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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

East Bay Sanctuary Covenant, *et al.*,

Plaintiffs,

v.

Robert M. Wilkinson, *et al.*,

Defendants.

Case No.: 4:19-cv-04073-JST

**NOTICE OF MOTION AND MOTION
FOR PRELIMINARY INJUNCTION
AND STAY OF FINAL RULE'S
EFFECTIVE DATE PURSUANT TO 5
U.S.C. § 705**

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1 **TO RESPONDENTS AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that Plaintiffs East Bay Sanctuary Covenant, Al Otro Lado,
3 Innovation Law Lab, and Central American Resource Center of Los Angeles hereby move the Court
4 for a preliminary injunction and a stay pursuant to 5 U.S.C. § 705 of the transit asylum ban final
5 rule's effective date.¹ The Trump administration issued the final rule on December 17, 2020, and it
6 went into effect on January 19, 2021. *See* Asylum Eligibility and Procedural Modifications, 85 Fed.
7 Reg. 82,260 (Dec. 17, 2020). The final rule is materially identical to the interim version of the rule,
8 which this court preliminarily enjoined. Although that ruling was stayed, the interim rule had not
9 been in effect since June 2020 when a district court in the District of Columbia vacated it. Now that
10 the policy is once again in force, a preliminary injunction and/or stay of the rule under 5 U.S.C.
11 § 705 is necessary to prevent Plaintiffs from again experiencing significant harm.

12 This motion is brought pursuant to Federal Rule of Civil Procedure 65 and is based on the
13 accompanying Memorandum in Support and materials cited therein; the pleadings and evidence on
14 file in this matter; the accompanying declarations; and such other materials and argument as may be
15 presented in connection with a hearing on the motion.

16 Plaintiffs will confer with counsel for Defendants about a briefing schedule on this motion
17 and Plaintiffs' previous motion for leave to file an amended and supplemental complaint, and will
18 attempt to make a joint proposal to the Court.

19 Dated: January 21, 2021

Respectfully submitted,

20
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22 Omar C. Jadwat*
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25 ¹ Plaintiffs previously filed a motion for leave to file a First Amended and Supplemental Complaint
26 that (1) challenges the final transit ban rule on the same grounds asserted against the interim rule in
27 the original complaint and (2) amends the claims to challenge the final rule as invalid because
28 Department of Homeland Security Acting Secretary officials were not validly serving when the final
rule was issued. *See* ECF No. 130.

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