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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14

15
16 **UNITED STATES OF AMERICA,**

17 Plaintiff,

18 v.

19 **SHIRLEY WEBER, in her official**
20 **capacity as Secretary of State of the**
21 **State of California, and the STATE**
22 **OF CALIFORNIA,**

23 Defendants.

2:25-cv-09149-DOC-ADS

**CALIFORNIA'S EX PARTE
APPLICATION FOR AN ORDER
DENYING OR DEFERRING
BRIEFING ON PLAINTIFF'S
MOTION FOR AN ORDER TO
PRODUCE RECORDS;
MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
THEREOF**

Date: TBD
Time: TBD
Courtroom: 10A
Judge: Hon. David O. Carter
Action Filed: September 25, 2025

24
25 **EX PARTE APPLICATION FOR ORDER**

26 Pursuant to Local Rule 7-19, Defendants California Secretary of State Shirley
27 Weber and the State of California ("California") submit this application for an ex
28 parte order denying or deferring briefing on plaintiff's motion for an order to

1 produce records. ECF No. 94. Plaintiff United States of America’s (“DOJ”) motion
2 is a dispositive motion—no different than summary judgment—seeking the
3 ultimate and final relief in this case, i.e., an order requiring California to turn over a
4 fully unredacted copy of California’s voter registration list. *Compare* ECF No. 1 at
5 16 with ECF No. 94-1 at 4;¹ *see* Transcript re Hearing on Motions to Dismiss
6 (“Tr.”) 68:9–14 (DOJ informing the Court that “this litigation really boils down to”
7 “a prompt order that California produce records”). As California argued in its prior
8 ex parte application, ECF No. 88, DOJ’s grant-first, ask-questions-later timeline
9 deprives this Court of an adequate record to decide this important case. It also runs
10 roughshod over due process tenets and the Federal Rules of Civil Procedure, which
11 govern “all civil actions and proceedings in the United States district courts.” Fed.
12 R. Civ. P. 1. And briefing on summary judgment before the pleadings are resolved
13 does not serve judicial economy. The Court’s inherent authority to control its
14 docket and defer premature dispositive motions is well-established. *LA All. for*
15 *Hum. Rts. v. City of Los Angeles*, 792 F. Supp. 3d 1049, 1091 (C.D. Cal. 2025); *see*
16 *also* Fed. R. Civ. P. 56(d).

17 Accordingly, as explained more fully below, this Court should grant
18 California’s instant application for an order denying DOJ’s motion without
19 prejudice, or deferring briefing on DOJ’s motion until this Court has ruled on the
20 pending motions to dismiss and the parties have had an opportunity to develop a
21 factual record. In the alternative, the Court should issue an order at least deferring
22 the deadline to oppose DOJ’s motion until 7 days after the Court issues its order on
23 the motions to dismiss to allow California to brief the immediate need for and
24 propriety of discovery on DOJ’s Title III claim (assuming the Title III claim is not
25 ///

26 ///

27 _____
28 ¹ This ex parte application and memorandum of points and authorities in support cites to the ECF (or PDF) page numbers in its citations to the docket.

dismissed by the Court).²

MEMORANDUM OF POINTS AND AUTHORITIES

The Court should deny DOJ's pending motion without prejudice, or defer briefing until California has had an opportunity to develop an adequate record to oppose DOJ's dispositive motion. The Federal Rules of Civil Procedure govern this action, and the Court is not pigeon-holed into a "summary" or "special" proceeding, as DOJ argues in its pending motion. In fact, the Court requires an adequate record to fully determine whether the legal standard for a valid demand under Title III of the Civil Rights Act of 1960 ("Title III") is satisfied, and whether several affirmative defenses California seeks to develop have been established.

A. DOJ's Motion May Be Mooted by the Pending Motions to Dismiss

The parties have fully briefed and argued California's and Intervenor's motions to dismiss. ECF Nos. 37, 62-1, 67. At the hearing last week, the Court indicated that it may rule on those motions within a matter of weeks. If granted, the motions would moot DOJ's pending motion. Forcing the parties to brief a dispositive motion when that motion may be mooted would needlessly waste taxpayer and judicial resources. Even if the Court denies the motions to dismiss, its order will clarify important legal issues related to DOJ's novel claim brought under Title III, and the parties should be afforded the opportunity to focus their briefing on the legally salient issues in light of that order. Accordingly, the Court should exercise its inherent control over the proceedings to ensure that any briefing on DOJ's pending dispositive motion is deferred until after the Court's forthcoming

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² Before filing this ex parte application, California proposed a stipulation to DOJ that would adopt this briefing schedule, but it declined. Declaration of Malcolm A. Brudigam In Support Of Ex Parte Application to Deny or Defer Briefing on Plaintiff's Motion for an Order to Produce Records, filed with the instant application, ("Brudigam Decl.") ¶ 3, Ex. 1.

1 order on the submitted motions to dismiss.³

2 **B. The Federal Rules of Civil Procedure Govern This Action**

3 In DOJ's pending motion, it argues that Title III "displaces the Federal Rules
4 of Civil Procedure by creating a 'special statutory proceeding.'" ECF No. 94-2 at 6
5 (quoting *Kennedy v. Lynd*, 306 F.2d 222, 225 (5th Cir. 1962)). DOJ makes this
6 novel argument based on "caselaw confined to courts within the Fifth Circuit in the
7 early years following the CRA's enactment." *Id.* at 5 n.1. That precedent—which
8 DOJ asks this Court to adopt in a vacuum—is not binding on this Court, is
9 inconsistent with Title III's text, and has been overruled. It is also an argument that
10 DOJ raised in opposition to California's motion to dismiss and is thus before the
11 Court on the submitted motions. ECF Nos. 64-1 at 11, 78 at 7.

12 To start, Title III's text states only that a district court "shall have jurisdiction
13 *by appropriate process* to compel the production of such record or paper." 52
14 U.S.C. § 20705 (emphasis added). There is no mention of "a special statutory
15 proceeding" or any abbreviated procedure that diminishes the Court's role to
16 merely issuing rubber-stamped approval. And in the years since Title III was
17 enacted, the Supreme Court confirmed that the Federal Rules of Civil Procedure
18 govern document demands by the federal government. *Becker v. United States*, 451
19 U.S. 1306, 1307–08 (1981); *see also* Fed. R. Civ. P. 1, 81(a)(5). In fact, two years
20 after the Fifth Circuit's decision in *Kennedy v. Lynd*, the Supreme Court held that
21 the Federal Rules of Procedure govern proceedings instituted by a similarly worded
22 statute, which, like Title III, contained "no provision specifying the procedure to be
23 followed in invoking the court's jurisdiction." *United States v. Powell*, 379 U.S. 48,
24 57–58 & n.18 (1964) (citing 26 U.S.C. § 7604(a)); *compare* 26 U.S.C. § 7604(a)
25 ("[T]he United States district court for the district in which such person resides or is

26 ³ Indeed, DOJ has already acknowledged that this is the proper order of
27 events in this action. In its meet and confer before filing its first motion for an order
28 to produce records, DOJ said it would only be appropriate for the Court to consider
its motion "If the Motion to Dismiss is denied." ECF No. 88-1 at 8 (emphasis
added); *see also* Brudigam Decl. ¶ 3, Ex. 1 (pointing this out to DOJ's counsel).

1 found *shall have jurisdiction by appropriate process* to compel such attendance,
2 testimony, or production of books, papers, records, or other data[.]” (emphasis
3 added)) with 52 U.S.C. § 20705 (“The United States district court for the district in
4 which a demand is made . . . or in which a record or paper so demanded is located,
5 *shall have jurisdiction by appropriate process* to compel the production of such
6 record or paper.” (emphasis added)). At bottom, DOJ’s proposed summary
7 proceeding is based wholly on *Kennedy v. Lynd*, but that case has been overruled on
8 this point by the Supreme Court in *United States v. Powell*.

9 Thus, the Federal Rules of Civil Procedure govern these proceedings, and DOJ
10 cannot bypass the pleadings stage when it has filed a civil action in federal court.

11 **C. The Court Requires an Adequate Record To Decide This Case**

12 Assuming this Court denies California’s pending motion to dismiss, it requires
13 an adequate record to rule on DOJ’s dispositive motion. An adequate record is
14 necessary to both assess whether DOJ has complied with the requirements of Title
15 III, and to evaluate whether several affirmative defenses to the records demand
16 have been established.

17 **1. The Court should deny or defer DOJ’s motion because** 18 **California is entitled to develop an adequate record to** **oppose a dispositive motion.**

19 Because DOJ’s pending motion is dispositive to this case, and this proceeding
20 is governed by the Federal Rules of Civil Procedure, Rule 56(d) is instructive for
21 providing a framework for denying or DOJ’s pending motion, which is akin to
22 summary judgment. *See Huynh v. Quora, Inc.*, 508 F. Supp. 3d 633, 642 (N.D. Cal.
23 2020). “To prevail on a Rule 56(d) request, the party seeking relief must show that
24 ‘(1) it has set forth in affidavit form the specific facts it hopes to elicit from further
25 discovery; (2) the facts sought exist; and (3) the sought-after facts are essential to
26 oppose summary judgment.’” *Id.* (quoting *Family Home & Fin. Ctr., Inc. v. Fed.*
27 *Home Loan Mortg. Corp.*, 525 F.3d 822, 827 (9th Cir. 2008).)

28 ///

1 Title III requires that a valid demand for records “contain a statement of the
2 basis and the purpose therefor.” 52 U.S.C. § 20703. As set forth in the attached
3 declaration, California seeks discovery on whether DOJ has adequately satisfied the
4 legal standard for issuing a proper demand under Title III. Brudigam Decl. ¶ 4; *see*
5 *also* ECF Nos. 37-1 at 16–19, 78 at 7–8 (articulating proper legal standard for “a
6 statement of the basis and the purpose”). Not only must DOJ’s investigation be
7 related to civil rights violations in voting, but DOJ must offer “the basis” and “the
8 purpose” for the investigation—not “a basis” or “a purpose.” *Compare* ECF No.
9 64-1 at 13–14 with Lynd, 306 F.2d at 231 n.6.

10 The record presently before the Court shows that DOJ has provided varied and
11 differing reasons for why it is seeking California’s unredacted statewide voter
12 registration list. Brudigam Decl. ¶ 4. DOJ initially claimed that California’s entire
13 voter registration list was needed “to assist in our determination of whether
14 California’s list maintenance program complies with the NVRA.” ECF No. 37-2 at
15 21. However, at the hearing on the motions to dismiss DOJ also claimed it needed
16 the records to ensure compliance with the Help America Vote Act’s requirement of
17 collecting social security numbers and driver’s license numbers.⁴ Tr. 76:7–21
18 (explaining that “this data is necessary for the United States to conduct its HAVA
19 operation”), 81:8–10, 118:25–119:10; *see also* 70:6–9, 77:7–10 (indicating other
20 purposes). More troubling still is that DOJ invokes the President’s unlawful⁵
21 Executive Order in its Complaint, ECF No. 1 at 1–2, which this lawsuit appears to
22 be a pretext to enforcing. Specifically, that Executive Order provides that “the
23 Department of Homeland Security, in coordination with the DOGE Administrator,
24 shall review each State’s publicly available voter registration list and available

25 ⁴ As explained in our pending motion to dismiss, this rationale also does not
26 make sense upon a reading of HAVA’s text. ECF No. 37-1 at 18–19.

27 ⁵ Key provisions of the Executive Order, not relevant to this case, have been
28 enjoined by two different federal courts. *See California v. Trump*, 786 F. Supp. 3d
359, 395–96 (D. Mass. 2025); *League of United Latin Am. Citizens v. Exec. Off. of*
President, --- F. Supp. 3d ---, 2025 WL 3042704, at *32 (D.D.C. Oct. 31, 2025).

1 records concerning voter list maintenance activities as required by 52 U.S.C. 20507,
2 alongside Federal immigration databases and State records requested, including
3 through subpoena where necessary and authorized by law, for consistency with
4 Federal requirements.” *Preserving and Protecting the Integrity of American*
5 *Elections*, 90 Fed. Reg. 14005, 14006–07 (Mar. 25, 2025). Indeed, at the hearing on
6 the motion dismiss, DOJ referenced a “Federal immigration database” maintained
7 by the Department of Homeland Security, Tr. 120:19–121:2,⁶ further suggesting
8 that its true intent is to obtain the requested records for reasons that DOJ has not
9 disclosed to California or the Court.

10 Collectively, these facts indicate that either there are several inconsistent
11 reasons underlying DOJ’s records demand, or that the reasons given so far are
12 pretext to do something else. In either event, the facts California seeks to develop
13 through discovery exist in the minds and records of DOJ’s investigators, would
14 defeat summary judgment under Title III’s legal standard,⁷ and could be determined
15 through discovery—something California has not been afforded an opportunity to
16 conduct. *Huynh*, 508 F. Supp. 3d at 642; Brudigam Decl. ¶ 6.

17 Accordingly, the Court should deny DOJ’s motion without prejudice, or defer
18 briefing on DOJ’s motion until the Court has ruled on the pending motions to
19 dismiss and an adequate records has been developed.

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22 ⁶ DOJ references the “SAVE” database, which is the Systematic Alien
23 Verification for Entitlements, managed by the Department of Homeland Security.
24 See *Homeland Security’s “SAVE” Program Exacerbates Risks to Voters*, Brennan
25 Center for Justice (July 21, 2025), [https://www.brennancenter.org/our-
work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters](https://www.brennancenter.org/our-work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters);
26 *League of Women Voters v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-3501-SLS,
2025 WL 3198970, at *1 (D.D.C. Nov. 17, 2025) (describing pending lawsuit
challenging recent changes to SAVE database by current administration).

27 ⁷ A further reason to defer ruling on DOJ’s pending motion is to determine
28 what legal standard governs a Title III proceeding. That critical question is before
the Court on the motions to dismiss and would be instructive in deciding what
discovery would be relevant for California’s opposition.

1 **2. The Court should deny or defer DOJ’s motion because**
2 **California seeks discovery on several affirmative defenses.**

3 The Court also requires an adequate record to determine whether various
4 affirmative defenses California intends to raise have been established. Brudigam
5 Decl. ¶ 5.

6 The Supreme Court held that a demand for records by the federal government
7 may be challenged at a hearing “on any appropriate ground” and that “the court
8 [may] inquire into the underlying reasons” for the demand to ensure the court’s
9 process is not abused. *Powell*, 379 U.S. at 58. Such abuse includes issuing a
10 demand for records for an “improper purpose” or “any other purpose reflecting on
11 the good faith of an investigation.” *Id.*

12 Here, as argued extensively in the motions to dismiss, there is no plausible
13 reason why DOJ would require the entire unredacted statewide voter registration
14 list to assess California’s compliance with the NVRA’s list maintenance
15 requirements, which was DOJ’s initial argument for why it needed the information.
16 ECF No. 37-1 at 16, 78 at 2–4. As the Intervenor-Defendants and Amici Curae have
17 made the Court aware, DOJ’s true purpose appears to be sharing the data with other
18 federal agencies and building a nationwide voter list. *See ECF No. 44 at 3–4* (“DOJ
19 has publicly confirmed that it is sharing lists it receives with the Department of
20 Homeland Security (DHS), and reporting indicates that DOJ is developing a
21 national voter file.”), ECF 62-1 at 14 n.2 & 3, 19 n.9 (“[An] attorney in DOJ’s
22 voting rights section told *The New York Times* that DOJ was ‘dishonest’ in
23 describing the purpose for its requests for state voter data.”). That activity is not
24 permitted by the Constitution or federal law, *see generally* ECF No. ECF 84-2 at
25 16–22 (arguing that “states, not the federal government, are charged with
26 administering federal elections”), and thus strongly indicative that DOJ has
27 demanded the voter registration records from California for an improper purpose.
28 At minimum, discovery into the reasons for this expansive data collection is

1 warranted to determine whether DOJ is demanding information improperly. *See*
2 *United States v. Church of Scientology of California*, 520 F.2d 818, 824 (9th Cir.
3 1975); *Reich v. Montana Sulphur & Chem. Co.*, 32 F.3d 440, 449 (9th Cir. 1994).

4 Beyond an “improper purpose,” California intends to raise, and seek
5 discovery on, a number of other affirmative defenses including: overbreadth, *Peters*
6 *v. United States*, 853 F.2d 699–70 (9th Cir. 1988); the Privacy Act and other federal
7 privacy laws, *N.L.R.B. v. N. Bay Plumbing, Inc.*, 102 F.3d 1005, 1009 (9th Cir.
8 1996); whether DOJ’s real reasons for collecting the information are constitutional,
9 *Seila L. LLC v. Consumer Fin. Prot. Bureau*, 591 U.S. 197, 208–09 (2020) (raising
10 constitutional defense in response to investigative subpoena); whether DOJ is
11 collecting voter registration records for another agency, *United States v. LaSalle*
12 *Nat. Bank*, 437 U.S. 298, 317 (1978); and whether DOJ’s record demand satisfies
13 the reasonableness requirement under the Fourth Amendment, *Reich*, 32 F.3d at
14 444 n.5.⁸ At bottom, to consider these defenses—many of which are already
15 colorable based on materials before the Court—an adequate record is required.

16 **3. Proposed Course of Proceedings**

17 Based on the preliminary showing by Intervenor, Amici, the DOJ’s own
18 comments at the hearing on the motions to dismiss, and the instant application, the
19 minimal record before the Court is already cause for significant concern about
20 DOJ’s reasons for seeking voter registration data and what they intend to do with it.
21 This preliminary showing indicates that California’s desire for discovery and
22 record-building is well-founded. Thus, California believes that the most efficient
23 course of action would be for the Court to deny DOJ’s motion without prejudice, or
24 defer briefing on the motion until after a reasonable discovery period, the length of
25 which should be discussed at a scheduling conference under Federal Rule of Civil
26 Procedure 16. In the alternative, California proposes that the Court at least defer the

27 ⁸ This list of affirmative defenses is not exhaustive, and California reserves
28 its right to raise other defenses too.

1 deadline to oppose the DOJ's motion until 7 days after the Court issues its order on
2 the motion to dismiss (should the Court decline to dismiss the Title III claim) and
3 allow California to brief the need for and propriety of discovery at that point. *See*
4 *Church of Scientology*, 520 F.2d at 824 (holding that the need for discovery in IRS
5 summons enforcement cases should be determined after briefing and evidentiary
6 hearing on a motion to enforce the summons).

7 Accordingly, because DOJ's pending motion deprives the Court of such a
8 record and seeks to dispose of this case without any meaningful judicial review, the
9 Court should grant this application.

10 **D. This Ex Parte Application is Proper**

11 California presents this application ex parte because DOJ's actions in filing
12 this dispositive motion for hearing do not leave time for California to seek relief on
13 an ordinary schedule. Under Local Rule 7-9, and DOJ's noticed hearing date,
14 California must prepare its opposition by December 15, 2025.

15 Earlier today, California notified counsel for DOJ and all other parties in the
16 case of its plans to file this ex parte application. Pursuant to Local Rule 7-19,
17 California provides the name, phone number, and email address for DOJ's counsel:

18 Eric Vincent Neff, 202-532-3628, Eric.Neff@usdoj.gov

19 Julie Ann Hamill, 213-894-2464, julie.hamill@usdoj.gov

20 Maureen S. Riordan, 202-702-6110, maureen.riordan2@usdoj.gov

21 Brittany E Bennett, 202-704-5430, brittany.bennett@usdoj.gov

22 In response to California's notice of the instant application, Intervenor
23 Defendants have indicated that they consent to this application and DOJ indicated
24 that they oppose. Brudigam Decl. ¶ 7, Ex. 2.

25 **CONCLUSION**

26 The Court should grant this ex parte application and issue an order denying
27 DOJ's motion, or deferring briefing on DOJ's motion until this Court has ruled on
28 the pending motions to dismiss and the parties have had an opportunity to develop a

1 factual record. In the alternative, the Court should issue an order at least deferring
2 the deadline to oppose DOJ's motion until 7 days after the Court issues its order on
3 the motions to dismiss to allow California to brief the immediate need for and
4 propriety of discovery on DOJ's Title III claim (assuming the Title III claim is not
5 dismissed by the Court).

6
7
8 Dated: December 8, 2025

Respectfully submitted,

9 ROB BONTA
10 Attorney General of California
11 R. MATTHEW WISE
12 SETH E. GOLDSTEIN
13 Supervising Deputy Attorneys General

14 /s/ Malcolm A. Brudigam

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24 *Weber, in her official capacity as the*
25 *California Secretary of State, and*
26 *State of California*
27
28

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Defendants Secretary of State Shirley Weber and the State of California, certifies that this brief contains 3,571 words and 11 pages, which:

___ complies with the word limit of L.R. 11-6.1.

X complies with the page limit set by the Procedures page on the Court's website.

Dated: December 8, 2025

Respectfully submitted,

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Attorney General of California
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SETH E. GOLDSTEIN
Supervising Deputy Attorneys General

/s/ Malcolm A. Brudigam

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11 *State, and the State of California*

12 IN THE UNITED STATES DISTRICT COURT
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14
15
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17 **UNITED STATES OF AMERICA,**

18 Plaintiff,

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20 **SHIRLEY WEBER, in her official**
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22 **OF CALIFORNIA,**

23 Defendants.
24
25
26
27
28

Case No. 2:25-cv-09149-DOC-ADS

**DECLARATION OF MALCOLM
A. BRUDIGAM IN SUPPORT OF
CALIFORNIA'S EX PARTE
APPLICATION TO DENY OR
DEFER PLAINTIFF'S MOTION
FOR AN ORDER TO PRODUCE
RECORDS**

Date: TBD
Time: TBD
Courtroom: 10A
Judge: Hon. David O. Carter
Trial Date: None set.
Action Filed: Sept. 25, 2025

DECLARATION OF MALCOLM A. BRUDIGAM

Malcolm A. Brudigam hereby declares as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in this Declaration is based on my personal knowledge.

2. I am a Deputy Attorney General employed at the California Department of Justice, Office of the Attorney General and am counsel of record in this case for Defendants California Secretary of State Shirley Weber and State of California (together, "California"). I submit this Declaration in support California's Ex Parte Application to Deny or Defer Plaintiff's Motion for Order to Produce Records.

3. Attached hereto as **Exhibit 1** is a true and correct copy of an email thread beginning on December 5, 2025 and ending on December 5, 2025. The email thread includes my offer to counsel for the U.S. Department of Justice ("DOJ") of a proposed stipulation that would defer briefing on their motion for an order to produce records until seven days after the Court issues an order on the submitted motions to dismiss. Counsel for DOJ declined that offer.

4. If DOJ's claim under Title III of the Civil Rights Act of 1960 is not dismissed by the pending motions to dismiss, then California intends to propound discovery regarding that claim. California anticipates propounding discovery to determine whether DOJ has satisfied the legal requirements under Title III, i.e., whether it has put forth a valid statement of the basis and the purpose for its records demand. Thus far, California has not been presented with any explanation for DOJ's vast records demand beyond assessing California's general list maintenance program for compliance with the National Voter Registration Act. Just last week, at the hearing on the motions to dismiss, Counsel for DOJ indicated other reasons it is seeking the requested voter registration records. California would also propound discovery regarding whether the investigation falls within the scope of Title III, which is to investigate civil rights violations and discrimination in voting.

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ID #:1397

4 6. I believe developing the forgoing facts would be essential to defeating
5 the dispositive motion brought by DOJ, which is akin to a summary judgment
6 motion. I have reason to believe these facts exist because DOJ has articulated
7 differing purposes and bases for its records demand. And California has not had an
8 opportunity to take any discovery thus far, and would be diligent in all efforts if
9 granted the opportunity to take discovery.

7. Attached hereto as **Exhibit 2** is a true and correct copy of an email that I sent to all parties' counsel in this case on December 8, 2025 to notify them that California intended to file the instant ex parte application and the grounds for the application, pursuant to Local Rule 7-19. Counsel for intervenors both consented to the application. Counsel for DOJ stated that they oppose the application.

16 I declare under penalty of perjury that the foregoing is true and correct.
17 Executed on December 8, 2025 in Sacramento, California.

20 /s/ Malcolm A. Brudigam

21 || Malcolm A. Brudigam

Exhibit 1



Re: US v. Weber - Proposed Stipulation

From Neff, Eric (CRT) <Eric.Neff@usdoj.gov>

Date Fri 12/5/2025 6:11 PM

To Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>

Cc Tyler Bishop <tbishop@elias.law>; Chris Dodge <cdodge@elias.law>; Julia Gomez <jgomez@aclusocal.org>; Lali Madduri <lmadduri@elias.law>; Walker McKusick <wmckusick@elias.law>; Jacob Shelly <jshelly@elias.law>; Grayce Zelphin <gzelphin@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; Michael Cohen <Michael.Cohen@doj.ca.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Kevin Quade <Kevin.Quade@doj.ca.gov>; Theresa Lee <tlee@aclu.org>; pyan@aclu.org <pyan@aclu.org>; asalceda@aclunc.org <asalceda@aclunc.org>

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.
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The DOJ does not consent to that arrangement. We want this proceed as scheduled in the motion.

Get [Outlook for iOS](#)

From: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>

Sent: Friday, December 5, 2025 7:05:40 PM

To: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>

Cc: Tyler Bishop <tbishop@elias.law>; Chris Dodge <cdodge@elias.law>; Julia Gomez <jgomez@aclusocal.org>; Lali Madduri <lmadduri@elias.law>; Walker McKusick <wmckusick@elias.law>; Jacob Shelly <jshelly@elias.law>; Grayce Zelphin <gzelphin@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; Michael Cohen <Michael.Cohen@doj.ca.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Kevin Quade <Kevin.Quade@doj.ca.gov>; Theresa Lee <tlee@aclu.org>; pyan@aclu.org <pyan@aclu.org>; asalceda@aclunc.org <asalceda@aclunc.org>

Subject: [EXTERNAL] US v. Weber - Proposed Stipulation

Hi Eric:

I hope you are doing well and had a safe trip back to DC. I'm reaching out about the government's motion to compel that was filed today. Under the local rules, the briefing for that motion would be completed before the Court is expected to rule on the pending motions to dismiss. This makes little sense and would be a significant waste of resource if the motion to dismiss is granted. Based on our communications to date, we believe DOJ has the same understanding—that the motion to compel follows from an anticipated denial of our motion.

Accordingly, California would like to propose a stipulation that would link the briefing on your pending motion to the Court's issuance of an order on the motion to dismiss, i.e., we file our opposition 7 days

after the Court issues an order, and DOJ files its reply 7 days after that (or some other timeline that you may want to propose), and all parties appear at the earliest hearing date available for the Court.

Would DOJ be amenable to that arrangement? We generally think that would make the most sense from a judicial economy perspective while also giving all parties the benefit of the Court's order in briefing this new motion.

We have not consulted intervenors and welcome their input on the proposal as well. And happy to chat over the phone if easier.

Best,
Malcolm



Malcolm A. Brudigam
Deputy Attorney General
Office of the Attorney General
1300 I Street, Ste. 125
Sacramento, CA 95814
Tel: (916) 210-7873
Email: Malcolm.Brudigam@doj.ca.gov

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Exhibit 2



Re: US v. Weber - Notice of Ex Parte Application

From Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>

Date Mon 12/8/2025 2:00 PM

To Lali Madduri <lmadduri@elias.law>; Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>; Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Riordan, Maureen (CRT) <Maureen.Riordan2@usdoj.gov>

Cc Tyler Bishop <tbishop@elias.law>; Chris Dodge <cdodge@elias.law>; Julia Gomez <jgomez@aclusocal.org>; Walker McKusick <wmckusick@elias.law>; Jacob Shelly <jshelly@elias.law>; Grayce Zelphin <gzelfhin@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; Michael Cohen <Michael.Cohen@doj.ca.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Kevin Quade <Kevin.Quade@doj.ca.gov>; Theresa Lee <tlee@aclu.org>; pyan@aclu.org <pyan@aclu.org>; asalceda@aclunc.org <asalceda@aclunc.org>

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The Unites States opposes.

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From: Lali Madduri <lmadduri@elias.law>

Sent: Monday, December 8, 2025 3:23:25 PM

To: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>; Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>; Riordan, Maureen (CRT) <Maureen.Riordan2@usdoj.gov>

Cc: Tyler Bishop <tbishop@elias.law>; Chris Dodge <cdodge@elias.law>; Julia Gomez <jgomez@aclusocal.org>; Walker McKusick <wmckusick@elias.law>; Jacob Shelly <jshelly@elias.law>; Grayce Zelphin <gzelfhin@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; Michael Cohen <Michael.Cohen@doj.ca.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Kevin Quade <Kevin.Quade@doj.ca.gov>; Theresa Lee <tlee@aclu.org>; pyan@aclu.org <pyan@aclu.org>; asalceda@aclunc.org <asalceda@aclunc.org>

Subject: [EXTERNAL] RE: US v. Weber - Notice of Ex Parte Application

NAACP Intervenor-Defendants consent.

Lali Madduri

Partner

Elias Law Group LLP

202-968-4593

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sender immediately and delete it from your system.

From: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>

Sent: Monday, December 8, 2025 3:19 PM

To: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>; Riordan, Maureen (CRT) <maureen.riordan2@usdoj.gov>

Cc: Tyler Bishop <tbishop@elias.law>; Chris Dodge <cdodge@elias.law>; Julia Gomez <jgomez@aclusocal.org>; Lali Madduri <lmadduri@elias.law>; Walker McKusick <wmckusick@elias.law>; Jacob Shelly <jshelly@elias.law>; Grayce Zelphin <gzelphin@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; Michael Cohen <Michael.Cohen@doj.ca.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Kevin Quade <Kevin.Quade@doj.ca.gov>; Theresa Lee <tlee@aclu.org>; pyan@aclu.org; asalceda@aclunc.org

Subject: Re: US v. Weber - Notice of Ex Parte Application

Importance: High

Hi all:

Pursuant to Local Rule 7-19, this email is to advise counsel for all parties that the State Defendants intend to file an ex parte application today regarding DOJ's Motion for an Order to Produce Records, filed on Friday.

We will be asking the Court to deny DOJ's motion or defer ruling on it until after the motions to dismiss have been ruled on and an adequate record has been developed. In the alternative, we plan to ask the Court to at least defer the filing of any oppositions to the DOJ's motion to 7 days after the court issues its ruling on the motions to dismiss.

Please inform us immediately if you consent to, or oppose, the application. We will otherwise file this afternoon indicating that we have not heard from the party you represent.

Best,
Malcolm

From: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>

Sent: Friday, December 5, 2025 6:11 PM

To: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>

Cc: Tyler Bishop <tbishop@elias.law>; Chris Dodge <cdodge@elias.law>; Julia Gomez <jgomez@aclusocal.org>; Lali Madduri <lmadduri@elias.law>; Walker McKusick <wmckusick@elias.law>; Jacob Shelly <jshelly@elias.law>; Grayce Zelphin <gzelphin@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; Michael Cohen <Michael.Cohen@doj.ca.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Kevin Quade <Kevin.Quade@doj.ca.gov>; Theresa Lee <tlee@aclu.org>; pyan@aclu.org <pyan@aclu.org>; asalceda@aclunc.org <asalceda@aclunc.org>

Subject: Re: US v. Weber - Proposed Stipulation

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The DOJ does not consent to that arrangement. We want this proceed as scheduled in the motion.

Get Outlook for iOS

From: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>

Sent: Friday, December 5, 2025 7:05:40 PM

To: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>

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Best,

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Malcolm A. Brudigam

Deputy Attorney General

Office of the Attorney General

1300 I Street, Ste. 125

Sacramento, CA 95814

Tel: (916) 210-7873

Email: Malcolm.Brudigam@doj.ca.gov

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1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA

3
4 *United States of America,*

5 Plaintiff,

6 v.

7 *Shirley Weber, in her Official Capacity as*
8 *California Secretary of State, and the State*
9 *of California,*

10 Defendants.

Case No. 2:25-cv-09149-DOC-ADS

**[PROPOSED] ORDER GRANTING
CALIFORNIA’S EX PARTE
APPLICATION FOR AN ORDER
DENYING OR DEFERRING
BRIEFING ON PLAINTIFF’S
MOTION FOR AN ORDER TO
PRODUCE RECORDS**

11
12 The Court, having considered Defendants California Secretary of State Shirley
13 Weber’s and the State of California’s (“California”) Ex Parte Application for an Order
14 Denying or Deferring Briefing on Plaintiff’s Motion for an Order to Produce Records
15 ([ECF No. 101](#)), the supporting papers, and all matters presented, and good cause
16 appearing, hereby ORDERS as follows:

17 Defendants’ application is GRANTED.

18 [Plaintiff’s Motion for an Order to Produce Records is denied without prejudice.]

19 [All deadlines associated with Plaintiff’s Motion for an Order to Produce Records
20 are vacated and shall be reset by Court order at a later date following a scheduling
21 conference held pursuant to [Federal Rule of Civil Procedure 16](#).]

22 [Defendants shall file an opposition to Plaintiff’s Motion for an Order to Produce
23 Records seven days after the Court issues its order on the pending motions to dismiss.]

24 IT IS SO ORDERED this ____ day of December 2025.

25
26
27
28

Honorable David O. Carter
District Court Judge