

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

[Counsel identified on signature pages]

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NATIONAL URBAN LEAGUE, et al.,

Plaintiffs,

v.

WYNN COGGINS, et al.,

Defendants.

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

**STIPULATION AND [PROPOSED]
ORDER**

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 ("January 15
6 Stipulation and Order"), ECF No. 456;

7 WHEREAS, the January 15 Stipulation and Order provided for a 21-day stay of this case,
8 beginning January 15, 2021 and ending February 5, 2021;

9 WHEREAS, the parties have engaged in good-faith discussions concerning the potential
10 resolution of this case, and the parties have reached agreement on key portions of Plaintiffs'
11 claims;

12 WHEREAS, the parties believe that the public interest would be served by staying all
13 proceedings in this litigation for 21 additional days while the parties continue their discussions
14 concerning the potential resolution of this case;

15 WHEREAS, Plaintiffs are amenable to a 21-day stay, based on Defendants' express
16 acknowledgments and representations below, provided to ensure that Plaintiffs are not prejudiced
17 in any way by a stay.

18 NOW, THEREFORE, DEFENDANTS HEREBY REPRESENT AND STIPULATE AS
19 FOLLOWS:

20 1. On January 20, 2021, President Biden signed Executive Order 13986, which
21 revoked (a) Executive Order 13880 ("Collecting Information About Citizenship Status in
22 Connection With the Decennial Census") and (b) the Presidential Memorandum of July 21, 2020
23 ("Excluding Illegal Aliens from the Apportionment Base Following the 2020 Census"). Exec.
24 Order No. 13986, 86 Fed. Reg. 7015 (Jan. 25, 2021). Consistent with Executive Order 13986,
25 the tabulation of total population by States based on 2020 Census data and described by 13
26 U.S.C. § 141(b), and the P.L. 94-171 Redistricting Summary Data File based on 2020 Census
27 data and described by 13 U.S.C. § 141(c), will not include or otherwise incorporate any
28

1 information on citizenship or immigration status, nor will such counts or data products be
2 affected by any information on citizenship or immigration status.

3 2. The Census Bureau is currently scheduled to release the results of the 2020
4 Census by April 30, 2021. As in prior censuses, the Census Bureau may wish to release the
5 results a short period before the scheduled release date. However, the Census Bureau will not
6 under any circumstances report the results of the 2020 Census to the Secretary of the Department
7 of Commerce, the President, and Congress, before April 16, 2021. This schedule is equivalent to
8 the COVID-19 plan timeline for data processing sought by Plaintiffs' Second Amended
9 Complaint.

10 FURTHER, THE PARTIES JOINTLY STIPULATE, AND RESPECTFULLY
11 REQUEST THAT THE COURT ORDER, AS FOLLOWS:

12 1. That the Court enter a 21-day stay of this case, effective beginning February 5,
13 2021 and ending on February 26, 2021, with any deadlines currently due February 5, 2021
14 becoming due on February 26, 2021, and all other deadlines commensurately shifted;

15 2. That the Court enter a 21-day stay of proceedings related to Plaintiffs' Renewed
16 Motion to Compel, *see* ECF Nos. 462, 463, 464, to be coextensive with the requested stay of the
17 case as a whole;

18 3. That the Court continue the Case Management Conference currently scheduled
19 for Friday, February 5, 2021, until Friday, February 26, 2021;

20 4. That, should the parties not reach earlier resolution, the case shall restart on
21 February 26, 2021 under the same schedule currently in place; and

22 5. Defendants will not, on the grounds of any stay, resist or challenge Plaintiffs
23 taking any of the depositions currently noticed or producing any of the documents and materials
24 Defendants currently are obligated to produce, but Defendants may assert the objections that they
25 would have had in the normal course.

26
27
28

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: February 3, 2021

LATHAM & WATKINS LLP

By: /s/ Sadik Huseny
Sadik Huseny

Sadik Huseny (Bar No. 224659)
sadik.huseny@lw.com
Steven M. Bauer (Bar No. 135067)
steven.bauer@lw.com
Amit Makker (Bar No. 280747)
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: February 3, 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@lawyerscommitee.org
Maryum Jordan (Bar No. 325447)

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

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

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

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

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: February 3, 2021

By: /s/ Danielle Goldstein
Michael N. Feuer (Bar No. 111529)
mike.feuer@lacity.org
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: February 3, 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: February 3, 2021

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

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

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

Dated: February 3, 2021

By: /s/ Donald R. Pongrace
Donald R. Pongrace (*pro hac vice*)
dpong race@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: February 3, 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: February 3, 2021

BRIAN M. BOYNTON
Acting Assistant Attorney General

AUGUST E. FLENTJE
Special Counsel to the Assistant

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

Attorney General

ALEXANDER K. HAAS
Branch Director

BRAD P. ROSENBERG
Assistant Branch Director

/s/ Zachary A. Avallone
ZACHARY A. AVALLONE

KERI L. BERMAN

ELLIOTT M. DAVIS

STEPHEN EHRLICH

JOHN ROBINSON

JORDAN VON BOKERN

Trial Attorneys

U.S. Department of Justice

Civil Division - Federal Programs Branch

1100 L Street, NW

Washington, D.C. 20005

Telephone: (202) 514-2705

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: February 3, 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: _____

Lucy H. Koh
United States District Judge