuit explained that the district court had “misread *Coinbase*,” by
 28

1 limiting *Coinbase* “to orders compelling arbitration.” *Id.*; *see also id.* at 271. (“While *Coinbase*
 2 was a case about arbitration, this does not mean it was only a case about arbitration. *Coinbase*
 3 also was a case about a cryptocurrency platform. But its reasoning applies beyond cryptocurrency
 4 platforms. Distinctions require meaningful differences to matter; a decision’s rationale binds us
 5 even if some immaterial facts differ.”). Instead, the Fourth Circuit found that the “rationale of
 6 *Coinbase*” applied in the federal officer removal context because “[i]n relying on *Griggs*,
 7 *Coinbase* did not discriminate between arbitration and other appeals. Indeed, it went out of its
 8 way to approvingly recognize that qualified immunity and double jeopardy were ‘analogous
 9 contexts’ where the courts of appeals have long imposed automatic stays upon appeal.” *Id.*
 10 (quoting *Coinbase*, 599 U.S. at 742 & n.2). The Fourth Circuit concluded:

11 Whatever part of a case is “involved in the appeal,” big or small, it
 12 lies beyond the district court’s reach because two courts “should not
 13 attempt to assert jurisdiction over a case simultaneously.” *Griggs*,
 14 459 U.S. at 58. So if the issue being appealed is whether the district
 15 court can send this case back, the district court cannot jump the gun
 16 before the appeal is resolved.

17 *Id.*

18 Defendants’ reliance on *Martinsville*, however, is frustrated by the Ninth Circuit’s
 19 subsequent opinion in *California*, which also addressed the question of whether “the Supreme
 20 Court’s reasoning in *Coinbase* should be extended to automatically stay litigation during the
 21 appeals of remand orders in the federal officer removal context.” 139 F.4th at 767. Because the
 22 remand order on appeal required the Ninth Circuit to address the threshold the question of
 23 whether the case may proceed in a federal court at all, the defendants in *California* “argue[d] that
 24 the entire case is essentially involved in the appeal, and therefore an automatic stay of all
 25 proceedings is warranted under *Coinbase*’s application of the *Griggs* principle.” 139 F.4th at 767.
 26 The Ninth Circuit rejected that argument, reasoning that “[w]hile *Coinbase* represents a carveout
 27 to the normal discretionary stay powers in the arbitration context, the opinion does not overrule
 28 *Nken* nor render its precepts inoperable in other contexts.” *Id.* at 768.³ Specifically, the Ninth

³ In so doing, the Ninth Circuit reasoned that *Martinsville* is an outlier, noting that “[a]ll other circuits where this question has been raised” declined to extend *Coinbase* beyond the arbitration context. 139 F.4th

1 Circuit explained in *California* that the *Coinbase* “automatic stay” procedure should be limited to
 2 the arbitration context for several reasons. *Id.* (“*Coinbase* read in conjunction with relevant
 3 Supreme Court precedent counsels in favor of limiting the *Coinbase* holding to the arbitration
 4 context.”).

5 First, “requiring an automatic stay in the federal officer removal context would implicate
 6 federalism concerns not at issue where parties seek to compel arbitration.” *Id.* at 768. The *Nken*
 7 test, which allows federal courts to “weigh various factors before issuing the extraordinary
 8 remedy of a stay is vital for the efficient administration of justice, especially when the case
 9 involves another sovereign.” *Id.* (“Improper removals based on the federal officer removal statute
 10 deprive state courts of jurisdiction over cases that should rightfully be heard in their fora, in
 11 violation of comity principles. Automatic stays of litigation based on those improper removals
 12 pursuant to *Coinbase* would only exacerbate federal infringement on state courts’ rights . . . The
 13 Supreme Court has repeated ‘time and time again that the normal thing to do when federal courts
 14 are asked to enjoin pending proceedings in state courts is not to issue such injunctions.’”)
 15 (*quoting Younger v. Harris*, 401 U.S. 37, 45 (1971)).⁴

16 Second, the Ninth Circuit found that “*Coinbase*’s logic is inapposite in the federal officer
 17 removal context” because “arbitration is a fundamentally different form of dispute resolution than
 18 litigation.” *Id.* at 769. In particular:

19 The reason why parties may prefer to arbitrate as opposed to litigate
 20 claims is due to “efficiency, less expense, less intrusive discovery,
 21 and the like.” [*Coinbase*, 599 U.S. at 743.] The continuation of
 22 proceedings in the district court when stays are denied renders those
 23 features “irretrievably lost.” *Id.* These unique features of arbitration
 24 also help explain *Coinbase*’s contention that a denial of a motion to
 25 compel arbitration makes it so “the entire case is essentially

26 at 767 n.2; *id.* at 773 (“[T]he Supreme Court’s decision in *Coinbase* does not constitute a general
 27 withdrawal of the discretion that courts have exercised for centuries—rather, it merely represents a carve-
 28 out in favor of arbitration.” (*quoting Martinsville*, 128 F.4th at 275 (Wynn, J., dissenting) (alteration in
 29 original))).

30 ⁴ Defendants suggest that because the federalism concerns raised in *California* are not implicated in this
 31 case, *Coinbase* should apply “in full force.” (Doc. 115 at 8.) However, though federalism was certainly
 32 one of the justifications offered by the Ninth Circuit in *California*, it was not the only rationale.
 33 Accordingly, the absence of federalism-related concerns here does not justify disregarding the Ninth
 34 Circuit’s admonition against extending *Coinbase* beyond the arbitration context.

1 ‘involved in the appeal,’’ necessitating an automatic stay of litigation
 2 pending appeals of denials of arbitrability. *Id.* at 741.

3 *California*, 139 F.4th at 770. In contrast, the question on appeal in *California* was ‘‘a narrow
 4 venue question of whether the case belongs in state or federal court,’’ which ‘‘differs from
 5 questions remaining before the state court (assuming the case gets remanded) such as whether the
 6 claims have merit, whether the parties are entitled to the discovery they seek, and so on.’’ *Id.* at
 7 771.

8 Relatedly, the Ninth Circuit explained that the federal officer removal context is distinct
 9 from other contexts involving interlocutory appeals, such as appeals from a denial of motion to
 10 compel arbitration, as well as ‘‘[a]ppeals from denials of qualified immunity, absolute immunity,
 11 sovereign immunity, and immunity under the Double Jeopardy Clause,’’ all of which
 12 ‘‘immediately divest the district court of jurisdiction over the entire case against defendants
 13 because [they] represent an entitlement to avoid litigation altogether.’’ *See id.* at 771, n.7.⁵

14 Finally, the Ninth Circuit explained that ‘‘adopting an automatic stay rule in the federal
 15 officer context might encourage gamesmanship by defendants that would frustrate principles of
 16 judicial economy’’ because ‘‘[a]ny defendant seeking to delay discovery could craft an argument
 17 for federal officer removal then appeal a district court’s remand order’’ which ‘‘could cause
 18 plaintiffs languishing under mandatory stays to suffer harms in the form of lost evidence, depleted
 19 funding, and diminished patience.’’ *Id.* at 771–72. Though acknowledging that *Coinbase*
 20 ‘‘instructs that courts have tools to avoid such gamesmanship in the arbitration context,’’ *id.* at
 21 772, those tools ‘‘are cumbersome for courts to impose and rarely used,’’ so the Ninth Circuit
 22 concluded that ‘‘the discretionary stay system already in place is superior for the purposes of
 23 judicial economy.’’ *Id.*

24 The Ninth Circuit’s decision in *California* strongly suggests that courts should exercise

25 ⁵ Presumably nodding to this language from *California*, Defendants cite *Zabeti v. Arkin*, No. 2:14-cv-
 26 00018, 2014 WL 1764358, at *3 (D. Nev., Apr. 28, 2014) (citing *Wood v. McEwen*, 644 F.2d 797, 801
 27 (9th Cir. 1981)), (see Doc. 123 at 6 n.3), which held that while a dispositive motion is pending that raises
 28 questions of jurisdiction, a court frequently will stay discovery pending a ruling on that motion. *Zabeti*,
 however, did not apply an automatic stay of the kind at issue in *Griggs* or *Coinbase*. Rather, *Zabeti* relied
 on *Wood*, which addressed a stay imposed under Rule 26(c)(4)’s ‘‘good cause’’ standard. 2014 WL
 1764358, at *3.

1 caution before extending *Coinbase* beyond the arbitration context. 139 F.4th at 768 (“*Coinbase*
 2 does not abrogate *Nken v. Holder* beyond the arbitration context,” but rather “represents a
 3 carveout to the normal discretionary stay powers in the arbitration context.”). The Ninth Circuit’s
 4 cautionary approach makes sense considering the “slippery slope” identified by the dissent in
 5 *Coinbase*:

6 If arbitration appeals require stays of all pre-trial and trial
 7 proceedings, why not all appeals about forum-selection agreements?
 8 And why not appeals over non-contractual disputes over the proper
 adjudicator, like venue, personal jurisdiction, forum non conveniens,
 federal-court jurisdiction, and abstention?

9 For that matter, “virtually every right that could be enforced
 10 appropriately by pretrial dismissal might loosely be described as
 11 conferring a ‘right not to stand trial.’” *Digital Equipment Corp. v.*
Desktop Direct, Inc., 511 U.S. 863, 873 (1994). “Such motions can
 12 be made in virtually every case.” *Ibid.* Does every interlocutory
 appeal concerning a case-dispositive issue now trigger a mandatory
 general stay of trial court proceedings?

13 Taken that broadly, the mandatory-general-stay rule the Court adopts
 14 today would upend federal litigation as we know it. Aware that any
 15 interlocutory appeal on a dispositive issue grinds the plaintiff’s case
 16 to a halt, defendants would presumably pursue that tactic at every
 17 opportunity. This would occur, for example, in interlocutory appeals
 18 available as of right under 28 U.S.C. § 1292(a)(1) from orders
 19 granting preliminary injunctions. Any defense lawyer worth her salt
 would invoke the right to take that appeal and throw up some
 objection—to venue, jurisdiction, or a dispositive element of the
 merits—to trigger a mandatory stay. For plaintiffs, then, every
 preliminary-injunction motion becomes a trap: Even if the motion is
 granted, the defendant can take that opportunity to stop the trial court
 proceedings in their tracks.

20 599 U.S. at 760–61 (Jackson, J., dissenting). The Ninth Circuit read *Coinbase* narrowly to avoid
 21 just such a problem.⁶ Given California’s admonition, and absent appellate guidance on the
 22 specific question presented here, this Court is loath to expand *Coinbase*.

23

24 ⁶ Notwithstanding the Ninth Circuit’s broad pronouncement that “*Coinbase* represents a carveout to the
 25 normal discretionary stay powers in the arbitration”—but not other—contexts, Defendants argue that this
 26 Court should disregard the broad language in *California* and apply *Coinbase* to the instant action because
 27 the Ninth Circuit’s opinion in *California* narrowly addressed the question of whether *Coinbase*’s logic
 28 should be extended to the federal officer removal context—and it did not focus on whether *Coinbase*
 should be extended to other situations. (See Doc. 123 at 7.) Though a district court is not bound by dicta
 contained in an appellate court decision, *Parents Involved in Cnty. Sch. v. Seattle Sch. Dist. No. 1*, 551
 U.S. 701, 737 (2007), the reasoning of *California* is generally persuasive on the question of extending
Coinbase beyond the specific circumstances presented in that case.

1 In further support of an expansive application of *Coinbase* (and a narrow reading of
2 *California*), Defendants argue that district courts have continued to apply the underlying “*Griggs*
3 principle”—which the Supreme Court found controlling in *Coinbase*—after *California*. (Doc. 115
4 at 8.) For example, Defendants cite *Newsom v. Trump*, No. 25-cv-04870-CRB, 2025 WL 2609917
5 (N.D. Cal. Sept. 9, 2025), as an example of a post-*California* case that applied *Coinbase* outside
6 the arbitration context to stay all proceedings. (Doc. 118 at 8; Doc. 123 at 7.) There, the district
7 court granted a temporary restraining order blocking the defendants’ June 7, 2025 decision to
8 federalize the California National Guard, finding that action likely violated 10 U.S.C. § 12406
9 and the Posse Comitatus Act. *Id.* at *1. The defendants appealed the § 12406 issue to the Ninth
10 Circuit, which stayed the TRO pending appeal. *Id.* On August 5, 2025, the defendants issued a
11 separate order extending the federalization through November 2025. *Id.* at *2. The plaintiffs
12 moved for a preliminary injunction to block the August 5 order arguing it also “failed to satisfy
13 the statutory requirements of 10 U.S.C. § 12406.” *Id.* The plaintiffs asserted the preliminary
14 injunction request was distinct from the TRO—and thus was not barred by *Coinbase/Griggs*—
15 because the challenged underlying orders were different. *Id.* The district court rejected that
16 argument, concluding that it “slices the issues too finely,” referencing *Coinbase*’s rule that a stay
17 must be imposed if the issue on appeal implicates “the entire case.” *Id.* The court therefore stayed
18 all proceedings related to the preliminary injunction motion, because proceeding with that motion
19 “would risk ‘attempt[ing] to assert jurisdiction over a case simultaneously’ with the Ninth
20 Circuit.” *Id.* at *2 (quoting *Griggs*, 459 U.S. at 58) (alteration in original).

21 Plaintiffs argue that *Newsom* was a highly unusual case that involved a “uniquely complex
22 procedural situation,” where the district court had to consider, among other things, the impact of
23 the Ninth Circuit’s stay of an earlier TRO. (Doc. 118 at 12–13.) Defendants acknowledge those
24 procedural nuances but argue that *Newsom* does not cease to be a persuasive authority just
25 because it does not perfectly mirror the present case. (Doc. 123 at 7–8.) To be blunt, the Court
26 does not think *Newsom* provides much guidance on the question of whether *Coinbase* requires a
27 blanket stay here. Crucially, the cited opinion in *Newsom* stayed only proceedings related to the
28 motion for preliminary injunction, not the entire case. As a result, *Newsom* stands for the

1 unremarkable proposition that a trial court must stay all proceedings before it that are
 2 “inextricably tied up with” the substance of the appeal. 2025 WL 2609917, at *2 (“The Ninth
 3 Circuit is still considering the merits of Plaintiffs’ arguments as to the temporary restraining
 4 order, and those merits are inextricably tied up with the merits of Plaintiffs’ new motion.”).⁷

5 A few other cases merit some discussion because they arguably shed light on the interplay
 6 between *Coinbase* and the standing/mootness issues raised in the pending interlocutory appeal. In
 7 *California v. Health and Human Services*, No. 17-cv-05783-HSG, 2018 WL 11671579, at *1
 8 (N.D. Cal. Dec. 13, 2018) (“H.H.S.”), a case discussed by both sides, the district court entered a
 9 preliminary injunction barring application of two interim rules that would have exempted certain
 10 entities from a federal health care mandate to provide contraceptive coverage. *See California v.*
 11 *Health & Hum. Servs.*, 281 F. Supp. 3d 806, 813 (N.D. Cal. 2017), *aff’d in part, vacated in part,*
 12 *remanded sub nom. California v. Azar*, 911 F.3d 558 (9th Cir. 2018). In so ruling, the district
 13 court found that the State of California had Article III and statutory standing to bring the lawsuit.
 14 *Id.* at 820–23. Defendants appealed, challenging, among other things, the standing determination.
 15 *H.H.S.*, 2018 WL 11671579, at *1. Pursuant to the parties’ stipulation, the district court stayed the

16
 17 ⁷ The Court has considered other district court cases cited by Defendants and finds them either
 18 distinguishable or unhelpful. Defendants cite (Doc. 123 at 9) *Murray v. King Cnty. Ct.*, No. 24-cv-00239,
 19 2025 WL 754524, at *2 (W.D. Wash. Mar. 10, 2025), where the district court’s order hardly mentioned
 20 *Coinbase*—and ultimately grounded its decision on *Landis*. Defendants also cite (Doc. 115 at 8) *S.L. v.*
Cnty. of Riverside, No. 5:24-cv-00249-CAS-SPX, 2025 WL 2652874, at *3 (C.D. Cal. Sept. 15, 2025),
 where the defendants appealed the district court’s denial of qualified immunity, a situation that
 unambiguously calls for a *Coinbase*-like stay, *see California*, 139 F.4th at 771 n.7; *Coinbase*, 599 U.S. at
 742 & n.4.

21 Defendants also rely on *American Encore v. Fontes* (see Doc. 118 at 8), which concerned facial
 22 constitutional challenges to two provisions of Arizona election law. *See* 152 F.4th 1097, 1109 (9th Cir.
 23 2025). The district court found that plaintiffs had standing, denied a motion to apply *Pullman* abstention to
 24 the case, and found it was appropriate to impose a preliminary injunction. *Id.* Defendants appealed,
 25 challenging whether plaintiffs had standing, whether the court should have abstained under *Pullman*, and
 26 whether an injunction was warranted. *Am. Encore v. Fontes*, No. CV-24-01673-PHX-MTL, 2025 WL
 27 1839464, at *2 (D. Ariz. June 26, 2025). While the appeal was pending, the district court determined it
 28 was appropriate to impose a discretionary stay under *Landis/CMAX*. *Id.* at *1–2. Even though neither party
 raised *Griggs/Coinbase*, the district court *sua sponte* noted that “the *Griggs* divestiture rule also supports a
 stay.” *Id.* at *3. Citing *Griggs*, the district court noted that “most—if not all—of the substantive legal
 issues in this case are implicated in the pending interlocutory appeal.” *Id.* In other words, *Griggs* supported
 a broad stay because the appeal encompassed most of the remaining substantive issues in the case. Not
 only is this reasoning arguably dicta, but it also simply serves to underscore the general rule that the scope
 of a *Griggs* stay is governed by the scope of the issues on appeal. In other words, aspects of the ongoing
 case that are “inextricably tied up with” the appeal must be stayed.

1 case pending resolution of the appeal. *Id.* Later, the Ninth Circuit also ordered supplemental
 2 briefing on the issue of whether the case would be mooted by the issuance of final rules. *Id.*
 3 While the appeal was still pending, the plaintiffs moved to lift the stay in the district court,
 4 seeking to amend their complaint to challenge the forthcoming final rulemaking. *Id.* Given “the
 5 broad scope of issues currently before the Ninth Circuit,” the district court concluded “that it d[id]
 6 not have jurisdiction to lift the stay for the purposes articulated by Plaintiffs.” *Id.*

7 At first glance, *H.H.S.* might seem to support Defendants’ position about the application
 8 of *Coinbase* to this case, but in *H.H.S.*, the plaintiffs’ motivation for lifting the stay was at least in
 9 part to address the very question (mootness) that the Ninth Circuit was actively considering on
 10 appeal. As such, the district court in *H.H.S.* “d[id] not have jurisdiction to lift the stay *for the*
 11 *purposes articulated by Plaintiffs*,” 2018 WL 11671579, at *1 (emphasis added)—that is, to
 12 address an issue that was being actively considered by the Ninth Circuit. *H.H.S.*, therefore,
 13 reflects a straightforward application of *Griggs* and does not support Defendants’ position that the
 14 entirety of the instant case must be stayed pending appeal of the PI Order. *See also. BioCorRx,*
 15 *Inc. v. Calista Therapeutics, Inc.*, No. 8:24-cv-00640-JVS-JDE, 2024 WL 4472376, *1–2 (C.D.
 16 Cal. Aug. 14, 2024) (declining to consider under *Griggs* whether to issue a preliminary
 17 injunction, reasoning that doing so would implicate merits issues intertwined with appeal from
 18 anti-SLAPP ruling); *Brown v. Google, LLC*, No. 4:20-cv-03664-YGR, 2024 WL 5682633, *2–3
 19 (N.D. Cal. Nov. 8, 2024) (appeal from the denial of intervention was intertwined with the district
 20 court’s consideration of motion to approve of the settlement agreement motion).

21 To summarize, the Court is not persuaded by Defendants’ argument that *Coinbase* applies
 22 whenever an appellant raises a standing or mootness argument. Defendants have not provided any
 23 binding precedent that clearly abrogates the longstanding principle that an appeal of a preliminary
 24 injunction does not divest the trial court of jurisdiction to proceed to the merits of the case.
 25 Moreover, none of the cited district court cases persuade the Court to depart from this conclusion.
 26 For these reasons, the Court finds that neither *Griggs* nor *Coinbase* requires the Court to stay this
 27 case in its entirety. Whether *Griggs* strips the Court of jurisdiction to address certain aspects of
 28 the pending motion to dismiss and whether the Court should impose a discretionary stay are

1 separate questions that are discussed below.

2 **B. Jurisdiction to Address Motion to Dismiss**

3 Though the parties do not parse *Griggs* on an issue-by-issue basis, the Court must
 4 consider whether each individual issue that the parties ask this Court to rule on is “inextricably
 5 bound up” with an issue that is on appeal. *See Villery v. California Dep’t of Corr.*, No. 1:15-cv-
 6 00987 DAD-BAM (PC), 2021 WL 4846243, at *3–4 (E.D. Cal. Sept. 23, 2021) (citation
 7 omitted).⁸ The motion to dismiss argues that: (1) “Plaintiffs lack standing to pursue prospective
 8 equitable relief because they have not demonstrated that their isolated encounters with USBP are
 9 likely to recur or that they will again be subjected to any unlawful conduct[,]” (Doc. 64 at 20); (2)
 10 Plaintiff “UFW cannot establish associational standing because its members lack standing
 11 themselves,” (*id.* at 24); (3) Plaintiffs claims concerning stops and arrests are moot because of the
 12 Musters issued by USBP, (*id.* at 27–28); (4) relatedly, Plaintiffs claims concerning voluntary
 13 departure are moot because of a separate Muster issued by USBP on that subject (*id.* at 29–30);
 14 (5) Plaintiffs’ voluntary departure claim fails on the merits because Plaintiffs have not established
 15 a liberty interest or demonstrated prejudice; and (6) the Court should dismiss Plaintiffs’ entire
 16 complaint because none of the three proposed classes can be certified given that (a) the
 17 suspicionless stop and warrantless arrest classes are fatally overbroad; and (b) the voluntary
 18 departure class facially requires individualized analysis that precludes certification. (*Id.* at 23–29.)

19 **1. Standing Arguments**

20 Those aspects of the motion to dismiss that challenge Plaintiffs’ standing directly mirror
 21 arguments at issue in the pending appeal. As mentioned, Defendants’ opening brief on appeal
 22 invokes Justice Kavanaugh’s concurrence in *Perdomo* to argue that Plaintiffs cannot establish

23 ⁸ No party seems to suggest that the Court lacks jurisdiction to address the pending motion to enforce the
 24 preliminary injunction. *See supra* note 2; *Thakur v. Trump*, 795 F. Supp. 3d 1168, 1178 (N.D. Cal. 2025)
 25 (“The Court, of course, retains jurisdiction to enforce the Preliminary Injunction during the pending
 26 appeal. . . . Moreover, a district court has jurisdiction to clarify the meaning of its orders even while an
 27 appeal is pending.”); *see also A & M Records, Inc. v. Napster, Inc.*, 284 F.3d 1091, 1099 (9th Cir. 2002)
 28 (“The district court properly exercised its power under Rule 62([d]) to continue supervision of
 [defendant’s] compliance with the injunction.”). Fed. R. Civ. P. 62(d) specifically permits this Court to
 “suspend, modify, restore, or grant an injunction” while an appeal of a prior injunction is pending, but any
 action taken pursuant thereof “may not materially alter the status of the case on appeal.” *Sw. Marine Inc.*,
 242 F.3d at 1166 (citation omitted).

1 standing for prospective injunctive relief because they cannot show that they would likely be
 2 stopped again without reasonable suspicion or arrested again without consideration of flight risk.
 3 Plaintiffs argue that that the jurisdictional issues Defendants raise on appeal are not, at this stage,
 4 dispositive because they are inherently factual. (Doc. 118 at 11 (“[A] ruling from the Ninth
 5 Circuit on the preliminary record about whether Plaintiffs have shown a likelihood of proving
 6 future harm for standing purposes would not foreclose an alternative result on a different (and
 7 further developed) record.”).) Relatedly, Plaintiffs also maintain that it is unclear what “effect [] a
 8 reversal of the preliminary injunction would have on this litigation.” (*Id.*) These arguments do not
 9 ring true. If an appellate court adopts Justice Kavanaugh’s standing reasoning in *Perdomo*, that
 10 will represent a fundamental shift in the applicable standing framework.

11 In *Perdomo*, the Ninth Circuit refused to stay operation of the preliminary injunction
 12 issued by the district court, reiterating that under *Melendres v. Arpaio*, 695 F.3d 990, 998 (9th
 13 Cir. 2012), a plaintiff can satisfy *Lyons*’ requirement of a “realistic[] threat[]” of being injured
 14 again by “demonstrat[ing] that the harm is part of a pattern of officially sanctioned behavior,
 15 violative of the plaintiffs’ federal rights.” *Vasquez Perdomo v. Noem*, 148 F.4th 656, 674 (9th Cir.
 16 2025). The Ninth Circuit emphasized that at the preliminary injunction stage, the *Perdomo*
 17 plaintiffs demonstrated such a “a pattern of conduct,” because ““a plethora of statements
 18 suggest[ed] approval or authorization’ of the challenged stop-and-arrest practices, including a
 19 recent statement by Defendant Gregory K. Bovino, the Chief Patrol Agent for the El Centro
 20 Sector of the CBP.” *Id.* As was the case here (Doc. 47 at 82–84), the government “[did] not
 21 meaningfully dispute these findings,” which were “well supported by the record.” *Vasquez*
 22 *Perdomo v. Noem*, 148 F.4th at 674. Notwithstanding the above, the Supreme Court stayed the
 23 operation of the preliminary injunction, with the only written explanation suggesting that at least
 24 one justice is not convinced by the Ninth Circuit’s reliance on *Melendres* in substantially identical
 25 standing circumstances.⁹

26 ⁹ It is *theoretically possible* that factual developments in this case might render the *Melendres* “pattern of
 27 officially sanctioned behavior” irrelevant, such as if Plaintiffs are able to demonstrate that class members
 28 have been subjected to the challenged conduct on numerous occasions. But the present record does not
 suggest such a pattern is likely to develop. (See Def. Opening Appellate Brief at 1–2 (government

1 In the motion to dismiss, Defendants argue that “Plaintiffs lack standing to pursue
 2 prospective equitable relief because they have not demonstrated that their isolated encounters
 3 with USBP are likely to recur or that they will again be subjected to any unlawful conduct[,]”
 4 (Doc. 64 at 20); and that, relatedly, Plaintiff “UFW cannot establish associational standing
 5 because its members lack standing themselves,” (*id.* at 24). These arguments closely track the
 6 arguments in Defendants’ opening brief on appeal, where they argued, among other things, that
 7 “Plaintiffs cannot establish standing for prospective injunctive relief,” (Def. Opening Appellate
 8 Br. at 21,); and that the “standing analysis applies with no less force because of the involvement
 9 of organizational Plaintiff UFW,” (*id.* at 33). The Court concludes the standing issues raised on
 10 appeal are inextricably intertwined with the standing issues raised in the motion to dismiss. Thus,
 11 the Court is barred from considering those aspects of the motion to dismiss

12 2. Mootness Issues

13 The motion to dismiss also argues that the Musters render Plaintiffs’ entire complaint
 14 moot.

15 Collectively, Plaintiffs seek relief to remedy —via declaratory and
 16 injunctive relief —what they perceive to be a policy, pattern or
 17 practice of violating the Fourth and Fifth Amendment and § 1357.
 18 But USBP has already issued multiple new guidance Musters
 19 affirming their commitment to following the law in precisely the
 20 ways Plaintiffs seek, which renders Plaintiffs’ Complaint moot.
Rosebrock v. Mathis, 745 F.3d 963, 971 (9th Cir. 2014) (“A case
 becomes moot - and therefore no longer a ‘Case’ or ‘Controversy’
 for purposes of Article III -when the issues presented are no longer
 “live” or the parties lack a legally cognizable interest in the
 outcome”) (internal citations omitted).

21 Plaintiffs’ claims I-III concerning stops and arrests are moot because,
 22 on April 4, 2025, USBP issued a Muster and ordered training
 23 recommitting to consistent enforcement of Fourth Amendment
 24 protections and protections under 8 U.S.C. 1357(a)(2). *See* Exs. A,
 25 D (Decl. of Sergio Guzman). This Muster discusses traffic stops and
 reasonable suspicion, factors to consider when assessing flight risk,
 and how agents should document the facts and circumstances
 surrounding a warrantless arrest in an alien’s Form I-213 as soon as
 practicable. *See* Ex. A; *see also* Compl. at 53, ¶ 278 (stating USBP

26 appellate brief arguing “Plaintiffs’ evidence underscores how any likelihood of future harm to them is
 27 irredeemably speculative. Plaintiffs have not identified a single instance of anyone being stopped more
 28 than once by Border Patrol. Nor is there even a single instance of Border Patrol visiting the same place
 repeatedly. And in the two months between their alleged injuries and filing their complaint, Plaintiffs cited
 no further instances of stops or arrests.”).

1 should provide its officers guidance on the requirement for
 2 reasonable suspicion for traffic stops in the interior, away from the
 3 border, and guidance on assessing flight risk using factors such as
 4 “family, home, or employment,” that is, community ties). And USBP
 5 commits to continuing training until all agents are trained. Ex. D,
 6 (Decl. of Sergio Guzman). at ¶¶ 10-16. Moreover, on June 27, 2025,
 7 following the Court’s April 29, 2025, order, USBP issued a second
 Muster discussing factors to consider when assessing reasonable
 suspicion in all contexts, not just vehicle stops; that an individual’s
 refusal to answer questions does not, by itself, constitute reasonable
 suspicion; and that in areas where Hispanic individuals are common,
 an individual’s apparent Hispanic race or ethnicity is not a relevant
 factor for reasonable suspicion. *See Ex. B.*

8 Plaintiffs’ Fifth Amendment due process claim (Claim IV) is also
 9 moot. Plaintiffs allege that, during Operation Return to Sender,
 10 Border Patrol agents engaged in a pattern of processing arrested
 11 individuals for voluntary departure without obtaining a knowing and
 12 voluntary waiver of their right to removal proceedings before an
 13 immigration judge, in violation of the Fifth Amendment. *See Compl.*
 14 at 3-4, 44-45, 67-68, ¶¶ 9, 242-44, 346-50. Named Plaintiffs
 15 Espinosa and Mendez describe how Border Patrol agents presented
 16 them with a small digital device showing only a signature page, how
 17 they were not permitted to touch the digital device or see other pages
 of the document, and how they were not otherwise provided with
 physical copies of the documents that they were digitally signing. *See*
 Compl. at 4, 31, 34, 44, ¶¶ 11, 151-52, 176, 243; ECF No. 15-8,
 Espinosa Decl. at ¶¶ 17-18; ECF No. 15-6, Mendez Decl. at ¶ 19.
 They also claim that Border Patrol agents did not orally explain
 voluntary departure and its consequences to them in Spanish. ECF
 No. 15-8, Espinosa Decl. ¶¶ 18-21; ECF No. 15-6, Mendez Decl. at
 ¶¶ 19-20. These allegations form the basis of Plaintiffs’ policy and
 practice claim.

18 On July 11, 2025, USBP issued a Voluntary Return Muster
 19 recommitting to consistently informing aliens of their right to a
 20 hearing before an immigration judge and the consequences of
 21 alternatively choosing to voluntarily depart, which renders Plaintiffs
 22 Fifth Amendment claim (Claim IV) moot. The VR muster explains
 23 that Border Patrol agents must provide aliens with an opportunity to
 24 read the Notice of Rights and Advisals on the Form I-826, which
 25 advises an alien of the consequences of accepting voluntary return.
Id. The VR Muster also states that, where an agent goes over the
 26 Form in digital format, the agent should also provide the alien with a
 27 physical copy of the Form, in both English and Spanish. *Id.* Agents
 28 should also document adherence to the proper procedures in the
 Form I-213 Record of Deportable/Inadmissible Alien. *Id.* The
 purpose of the VR Muster is to ensure the alien has made a knowing,
 voluntary, and intelligent waiver of their right to removal
 proceedings and election of voluntary return. *Id.* That is, this
 guidance ensures that, to the extent Plaintiffs’ claims are true, they
 will not reoccur in the future thereby rendering Plaintiffs’ claims
 moot. *Espinoza v. Union of Am. Physicians & Dentists*, 2023 WL
 6971456, at *2 (9th Cir. Oct. 23, 2023) (“Where circumstances
 change after commencement of a suit such that the wrongful

1 behavior is no longer likely to recur against the plaintiff . . . ‘his
 2 claims for prospective relief [become] moot . . .’” (citing *Slayman*
 3 *v. FedEx Ground Package Sys., Inc.*, 765 F.3d 1033, 1048 (9th Cir.
 2014)).

4 (Doc. 64 at 27-30; *see also id.* at 30–32 (arguing voluntary cessation doctrine does not preserve
 5 the court’s jurisdiction).)

6 On appeal, the Defense has argued that the PI Order is rendered moot by USBP Musters
 7 addressing stops and arrests. (Def. Opening Appellate Br. at 9-10, 35-42.) Thus, applying the
 8 *Griggs* principle, the Court concludes that it has no jurisdiction to consider the mootness
 9 arguments raised in Defendants’ motion to dismiss that pertain to stops and arrests, as those same
 10 issues are presently before the Ninth Circuit.

11 However, a different result is appropriate as to the arguments in the motion to dismiss as
 12 to the whether the voluntary departure claims are moot. No such arguments are raised in the
 13 appeal. Thus, *Griggs* does not bar this Court from considering those issues.

14 3. Remaining Motion to Dismiss Issues

15 As mentioned, Defendants also argue in the motion to dismiss that the Voluntary
 16 Departure Claim (Claim IV) fails because Plaintiffs have not established a liberty interest or
 17 demonstrated prejudice, both of which are necessary to prevail on their procedural due process
 18 claim. (Doc. 64 at 32–35.) In addition, Defendants argue that the Court should dismiss or strike
 19 the three proposed classes because the suspicionless stop and warrantless arrest classes are fatally
 20 overbroad; and the voluntary departure class facially requires individualized analysis that
 21 precludes certification. (Doc. 64 at 36–40.) None of these issues have been directly implicated in
 22 the appeal, nor do they appear to be intertwined with the issues on appeal. (*See generally* Def.
 23 Opening Appellate Br.)¹⁰ As such, *Griggs* does not appear to present a jurisdictional bar to this

24 ¹⁰ Defendants contend that the Fifth Amendment claim is “involved” in the appeal because of the
 25 possibility that “Defendants’ standing arguments on appeal also apply to Plaintiffs’ Fifth Amendment
 26 claims seeking prospective relief.” (Doc. 115 at 9 (“Specifically, Plaintiffs lack standing to seek
 27 prospective relief all together because they cannot show they are likely to be subject to the same injury
 28 again based on an isolated, completed operation that forms the basis of the complaint.”).) However,
 standing is evaluated on a claim-by-claim basis, *TransUnion LLC v. Ramirez*, 594 U.S. 413, 430–31
 (2021), and the Court has not had occasion to address Plaintiffs’ standing to pursue the fourth cause of
 action. Moreover, that claim alleges a continuing harm and asks this Court to order Defendants to return

1 Court addressing those issues.

2 **C. Discretionary Stay**

3 In addition to arguing for a compulsory stay of the entire case, Defendants argue, in the
 4 alternative, that the Court should stay the entire case as a matter of discretion. (Doc. 115 at 10–
 5 12.) This Court “has broad discretion to stay proceedings as an incident to its power to control its
 6 own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (citing *Landis v. N. Am. Co.*, 299 U.S.
 7 248, 254 (1936)). The “power to stay proceedings is incidental to the power inherent in every
 8 court to control disposition of the cases on its docket with economy of time and effort for itself,
 9 for counsel, and for litigants.” *Landis*, 299 U.S. at 254. The exertion of this power calls for the
 10 exercise of sound discretion.” *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). The Ninth
 11 Circuit’s recent opinion in *In re PG&E Corp. Sec. Litig.* is particularly instructive:

12 The district court possesses “inherent authority to stay federal
 13 proceedings pursuant to its docket management powers.” A district
 14 court “may, with propriety, find it is efficient for its own docket and
 15 the fairest course for the parties to enter a stay of an action before it,
 16 pending resolution of independent proceedings which bear upon the
 17 case.” The decision to stay proceedings “calls for the exercise of
 18 judgment, which must weigh competing interests and maintain an
 19 even balance.”

20 Our prior cases have “identified three non-exclusive factors courts
 21 must weigh when deciding whether to issue a docket management
 22 stay: (1) ‘the possible damage which may result from the granting of
 23 a stay’; (2) ‘the hardship or inequity which a party may suffer in
 24 being required to go forward’; and (3) ‘the orderly course of justice
 25 measured in terms of the simplifying or complicating of issues,
 26 proof, and questions of law.’” A district court’s concern for the last
 27 factor, which courts refer to as “judicial efficiency,” “standing alone
 28 is not necessarily a sufficient ground to stay proceedings.”

29 *In re PG&E Corp. Sec. Litig.*, 100 F.4th 1076, 1085 (9th Cir. 2024) (internal citations omitted).
 30 Thus, a district court applies the *Landis* factors when considering whether to order a “docket
 31 management” stay—that is, to stay “proceedings” in a particular “case.” This was also explained
 32 in this Court’s decision in *Flores v. Bennett*, 675 F. Supp. 3d 1052, 1057 (E.D. Cal. 2023). In
 33 contrast, the *Nken* factors are generally used to assess whether a district court should stay the
 34

35 Plaintiffs Mendez and Espinoza to the United States. (Doc. 1 at 70.) The Court therefore does not find that
 36 the Fifth Amendment claim is inherently intertwined with the appeal.

1 enforcement of a particular judgment or order. *Id.*¹¹

2 The “proponent of a stay bears the burden of establishing its need.” *Clinton v. Jones*, 520
 3 U.S. 681, 708 (1997) (citing *Landis*, 299 U.S. at 255). If there is “even a fair possibility” of harm
 4 to the opposing party, the moving party “must make out a clear case of hardship or inequity in
 5 being required to go forward.” *Landis*, 299 U.S. at 255; *Lockyer v. Mirant Corp.*, 398 F.3d 1098,
 6 1112 (9th Cir. 2005).

7 1. Possible Damage to Plaintiffs if a Stay is Granted

8 “In determining whether to grant a stay, courts generally consider whether doing so would
 9 cause undue prejudice or present a clear tactical disadvantage to the non-moving party.” *ASCII*
 10 *Corp. v. STD Ent. USA, Inc.*, 844 F. Supp. 1378, 1380 (N.D. Cal. 1994). “Courts may also
 11 consider the stage in litigation, whether substantial discovery has already taken place, and
 12 whether the matter has been set for trial.” *Epistar Corp. v. Philips Lumileds Lighting Co., LLC*,
 13 No. C 07-5194 CW, 2008 WL 913321, at *2 (N.D. Cal. Apr. 2, 2008) (citing *ASCII*, 844 F. Supp.
 14 at 1380). So long as there is “even a fair possibility” of harm to the opposing party, the moving
 15 party “must make out a clear case of hardship or inequity in being required to go forward.”
 16 *Landis*, 299 U.S. at 255.

17 Defendants first argue that there is no risk of harm to Plaintiffs, as they “are currently
 18 protected by a preliminary injunction” and “the policies and practices of the agencies at issue can
 19 be discovered at any time should this case proceed after the appeal.” (Doc. 115 at 10.) In
 20 response, Plaintiffs correctly point out that the PI does not address the voluntary departure claims
 21 (fourth cause of action). (Doc. 118 at 16.) Moreover, as Plaintiffs also point out, two Plaintiffs are
 22 currently located in Mexico allegedly because of Defendants’ challenged conduct, and Plaintiffs
 23 maintain the members of the putative Voluntary Departure Class face risk of future harm if
 24 Defendants’ “unlawful voluntary departure practices remain unchecked.” (*Id.*)

25

 26 ¹¹ As Plaintiffs point out, (Doc. 118 at 14 n.5), the Ninth Circuit’s opinion in *California* discussed the
 27 *Nken* factors, not *Landis/CMAX* test. 139 F.4th at 766. Plaintiffs suggest that this is an indication that
 28 *Flores* is no longer good law and that *Nken* is the appropriate test to apply here. The Court is not
 persuaded. *California* is just an example of how the *Landis-Nken* distinction that continues to be applied.
 (See Doc. 123 at 9 n.5 (collecting recent cases from this Court).) Because Defendants are seeking a stay of
 all proceedings, the Court will apply the *Landis* factors.

1 Acknowledging that the PI does not address the Voluntary Departure claims, Defendants
 2 argue in the context of their request for a complete, automatic *Coinbase* stay that those claims
 3 “are also necessarily ‘involved in the appeal’ because Defendants’ standing arguments on appeal
 4 also apply to Plaintiffs’ Fifth Amendment claims seeking prospective relief.” (Doc. 115 at 9.)
 5 Specifically, the Defense argues that “Plaintiffs lack standing to seek prospective relief all
 6 together because they cannot show they are likely to be subject to the same injury again based on
 7 an isolated, completed operation that forms the basis of the complaint.” (*Id.*) But, as the Court
 8 explained above, the mere fact that standing to sue is raised in an interlocutory appeal does not
 9 automatically entitle Defendants to a stay. Though Defendants are correct that if their standing
 10 arguments prevail on appeal, such an outcome will have broad consequences for this litigation,
 11 that has nothing to do with whether Plaintiffs will be harmed by the stay.

12 As to the more general assertion that the PI provides Plaintiffs with adequate protection
 13 regarding detentive stops and warrantless arrests, Plaintiffs suggest the PI is insufficient because,
 14 as they argue in the pending motion to enforce, “Defendants are *currently* violating the PI.” (Doc.
 15 118 at 16 (emphasis in original).) Plaintiffs maintain that a complete stay will “strip [their] ability
 16 to hold Defendants to the PI.” (*Id.*) To be sure, the risk of harm to Plaintiffs is reduced because
 17 the preliminary injunction remains in place during the pendency of the appeal, *Wilhoite v. Hou*,
 18 No. 3:23-CV-02333-BEN-MSB, 2024 WL 2869986, at *4 (S.D. Cal. June 6, 2024) (“With the
 19 TRO in place during the pendency of [the] appeals, Plaintiffs’ concerns regarding dissipation of
 20 assets should be diminished.”), it does not follow, however, that Plaintiffs will suffer *no* harm if a
 21 stay is imposed.

22 Rather, like all litigants, Plaintiffs have a substantial interest in obtaining a prompt
 23 adjudication of their claims. *See S.L. v. Cnty. of Riverside*, No. 5:24-cv-00249-CAS-SPx, 2025
 24 WL 2652874, at *7 (C.D. Cal. Sept. 15, 2025) (“The Court finds that staying proceedings will
 25 moderately prejudice plaintiffs by modestly delaying resolution of their claims.”). In addition, this
 26 “[C]ourt must weigh ‘the length of the stay against the strength of the justification given for it.’
 27 ‘If a stay is especially long or its term is indefinite, [the Court] require[s] a greater showing to
 28 justify it.’” *Peoples v. W. Ref. Retail, LLC*, No. 1:25-CV-00480-JLT-CDB, 2025 WL 2762449, at

1 *2 (E.D. Cal. Sept. 26, 2025) (quoting *Yong v. I.N.S.*, 208 F.3d 1116, 1119 (9th Cir. 2000)). Here,
2 though Defendants have requested expedited treatment of their appeal, the appeal was filed on
3 June 27, 2025, and oral argument is not likely to take place until April or May of 2026 at the
4 earliest. As such, the Court declines to presume that a stay pending appeal would be short in
5 duration. The Court finds this consideration to be neutral at best.

6 Moreover, there is a meaningful distinction between “the prejudice resulting from a stay
7 when injunctive relief, rather than damages, are sought.” *California Sea Urchin Comm’n v.*
8 *Jacobson*, No. CV 13-5517-DMG (CWX), 2016 WL 11785449, at *2–3 (C.D. Cal. Nov. 3, 2016)
9 (citing *Lockyer*, 398 F.3d at 1112). Unlike damages for past harm, *Landis* cautions against a stay
10 where there is “a fair possibility” that the stay will permit ongoing and future harm that can be
11 remedied by injunctive relief. *See Lockyer*, 398 F.3d at 1112.

12 In sum, because there is a fair possibility of some cognizable harm to Plaintiffs if a stay is
13 entered, the Court must determine whether the government has made clear case that it will suffer
14 hardship or inequity.

15 **2. Prejudice and Hardship to Defendants if a Stay is Denied**

16 The second *Landis* factor considers “the hardship or inequity which a party may suffer in
17 being required to go forward.” *CMAX*, 300 F.2d at 268. Defendants argue that they will be forced
18 to conduct discovery that may be rendered moot by the Ninth Circuit in resolving the
19 interlocutory appeal. According to Defendants, once discovery parameters are finalized, they
20 would have to expend at least 3,333 hours of attorney time to complete document production and
21 review. (Doc. 115 at 10.) Defendants argue that a decision by the Ninth Circuit on the
22 jurisdictional issues could substantially narrow or clarify the scope of the discovery. (Doc. 115 at
23 11.) This, according to Defendants, would conserve scarce resources and avoid wasted efforts.
24 (Doc. 115 at 11.)

25 Plaintiffs respond that this is not a “clear case” of hardship (Doc. 118 at 17) and suggest
26 that Defendants’ complaints of an extreme discovery burden lacks credibility given that they
27 “have not produced any documents to date and repeatedly delayed substantive discussions related
28 to Plaintiffs’ requests.” (*Id.* at 15.)

1 On the one hand, “being required to defend a suit, without more, does not constitute a
 2 ‘clear case of hardship or inequity’ within the meaning of *Landis*.’” *Lockyer*, 398 F.3d at 1112
 3 (quoting *Landis*, 299 U.S. at 255). On the other hand, conducting “‘substantial, unrecoverable,
 4 and wasteful’ discovery and pretrial motions practice on matters that could be mooted by a
 5 pending appeal may amount to hardship or inequity sufficient to justify a stay.” *Finder v. Leprino*
 6 *Foods Co.*, No. 1:13-cv-02059-AWI-BAM, 2017 WL 1355104, at *4 (E.D. Cal. Jan. 20, 2017)
 7 (quoting *Pena v. Taylor Farms Pac., Inc.*, No. 2:13-cv-01282-KJM-AC, 2015 WL 5103157, at *4
 8 (E.D. Cal. Aug. 31, 2015)). Overall, “[w]here a denial of stay would cause both parties to incur
 9 significant expenses on litigation that may be rendered moot, ‘the potential hardship from
 10 denying the stay weighs slightly in favor of granting it.’” *See, e.g., Vance v. Google LLC*, No.
 11 5:20-cv-04696-BLF, 2021 WL 534363, at *5 (N.D. Cal. Feb. 12, 2021) (quoting *Lal v. Capital*
 12 *One Fin. Corp.*, No. 16-cv-00674-BLF, 2017 WL 282895 (N.D. Cal. Jan 23, 2017)). Here, the
 13 Court agrees with Plaintiffs that Defendants’ concerns about the scope of class-wide discovery
 14 should be given less weight because the Government has not yet made concerted efforts to meet
 15 and confer with Plaintiffs to narrow the scope or agree to search terms. (*See* Doc. 118-1); *cf.*
 16 *ShoulderTap Techs., Inc. v. Fizz Soc. Corp.*, No. 25 CIV. 1487 (ALC) (SLC), 2025 WL 2371152,
 17 at *1 (S.D.N.Y. Aug. 14, 2025) (declining to stay discovery under Fed. R. Civ. P. 26(c) where
 18 parties had not yet met and confer to narrow requests).¹²

19 3. Judicial Economy and Benefits to the Court

20 The third and final *Landis* factor considers “the orderly course of justice measured in
 21 terms of the simplifying or complicating of issues, proof, and questions of law which could be
 22 expected to result from a stay.” *CMAX*, 300 F.2d at 268 (citing *Landis*, 299 U.S. at 254–55). As
 23 this Court noted in *Flores*, “courts typically stay cases when the outcome of another proceeding
 24 will have *preclusive effect* on the pending issues.” *Flores*, 675 F.Supp.3d at 1063 (citing *Safari*
 25 *Club Int'l v. Bonta*, No. 22-cv-01395-DAD-JDP, 2023 WL 3505373 at *1 (E.D. Cal. May 17,

26 ¹² To the extent Defendants seriously contend there is no need for discovery to proceed because “the
 27 policies and practices of the agencies at issued can be discovered at any time after the appeal” and “this
 28 case presents purely legal issues” (Doc. 115 at 10), the Court disagrees. As Magistrate Judge Baker
 concluded “it is inconceivable that Plaintiffs’ Fourth Amendment and Fifth Amendment claims are
 amenable to adjudication based exclusively on an existing, administrative record.” (Doc. 56 at 10.)

1 2023)) (emphasis added). Conversely, a *Landis* stay is inappropriate if another proceeding is
 2 “unlikely to decide, or to contribute to the decision of, the factual and legal issues before the
 3 district court.” *Lockyer*, 398 F.3d at 1113.

4 Defendants argue that waiting until the appeal is done could substantially narrow the
 5 jurisdictional issues (especially Article III standing and mootness), which could result in the
 6 dismissal of the entire case, or a substantial part thereof. (Doc. 115 at 11.) Plaintiffs, on the other
 7 hand, argue that “adopting Defendants’ position” risks creating a *per se* rule where “virtually all
 8 appeals of preliminary injunctions” on standing grounds “would result in automatic case-wide
 9 stays.” (See Doc. 118 at 12.)¹³ As to this factor, Defendants have the better argument. It is
 10 difficult to escape the fact that the appeal could have wide-ranging impacts on almost the entire
 11 case, including the standing analysis applicable to the requests for injunctive and declaratory
 12 relief.¹⁴ That said, this is just one element in a discretionary balancing test.

13 4. The Impact of *Perdomo*

14 Defendants argue that “because the Supreme Court’s *Perdomo* stay order signals that the
 15 government is likely to succeed on the merits of the appeal in that case, which invokes an
 16 identical Article III standing challenge, the government is also likely to ultimately succeed on the
 17 merits of its appeal on the same issue. Accordingly, the Court should stay further proceedings in
 18 this case pending the outcome of the preliminary injunction appeal.” (Doc. 115 at 7 (footnote
 19 omitted); *see also id.* at 10–11 (suggesting this likely success is relevant to the *Landis/CMAX*

20 ¹³ The Court notes that many district courts stayed further litigation pending the Supreme Court’s decision
 21 in *Spokeo*, a case regarding Article III standing. *Matera v. Google Inc.*, No. 15-CV-04062-LHK, 2016 WL
 22 454130, at *3 (N.D. Cal. Feb. 5, 2016) (“[R]egardless of which path the U.S. Supreme Court ultimately
 23 takes, *Spokeo* may provide substantial guidance as to what statutory violations (if any) confer Article III
 24 standing. The Court thus finds that the *Landis* factor regarding the orderly course of justice weighs in
 25 favor of granting a temporary stay.”); *Ramirez v. Trans Union, LLC*, No. 12-CV-00632-JSC, 2015 WL
 6159942, at *2 (N.D. Cal. June 22, 2015) (“Given that the Supreme Court’s decision in *Spokeo* may
 directly impact the Court’s class certification ruling, the *Landis* factors weigh strongly in favor of staying
 this action pending the *Spokeo* decision.”).

26 ¹⁴ *Lyons* applies with equal force to requests for declaratory relief. *See Already, LLC v. Nike, Inc.*, 568 U.S.
 27 85, 98, (2013) (“[W]e have never held that a plaintiff has standing to pursue declaratory relief merely on
 28 the basis of being ‘once bitten.’ Quite the opposite. *See, e.g., Los Angeles v. Lyons*, 461 U.S. 95, 109
 (1983) (holding there is no justiciable controversy where plaintiff had once been subjected to a
 chokehold.”). Plaintiffs do not seek damages here, though they do request an order returning voluntary
 departure Plaintiffs Mendez and Espinoza to the United States.

1 analysis)). However, even assuming, *arguendo*, that Justice Kavanaugh’s concurrence is a
2 predictor of the ultimate outcome of the appeal from the PI Order in this case, whether
3 Defendants are “likely to ultimately succeed on the merits of its appeal” is not directly relevant to
4 the question of whether this Court should stay the matter under *Landis*. See *Kuang v. United*
5 *States Dep’t of Def.*, No. 18-cv-03698-JST, 2019 WL 1597495, at *6 (N.D. Cal. Apr. 15, 2019)
6 (“The likelihood of success on the merits is not an independent factor under *Landis*, and therefore
7 does not carry the same weight in this context.” (citations omitted)).

5. Balancing

9 Though concerns over wasted discovery weigh slightly in favor of a stay, the Court cannot
10 conclude on this record that discovery will be as enormously burdensome as the Defense
11 contends. Moreover, while judicial efficiency likely would be enhanced by a stay, Plaintiffs have
12 a substantial interest in obtaining a prompt adjudication of their claims. On balance, given the
13 absence of strong evidence of prejudice to the Defense, the Court finds that the justifications for a
14 stay in this case do not presently warrant a discretionary stay.

III. CONCLUSION

16 Based upon the foregoing, the Court ORDERS:

17 (1) Defendants' Motion to Stay all proceedings (Doc. 115) is **DENIED**.

18 (2) However, the Court concludes that it has no jurisdiction to consider the following

19 arguments raised in the pending motion to dismiss: all standing arguments and any

20 mootness arguments related to the issuance of Musters pertaining to stops and arrests.

21 The motion to dismiss will be **HELD IN ABEYANCE** as to those issues.

22 (3) The motion to dismiss will proceed on the remaining arguments, including the

23 argument that Fourth Amendment claims must be raised in the administrative process.

24 If necessary, the Court will set a separate hearing on the remaining issues so that the

25 Court and the parties can focus on the motion to enforce on February 5, 2026 hearing.

IT IS SO ORDERED.

28 || Dated: **January 24, 2026**

Jennifer L. Thurston
UNITED STATES DISTRICT JUDGE