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8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

12 **CITIZENS FOR FAIR
 13 REPRESENTATION; CITY OF FORT
 14 JONES; THE CALIFORNIA
 15 LIBERTARIAN PARTY; THE
 16 CALIFORNIA AMERICAN
 17 INDEPENDENT PARTY; THE MARIN
 18 COUNTY GREEN PARTY; MARK
 19 BAIRD; JOHN D'AGOSTINI; LARRY
 20 WAHL; SHASTA NATION INDIAN
 21 TRIBE; ROY HALL JR; WIN
 22 CARPENTER; KYLE CARPENTER;
 23 PATTY SMITH; KATHERINE
 24 RADINOVICH; DAVID GARCIA; LESLIE
 25 LIM; KEVIN MCGARY; TERRY
 26 RAPOZA; HOWARD THOMAS;
 27 MICHAEL THOMAS; STEVEN BAIRD;
 28 MANUEL MARTIN; OTHERS
 SIMILARLY SITUATED; AND DOES 1-
 30,**

Plaintiffs,

v.

25 **SECRETARY OF STATE ALEX
 26 PADILLA,**

Defendant.

2:17-cv-00973

DEFENDANT'S OPPOSITION TO EX PARTE APPLICATION FOR STAY

Date: N/A
 Time: N/A
 Courtroom: 3
 Judge: The Honorable Kimberly J. Mueller
 Action Filed: 5/9/17

1 **PLAINTIFFS HAVE SHOWN NO JUSTIFICATION FOR A STAY**

2 The law on stays is straightforward:

3 A district court “has broad discretion to stay proceedings as an incident to its power
4 to control its own docket” in an effort to promote judicial economy. *Clinton v. Jones*,
5 520 U.S. 681, 706–07, 117 S.Ct. 1636, 137 L.Ed.2d 945 (1997); *Lockyer v. Mirant*
6 *Corp.*, 398 F.3d 1098, 1109 (9th Cir. 2005). The party who moves for a stay has the
7 burden to “make out a clear case of hardship or inequity in being required to go
8 forward,” and the court must weigh the competing interests that will be affected by
9 the granting of or refusal to grant the stay. *Landis v. N. Am. Co.*, 299 U.S. 248, 255,
10 57 S.Ct. 163, 81 L.Ed. 153 (1936).

11 *DeMartini v. Johns* (9th Cir. 2017) 693 Fed.Appx. 534, 538.

12 Plaintiffs’ ex parte application for a stay should be denied because they have not met their
13 burden of showing hardship or inequity in going forward. Plaintiffs suggest that the Court cannot
14 resolve the issues before it without first considering several recently-decided Supreme Court
15 opinions. Dkt. 59, p. 7. But as Plaintiffs are well aware, recent authority can be (and has been)
16 brought to the Court’s attention via notices of supplemental authority. *See* Dkt. 51, 58, 60.
17 Plaintiffs have not identified issues that need further consideration. Plaintiffs also suggest that a
18 stay is necessary to allow them to file a mandamus proceeding to “obtain guidance” from the
19 Supreme Court regarding their request that a three-judge court be convened. Dkt. 59, p. 7. But
20 the Court has not yet entered a final ruling on the three-judge issue, and any party who is
21 dissatisfied with the Court’s final ruling will be able to raise that issue on appeal.

22 Plaintiffs will suffer no conceivable hardship by resolving the pending motions through the
23 normal motion procedure, and for that reason the ex parte application for a stay should be denied.

24 Dated: June 29, 2018

Respectfully submitted,

25 XAVIER BECERRA
26 Attorney General of California
27 MARK R. BECKINGTON
28 Supervising Deputy Attorney General

/s/ *George Waters*
GEORGE WATERS
Deputy Attorney General
Attorneys for Defendant Alex Padilla

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CERTIFICATE OF SERVICE

Case Name: **Citizens for Fair** No. **2:17-cv-00973**
Representation, et al. v.
Secretary of State Alex Padilla _____

I hereby certify that on June 29, 2018, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

DEFENDANT’S OPPOSITION TO EX PARTE APPLICATION FOR STAY

I certify that **all** participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 29, 2018, at Sacramento, California.

Tracie L. Campbell
Declarant

/s/ Tracie Campbell
Signature