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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Hadil Al-Mowafak, Eric Miller, Jane Roe, and
John Doe, on behalf of themselves and others
similarly situated, and Jewish Family &
Community Services East Bay,

Plaintiffs,

v.

Donald Trump, President of the United States;
U.S. Department of State; U.S. Department of
Homeland Security; U.S. Customs and Border
Protection; Rex W. Tillerson, Secretary of State;
John Kelly, Secretary of U.S. Department of
Homeland Security; Kevin McAleenan, Acting
Commissioner of U.S. Customs and Border
Protection; Brian Humphrey, Field Director,
San Francisco Field Office of U.S. Customs and
Border Protection,

Defendants.

Case No. 3:17-cv-00557-WHO

**STIPULATION AND ORDER
REGARDING PARTIAL STAY**

Date Filed: February 2, 2017

Trial Date: None Set

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STIPULATION

1
2 **WHEREAS**, Plaintiffs in this action challenge Sections 2(c), 6(a), and 6(b) of Executive
3 Order No. 13780, 82 Fed. Reg. 13209 (Mar. 6, 2017);

4 **WHEREAS**, on March 15, 2017, the United States District Court in *Hawai'i v. Trump*,
5 No. CV 17-00050, --- F. Supp. 3d ---, 2017 WL 1011673 (D. Haw. Mar. 15, 2017) (“Hawai’i
6 TRO”), granted the plaintiffs’ motion for a temporary restraining order and enjoined enforcement
7 nationwide of Sections 2 and 6 of Executive Order No. 13780;

8 **WHEREAS**, on March 29, 2017, the United States District Court in *Hawai'i v. Trump*,
9 No. CV 17-00050, --- F. Supp. 3d ---, 2017 WL 1167383 (D. Haw. Mar. 29, 2017), granted the
10 plaintiffs’ motion to convert the Hawai’i TRO into a preliminary injunction (“Hawai’i PI”);

11 **WHEREAS**, on March 30, 2017, the government filed a notice of appeal to the United
12 States Court of Appeals for the Ninth Circuit regarding the Hawai’i PI, No. 17-15589 (9th Cir.);

13 **WHEREAS**, on May 31, 2017, the Court held a case management conference in this
14 matter and on June 1, 2017 entered a minute order, Dkt. No. 67, directing the parties in this action
15 to file contemporaneous briefs in the event that the Ninth Circuit reversed or limited the Hawai’i
16 PI, with the Court then to set a hearing after receiving the supplemental briefing;

17 **WHEREAS**, on June 12, 2017, the Ninth Circuit affirmed the Hawai’i PI in part with
18 respect to its nationwide preliminary injunction of Sections 2(c), 6(a), and 6(b) of Executive
19 Order No. 13780, vacated in part on grounds not contested by Plaintiffs in this action, and
20 remanded to the district court with instructions to re-issue a preliminary injunction (“modified
21 Hawai’i PI”) consistent with its opinion, *Hawai'i v. Trump*, No. 17-15589, --- F.3d ----, 2017 WL
22 2529640 (9th Cir. Jun. 12, 2017); and

23 **WHEREAS**, the parties consider this stipulation to be in satisfaction of this Court’s
24 June 1, 2017 Order to submit contemporaneous briefs, and the parties furthermore do not view it
25 as necessary for the Court to set a hearing as contemplated in the June 1, 2017 Order;

26 **THEREFORE**, the parties hereby stipulate as follows, subject to the Court’s approval:

27 The parties agree that this matter, except for the limited discovery discussed in the Court’s
28 June 1, 2017 Order, shall be stayed so long as the modified Hawai’i PI’s nationwide preliminary

1 injunction of Sections 2(c), 6(a), and 6(b) of Executive Order No. 13780 remains in force. This
2 agreement shall not be used by any party in arguing for or against the discovery discussed in the
3 Court's June 1, 2017 Order. Plaintiffs expressly reserve the right to seek to lift this stay should
4 they discover evidence that Defendants are failing to comply with the modified Hawai'i PI's
5 terms, or should Defendants issue a new Executive Order imposing restrictions on visas or
6 refugee admissions substantially similar to those in Executive Order No. 13780. Defendants
7 expressly reserve the right to seek a continued stay, to the extent warranted by circumstances, if
8 the modified Hawai'i PI goes out of force in any respect.

9 A proposed order is submitted herewith for the Court's consideration.

10 Dated: June 16, 2017

KEKER, VAN NEST & PETERS LLP

11
12 By: /s/ R. Adam Lauridsen

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Attorneys for Plaintiffs

20 Dated: June 16, 2017

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~~PROPOSED~~ ORDER

The Court, having considered the parties’ stipulation and good cause appearing, hereby ORDERS as follows:

This matter, except for the limited discovery discussed in the Court’s June 1, 2017 Order (Dkt. No. 67), shall be stayed so long as the nationwide preliminary injunction of Sections 2(c), 6(a), and 6(b) of Executive Order No. 13780 (“modified Hawai’i PI”), consistent with the decision in *Hawai’i v. Trump*, No. 17-15589, --- F.3d ---, 2017 WL 2529640 (9th Cir. Jun. 12, 2017), remains in force. This agreement shall not be used by any party in arguing for or against the discovery discussed in the Court’s June 1, 2017 Order. Plaintiffs may seek to lift this stay should they discover evidence that Defendants are failing to comply with the terms of the modified Hawai’i PI, or should Defendants issue a new Executive Order imposing restrictions on visas or refugee admissions substantially similar to those in Executive Order No. 13780. Defendants may seek a continued stay, to the extent warranted by circumstances, if the modified Hawai’i PI goes out of force in any respect.

IT IS SO ORDERED.

Dated: June 19, 2017



HON. WILLIAM H. ORRICK III
UNITED STATES DISTRICT JUDGE