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9 Attorneys for Defendants

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12  
13 STATE OF CALIFORNIA, *et al.*,

14 Plaintiffs,

15 v.

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

17 Defendants.

Civil Action No. 3:18-cv-01865-RS and  
Civil Action No. 3:18-cv-02279-RS

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19 \_\_\_\_\_  
City of San Jose, *et al.*,

20 Plaintiffs,

21 v.

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

23 Defendants.

**MOTION TO STAY PRETRIAL  
DEADLINES, PRETRIAL  
CONFERENCE AND TRIAL IN LIGHT  
OF LAPSE OF APPROPRIATIONS**

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25 Pursuant to 31 U.S.C. § 1342, the United States of America hereby moves for a Stay of all  
26 Pretrial Deadlines, the Pretrial Conference scheduled for January 2, 2019 and the bench trial  
27 scheduled to begin on January 7, 2019 in the above-captioned cases. The reasons for this motion  
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1 are as follows:

2 1. At the end of the day on December 21, 2018, the appropriations act that had been  
3 funding the Department of Justice expired and appropriations for the Department lapsed. The  
4 same is true for Defendant, the Department of Commerce. It is unknown at this time when  
5 Congress will restore funding.

6 2. Without appropriations, Department of Justice attorneys and employees of the  
7 Department of Commerce are prohibited from working on these matters, even on a voluntary basis,  
8 except in very limited circumstances, including “emergencies involving the safety of human life or  
9 the protection of property.” 31 U.S.C. § 1342.

10 3. Although undersigned counsel are prepared to meet the current pretrial deadlines, as  
11 well as, be ready for the January 2 pretrial conference and January 7 trial, due to the Anti-Deficiency  
12 Act, it is necessary for counsel to request a stay of all proceedings in these cases until Congress has  
13 restored appropriations to the Departments of Justice and Commerce. If this request for a stay is  
14 denied, and this Court orders the case to continue, the United States of course will comply with the  
15 Court’s order, notwithstanding the lapse in appropriations.

16 4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon  
17 as Congress has appropriated funds for the Departments of Justice and Commerce. The  
18 Government requests that, at that point, all current deadlines for the parties be extended  
19 commensurate with the duration of the lapse in appropriations.

20 5. Opposing counsel stated in the recently filed Pretrial Statement that they object to  
21 this motion.

22 Therefore, although we greatly regret any potential disruption caused to the Court and the  
23 other litigants, the Government hereby moves for a stay of all proceedings in these cases until  
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1 Department of Justice attorneys and Department of Commerce employees are permitted to resume  
2 their usual civil litigation functions.

3 Date: December 26, 2018

Respectfully submitted,

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