

1 JAMES R. WILLIAMS, County Counsel (S.B. #271253)
Greta S. Hansen (S.B. #251471)
2 L. JAVIER SERRANO (S.B. #252266)
OFFICE OF THE COUNTY COUNSEL
3 70 West Hedding Street, East Wing, Ninth Floor
San José, California 95110-1770
4 Telephone: (408) 299-5900
Facsimile: (408) 292-7240

5 Attorneys for Plaintiff

6 COUNTY OF SANTA CLARA
UNITED STATES DISTRICT COURT
7
NORTHERN DISTRICT OF CALIFORNIA
8
SAN FRANCISCO DIVISION
9

10 CITY AND COUNTY OF SAN
FRANCISCO,
11 Plaintiff,
12 v.
13 DONALD J. TRUMP, *et al.*,
Defendants.

**STIPULATION AND
FINAL JUDGMENT AND ORDER**

No. 3:17-cv-00485-WHO

14
15 COUNTY OF SANTA CLARA,
Plaintiff,
16 v.
17 DONALD J. TRUMP, *et al.*,
18 Defendants.

No. 3:17-cv-00574-WHO

19
20 WHEREAS, the underlying actions commenced as cases styled *City and County of San*
21 *Francisco v. Trump* (No. 3:17-cv-00485-WHO) and *County of Santa Clara v. Trump* (No. 3:17-cv-
22 00574-WHO), hereinafter collectively referred to as the “Litigation,” asserting claims challenging
23 the constitutionality of Section 9 of Executive Order Number 13768, entitled “Enhancing Public
24 Safety in the Interior of the United States” (“Section 9”);

25 WHEREAS, on November 20, 2017, the United States District Court for the Northern
26 District of California granted summary judgment in favor of Plaintiffs on these claims and entered a
27 permanent, nationwide injunction barring enforcement of Section 9;
28

1 WHEREAS, on August 1, 2018, in the Litigation upon appeal, the United States Court of
2 Appeals for the Ninth Circuit affirmed the District Court’s grant of summary judgement and
3 injunction as to the Executive Order’s effect in California but vacated the nationwide injunction for
4 further consideration by the District Court (*see City and County of San Francisco v. Trump*, 897
5 F.3d 1225 (9th Cir. 2018)); and

6 WHEREAS, the constitutionality of Section 9 is not currently being actively litigated
7 elsewhere in the nation and the Parties wish to avoid the need to expend further resources on
8 resolving these issues,

9 WHEREAS, assuming approval by the Court of the joint Stipulation and Final Judgment, the
10 pending Case Management Conference scheduled for August 20, 2019 may be cancelled as moot,

11 NOW THEREFORE, the parties hereby jointly stipulate to the following:

- 12 1. Final Judgment is hereby entered in favor of the Plaintiffs on the merits for the
13 reasons set forth in *City and County of San Francisco v. Trump*, 897 F.3d 1225 (9th
14 Cir. 2018);
- 15 2. All Parties agree that the deadline for further review of the Ninth Circuit’s August 1,
16 2018 decision has passed. Out of an abundance caution, however, the Parties agree
17 that Defendants shall not seek to pursue any further review from (1) the Ninth
18 Circuit’s decision of August 1, 2018, or (2) the final judgments entered in these cases.
- 19 3. The enforcement of Section 9 within the State of California is hereby enjoined;
- 20 4. Plaintiffs withdraw, without prejudice, their request for injunctive relief that would
21 reach outside the State of California;
- 22 5. For the sake of clarity, nothing in this dismissal precludes Plaintiffs from seeking to
23 renew their request for injunctive relief outside of the State of California by
24 reopening this matter. In the event that Plaintiffs seek to re-open the above
25 referenced cases, Defendants agree that any statute of limitations, statute of repose, or
26 other time-related defense based on federal, state or any other law (including, but not
27 limited to, defenses based on the doctrines of waiver, laches, acquiescence, or
28 estoppel) that may be applicable to any of the claims asserted by Plaintiffs will be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

deemed tolled. However, nothing in this dismissal precludes the United States from defending the merits of such a request; and

6. Each party in these actions will bear its own costs and attorney’s fees.

Respectfully submitted,

DENNIS J. HERRERA (CA Bar #139669)
City Attorney
JESSE C. SMITH (CA Bar #122517)
Chief Assistant City Attorney
RONALD P. FLYNN (CA Bar #184186)
Chief Deputy City Attorney
YVONNE R. MERÉ (CA Bar #173594)
Chief of Complex and Affirmative Litigation

JOSEPH H. HUNT
Assistant Attorney General
DAVID L. ANDERSON
United States Attorney
JOHN R. TYLER
Assistant Director

/s/ Sara J. Eisenberg
SARA J. EISENBERG (CA Bar #269303)
TARA M. STEELEY (CA Bar #231775)
AILEEN M. McGRATH, (CA Bar #280846)
Deputy City Attorneys

/s/ Daniel D. Mauler
DANIEL D. MAULER
(Va. Bar #73190)
Trial Attorney

City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, California 94102-4602
Telephone: (415) 554-4748
Facsimile: (415) 554-4715
E-Mail: brittany.feitelberg@sfgov.org

Department of Justice, Civil Division
P.O. Box 883
Washington, DC 20044
Telephone: (202) 616-0773
Facsimile: (202) 616-8470
E-mail: dan.mauler@usdoj.gov

COUNSEL FOR PLAINTIFF
CITY AND COUNTY OF SAN
FRANCISCO

DONALD J. TRUMP, President of the
United States; UNITED STATES OF
AMERICA; KEVIN K. McALEENAN,
Acting Secretary of Homeland Security;
WILLIAM P. BARR, Attorney General of
the United States in *City & County of San
Francisco v. Trump, et al.*, No. 3:17-cv-
00485-WHO

* * *

OFFICE OF THE COUNTY COUNSEL,
COUNTY OF SANTA CLARA

JAMES R. WILLIAMS
County Counsel

DONALD J. TRUMP, President of the
United States; KEVIN K. McALEENAN,
Acting Secretary of Homeland Security;
WILLIAM P. BARR, Attorney General of
the United States; MICK MULVANEY,
Director of the Office of Management and
Budget in *County of Santa Clara v. Trump,
et al.*, No. 3:17-cv-00574-WHO

/s/ Javier Serrano
JAVIER SERRANO (CA Bar #252266)
Deputy County Counsel

70 West Hedding Street
East Wing, Ninth Floor
San Jose, CA 95110-1770
Telephone: (408) 299-5900
Facsimile: (408) 292-7240
E-mail: javier.serrano@cco.sccgov.org

COUNSEL FOR PLAINTIFF
COUNTY OF SANTA CLARA

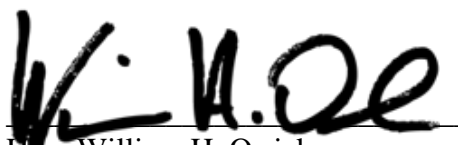
ORDER

It appearing to the Court that the parties jointly request the following relief, it is hereby **ORDRED** as follows:

1. Final Judgment is hereby entered in favor of the Plaintiffs on the merits for the reasons set forth in *City and County of San Francisco v. Trump*, 897 F.3d 1225 (9th Cir. 2018);
2. All Parties agree that the deadline for further review of the Ninth Circuit’s August 1, 2018 decision has passed. Out of an abundance caution, however, the Parties agree that Defendants shall not seek to pursue any further review from (1) the Ninth Circuit’s decision of August 1, 2018, or (2) the final judgments entered in these cases.
3. The enforcement of Section 9 within the State of California is hereby ENJOINED;
4. Plaintiffs’ request for injunctive relief that would reach outside the State of California is **DISMISSED WITHOUT PREJUDICE**;
5. For the sake of clarity, this dismissal does not Plaintiffs’ rights to seek to renew their request for injunctive relief outside of the State of California by reopening this matter. In the event that Plaintiffs seek to re-open the above referenced cases, Defendants agree that any statute of limitations, statute of repose, or other time-related defense based on federal, state or any other law (including, but not limited to, defenses based on the doctrines of waiver, laches, acquiescence, or estoppel) that may be applicable to any of the claims asserted by Plaintiffs will be deemed tolled. However, nothing in this dismissal precludes the United States from defending the merits of such a request; and
6. Each party in these actions shall bear its own costs and attorney’s fees.

IT IS SO ORDERED.

DATED: August 15, 2019


Hon. William H. Orrick
United States District Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ATTESTATION OF SIGNATURES

I, Javier Serrano, hereby attest, pursuant to Local Civil Rule 5-1(i)(3) of the Northern District of California, that concurrence in the filing of this document has been obtained from each signatory hereto.

/s/ Javier Serrano
JAVIER SERRANO (CA Bar #252266)
COUNSEL FOR PLAINTIFF

2064573