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August 30, 2021

By ECF

David J. Smith
Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth Street NW
Atlanta, GA 30303
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Re: *State of Florida v. United States of America*, No. 21-11715
(oral argument scheduled for September 24, 2021)

Dear Mr. Smith:

We write in response to the Court's order of August 19, 2021, directing the parties to file supplemental letter briefs addressing two questions: (1) whether the interim enforcement priorities at issue in this appeal have been changed or modified, and (2) whether the Department of Homeland Security (DHS) has an anticipated schedule for issuing final enforcement priorities to replace the interim priorities.

The interim priorities set forth in the January 20 and February 18 memoranda have not been altered through a new policy by defendants since the memoranda were issued. On August 19, 2021, a district court in the Southern District of Texas issued a preliminary injunction vacating the interim priorities and enjoining the government from continuing to implement them. *Texas v. United States*, No. 6:21-cv-16, 2021 WL 3683913 (S.D. Tex. Aug. 19, 2021). Upon receiving the order, DHS directed components to stop implementing the interim priorities immediately. Defendants strongly disagree with that decision and promptly appealed the order to the Fifth Circuit. *Texas v. United States*, No. 21-40618 (5th Cir.) (appeal filed Aug. 20, 2021). Defendants also asked the Fifth Circuit to stay the order pending appeal. On August 23, 2021, the *Texas* district court

administratively stayed the injunction to allow the court of appeals to act on the government's stay motion. And on August 25, 2021, the Fifth Circuit issued its own administrative stay, which will remain in effect until the court rules on the government's stay motion. As a result of those administrative stays, DHS directed components to continue to implement the interim priorities as set forth in the memoranda.

DHS has been working diligently to develop final enforcement priorities. Once issued, the final priorities will supersede the interim priorities set forth by the January 20 and February 18 memoranda and will likely render this appeal moot. DHS has informed us that it intends to issue the final priorities no later than the end of September.

Sincerely,

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/s/ Sean Janda
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