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11 ATTORNEYS FOR PLAINTIFF COUNTY OF SANTA CLARA

12
 13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

16 COUNTY OF SANTA CLARA,

17 Plaintiff,

18 v.

19 DONALD J. TRUMP, President of the
 20 United States of America, JOHN F. KELLY,
 in his official capacity as Secretary of the
 21 United States Department of Homeland
 Security, JEFFERSON B. SESSIONS, in his
 22 official capacity as Attorney General of the
 United States, JOHN MICHAEL "MICK"
 23 MULVANEY, in his official capacity as
 24 Director of the Office of Management and
 Budget, and DOES 1-50,

25 Defendants.

Case No. 17-cv-00574-WHO

**PLAINTIFF COUNTY OF SANTA
 CLARA'S MOTION FOR LEAVE TO
 FILE A SURREPLY IN OPPOSITION TO
 DEFENDANTS' MOTION TO DISMISS**

Date: July 12, 2017
 Time: 2:00 p.m.
 Dept: Courtroom 2, 17th Floor
 Judge: Hon. William Orrick

Date Filed: February 3, 2017

Trial Date: April 23, 2018

1 Pursuant to Civil Local Rule 7-3(d), Plaintiff County of Santa Clara (“the County”)
2 respectfully asks the Court for leave to file a Surreply in response to Defendants’ Reply in
3 Support of Defendants’ Motion to Dismiss (Dkt. 136).

4 Defendants’ reply brief makes assertions that are directly contradicted by congressional
5 testimony recently provided by Department of Homeland Security officials regarding the meaning
6 and scope of Executive Order 13768 and the “sanctuary jurisdictions” that order targets.
7 Defendants’ reply brief also contains representations that stand at odds with recent official
8 statements made by President Trump. All of these statements are subject to judicial notice, and
9 the County intends to raise them at the hearing on defendants’ motion. To provide the Court with
10 the benefit of these public and binding statements before the hearing, the County seeks leave to
11 file a short surreply, highlighting the statements and attaching transcripts for the Court’s review.
12 The County believes this information will aid the Court in deciding the issues presented. *See In*
13 *re Cathode Ray Tube (CRT) Antitrust Litig.*, No. 3:14-CV-02510, 2014 WL 7206620, at *1 n.2
14 (N.D. Cal. Dec. 18, 2014) (granting leave to file a surreply “in the interests of completeness and
15 judicial efficiency”). The County’s proposed surreply is attached hereto as Attachment A.

16 If the Court is disinclined to allow the County to file a surreply, then, in the alternative,
17 the County requests that the Court take judicial notice of the documents attached as Exhibits A
18 through D to the proposed surreply brief. Those documents, which consist of official White
19 House press releases and transcripts of congressional testimony, are subject to judicial notice, and
20 the Court may consider them when deciding defendants’ motion to dismiss. *See Mir v. Little Co.*
21 *of Mary Hosp.*, 844 F.2d 646, 649 (9th Cir. 1988) (“[I]t is proper for the district court to take
22 judicial notice of matters of public record outside the pleadings and consider them for purposes of
23 the motion to dismiss.”); *Daniels-Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992, 998–99 (9th Cir. 2010)
24 (judicially noticing information contained on a government website); *321 Studios v. Metro*
25 *Goldwin Mayer Studios, Inc.*, 307 F. Supp. 2d 1085, 1107 (judicially noticing records from
26 congressional hearings “because they are the types of documents for which the accuracy cannot
27 reasonably be questioned.”); Fed. R. Evid. 201(b)(2); *see also* Fed. R. Evid. 201(c)(2) (mandating
28

1 that the court “must take judicial notice if a party requests it and the court is supplied with the
2 necessary information”).

3
4 Dated: July 6, 2017

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6 By: /s/ James R. Williams

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16 Dated: July 6, 2017

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