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 12 CITY AND COUNTY OF SAN FRANCISCO

13
 14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 CITY AND COUNTY OF SAN
 17 FRANCISCO,
 18 Plaintiff,
 19 vs.
 20 DONALD J. TRUMP, President of the United
 States, UNITED STATES OF AMERICA,
 21 JOHN F. KELLY, Secretary of United States
 Department of Homeland Security, DANA J.
 22 BOENTE, Acting Attorney General of the
 United States, DOES 1-100,
 23 Defendants.
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Case No. 17-485 WHO

**STATEMENT OF SUPPORT REGARDING
 SANTA CLARA'S ADMINISTRATIVE
 MOTION TO CONSIDER WHETHER CASES
 SHOULD BE RELATED**

Date:
 Time:
 Hearing Judge: Hon. William Orrick
 Place:
 Trial Date: Not set

1 **1. INTRODUCTION**

2 The County of Santa Clara ("Santa Clara") filed an Administrative Motion (the
3 "Administrative Motion") to consider whether the actions *City and County of S.F. v. Trump et al.*,
4 Case No. 3:17-cv-00485-WHO (the "San Francisco Action") and *County of Santa Clara v. v. Trump et*
5 *al.*, Case No. 5:17-cv-00574-LHK (the "Santa Clara County Action") may be related cases under Civil
6 Local Rule 3-12(b). *See* Dkt. 11. Pursuant to Civil Local Rule 3-12(d), San Francisco files this
7 Statement in Support of Santa Clara's Administrative Motion.

8 **2. DISCUSSION**

9 "An action is related to another when: (1) The actions concern substantially the same parties,
10 property, transaction or event; and (2) it appears likely that there will be an unduly burdensome
11 duplication of labor and expense or conflicting results if the cases are conducted before different
12 Judges." N.D. Cal. Civ. L.R. 3-12(a). The San Francisco and the Santa Clara County Actions both
13 challenge the constitutionality of President Donald J. Trump's January 25, 2017 executive order
14 directing specified actions against state, local, and municipal governments deemed to be so-called
15 "sanctuary jurisdictions," Exec. Order 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) (the "Executive
16 Order"). Among other things, the Executive Order states: "The Attorney General shall take
17 appropriate enforcement action against any entity that violates 8 U.S.C. 1373 [Section 1373], or which
18 has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law." *Id.*
19 § 9(c) (the "Enforcement Directive").

20 The San Francisco Action asserts three causes of action. First, it seeks declaratory and
21 injunctive relief that San Francisco complies with Section 1373(a). San Francisco Action, Compl. ¶¶
22 96-100. Second, it brings a facial and as-applied challenge to Section 1373(a), alleging that Section
23 1373 violates the Tenth Amendment to the United States Constitution and seeking declaratory and
24 injunctive relief on that basis. *Id.* ¶¶ 101-103. Third, it seeks an injunction against unconstitutional
25 applications of Enforcement Directive that would violate the Tenth Amendment to the United States
26 Constitution. *Id.* ¶¶ 104-07.

27 The Santa Clara County Action asserts four causes of action seeking declaratory and injunctive
28 relief on the grounds that Sections 6 and 9 of the Executive Order violate the Fifth Amendment's Due

1 Process Clause, the inherent separation of powers set forth in the United States Constitution, and also
2 states a claim for violation of the Tenth Amendment. *See* Santa Clara County Action, Compl. ¶¶ 118–
3 58.

4 Both cases name as defendants President Trump, U.S. Department of Homeland Security
5 Secretary John F. Kelly, and Acting Attorney General Dana J. Boente. The San Francisco Action also
6 names as a defendant the United States. The Santa Clara County Action also names as a defendant
7 Acting Director of the Office of Management and Budget Mark Sandy.

8 Given the overlap in parties, factual and legal issues involved, and the relief sought in both
9 Actions, it is possible that conducting the actions in two courts simultaneously may lead to
10 unnecessary duplication of effort and the potential for conflicting results.

11 **3. CONCLUSION**

12 For the foregoing reasons, San Francisco joins Santa Clara in respectfully requesting that the
13 Court consider whether the San Francisco and Santa Clara County Actions are related under Local
14 Rule 3-12.

1 Dated: February 7, 2017

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