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13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

15 STATE OF CALIFORNIA, *et al.*,

16 Plaintiffs,

17 v.

18 WILBUR L. ROSS, JR., *et al.*,

19 Defendants.
20
21

Civil Action No. 3:18-cv-01865-RS

DEFENDANTS' ANSWER TO FIRST AMENDED COMPLAINT

22
23 Defendants Wilbur L. Ross, Jr., in his official capacity as Secretary of Commerce, the United
24 States Department of Commerce, Ron S. Jarmin, in his capacity as performing the non-exclusive
25 functions and duties of the Director of the United States Census Bureau, and the United States
26
27
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1 Census Bureau (collectively, “Defendants”) answers and responses to each numbered paragraph of
2 Plaintiffs’ First Amended Complaint (ECF No. 12) as follows:

3 1. The allegations in paragraph 1 consist of Plaintiffs’ characterizations of the U.S.
4 Constitution and case law and Plaintiffs’ legal conclusions, to which no response is required.

5 2. Defendants admit the first and second sentences of paragraph 2. Defendants deny
6 the third sentence of this paragraph, except to admit that the decennial census short-form
7 questionnaire last asked a citizenship question in 1950. Defendants admit the fourth sentence of this
8 paragraph in so far as, in the March 2017 report to Congress, none of the proposed topics for the
9 2020 Census related to citizenship or immigration status, but Plaintiffs’ allegation that the March
10 2017 report was “[c]onsistent with modern practice” is Plaintiffs’ characterization of a Census action
11 to which no response is required; to the extent a response is required, deny.

12 3. Defendants admit that the United States Department of Justice (“DOJ”) sent the
13 referenced letter to the U.S. Census Bureau requesting that a citizenship question be included on the
14 2020 decennial census questionnaire. The remaining allegations of paragraph 3 consist of Plaintiffs’
15 characterization of this letter, which speaks for itself and to which no response is required. The
16 Court is respectfully referred to the cited letter, which can be found in the Administrative Record
17 (“A.R.”) at 663 (Dkt. No. 23), for a complete and accurate statement of its contents. Defendants
18 deny any allegations of this paragraph not consistent with the letter.

19 4. Defendants admit Secretary Ross sent the referenced memorandum to Karen Dunn
20 Kelley directing reinstatement of a citizenship question on the 2020 decennial census questionnaire.
21 The remaining allegations of paragraph 4 consist of Plaintiffs’ characterization of this memorandum,
22 which speaks for itself and to which no response is required. The Court is respectfully referred to
23 the cited memorandum, Exhibit 1 to the First Amended Complaint, for a complete and accurate
24 statement of its contents. Defendants deny any allegations of this paragraph not consistent with the
25 memorandum.

26 5. Defendants deny the first sentence of paragraph 5. Defendants lack knowledge or
27 information sufficient to form a belief as to the truth of the allegations in the second sentence,
28 because Plaintiffs do not identify the “numerous studies” they reference, but, to the extent a response

1 is required, Defendants deny this sentence. The third sentence of this paragraph consists of Plaintiffs'
2 characterization of the cited legal brief, which speaks for itself and to which no response is required.
3 The Court is respectfully referred to the cited brief for a complete and accurate statement of its
4 contents, and Defendants deny any allegations of this sentence inconsistent with the brief.

5 6. Defendants lack knowledge or information sufficient to form a belief as to the truth
6 of the allegations in the first and fourth sentences of paragraph 6 but, to the extent a response is
7 required, Defendants deny these sentences. The second and third sentences of this paragraph consist
8 of Plaintiffs' characterization of the cited survey and study, which speak for themselves and to which
9 no response is required. The Court is respectfully referred to the cited survey and study for a
10 complete and accurate statement of their contents, and Defendants deny any allegations of this
11 paragraph inconsistent with the survey and study.

12 7. Paragraph 7 consists of Plaintiffs' characterization of this lawsuit, to which no
13 response is required.

14 8. Paragraph 8 consists of Plaintiffs' legal conclusions regarding jurisdiction, to which
15 no response is required but, to the extent a response is required, Defendants deny that this Court has
16 jurisdiction.

17 9. Paragraph 9 consists of Plaintiffs' legal conclusions, to which no response is required,
18 but, to the extent a response is required, deny.

19 10. The first sentence of paragraph 10 consists of Plaintiffs' legal conclusions regarding
20 venue, to which no response is required. The second sentence of this paragraph consists of Plaintiffs'
21 characterization of this lawsuit, to which no response is required.

22 11. Paragraph 11 consists of Plaintiffs' legal conclusions regarding intradistrict
23 assignment under the local rules, to which no response is required, but, to the extent a response is
24 required, admit.

25 12. Paragraph 12 consists of Plaintiffs' characterization of the cited statutes and legal
26 conclusions regarding the authority of the State of California and the Attorney General, to which no
27 response is required. In addition, the first and third sentences of this paragraph include Plaintiffs'
28 characterization of this lawsuit, to which a response also is not required.

1 13. Defendants deny the first sentence of paragraph 13. Defendants lack knowledge or
2 information sufficient to form a belief as to the truth of the allegations in the second sentence.

3 14.-19. Defendants lack knowledge or information sufficient to form a belief as to the truth
4 of the allegations in paragraphs 14-19, which appear to present legal conclusions but for which
5 Plaintiffs provide no authority.

6 20. Defendants admit that Defendant Wilbur L. Ross, Jr., is the United States Secretary
7 of Commerce and the head of the United States Department of Commerce, which includes the
8 United States Census Bureau. The remaining allegations of this paragraph consist of Plaintiffs'
9 characterization of Secretary Ross's legal authority and of this lawsuit, to which no response is
10 required.

11 21. Admit.

12 22. Admit, except as to Plaintiffs' characterization of the capacity in which Dr. Jarmin is
13 sued, which is a legal issue to which no response is required.

14 23. Admit.

15 24. The allegations in paragraph 24 consist of Plaintiffs' characterizations of the U.S.
16 Constitution and legal conclusions, to which no response is required.

17 25. The allegations in paragraph 25 consist of Plaintiffs' characterizations of the cited
18 statutory provision and case decision and Plaintiffs' legal conclusions, to which no response is
19 required.

20 26. The allegations in paragraph 26 consist of Plaintiffs' characterizations of the cited
21 statutory provisions and legal conclusions, to which no response is required.

22 27. Defendants deny the allegations of the first sentence. The allegations in paragraph
23 27 consist of Plaintiffs' characterizations of the cited statutory provision and legal conclusions, to
24 which no response is required.

25 28. Defendants admit the first sentence of paragraph 28. The allegations in the second
26 sentence consist of Plaintiffs' legal conclusions, to which no response is required.

27 29. The allegations in paragraph 29 consist of Plaintiffs' legal conclusions and
28 characterization of the cited material, to which no response is required. To the extent a response is

1 required, Defendants admit that the cited material contains the quoted language and is the best
2 evidence of its own contents.

3 30. Admit.

4 31. Admit to the first, second, third, and fourth sentences of this paragraph. Admit to
5 the fifth sentence in so far as the ACS contains more detailed personal and demographic information;
6 otherwise deny.

7 32. Deny, except to admit that the decennial census short-form questionnaire last asked
8 a citizenship question in 1950 and that the question currently appears on the ACS.

9 33. Admit.

10 34. Defendants admit that the date of the DOJ letter is December 12, 2017, but the
11 remaining allegations of paragraph 34 consist of Plaintiffs' characterization of the cited DOJ letter,
12 which speaks for itself and to which no response is required. The Court is respectfully referred to
13 the cited letter for a complete and accurate statement of its contents. Defendants deny any allegations
14 in this paragraph that are not consistent with the letter.

15 35. Defendants deny the first sentence except to admit that on March 26, 2018, Secretary
16 Ross directed the Census Bureau to reinstate a citizenship question on the 2020 decennial census
17 questionnaire and that on March 29, 2018, Defendants transmitted to Congress the questions that
18 will be asked on the 2020 decennial census. Defendants admit the second sentence of this paragraph.

19 36. Paragraph 36 consists of Plaintiffs' characterization of Secretary Ross's March 26,
20 2018, decision memorandum, which speaks for itself and to which no response is required.
21 Defendants respectfully refer the Court to the decision memo for a full and accurate statement of its
22 contents (Exhibit 1 to the First Amended Complaint) and deny any allegations in this paragraph
23 inconsistent with that memo.

24 37. Defendants deny the first, third, and fifth sentences of paragraph 37. The second,
25 fourth, and sixth sentences consist of Plaintiffs' characterization of the cited presentation, study, and
26 judicial opinion, to which no response is required. Defendants respectfully refer the Court to the
27 cited sources for a full and accurate statement of their contents and deny any allegations in this
28 paragraph inconsistent with those sources.

1 38. Defendants deny the first sentence of paragraph 38, except to admit that they
2 conducted data collection for the 2018 End-to-End Census Test earlier this year. The second
3 sentence consists of Plaintiffs' characterization of the 2018 Census Test; to which no response is
4 required; to the extent a response is required, deny. Defendants admit the third and fifth (quoting
5 from the Census Bureau's website) as well as the fourth and sixth sentences. Defendants deny the
6 seventh sentence.

7 39. Deny.

8 40. Defendants lack knowledge or information sufficient to form a belief as to the truth
9 of the allegations in paragraph 40, but, to the extent a response is required, deny.

10 41. Defendants lack knowledge or information sufficient to form a belief as to the truth
11 of the allegations in paragraph 41, but, to the extent a response is required, deny.

12 42. Defendants admit the first and third sentences of paragraph 42. Defendants lack
13 knowledge or information sufficient to form a belief as to the truth of the allegations in the second
14 and fourth sentences. Defendants lack knowledge or information sufficient to form a belief as to the
15 truth of the allegations in the bulleted list in this paragraph.

16 43. Defendants deny the first sentence of paragraph 43. Defendants admit the allegations
17 in the second sentence to the extent they reflect the 2012-2016 ACS results; otherwise deny. The
18 third sentence consists of Plaintiffs' characterization of the cited report, which speaks for itself and
19 to which no response is required. The court is respectfully referred to that report for a complete and
20 accurate statement of its contents. The last three sentences consist of Plaintiffs' characterizations of
21 the effect the decennial Census will have on the City of Oakland and its residents to which no
22 response is required, but to the extent an answer is deemed necessary, the allegations are denied.

23 44. Defendants lack knowledge or information sufficient to form a belief as to the truth
24 of the allegations in the first sentence of paragraph 44, because Plaintiffs do not define "highly
25 diverse" or "among highest." Defendants admit the correctness of the figures used by the allegations
26 in the second, third, and fourth sentences to the extent they reflect the 2012-2016 ACS results;
27 otherwise Defendants lack knowledge or information sufficient to form a belief as to the truth of the
28 remaining allegations in the second sentence, because Plaintiffs do not define "the average American

1 city.” Defendants deny Plaintiffs’ characterization of the language diversity as “dramatic” in the third
2 sentence. The last sentence consists of Plaintiffs’ characterization of the effect the decennial Census
3 will have on the City of Fremont and its residents to which no response is required, but to the extent
4 an answer is deemed necessary, the allegations are denied.

5 45. Defendants lack knowledge or information sufficient to form a belief as to the truth
6 of the allegations in the first sentence of paragraph 45, because Plaintiffs do not cite a source or
7 define “among the most diverse,” nor do Plaintiffs cite a source for “over 320,000 residents” or “the
8 13th largest city in California.” Defendants admit the allegations in the second and third sentences
9 to the extent they reflect the 2012-2016 ACS results; otherwise deny. The last three sentences consist
10 of Plaintiffs’ characterizations of the effect the decennial Census will have on the City of Stockton
11 and its residents to which no response is required, but to the extent an answer is deemed necessary,
12 the allegations are denied.

13 46. Defendants admit the allegations in the first and third sentences of paragraph 46 to
14 the extent they reflect the 2012-2016 ACS results, and otherwise deny. Defendants lack knowledge
15 or information sufficient to form a belief as to the truth of the allegations in the second sentence
16 because Plaintiffs do not define “one of the country’s most diverse.” The second-to-last sentence
17 consists of Plaintiffs’ characterization of this lawsuit, to which no response is required. The last
18 sentence consists of Plaintiffs’ characterization of the effect the decennial Census will have on the
19 County of Los Angeles and its residents to which no response is required, but to the extent an answer
20 is deemed necessary, the allegations are denied.

21 47. Defendants incorporate by reference their answers to paragraphs 1-46 of the First
22 Amended Complaint.

23 48. The allegations in paragraph 48 consist of Plaintiffs’ characterizations of the U.S.
24 Constitution and legal conclusions, to which no response is required.

25 49. The first and third sentences of paragraph 49 consist of Plaintiffs’ legal conclusions,
26 to which no response is required but, to the extent a response is required, Defendants deny these
27 allegations. Defendants lack knowledge or information sufficient to form a belief as to the truth of
28

1 the allegations in the second sentence of this paragraph but, to the extent a response is required,
2 deny.

3 50. The allegations in paragraph 50 consist of Plaintiffs' legal conclusions, to which no
4 response is required but, to the extent a response is required, Defendants lack knowledge or
5 information sufficient to form a belief as to the truth of the allegations in paragraph 50 but, to the
6 extent a response is required. To the extent a more specific response is required, deny.

7 51. The allegations in paragraph 51 consist of Plaintiffs' legal conclusions, to which no
8 response is required but, to the extent a response is required, Defendants lack knowledge or
9 information sufficient to form a belief as to the truth of the allegations in paragraph 51 but, to the
10 extent a response is required. To the extent a more specific response is required, deny.

11 52. The allegations in paragraph 52 consist of Plaintiffs' legal conclusions, to which no
12 response is required but, to the extent a response is required, deny.

13 53. Defendants incorporate by reference their answers to paragraphs 1-52 of the First
14 Amended Complaint.

15 54. The allegations in paragraph 54 consist of Plaintiffs' characterizations of the cited
16 statute and legal conclusions, to which no response is required.

17 55. The allegations of paragraph 55 consist of Plaintiffs' legal conclusions, to which no
18 response is required but, to the extent a response, is required, Defendants deny these allegations.

19 56. The allegations in paragraph 56 consist of Plaintiffs' legal conclusions, to which no
20 response is required but, to the extent a response is required, Defendants deny these allegations.

21 57. The allegations in paragraph 57 consist of Plaintiffs' legal conclusions, to which no
22 response is required but, to the extent a response is required, Defendants lack knowledge or
23 information sufficient to form a belief as to the truth of the allegations in paragraph 57 but, to the
24 extent a response is required. To the extent a more specific response is required, deny.

25 58. The allegations in paragraph 58 consist of Plaintiffs' legal conclusions, to which no
26 response is required but, to the extent a response is required, Defendants lack knowledge or
27 information sufficient to form a belief as to the truth of the allegations in paragraph 58 but, to the
28 extent a response is required. To the extent a more specific response is required, deny.

