

1 [Counsel identified on signature pages]

2

3

4

5

6

7

8

9

10

UNITED STATES DISTRICT COURT

11

FOR THE NORTHERN DISTRICT OF CALIFORNIA

12

SAN JOSE DIVISION

13

14 NATIONAL URBAN LEAGUE, et al.,

CASE NO. 5:20-cv-05799-LHK

15

16 Plaintiffs,

**STIPULATION AND ~~PROPOSED~~
ORDER REGARDING STAY OF
FURTHER PROCEEDINGS ON
PLAINTIFFS' MOTION TO COMPEL**

17

v.

18

17 WYNN COGGINS, et al.,

18

18 Defendants.

19

20

21

22

23

24

25

26

27

28

1 Pursuant to Civil Local Rules 6-2 and 7-12, the parties to this action, by their respective
2 counsel, respectfully submit the following Joint Stipulation, and respectfully request that the
3 Court issue the following order:

4 WHEREAS, on January 15, 2021, the Court entered the parties' Stipulation and Order
5 Regarding Census and Population Counts and 21-Day Stay of Proceedings ("Stipulation and
6 Order"), ECF No. 456;

7 WHEREAS, the Stipulation and Order provided for a 21-day stay of this case, beginning
8 January 15, 2021 and ending February 5, 2021, except with respect to Plaintiffs' Renewed
9 Motion to Compel, ECF No. 433, which remained pending before the Magistrate Judge Panel;

10 WHEREAS, on January 28, 2021, the Magistrate Judge Panel issued a decision granting
11 Plaintiffs' Renewed Motion to Compel and directing Defendants to produce certain data and a
12 declaration by February 1, 2021 at 9:00 a.m. Pacific Time, ECF No. 462;

13 WHEREAS, the Magistrate Judge Panel further ordered any objection to the decision
14 must be filed "within 48 hours of this order [*i.e.*, by January 30, 2021 at 12:35 PM Pacific Time]
15 or a different deadline, if set by Judge Koh";

16 WHEREAS, the parties are engaged in ongoing discussions regarding what future
17 proceedings may be appropriate in this case in light of certain actions recently taken by the new
18 Administration, including Executive Order 13986 of January 20, 2021, 86 FR 7015, titled
19 "Ensuring a Lawful and Accurate Enumeration and Apportionment Pursuant to the Decennial
20 Census," *see* ECF No. 461, and the Census Bureau's announcement that it is currently scheduled
21 to complete apportionment counts by April 30, 2021¹;

22 WHEREAS, Defendants have recently provided Plaintiffs some additional information
23 and represented to Plaintiffs that they are committed to shortly providing calculations and
24 aggregate charts to Plaintiffs that will serve to reduce the need for detailed summary data reports
25 by providing Plaintiffs with specific calculations and answers to their requests for information
26 regarding NRFU enumeration metrics, outcome measures and process indicators/paradata;

27 _____
28 ¹ Census Bureau Statement on Apportionment Counts (Jan. 28, 2021),
<https://www.census.gov/newsroom/press-releases/2021/statement-apportionment-counts.html>.

1 WHEREAS, in an effort to reduce inefficiencies for all parties and the Court—including
2 through reducing the need for additional judicial direction by the Court, avoiding the delays of
3 potential appeal, and reducing the need to potentially assess multiple sets of data as Defendants
4 continue to process the data received from field operations—Plaintiffs are willing to continue
5 working with Defendants in an effort to resolve these data issues without further Court
6 intervention;

7 WHEREAS, the parties agree that it is in the interest of both the parties and the public for
8 the parties to continue to focus their efforts on those ongoing discussions and to stay further
9 proceedings on Plaintiffs’ Motion to Compel for 7 days to allow those discussions to continue
10 and for Defendants to start providing Plaintiffs with specific information regarding the relevant
11 calculation and aggregate charts they have agreed to provide;

12 NOW, THEREFORE, THE PARTIES JOINTLY STIPULATE, AND RESPECTFULLY
13 REQUEST THAT THE COURT ORDER, AS FOLLOWS:

14 That the Court enter a 7-day stay of further proceedings on Plaintiffs’ Motion to Compel
15 and for Sanctions, effective beginning January 29, 2021 and ending on February 5, 2021. If the
16 stay is lifted, any objection to the Magistrate Judge Panel’s decision on Plaintiffs’ Renewed
17 Motion to Compel would be due on February 6, 2021 at 11:59 PM Pacific Time. If Defendants
18 file an objection, the Magistrate Judge Panel’s order that Defendants produce certain data and a
19 declaration will be stayed pending the Court’s decision on the objection. If Defendants do not
20 file an objection, Defendants shall produce the data and declaration specified in the decision by
21 February, 8, 2021 at 9:00 a.m. Pacific Time.

22
23 Dated: January 30, 2021

LATHAM & WATKINS LLP

24
25 By: /s/ Sadik Huseny
Sadik Huseny

26 Sadik Huseny (Bar No. 224659)
27 sadik.huseny@lw.com
Steven M. Bauer (Bar No. 135067)
28 steven.bauer@lw.com
Amit Makker (Bar No. 280747)

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

amit.makker@lw.com
Shannon D. Lankenau (Bar. No. 294263)
shannon.lankenau@lw.com
LATHAM & WATKINS LLP
505 Montgomery Street, Suite 2000
San Francisco, CA 94111
Telephone: 415.391.0600
Facsimile: 415.395.8095

Melissa Arbus Sherry (*pro hac vice*)
melissa.sherry@lw.com
Richard P. Bress (*pro hac vice*)
rick.bress@lw.com
Anne W. Robinson (*pro hac vice*)
anne.robinson@lw.com
Tyce R. Walters (*pro hac vice*)
tyce.walters@lw.com
Gemma Donofrio (*pro hac vice*)
gemma.donofrio@lw.com
Christine C. Smith (*pro hac vice*)
christine.smith@lw.com

LATHAM & WATKINS LLP
555 Eleventh Street NW, Suite 1000
Washington, D.C. 20004
Telephone: 202.637.2200
Facsimile: 202.637.2201

*Attorneys for Plaintiffs National Urban League;
League of Women Voters; Black Alliance for
Just Immigration; Harris County, Texas; King
County, Washington; City of San Jose,
California; Rodney Ellis; Adrian Garcia; and
the NAACP*

Dated: January 30, 2021

By: /s/ Jon M. Greenbaum
Kristen Clarke (*pro hac vice*)
kclarke@lawyerscommittee.org
Jon M. Greenbaum (Bar No. 166733)
jgreenbaum@lawyerscommittee.org
Ezra D. Rosenberg (*pro hac vice*)
erosenberg@lawyerscommittee.org
Ajay Saini (*pro hac vice*)
asaini@lawyerscommittee.org
Maryum Jordan (Bar No. 325447)
mjordan@lawyerscommittee.org
Pooja Chaudhuri (Bar No. 314847)
pchaudhuri@lawyerscommittee.org
**LAWYERS' COMMITTEE FOR CIVIL
RIGHTS UNDER LAW**
1500 K Street NW, Suite 900
Washington, DC 20005
Telephone: 202.662.8600
Facsimile: 202.783.0857

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

Attorneys for Plaintiffs National Urban League; City of San Jose, California; Harris County, Texas; League of Women Voters; King County, Washington; Black Alliance for Just Immigration; Rodney Ellis; Adrian Garcia; the NAACP; and Navajo Nation

Wendy R. Weiser (*pro hac vice*)
weiserw@brennan.law.nyu.edu
Thomas P. Wolf (*pro hac vice*)
wolft@brennan.law.nyu.edu
Kelly M. Percival (*pro hac vice*)
percivalk@brennan.law.nyu.edu

BRENNAN CENTER FOR JUSTICE

120 Broadway, Suite 1750
New York, NY 10271
Telephone: 646.292.8310
Facsimile: 212.463.7308

Attorneys for Plaintiffs National Urban League; City of San Jose, California; Harris County, Texas; League of Women Voters; King County, Washington; Black Alliance for Just Immigration; Rodney Ellis; Adrian Garcia; the NAACP; and Navajo Nation

Mark Rosenbaum (Bar No. 59940)
mrosenbaum@publiccounsel.org
PUBLIC COUNSEL
610 South Ardmore Avenue
Los Angeles, California 90005
Telephone: 213.385.2977
Facsimile: 213.385.9089

Attorneys for Plaintiff City of San Jose

Doreen McPaul, Attorney General
dmcpaul@nndoj.org
Jason Searle (*pro hac vice*)
jasearle@nndoj.org
NAVAJO NATION DEPARTMENT OF JUSTICE
P.O. Box 2010
Window Rock, AZ 86515
Telephone: (928) 871-6345

Attorneys for Navajo Nation

Dated: January 30, 2021

By: /s/ Danielle Goldstein
Michael N. Feuer (Bar No. 111529)
mike.feuer@lacity.org

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

Kathleen Kenealy (Bar No. 212289)
kathleen.kenealy@lacity.org
Danielle Goldstein (Bar No. 257486)
danielle.goldstein@lacity.org
Michael Dundas (Bar No. 226930)
mike.dundas@lacity.org
**CITY ATTORNEY FOR THE CITY OF
LOS ANGELES**
200 N. Main Street, 8th Floor
Los Angeles, CA 90012
Telephone: 213.473.3231
Facsimile: 213.978.8312

Attorneys for Plaintiff City of Los Angeles

Dated: January 30, 2021

By: /s/ Michael Mutalipassi
Christopher A. Callihan (Bar No. 203010)
legalwebmail@ci.salinas.ca.us
Michael Mutalipassi (Bar No. 274858)
michaelmu@ci.salinas.ca.us
CITY OF SALINAS
200 Lincoln Avenue
Salinas, CA 93901
Telephone: 831.758.7256
Facsimile: 831.758.7257

Attorneys for Plaintiff City of Salinas

Dated: January 30, 2021

By: /s/ Rafey S. Balabanian
Rafey S. Balabanian (Bar No. 315962)
rbalabanian@edelson.com
Lily E. Hough (Bar No. 315277)
lthough@edelson.com
EDELSON P.C.
123 Townsend Street, Suite 100
San Francisco, CA 94107
Telephone: 415.212.9300
Facsimile: 415.373.9435

Rebecca Hirsch (*pro hac vice*)
rebecca.hirsch2@cityofchicago.org
**CORPORATION COUNSEL FOR THE
CITY OF CHICAGO**
Celia Mexa
Stephen J. Kane
121 N. LaSalle Street, Room 600
Chicago, IL 60602
Telephone: (312) 744-8143
Facsimile: (312) 744-5185

Attorneys for Plaintiff City of Chicago

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

Dated: January 30, 2021

By: /s/ Donald R. Pongrace
Donald R. Pongrace (*pro hac vice*)
dpongace@akingump.com
Merrill C. Godfrey (Bar No. 200437)
mgodfrey@akingump.com
**AKIN GUMP STRAUSS HAUER & FELD
LLP**
2001 K St., N.W.
Washington, D.C. 20006
Telephone: (202) 887-4000
Facsimile: 202-887-4288

*Attorneys for Plaintiff Gila River Indian
Community*

Dated: January 30, 2021

By: /s/ David I. Holtzman
David I. Holtzman (Bar No. 299287)
David.Holtzman@hklaw.com
HOLLAND & KNIGHT LLP
Daniel P. Kappes
Jacqueline N. Harvey
50 California Street, 28th Floor
San Francisco, CA 94111
Telephone: (415) 743-6970
Fax: (415) 743-6910

Attorneys for Plaintiff County of Los Angeles

DATED: January 30, 2021

BRIAN M. BOYNTON
Acting Assistant Attorney General

AUGUST E. FLENTJE
Special Counsel to the Assistant
Attorney General

ALEXANDER K. HAAS
Branch Director

/s/ Brad P. Rosenberg
BRAD P. ROSENBERG (DC Bar # 467513)
Assistant Branch Director
ZACHARY A. AVALLONE
ELLIOTT M. DAVIS
JOHN ROBINSON
STEPHEN EHRLICH
ALEXANDER V. SVERDLOV

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

M. ANDREW ZEE
Trial Attorneys
U.S. Department of Justice
Civil Division - Federal Programs Branch
1100 L Street, NW
Washington, D.C. 20005
Telephone: (202) 514-3374

Attorneys for Defendants

ATTESTATION

I, Sadik Huseny, am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

Dated: January 30, 2021

LATHAM & WATKINS LLP

By: /s/ Sadik Huseny
Sadik Huseny

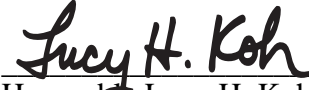
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[PROPOSED] ORDER

The stipulation is GRANTED.

PURSUANT TO THE PARTIES' STIPULATION, IT IS SO ORDERED.

DATED: January 31, 2021



Honorable Lucy H. Koh
United States District Judge