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15 *Attorneys for Defendants*

16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
18 **SAN JOSE DIVISION**

19 NATIONAL URBAN LEAGUE, *et al.*,

20 Plaintiff,

21 v.

22 WYNN COGGINS., *et al.*,¹

23 Defendants.
24
25

Case No. 5:20-cv-05799-LHK

NOTICE

Hearing Date: N/A

Time: N/A

Judge: Hon. Lucy H. Koh

26 ¹ Pursuant to Federal Rule of Civil Procedure 25(d), Acting Secretary of Commerce Wynn
27 Coggins is automatically substituted as a Defendant in her official capacity for former Secretary
28 of Commerce Wilber Ross, and Acting Director of the Census Bureau Dr. Ron Jarmin is
automatically substituted as a Defendant in his official capacity for former Director Dr. Steven
Dillingham.

NOTICE

1
2 Defendants respectfully notify the Court and the Plaintiffs that, on January 20, 2021,
3 President Joseph R. Biden, Jr. signed an Executive Order titled “Ensuring a Lawful and Accurate
4 Enumeration and Apportionment Pursuant to the Decennial Census.” Although the Executive
5 Order has not yet been published in the Federal Register, the full text is available at
6 [https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ensuring-a-lawful-and-accurate-enumeration-and-apportionment-pursuant-to-decennial-census/)
7 [ensuring-a-lawful-and-accurate-enumeration-and-apportionment-pursuant-to-decennial-census/](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-ensuring-a-lawful-and-accurate-enumeration-and-apportionment-pursuant-to-decennial-census/),
8 and is also attached to this notice as Exhibit 1.

9 The Executive Order revokes Executive Order 13880 and the Presidential Memorandum
10 of July 21, 2020. *See* Section 5. The Executive Order states that “it is the policy of the United
11 States that reapportionment shall be based on the total number of persons residing in the several
12 States, without regard for immigration status.” Section 2. To effectuate that policy, Section 3 of
13 the Order instructs the Secretary of Commerce to “report the tabulation of total population by State
14 that reflects the whole number of persons whose usual residence was in each State as of the
15 designated census date in section 141(a) of title 13, United States Code, without regard to
16 immigration status.” The Executive Order further directs the Secretary to “use tabulations of
17 population reflecting the whole number of persons whose usual residence was in each State as of
18 the census date, without regard to immigration status, in reports provided to the Governor and
19 officers or public bodies having responsibility for legislative apportionment or districting of each
20 State under section 141(c) of title 13, United States Code.”

21 Section 4 of the Executive Order also instructs the Secretary to “take all necessary steps,
22 consistent with law, to ensure that the total population information presented to the President and
23 to the States is accurate and complies with all applicable laws.”
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25 DATED: January 21, 2021

Respectfully submitted,

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27 BRIAN M. BOYNTON
Acting Assistant Attorney General
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