

1 JOSEPH H. HUNT
Assistant Attorney General
2 Civil Division
JOHN R. TYLER
3 Assistant Branch Director.
RHETT P. MARTIN
4 Trial Attorney
DC Bar No. 999272
5 950 Pennsylvania Avenue NW
Washington, DC 20530
6 Tel: (202) 305-7538
Fax: (202) 616-8460
7 Rhett.martin@usdoj.gov

8 *Attorneys for Defendants*

9
10 **UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

11
12 CRISTA RAMOS, *et al.*,

13 Plaintiffs,

14 v.

15
16 KIRSTJEN NIELSEN, *et al.*,

17 Defendants.
18
19
20
21
22
23
24
25
26
27
28

Case No. 3:18-cv-01554-EMC

**STIPULATION TO STAY DISTRICT
COURT PROCEEDINGS PENDING
APPELLATE REVIEW OF
PRELIMINARY INJUNCTION;
~~PROPOSED~~ ORDER**

1 Pursuant to Local Rule 7-12, The parties hereby stipulate to, and respectfully request, on
2 the terms set forth in this stipulation and in the Declaration of Donald Neufeld [ECF No. 135-1],
3 a stay of proceedings on the merits of Plaintiffs’ claims, including the obligation to propose a
4 schedule for resolution of the case, pending final disposition of Defendants’ appeal of the
5 preliminary injunction, including through any additional appellate channels in which relief may
6 be sought.

7 The basis for this stipulation is as follows:

8 1. On October 3, 2018, the Court issued an order preliminarily enjoining and
9 restraining Defendants “from engaging in, committing, or performing, directly or indirectly, by
10 any means whatsoever, implementation and/or enforcement of the decisions to terminate
11 [Temporary Protected Status (“TPS”)] for Sudan, Haiti, El Salvador, and Nicaragua pending
12 resolution of this case on the merits.” *See* Order [ECF No. 128] at 42. Further, this Court
13 ordered Defendants to report within 15 days on the “administrative steps” Defendants have taken
14 to comply with the preliminary injunction. *See id.* at 43. Upon the parties’ joint submission, that
15 deadline was extended to October 23, 2018. *See* Orders [ECF Nos. 132, 133]. In addition, the
16 Court has directed the parties to file a joint case management statement by November 2, 2018,
17 and has scheduled case management conferences for October 26, 2018, and November 8, 2018.
18 *Id.*

19 2. On October 11, 2018, Defendants appealed the preliminary injunction to the U.S.
20 Court of Appeals for the Ninth Circuit. [ECF No. 129]. That court set a briefing schedule for
21 the appeal of the preliminary injunction consistent with Ninth Circuit Rule 3-3.

22 3. Further, on October 23, 2018, pursuant to this Court’s Order, Defendants reported
23 on the administrative steps they are undertaking in response to the preliminary injunction. In the
24 Declaration of Donald Neufeld [ECF No. 135-1] attached to that filing, Defendants represented
25 that, in the event the preliminary injunction was reversed on appeal, any termination of TPS for
26 Sudan, Haiti, El Salvador, and Nicaragua would go into effect no sooner than 120 days from the
27 issuance of any appellate mandate to this Court. *See* Declaration of Donald Neufeld [ECF No.
28 135-1] ¶ 10. Defendants further represented in the Neufeld Declaration that the planned

1 administrative steps described therein were based on an agreement reached with Plaintiffs “as
2 part of a negotiation to stay district court proceedings pending appellate review of the
3 preliminary injunction.” *Id.* ¶ 19.

4 4. The parties have committed to working in good faith to resolve any disputes
5 concerning DHS’s course of action as described in the Declaration of Donald W. Neufeld, Dkt.
6 135-1, including reasonable steps to address confusion among TPS beneficiaries and other
7 stakeholders regarding that course of action. In the event Plaintiffs believe DHS’s actions do not
8 comply with its announced course of action, the parties shall work in good faith to resolve the
9 matter before they may petition the Court for further guidance.

10 5. This Court has the authority to issue a stay of proceedings pending appeal: “[T]he
11 power to stay proceedings is incidental to the power inherent in every court to control the
12 disposition of the causes of its docket with economy of time and effort for itself, for counsel, and
13 for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936).

14 6. Accordingly, Plaintiffs and Defendants, through counsel, stipulate and request the
15 Court to order as follows:

16 (a) Further proceedings on the merits of this case, including discussions
17 about, and entry of, a schedule for resolving the merits of the case, shall be stayed
18 pending final resolution of Defendants’ appeal of the preliminary injunction, including
19 through any additional appellate channels in which relief may be sought.

20 (b) In the event that the preliminary injunction is affirmed in whole or part
21 after all appellate channels have been exhausted, the parties anticipate resuming litigation
22 in this Court. In the event that the preliminary injunction is vacated on appeal for any of
23 the four terminations, nothing in this agreement forecloses Plaintiffs from initiating
24 discovery forthwith, nor does anything in this agreement foreclose Defendants from
25 opposing such discovery. Plaintiffs need not wait until the mandate issues before
26 initiating discovery in such a situation.

27 (c) Following the conclusion of the appeal of the preliminary injunction, TPS
28 will remain in effect for Sudan, Haiti, El Salvador, and Nicaragua for a minimum of the

1 later of a) 120 days following the issuance of any mandate to the district court or b) the
 2 Secretary’s previously-announced effective date for the termination of TPS designations
 3 for each individual country (Nicaragua – January 5, 2019; Haiti – July 22, 2019; El
 4 Salvador – September 9, 2019).

5 (d) Nothing in this stipulation prevents Plaintiffs from presenting to the Court
 6 for resolution any issues concerning Defendants’ compliance with the proposed plan to
 7 implement the preliminary injunction [ECF No. 135-1], or with the terms of this
 8 stipulation. Should Defendants for any reason fail to comply with the plan to implement
 9 the preliminary injunction [ECF No. 135-1], or the terms of this stipulation, Plaintiffs
 10 reserve the right to request that this stay be lifted.

11 7. Following the exhaustion of all appeals, the parties plan to file a status report with
 12 this Court within 14 days of the issuance of the mandate to this Court.

13
 14
 15 SO STIPULATED this 26th day of October, 2018.

<p>17 JOSEPH H. HUNT 18 Assistant Attorney General 19 Civil Division</p> <p>20 JOHN R. TYLER 21 Assistant Branch Director</p> <p>22 <u>/s/ Rhett P. Martin</u> 23 RHETT P. MARTIN 24 Trial Attorney 25 DC Bar No. 999272 26 950 Pennsylvania Avenue NW 27 Washington, DC 20530 28 Tel: (202) 305-7538 Fax: (202) 616-8460 Rhett.martin@usdoj.gov</p>	<p><u>/s/ Alycia A. Degen</u> Alycia A. Degen, SBN 211350 adegan@sidley.com Sean A. Commons, SBN 217603 scommons@sidley.com SIDLEY AUSTIN LLP 555 West Fifth Street, Suite 4000 Los Angeles, CA 90013 Telephone: (213) 896-6000 Fax: (213) 896-6600</p> <p>Ahilan T. Arulanantham, SBN 237841 aarulanantham@aclusocal.org ACLU FOUNDATION OF SOUTHERN CALIFORNIA 1313 West 8th Street Los Angeles, CA 90017 Telephone: (213) 977-5211 Fax: (213) 977-5297</p> <p>William S. Freeman, SBN 82002</p>
---	--

wfreeman@aclunc.org
ACLU FOUNDATION
OF NORTHERN CALIFORNIA
39 Drumm Street
San Francisco, California 94111
Telephone: (415) 621-2493
Fax: (415) 863-7832

Jessica Karp Bansal, SBN 277347
jbansal@ndlon.org
Emilou MacLean, SBN 319071
emi@ndlon.org
NATIONAL DAY LABORER
ORGANIZING NETWORK
674 S. La Fayette Park Place
Los Angeles, CA 90057
Telephone: (213) 380-2214
Fax: (213) 380-2787

Nicole M. Ryan, SBN 175980
nicole.ryan@sidley.com
Ryan M. Sandrock, SBN 251781
rsandrock@sidley.com
SIDLEY AUSTIN LLP
555 California Street, Suite 2000
San Francisco, CA 94104
Telephone: (415) 772-1200
Fax: (415) 772-7400

Amanda R. Farfel, SBN 288126
afarfel@sidley.com
Andrew B. Talai, SBN 300053
atalai@sidley.com
Marisol Ramirez, SBN 307069
marisol.ramirez@sidley.com
SIDLEY AUSTIN LLP
555 West Fifth Street, Suite 4000
Los Angeles, CA 90013
Telephone: (213) 896-6000
Fax: (213) 896-6600

CIVIL LOCAL RULE 5-1(i) ATTESTATION

Pursuant to Local Rule 5-1(i)(3), regarding signatures, Rhett P. Martin hereby attests that concurrence in the filing of this document has been obtained from counsel for Plaintiffs.

/s/ Rhett P. Martin

~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: October 26, 2018



The Honorable Edward M. Chen
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