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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

JOHN DOE #1; JUAN RAMON MORALES; JANE DOE #2; JANE DOE #3; IRIS ANGELINA CASTRO; BLAKE DOE; BRENDA VILLARRUEL; GABINO SORIANO CASTELLANOS; and LATINO NETWORK,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF HOMELAND SECURITY; KEVIN MCALEENAN, in his official capacity as Acting Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; ALEX M. AZAR II, in his official capacity as Secretary of the Department of Health and Human Services; U.S. DEPARTMENT OF STATE; MICHAEL POMPEO, in his official capacity as Secretary of State; and UNITED STATES OF AMERICA,

Defendants.

Case No.: 3:19-cv-01743-SI

UNOPPOSED MOTION TO STAY PROCEEDINGS

LR 7-1 CERTIFICATION

Pursuant to Local Rule 7-1, counsel for the parties conferred on this motion on April 16, 2021. Defendants' counsel stated that they do not oppose this motion to temporarily hold proceedings before this Court in abeyance while the Ninth Circuit considers Plaintiffs' petition for rehearing *en banc*.

MOTION TO STAY PROCEEDINGS

Plaintiffs respectfully move to stay proceedings before this Court while Plaintiffs' petition for rehearing *en banc* is adjudicated by the Ninth Circuit Court of Appeals.

On November 26, 2019, this Court issued an order preliminarily enjoining Presidential Proclamation No. 9945, which Defendants promptly appealed. Defendants also filed a motion to dismiss on May 29, 2020, and both parties finished briefing that motion on July 24, 2020. Defendants' motion to dismiss remains pending before this Court.

On December 31, 2020, after oral argument, the Ninth Circuit reversed this Court's preliminary injunction. On January 19, 2021, Plaintiffs filed a petition for rehearing *en banc*, on the basis that "the majority opinion conflicts with a binding published order of a prior panel, there is clear disagreement among the judges of [the Ninth Circuit] on the issues it presents, and it involves questions of exceptional and national importance." The Ninth Circuit directed Defendants to respond to the petition for rehearing. After the Ninth Circuit twice granted Defendants' extensions of time to respond, Defendants' response is currently due on June 11, 2021.

A stay of proceedings is warranted pursuant to this Court's inherent power "to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *see also Leyva v. Certified*

Grocers of California, Ltd., 593 F.2d 857, 863–64 (9th Cir. 1979) ("A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case."). Because the issues presented in the current Ninth Circuit proceedings overlap significantly with the issues presented in Defendants' motion to dismiss, the Ninth Circuit's adjudication of Plaintiffs' petition for rehearing *en banc* will bear on this Court's adjudication of that motion. Particularly given the issues of exceptional and national importance in this case, a stay is thus appropriate to further the orderly course of justice. *See CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). Plaintiffs' unopposed request for a stay of proceedings is also for a reasonable period of time and will not cause undue delay to the case. *See Leyva*, 593 F.2d at 864; *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1066–67 (9th Cir. 2007). Good cause therefore exists for a stay of proceedings while Plaintiffs' petition for rehearing *en banc* is adjudicated, both in the interests of judicial economy and in the parties' interests in the efficient use of their own resources.

Accordingly, Plaintiffs respectfully request that the Court grant this unopposed motion and enter an order staying proceedings until 30 days after the Ninth Circuit's mandate issues.

DATED this 16th day of April, 2021.

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