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12
 13 **UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

14
 15 CITY AND COUNTY OF SAN FRANCISCO
 and COUNTY OF SANTA CLARA,

16 *Plaintiffs,*

17 vs.

18
 19 U.S. CITIZENSHIP AND IMMIGRATION
 SERVICES; DEPARTMENT OF
 20 HOMELAND SECURITY, *et al.*;

21 *Defendants.*

Case No. 19-cv-4717 (PJH)

JOINT STATUS REPORT

22
 23 Courtroom 3
 24 Hon. Phyllis Hamilton
 25 Trial date: Not set

26
 27 The parties respectfully submit this Joint Status Report in this case challenging a
 28 Department of Homeland Security rule entitled “Inadmissibility on Public Charge Grounds” (the
 “2019 Rule”).

On March 10, 2021—four months after the Ninth Circuit affirmed this Court’s issuance of
 a preliminary injunction enjoining the 2019 Rule, *see City & Cty. of S.F. v. U.S. Citizenship &
 Immigration Servs.*, 981 F.3d 742 (9th Cir. 2020)—13 States moved to intervene in the Ninth

1 Circuit “so that they can file a petition for certiorari.” *City & Cty. of S.F. v. U.S. Citizenship &*
2 *Immigration Servs.*, Nos. 19-17213, 19-17214, 19-35914, Dkt. No. 166 at 1 (9th Cir. Mar. 10,
3 2021).¹ The Ninth Circuit denied the intervention motion on April 8, 2021. *See* 992 F.3d 742 (9th
4 Cir. 2021). A month later, on May 6, 2021, these 13 States then moved to intervene directly in the
5 Supreme Court in order to petition for certiorari of the Ninth Circuit’s decision affirming this
6 Court’s preliminary injunction. *Arizona v. City & Cty. of S.F.*, No. 20M81.² The parties to this
7 litigation have opposed the putative intervenors’ motion. The motion remains pending before the
8 Supreme Court.

9 Meanwhile, on March 9, 2021, the U.S. Court of Appeals for the Seventh Circuit issued its
10 mandate after dismissing a pending appeal of a judgment issued by the United States District Court
11 for the Northern District of Illinois that had vacated the 2019 Rule under 5 U.S.C. § 706(2). *Cook*
12 *Cty. v. Wolf*, 498 F. Supp. 3d 999 (N.D. Ill. 2020), *appeal dismissed*, No. 20-3150, Dkt. 24-1 (7th
13 Cir. Mar. 9, 2021). Two days later, 14 States—many of them which also seek to intervene in this
14 litigation—also moved to recall the mandate and intervene in the Seventh Circuit. The Seventh
15 Circuit denied the motion. *Cook Cty. v. Wolf*, No. 20-3150, Dkt. 26 (7th Cir. Mar. 15, 2021).
16 Those States then filed an application for a stay in the Supreme Court, which denied the application
17 without prejudice to the States seeking to intervene in the district court. *Texas v. Cook Cty.*, No.
18 20A150 (Apr. 26, 2021). Last week, the 14 States filed a motion to intervene in the Northern
19 District of Illinois, and a motion to reopen the final judgment pursuant to Rule 60(b). *Cook Cty.*
20 *v. Wolf*, No. 19-cv-6334, Dkt Nos. 256, 259 (N.D. Ill. May 12, 2021) (motions by States of Texas,
21 Ohio, Alabama, Mississippi, Louisiana, Kentucky, West Virginia, Kansas, Arkansas, Oklahoma,
22 Arizona, South Carolina, Indiana, and Montana). A motion hearing is scheduled for July 9, 2021.
23 *See id.* Dkt. 265 (N.D. Ill. May 18, 2021) (Court’s minute entry setting briefing and hearing

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25 ¹ On March 10, 2021, 11 States moved to intervene in the Ninth Circuit: Arizona, Alabama,
26 Arkansas, Indiana, Kansas, Louisiana, Mississippi, Montana, Oklahoma, Texas, and West
27 Virginia. The next day, two additional States, Missouri and South Carolina, joined the motion
28 filed by Arizona et al.

² The movant States’ motion to intervene in the Supreme Court is dated April 30 but was filed
and served on May 6, 2021.

1 schedule).

2 Recognizing that the 2019 Rule had been invalidated in a final judgment, Defendant
3 Department of Homeland Security issued a final rule that, effective March 9, 2021, implements
4 the Northern District of Illinois' vacatur of the 2019 Rule. *Inadmissibility on Public Charge*
5 *Grounds; Implementation of Vacatur*, 86 Fed. Reg. 14,221 (Mar. 15, 2021).³ As a result, the 2019
6 Rule has been removed from the Code of Federal Regulations and public charge assessments are
7 presently controlled by guidance issued in 1999. *See id.*; *Field Guidance on Deportability and*
8 *Inadmissibility on Public Charge Grounds*, 64 Fed. Reg. 28,689, 28,689 (Mar. 26, 1999).

9 In light of the ongoing litigation in the Northern District of Illinois concerning that district
10 court's final judgment and vacatur of the 2019 Rule, and the ongoing litigation in the Supreme
11 Court concerning the 13 States' efforts to intervene and obtain certiorari review of the Ninth
12 Circuit's decision affirming this Court's preliminary injunction, the parties propose that this action
13 remain stayed. The parties propose filing another joint status report within 14 calendar days after
14 disposition of the 13 States' motion to intervene in the Supreme Court pending in No. 20M81, or
15 of final disposition of the States' motions to intervene and reopen the judgment in the *Cook County*
16 matter, whichever is later.

17
18 Dated: May 21, 2021

Respectfully submitted,

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23 Branch Director

24 /s/ Kuntal Cholera
25 KERI L. BERMAN

26 ³ DHS issued its final rule for public inspection on March 9, 2021, but it was not published in the
27 *Federal Register* until March 15, 2021. *See* DHS, 2019 Public Charge Rule Vacated and
28 *Removed; DHS Withdraws Proposed Rule Regarding the Affidavit of Support*,
<https://www.dhs.gov/news/2021/03/11/2019-public-charge-rule-vacated-and-removed-dhs-withdraws-proposed-rule-regarding> (Mar. 11, 2021).

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