Hon. David G. Estudillo

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MAUREEN MURPHY,
individually and on behalf of a class of similarly situated individuals;
JOHN HUDDLESTON,
individually and on behalf of a class of similarly situated individuals,

Plaintiffs,

v.

GINA RAIMONDO,
in her official capacity as Secretary of Commerce;
DEPARTMENT OF COMMERCE,
a federal agency;
ROBERT SANTOS,
in his official capacity as Director of the Bureau of the Census;
BUREAU OF THE CENSUS,
a federal agency,

Defendants.

Civil Action No. 3:22-cv-05377-DGE

REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR CLASS CERTIFICATION

Noted on motion calendar:
August 26, 2022

Pacific Legal Foundation, 255 South King Street, Suite 800
Seattle, Washington 98104 | (425) 576-0484

Plaintiffs fully briefed their entitlement to class certification under Federal Rule of Civil Procedure 23, ECF12, yet Defendants oppose class certification on ripeness grounds only, ECF23; *see* ECF22:12–16 (MSJ). As a preliminary matter, therefore, objections on other grounds are waived. *Stichting Pensioenfonds ABP v. Countrywide Fin. Corp.*, 802 F. Supp. 2d 1125, 1132 (C.D. Cal. 2011) ("[I]n most circumstances, failure to respond in an opposition brief to an argument put forward in an opening brief constitutes waiver or abandonment in regard to the uncontested issue.") (citing *Jenkins v. County of Riverside*, 398 F.3d 1093, 1095 n.4 (9th Cir. 2005) (concluding that party abandoned an argument it could have made in opposition by not raising it in the response to the motion)). By failing to say that Plaintiffs do not meet the Rule 23 criteria for class certification, Defendants have waived those arguments.

Plaintiffs address Defendants' ripeness arguments in the cross-motion for summary judgment that is filed contemporaneously with this reply. Plaintiffs will not repeat those arguments here. Plaintiffs' claims are ripe.

The Court should grant Plaintiffs' motion for class certification, certify the class as defined, and appoint class counsel as requested in the motion.

Conclusion

Plaintiffs' claims are ripe for adjudication. Plaintiffs' class-certification motion should be granted.

DATED: August 26, 2022.

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Respectfully submitted:

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on this date, I filed a copy of the foregoing with the Clerk of this Court through the CM/ECF system, which will notify all counsel of record of this filing.

DATED: August 26, 2022.

s/ *Aditya Dynar*
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Attorney for Plaintiffs