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 CITY AND COUNTY OF SAN FRANCISCO

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 COUNTY OF SANTA CLARA

13 UNITED STATES DISTRICT COURT  
 14  
 15 NORTHERN DISTRICT OF CALIFORNIA

16 CITY AND COUNTY OF SAN FRANCISCO  
 and COUNTY OF SANTA CLARA,

Case No. 4:19-cv-04717-PJH

17 Plaintiffs,

**STIPULATION AND [PROPOSED] ORDER  
 TO STAY PROCEEDINGS PENDING APPEAL**

18 vs.

19 U.S. CITIZENSHIP AND IMMIGRATION  
 20 SERVICES; DEPARTMENT OF  
 HOMELAND SECURITY; KEVIN  
 21 McALEENEN, Acting Secretary of Homeland  
 Security; and KENNETH T. CUCCINELLI, in  
 22 his official capacity as Acting Director of U.S.  
 Citizenship and Immigration Services,

23 Defendants.

1 WHEREAS this Court granted Plaintiffs City and County of San Francisco and County of  
2 Santa Clara’s (“Counties”) motion for a preliminary injunction on October 11, 2019;

3 WHEREAS Defendants filed their Notice of Appeal of this Court’s preliminary injunction on  
4 October 30, 2019;

5 WHEREAS Defendants filed their opening brief on the merits of this appeal in the Ninth  
6 Circuit Court of Appeals on December 4, 2019, the Counties’ answering brief is due on  
7 January 16, 2020, and Defendants’ reply brief is due on February 6, 2020;

8 WHEREAS Defendants filed an emergency motion in the Ninth Circuit Court of Appeals to  
9 stay the injunction on November 15, 2019, the Counties filed their opposition to the emergency stay  
10 motion on November 22, 2019, and Defendants replied on November 26, 2019;

11 WHEREAS a motions panel of the Court of Appeals issued a decision granting the stay on  
12 December 5, 2019;

13 WHEREAS the Counties moved for *en banc* reconsideration of the motions panel’s order on  
14 December 19, 2019, and Defendants have been ordered to file an opposition to the request for  
15 reconsideration by January 10, 2020;

16 WHEREAS the issues raised in the appeal from the preliminary injunction substantially  
17 overlap with the issues that will be raised in the Defendants’ motion to dismiss or for summary  
18 judgment and in the Counties’ cross-motion for summary judgment; and

19 WHEREAS on January 8, 2020, a motions panel of the Second Circuit Court of Appeals issued  
20 an order denying the government’s motions to stay nationwide preliminary injunctions of the rule at  
21 issue in this case, thereby leaving those injunctions in place, *see State of New York v. Dep’t of*  
22 *Homeland Security*, No. 19-3591, Dkt. No. 162 (2d Cir.);

23 NOW THEREFORE, the Parties stipulate and respectfully request that the district court stay all  
24 proceedings in this matter pending resolution of the appeal in *City and County of San Francisco v.*  
25 *United States Citizenship and Immigration Services*, Ninth Circuit Case No. 19-17213.

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27 ///

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1 Respectfully submitted,

2  
3 Dated: January 8, 2020

4 JOSEPH H. HUNT  
Assistant Attorney General

5 ALEXANDER K. HAAS  
6 Branch Director

7 By: /s/ Joshua M. Kolsky  
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14 Attorneys for DEFENDANTS

Dated: January 8, 2020

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City Attorney

By: /s/ Sara J. Eisenberg  
SARA J. EISENBERG  
Deputy City Attorney

Attorneys for Plaintiff  
CITY AND COUNTY OF SAN FRANCISCO

Dated: January 8, 2020

JAMES R. WILLIAMS  
County Counsel

By: /s/ H. Luke Edwards  
H. Luke Edwards  
Deputy County Counsel

Attorneys for Plaintiff  
COUNTY OF SANTA CLARA

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16  
17  
18 **ATTESTATION OF SIGNATURES**

19 I, Sara J. Eisenberg, hereby attest, pursuant to Local Civil Rule 5-1(i)(3) of the Northern  
20 District of California, that concurrence in the filing of this document has been obtained from each  
21 signatory hereto.

22  
23 /s/ Sara J. Eisenberg  
24 Sara J. Eisenberg  
25 Deputy City Attorney  
Attorneys for Plaintiff  
26 CITY AND COUNTY OF SAN FRANCISCO

**ORDER**

Based on the written stipulation of the Parties and good cause appearing therefore, I hereby stay all proceedings in this matter pending resolution of the appeal in *City and County of San Francisco v. United States Citizenship and Immigration Services*, Ninth Circuit Case No. 19-17213. The parties shall provide a status report to this Court within 14 days of the Ninth Circuit Court of Appeals issuing its decision on the merits in Ninth Circuit Case No. 19-17213.

**IT IS SO ORDERED.**

Dated: January \_\_\_\_, 2020

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PHYLLIS J. HAMILTON  
United States District Judge