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CITY OF SAN JOSE and BLACK ALLIANCE FOR JUST
IMMIGRATION

[Additional Counsel Listed on Signature Page]

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CITY OF SAN JOSE, a municipal
corporation; and BLACK ALLIANCE
FOR JUST IMMIGRATION, a
California nonprofit corporation,

Plaintiffs,

3:18-cv-02279-RS
**ORDER
STIPULATION FOR HEARING
AND BRIEFING DEADLINES
RE: DISCOVERY OUTSIDE**

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vs.

WILBUR L. ROSS, JR., in his official capacity as Secretary of the U.S. Department of Commerce; U.S. DEPARTMENT OF COMMERCE; RON JARMIN, in his official capacity as Acting Director of the U.S. Census Bureau; U.S. CENSUS BUREAU,

Defendants.

THE ADMINISTRATIVE RECORD; [PROPOSED] ORDER

Dept: 3
Judge: The Honorable Richard G. Seeborg
Trial Date: None Set
Action Filed: April 17, 2018

The City of San Jose (“San Jose” or “the City”) and the Black Alliance for Just Immigration (“BAJI”) (collectively “Plaintiffs”) and Defendants Wilbur Ross, U.S. Department of Commerce, Ron Jarmin, and U.S. Census Bureau (collectively, “Defendants,” and together with Plaintiffs, “the Parties”) hereby stipulate as follows:

1. In its May 23, 2018, order, the Court set an initial status conference for June 28, 2018, at 10:00 a.m., in Courtroom 3 of this court. On June 10, 2018, the Court continued the initial status conference to 2:30 p.m. on June 28, 2018.

2. Plaintiffs and Defendants disagree on whether discovery is appropriate in this action. Plaintiffs contend that discovery is appropriate and necessary, because, among other reasons, the Complaint alleges that the agency decision was made in bad faith and includes a constitutional claim. Defendants contend that discovery is inappropriate because, notwithstanding Plaintiffs’ claims, Plaintiffs challenge a discrete, final agency action and this case should thus be decided on the administrative record compiled by the agency.

3. In order to resolve this disagreement so that the case may proceed expeditiously, the Parties stipulate and jointly ask the Court set a hearing on this issue for June 28, 2018, at 2:30 p.m., the same time and date as the Parties’ Initial Case Management Conference and as the hearing on this identical issue in related case *State of California v. Ross*, Case No. 18-cv-01865.

1 4. The Parties also stipulate and jointly ask the Court to order the following
2 briefing schedule prior to the June 28 hearing:

- 3 • Plaintiffs and Defendants shall submit simultaneous opening briefs,
4 limited to 10 pages, on June 14, 2018.
5 • Plaintiffs and Defendants shall submit simultaneous responding briefs,
6 limited to 6 pages, on June 21, 2018.

7 5. The Parties further note that, on May 22, 2018, this Court granted a
8 motion to relate this case to Case No. 18-2279, a case challenging the same agency
9 decision at issue here. *See* ECF No. 33. Given the similar facts and claims set forth
10 in the complaints, the Parties propose that briefing by the Parties in both related
11 cases should be simultaneous and that there may be other ways to best promote an
12 efficient resolution of these actions and conserve judicial resources.

13 **IT IS SO STIPULATED.**

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15 *[Signatures on next page]*
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Respectfully submitted,

Dated: June 11, 2018

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**CITY OF SAN JOSE and BLACK ALLIANCE
FOR JUST IMMIGRATION**

Dated: June 11, 2018

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Attorneys for Defendants

FILER'S ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), regarding signatures, Olufunmilayo O. Showole hereby attests that concurrence in the filing of this document has been obtained from all the signatories above.

Dated: June 11, 2018

s/ Olufunmilayo O. Showole
Olufunmilayo O. Showole

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1 ~~PROPOSED~~ ORDER

2 Based on the Parties' STIPULATION FOR HEARING AND BRIEFING
3 DEADLINES RE: DISCOVERY OUTSIDE OF THE ADMINISTRATIVE
4 RECORDS, the Court shall hear oral argument on whether the discovery is
5 appropriate in this action on June 28, 2018, at 2:30 p.m. in Courtroom 3, 17th Floor,
6 Phillips Burton Federal Building, 450 Golden Gate Avenue, San Francisco, CA
7 94102. Each party shall file opening briefs on this issue, not to exceed 10 pages, on
8 June 14, 2018. Each party shall file responding briefs, not to exceed 6 pages, on
9 June 21, 2018.

10 **IT IS SO ORDERED.**

11 Dated: 6/12/18

12 
13 HON. RICHARD SEEBORG
14 United States District Judge