

1 BRIAN NETTER
2 Deputy Assistant Attorney General
3 STEPHANIE HINDS
4 Acting United States Attorney
5 ALEXANDER K. HAAS, SBN 220932
6 Branch Director
7 KERI L. BERMAN
8 KUNTAL V. CHOLERA
9 JOSHUA M. KOLSKY, DC Bar No. 993430
10 Trial Attorneys
11 United States Department of Justice
12 Civil Division, Federal Programs Branch
13 P.O. Box 883
14 Washington, D.C. 20044
15 Telephone: (202) 305-7664
16 Facsimile: (202) 616-8470
17 Email: joshua.kolsky@usdoj.gov

18 *Attorneys for Defendants*

19 **UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

20 CITY AND COUNTY OF SAN FRANCISCO
21 and COUNTY OF SANTA CLARA,

22 *Plaintiffs,*

23 *vs.*

24 U.S. CITIZENSHIP AND IMMIGRATION
25 SERVICES; DEPARTMENT OF
HOMELAND SECURITY, *et al.*;

26 *Defendants.*

27 Case No. 19-cv-4717 (PJH)

28 **JOINT STATUS REPORT**

Courtroom 3
Hon. Phyllis Hamilton
Trial date: Not set

23 The parties respectfully submit this Joint Status Report in this case challenging a
24 Department of Homeland Security rule entitled “Inadmissibility on Public Charge Grounds” (the
25 “2019 Rule”).

26 On March 10, 2021—four months after the Ninth Circuit affirmed this Court’s issuance of
27 a preliminary injunction enjoining the 2019 Rule, *see City & Cty. of S.F. v. U.S. Citizenship &*
28 *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

24
 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,

20 BRIAN NETTER
 21 Deputy Assistant Attorney General

22 ALEXANDER K. HAAS, SBN 220932
 23 Branch Director

24 /s/ Kuntal Cholera _____
 25 KERI L. BERMAN

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 27
 28 ³ DHS issued its final rule for public inspection on March 9, 2021, but it was not published in the
Federal Register until March 15, 2021. *See* DHS, 2019 Public Charge Rule Vacated and
 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).

1 KUNTAL V. CHOLERA
2 JOSHUA M. KOLSKY, DC Bar 993430
3 JASON LYNCH
4 Trial Attorneys
5 U.S. Department of Justice
6 Civil Division, Federal Programs Branch
P.O. Box 883
Washington, D.C. 20044
joshua.kolsky@usdoj.gov

7 *Attorneys for Defendants*

8 DENNIS J. HERRERA
9 City Attorney

10 By: /s/ Sara J. Eisenberg
11 JESSE C. SMITH
12 RONALD P. FLYNN
13 YVONNE R. MERE
14 SARA J. EISENBERG, State Bar #269303
MATTHEW D. GOLDBERG
Deputy City Attorneys

15 City Hall, Room 234
16 1 Dr. Carlton B. Goodlett Place
17 San Francisco, California 94102-4602
Telephone: (415) 554-4748
Facsimile: (415) 554-4715

19 Attorneys for Plaintiff
20 CITY AND COUNTY OF SAN FRANCISCO

21 JAMES R. WILLIAMS
22 *County Counsel*

23 By: /s/ Raphael N. Rajendra
24 GRETA S. HANSEN
25 LAURA TRICE
26 RAPHAEL N. RAJENDRA, State Bar #255096
27 JULIA B. SPIEGEL
H. LUKE EDWARDS
Deputy County Counsels

28 70 West Hedding Street

East Wing, Ninth Floor
San Jose, CA 95110-1770
Telephone: (408) 299-5900
Facsimile: (408) 292-7240

*Attorneys for Plaintiff
COUNTY OF SANTA CLARA*