

1 CITY ATTORNEY'S OFFICE
2 CITY AND COUNTY OF SAN FRANCISCO
3 DENNIS J. HERRERA, State Bar #139669
4 City Attorney
5 JESSE C. SMITH, State Bar #122517
6 Chief Assistant City Attorney
7 RONALD P. FLYNN, State Bar #184186
8 Chief Deputy City Attorney
9 YVONNE R. MERÉ, State Bar #173594
10 Chief of Complex and Affirmative Litigation
11 SARA J. EISENBERG, State Bar #269303
12 Chief of Strategic Advocacy
13 MATTHEW D. GOLDBERG, State Bar #240776
14 Deputy City Attorney
15 City Hall, Room 234
16 1 Dr. Carlton B. Goodlett Place
17 San Francisco, California 94102-4602
18 Telephone: (415) 554-4748
19 Facsimile: (415) 554-4715
20 E-Mail: matthew.goldberg@sfcityatty.org

21 Attorneys for Plaintiff
22 CITY AND COUNTY OF SAN FRANCISCO

1 OFFICE OF THE COUNTY COUNSEL
2 COUNTY OF SANTA CLARA
3 JAMES R. WILLIAMS, State Bar #271253
4 County Counsel
5 GRETA S. HANSEN, State Bar #251471
6 Chief Assistant County Counsel
7 LAURA TRICE, State Bar #284837
8 Lead Deputy County Counsel
9 RAPHAEL N. RAJENDRA, State Bar #255096
10 Deputy County Counsel
11 JULIA B. SPIEGEL, State Bar #292469
12 Deputy County Counsel
13 H. LUKE EDWARDS, State Bar #313756
14 Deputy County Counsel
15 70 West Hedding Street
16 East Wing, Ninth Floor
17 San Jose, CA 95110-1770
18 Telephone: (408) 299-5900
19 Facsimile: (408) 292-7240
20 E-Mail: luke.edwards@cco.sccgov.org

21 Attorneys for Plaintiff
22 COUNTY OF SANTA CLARA

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14 UNITED STATES DISTRICT COURT
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16 NORTHERN DISTRICT OF CALIFORNIA

17 CITY AND COUNTY OF SAN FRANCISCO
18 and COUNTY OF SANTA CLARA,

19 Plaintiffs,

20 vs.

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

23 Defendants.

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

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26 STIPULATION AND [PROPOSED] ORDER
27 TO STAY PROCEEDINGS PENDING APPEAL

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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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

PHYLLIS J. HAMILTON
United States District Judge