

Case No. 19-17213

In the
United States Court of Appeals
for the
Ninth Circuit

CITY AND COUNTY OF SAN FRANCISCO and COUNTY OF SANTA CLARA,
Plaintiffs and Appellees,

v.

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, a federal agency,
U.S. DEPARTMENT OF HOMELAND SECURITY, a federal agency,
KEVIN K. MCALEENAN, in his official capacity as Acting Secretary of the United States
Department of Homeland Security,
and KENNETH T. CUCCINELLI, in his official capacity as Acting Director of
United States Citizenship and Immigration Services,
Defendants and Appellants.

*On Appeal from a Decision of the United States District Court for the Northern District of California,
Case No. 4:19-cv-04717-PJH · Honorable Phyllis J. Hamilton, Chief District Judge*

**CONSENT MOTION OF IMMIGRANT AND HEALTHCARE SERVICE
ORGANIZATIONS TO PARTICIPATE AS *AMICI CURIAE* IN SUPPORT OF
PLAINTIFFS-APPELLEES' MOTION FOR RECONSIDERATION *EN BANC***

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**CONSENT MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFFS-APPELLEES’
MOTION FOR RECONSIDERATION *EN BANC***

La Clínica De La Raza, California Primary Care Association, Maternal and Child Health Access, Farmworker Justice, Council on American Islamic Relations-California, African Communities Together, Legal Aid Society of San Mateo County, and Central American Resource Center (collectively, *amici*) request leave to file the accompanying amicus brief in support of Plaintiffs-Appellees.¹ *Amici* are health care and legal services providers who brought suit in *La Clínica de la Raza v. Trump*, No. 4:19-cv-04980, a lawsuit related to the Northern District of California cases at issue in the motions for rehearing *en banc*.

**INTEREST OF *AMICI* AND REASONS WHY
THE MOTION SHOULD BE GRANTED**

Amici litigated their own motion for preliminary injunction simultaneously with Plaintiffs-Appellees; however, the district court ruled that *amici* did not fall within the zone of interests required to pursue their injunction, a ruling that *amici* have appealed, *see La Clínica de la Raza v. Trump*, No. 19-17483. While *amici* strongly disagree with the district court’s zone of interests analysis, the district court

¹ No party’s counsel authored *amici*’s brief in whole or in part. No party or party’s counsel made a monetary contribution intended to fund the preparation or submission of *amici*’s brief, and no person other than *amici curiae* or their counsel made such a monetary contribution. Rule 29(a)(4)(E). All parties have consented to the filing of *amici*’s brief pursuant to Circuit Rule 29-2(a).

did correctly hold that *amici* have standing to bring suit against the rule at issue in this petition. *City & County of San Francisco v. U.S. Citizenship & Immigration Servs.*, ___ F. Supp. 3d ___, 2019 WL 5100718, at *50 (N.D. Cal. Oct. 11, 2019). Specifically, the district court held that the Public Charge Final Rule frustrates *amici*'s organizational purpose, requires *amici* to divert funds, and increases some of *amici*'s operating costs. Those redressable harms differ from those of Plaintiffs-Appellees. Accordingly, *amici* have a unique perspective on the harmful consequences that would result from a stay of the district court's ruling.

Amici, as organizations that provide vital services to immigrants, have a unique perspective on the harmful consequences that would result from a stay of the district court's ruling. *Amici* seek to inform this Court of the nature and extent of these harms, which were considered and evaluated by the district court in evaluating the merits of the preliminary injunction motions below. In contrast, the panel *expressly* failed to consider all the relevant factors governing a stay pending appeal when it declined to address the harms that the Final Rule would inflict on interested non-parties such as *amici curiae* and the people they serve. Had it done so, the panel should have concluded that Defendants-Appellants' stay request should be denied.

CONCLUSION

For the foregoing reasons, *amici*'s motion for leave to file the attached *amicus* brief should be granted.

Dated: December 27, 2019

Respectfully submitted,

/s/ Nicholas Espíritu

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CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2019, 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 CM/ECF system.

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

/s/ Nicholas Espiritu
Nicholas Espiritu