

1 ROB BONTA
2 Attorney General of California
3 R. MATTHEW WISE
4 SETH E. GOLDSTEIN
5 Supervising Deputy Attorneys General
6 ROBERT WILLIAM SETRAKIAN (SBN 335045)
7 ANNE P. BELLOWS (SBN 293722)
8 LISA C. EHRLICH (SBN 270842)
9 MICHAEL S. COHEN (SBN 339846)
10 KEVIN L. QUADE (SBN 285197)
11 WILLIAM BELLAMY (SBN 347029)
12 MALCOLM A. BRUDIGAM (SBN 323707)
13 Deputy Attorneys General
14 1300 I Street, Suite 125
15 Sacramento, CA 95814
16 Telephone: (916) 210-7873
17 Fax: (916) 454-8171
18 E-mail: Malcolm.Brudigam@doj.ca.gov
19 *Attorneys for Defendants Shirley Weber, in her
20 official capacity as the California Secretary of
21 State, and the State of California*

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

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,**

Defendants.

2:25-cv-09149-DOC-ADS

**Memorandum of Points and
Authorities in Support of Ex Parte
Application for Motion to Strike
Plaintiff's Motion for Order to
Produce Records**

Date: December 4, 2025
Time: 7:30 A.M.
Courtroom: TBD
Judge: Hon. David O. Carter
Action Filed: September 25, 2025

23 **INTRODUCTION**

24 Fewer than 72 hours before the hearing on Defendants' Motions to Dismiss,
25 Plaintiff the United States of America ("DOJ") filed a procedurally novel,
26 sprawling motion for an immediate order granting the relief requested in its
27 Complaint. Rather than set a hearing date consistent with the Court's Local Rules,
28 DOJ simply noticed its pending motion for hearing this Thursday morning. This

1 improper hearing date leaves Defendants California Secretary of State Shirley
2 Weber and the State of California no chance to respond to what is functionally a
3 dispositive motion. DOJ's motion is procedurally improper, and the Court should
4 grant this ex parte application to either strike DOJ's pending motion as
5 noncompliant with this Court's Local Rules, or reset the hearing date on the
6 pending motion to comply with this Court's Local Rules.

ARGUMENT

A. The Court Should Strike DOJ's Motion, or in the Alternative, the Motion's Hearing Date

10 DOJ's pending motion has three fatal procedural defects: it violates this
11 Court's Local Rules, it runs roughshod over the tenets of due process, and it
12 deprives this Court of a sensible record on which to base its decision. Accordingly,
13 the Court should either strike DOJ's motion entirely, or strike and reset the hearing
14 date on the motion.

15 DOJ’s failure to comply with the Local Rules, standing alone, is a sufficient
16 basis to strike either the hearing date or the motion in its entirety. Parties must
17 adhere to the Local Rules of this District, and a District Court “has considerable
18 latitude in managing the parties’ motion practice and enforcing local rules.” *Bus.*
19 *Sols., LLC v. Ganatra*, No. 18-cv-1426-DOC-KESx, 2019 WL 6332246, at *1
20 (C.D. Cal. Oct. 23, 2019) (quoting *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1129
21 (9th Cir. 2002)). In this District, “every motion shall be presented by written notice
22 of motion . . . filed not later than twenty-eight (28) days before the date set for
23 hearing.” C.D. Cal. R. 6-1. And this Court has been crystal clear: “Counsel must
24 comply with the timing requirements of the Local Rules so that chambers can
25 properly prepare for motion matters.” ECF No. 23, Initial Scheduling Order, at 3
26 (listing Local Rule 6-1 as one of the binding requirements). Filings that do not
27 comply with these timing requirements should be stricken. *Latham v. Cambria Co.*

1 LLC, No. 16-cv-0561-DOC-PLAx, 2017 WL 125013, at *14 (C.D. Cal. Jan. 12,
2 2017).

3 DOJ’s choice to set a hearing date less than 72 hours from its filing was no
4 minor error. *Cf. W. Coast Corvettes, Inc. v. MV Mktg., Inc.*, No. SA CV 12-0269-
5 DOC, 2012 WL 1401433, at *6 (C.D. Cal. Apr. 23, 2012) (rejecting procedural
6 objection where party “served its Motion only 27 days in advance of the hearing,
7 not the 28 days required by Local Rule 6-1,” and providing the opposing party
8 additional time to respond). In contrast, this last-minute filing has robbed the State
9 Defendants of “sufficient time to prepare an Opposition.” *Woodrum v. Automatic*
10 *Data Processing Inc.*, No. 17-cv-2264-DOC-ASx, 2018 WL 2150945, at *5 (C.D.
11 Cal. May 9, 2018).¹

12 DOJ’s only effort to justify brushing aside the Local Rules warns of
13 “excessive delay.” ECF No. 87-2 at ¶ 16. The DOJ’s desire to move quickly
14 cannot justify its disregard of Local Rules, and its sudden urgency is inconsistent
15 with its delays since initiating this case. DOJ allowed a month to pass between
16 filing this suit and serving California. *Compare ECF No. 1 with ECF No. 28*. DOJ
17 received the State Defendants’ Motion to Dismiss on November 7, but waited an
18 additional three weeks to file the instant motion that it seeks to have resolved at the
19 same time. *Compare ECF No. 37 with ECF No. 87*. DOJ cannot leverage its own
20 delays to withhold California’s right to prepare an adequate response to what is
21 functionally a dispositive motion on DOJ’s claim brought under the Civil Rights
22 Act of 1960 (“CRA”). ECF No. 87 (seeking immediate relief on the CRA claim).

23
24
25

¹In *Woodrum*, the movant failed to satisfy Local Rule 7-3’s meet-and-confer
26 requirement. While DOJ met and conferred with the State seven days before filing
27 this motion, Declaration of Malcolm Brudigam (“Brudigam Decl.”) ¶ 3, Ex. 1, the
28 meeting did not provide the State with a “thorough[]” understanding of “the
 substance of the contemplated motion.” C.D. Cal. L.R. 7-3. DOJ promised at that
 meeting to send the State an advanced copy of its papers, but it never did so, and it
 provided only scant detail on the substance of the motion that it planned to file. *Id.*
 ¶¶ 3-4 & Ex. 1.

1 DOJ's motion also violates basic precepts of due process. *See Mathews v.*
2 *Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process
3 is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'"
4 (citation omitted)). Given the novel and important issues raised by DOJ's motion,
5 California notified DOJ during the meet and confer that it will seek an opportunity
6 to conduct discovery relevant to its opposition, including cross examining any
7 declarants supporting DOJ's motion.² Brudigam Decl. ¶¶ 3–4 & Ex. 1; C.D. Cal.
8 R. 7-6 ("[T]he Court may, in its discretion, require or allow oral examination of
9 any declarant or any other witness."). By seeking an immediate hearing and an
10 order granting immediate relief that is dispositive of this entire case, DOJ asks this
11 Court to dispense with any semblance of due process.³

12 Finally, DOJ's timeline would deprive the Court of the opportunity to review
13 thorough briefing and an adequate factual record on this motion. But "[o]bserving
14 the standard structure and timetable for motions aids both the Court and the
15 litigants." *Craftwood II, Inc. v. Tomy Int'l, Inc.*, No. SA CV 12-1710-DOC-ANX,
16 2013 WL 12140944, at *1 (C.D. Cal. Sept. 19, 2013). Here, "allowing the parties
17 to file an Opposition and Reply . . . undoubtedly will assist the Court in reaching a
18 fair ruling and advances the general preference that actions are decided on the
19 merits." *Chi. Title Co. v. Mireles*, No. 22-cv-1995-MWF-AFMx, 2023 WL
20 4155406, at *3 (C.D. Cal. Feb. 27, 2023).

21

22 ² Courts may allow discovery in actions to enforce a federal agency's
23 investigative subpoenas and demands where "the defendant has presented
24 meaningful evidence that the agency is attempting to abuse its investigative
25 authority." *Reich v. Montana Sulphur & Chem. Co.*, 32 F.3d 440, 449 (9th Cir.
26 1994) (citation omitted). California is confident it will be able to make this
27 showing with adequate time to prepare its response. At the very least, the Court
28 should allow it the opportunity to do so.

³ At a prior hearing in this case, the Court noted that DOJ should have the
right to respond to Intervenor-Defendants' Motions to Dismiss. Brudigam [--].
Just as DOJ benefitted from that due-process protection, the State should now
receive the same benefit. *See Nippon Sigmax Co., Ltd v. Kranos Corp.*, No. 8:21-
cv-00375-DOC-ADSx, 2021 WL 2634823, at *2, 5 (C.D. Cal. June 25, 2021)
(recognizing "what's good for the goose is good for the gander" in granting
reciprocal motion).

B. This Ex Parte Application is Proper

California presents this application ex parte because DOJ's actions in setting the hearing on its motion for a time less than 72 hours after filing do not leave time for California to seek relief on an ordinary schedule.

Earlier today, California notified counsel for DOJ and all other parties in the case of its plans to file this ex parte application. Pursuant to C.D. Cal. R. 7-19, California provides the name, phone number, and email address for counsel for the United States:

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

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

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

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

In response to State Defendants' notice, DOJ has indicated it opposes this application, and the Intervenor Defendants have indicated that they consent to this application. Brudigam Decl. ¶ 6.

CONCLUSION

The Court should grant this ex parte application and either strike DOJ's motion, or strike and reset DOJ's proposed hearing date.

1 Dated: December 2, 2025

Respectfully submitted,

2 ROB BONTA
3 Attorney General of California
4 R. MATTHEW WISE
5 SETH E. GOLDSTEIN
6 Supervising Deputy Attorneys General

7 */s/ Malcolm A. Brudigam*

8 MALCOLM A. BRUDIGAM
9 ROBERT WILLIAM SETRAKIAN
10 ANNE P. BELLOWS
11 LISA C. EHRLICH
12 MICHAEL S. COHEN
13 KEVIN L. QUADE
14 WILLIAM BELLAMY
15 Deputy Attorneys General
16 *Attorneys for Defendants Shirley*
17 *Weber, in her official capacity as the*
18 *California Secretary of State, and*
19 *State of California*

20 SA2025305412

21
22
23
24
25
26
27
28

CERTIFICATE OF COMPLIANCE

2 The undersigned, counsel of record for Defendants Secretary of State Shirley
3 Weber and the State of California, certifies that this brief contains 1,677 words and
4 7 pages, which:

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

6 X complies with the limits set by the Procedures page on the Court's
7 website.

8 || Dated: December 2, 2025

Respectfully submitted,

ROB BONTA
Attorney General of California
R. MATTHEW WISE
SETH E. GOLDSTEIN
Supervising Deputy Attorneys General

/s/ Malcolm A. Brudigam

MALCOLM A. BRUDIGAM
ROBERT WILLIAM SETRAKIAN
ANNE P. BELLOWS
LISA C. EHRLICH
MICHAEL S. COHEN
KEVIN L. QUADE
WILLIAM BELLAMY
Deputy Attorneys General
*Attorneys for Defendants Shirley
Weber, in her official capacity as the
California Secretary of State, and
State of California*

1 ROB BONTA
2 Attorney General of California
3 R. MATTHEW WISE
4 SETH E. GOLDSTEIN
5 Supervising Deputy Attorneys General
6 ROBERT WILLIAM SETRAKIAN (SBN 335045)
7 ANNE P. BELLOWS (SBN 293722)
8 LISA C. EHRLICH (SBN 270842)
9 MICHAEL S. COHEN (SBN 339846)
10 KEVIN L. QUADE (SBN 285197)
11 WILLIAM BELLAMY (SBN 347029)
12 MALCOLM A. BRUDIGAM (SBN 323707)
13 Deputy Attorneys General
14 1300 I Street, Suite 125
15 Sacramento, CA 95814
16 Telephone: (916) 210-7873
17 Fax: (916) 454-8171
18 E-mail: Malcolm.Brudigam@doj.ca.gov

19 *Attorneys for Defendants Shirley Weber, in her
20 official capacity as the California Secretary of
21 State, and the State of California*

22 IN THE UNITED STATES DISTRICT COURT
23 FOR THE CENTRAL DISTRICT OF CALIFORNIA

24
25 **UNITED STATES OF AMERICA,**

26 Plaintiff,

27 v.

28 **SHIRLEY WEBER, in her official
capacity as Secretary of State of the
State of California, and the STATE
OF CALIFORNIA,**

Defendants.

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

**DECLARATION OF MALCOLM
A. BRUDIGAM IN SUPPORT OF
DEFENDANTS' EX PARTE
APPLICATION FOR MOTION TO
STRIKE PLAINTIFF'S MOTION
FOR ORDER TO PRODUCE
RECORDS**

Date: Thursday, Dec. 4, 2025
Time: 7:30 a.m.
Courtroom: TBD [Los Angeles]
Judge: Hon. David O. Carter
Trial Date: None set.
Action Filed: Sept. 25, 2025

**DECLARATION OF MALCOLM A. BRUDIGAM IN SUPPORT OF
DEFENDANTS' EX PARTE APPLICATION FOR MOTION TO STRIKE
PLAINTIFF'S MOTION FOR ORDER TO PRODUCE RECORDS**

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 Secretary of State Shirley Weber and State of California (together, “California”). I submit this Declaration in support California’s Ex Parte Application for Motion to Strike 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 November 21, 2025 and ending on November 24, 2025. The email thread includes an initial notice from counsel for the U.S. Department of Justice (“US DOJ”) that they would be filing an Order to Show Cause in this case, a response from me raising objections, and subsequent emails setting a meet and confer between the parties on November 24, 2025.

4. In US DOJ counsel’s email received at 12:31 p.m. on November 21, 2025, counsel represented that “[w]e are also willing to provide a draft of what we intend to file in advance of the filing so counsel can review and take any necessary actions your clients’ deem appropriate.” In my 6:04 p.m. response that day, I wrote that California “appreciates the opportunity to review a copy of the filing whenever it’s ready.” Subsequently, at the November 24, 2025 meet and confer, I reiterated California’s interest in reviewing a draft in advance of filing, and US DOJ counsel confirmed that he would share a copy of the draft motion in advance of filing. US DOJ never shared a draft of the filing. At the meet and confer, I also notified US DOJ’s counsel that our position was that the Federal Rules of Civil Procedure and

1 the Local Rules governed their filing, and that evidentiary support in the form of
2 declarations for their motion should be subject to potential cross-examination.

3 5. It is my recollection that at the November 19, 2025 hearing in this case,
4 in the context of setting the hearing on the motions to dismiss, the Court noted that
5 US DOJ should receive the right to respond to Intervenor-Defendants' Motions to
6 Dismiss considering due process guarantees.

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

12 I declare under penalty of perjury that the foregoing is true and correct.
13 Executed on December 2, 2025 in Sacramento, California.

14

15

/s/ Malcolm A. Brudigam

16

Malcolm A. Brudigam

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT 1

From: [Angelica Salceda](#)
To: [Lali Madduri](#); [Malcolm Brudigam](#); [Neff, Eric \(CRT\)](#); [William Bellamy](#); [Anne Bellows](#); [Tyler Bishop](#); [Michael Cohen](#); [Chris Dodge](#); [Lisa Ehrlich](#); [Julia Gomez](#); [Walker McKusick](#); [Kevin Quade](#); [omar@qureshi.law](#); [hrosenspire@kaufmanlegalgroup.com](#); [William Setrakian](#); [Jacob Shelly](#); [Grayce Zelphin](#)
Cc: [Bennett, Brittany \(CRT\)](#); [Hamill, Julie \(USACAC\)](#); [Riordan, Maureen \(CRT\)](#)
Subject: RE: Notice of Intent to File Order to Show Cause
Date: Monday, November 24, 2025 10:15:39 AM
Attachments: [image001.png](#)

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Good morning,

I'll be available on behalf of League of Women Voters of California intervenors to meet and confer at that time. Like, NAACP/SIREN, we also share the State's concerns.

Best,

Angélica Salceda (she/her/ella)
Program Director
ACLU Foundation of Northern California
(559) 374-2914
asalceda@aclunc.org

From: Lali Madduri <lmadduri@elias.law>
Sent: Monday, November 24, 2025 5:58 AM
To: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>; Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Tyler Bishop <tbishop@elias.law>; Michael Cohen <Michael.Cohen@doj.ca.gov>; Chris Dodge <cdodge@elias.law>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; Julia Gomez <jgomez@aclusocal.org>; Walker McKusick <wmckusick@elias.law>; Kevin Quade <Kevin.Quade@doj.ca.gov>; omar@qureshi.law; hrosenspire@kaufmanlegalgroup.com; Angelica Salceda <asalceda@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; Jacob Shelly <jshelly@elias.law>; Grayce Zelphin <gzelphin@aclunc.org>
Cc: Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Riordan, Maureen (CRT) <Maureen.Riordan2@usdoj.gov>
Subject: RE: Notice of Intent to File Order to Show Cause

A representative from the NAACP/SIREN intervenors can be available to meet and confer at that time as well. We share the State's concerns.

Lali Madduri
Partner

Elias Law Group LLP

202-968-4593

CONFIDENTIAL: This email may contain privileged or confidential information and is for the sole use of the intended recipient(s). Any unauthorized use or disclosure of this communication is prohibited. If you believe that you have received this email in error, please notify the sender immediately and delete it from your system.

From: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>
Sent: Friday, November 21, 2025 6:50 PM
To: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; Tyler Bishop <tbishop@elias.law>; Michael Cohen <Michael.Cohen@doj.ca.gov>; Chris Dodge <cdodge@elias.law>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; jgomez@aclusocal.org; Lali Madduri <lmadduri@elias.law>; Walker McKusick <wmckusick@elias.law>; Kevin Quade <Kevin.Quade@doj.ca.gov>; omar@qureshi.law; hrosenspire@kaufmanlegalgroup.com; asalceda@aclunc.org; William Setrakian <William.Setrakian@doj.ca.gov>; Jacob Shelly <jshelly@elias.law>; gzelphin@aclunc.org
Cc: Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Riordan, Maureen (CRT) <Maureen.Riordan2@usdoj.gov>
Subject: Re: Notice of Intent to File Order to Show Cause

Thanks, Eric. We'll send you an invite.

From: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>
Sent: Friday, November 21, 2025 3:39 PM
To: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; tbishop@elias.law <tbishop@elias.law>; Michael Cohen <Michael.Cohen@doj.ca.gov>; cdodge@elias.law <cdodge@elias.law>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; jgomez@aclusocal.org <jgomez@aclusocal.org>; lmadduri@elias.law <lmadduri@elias.law>; wmckusick@elias.law <wmckusick@elias.law>; Kevin Quade <Kevin.Quade@doj.ca.gov>; omar@qureshi.law <omar@qureshi.law>; hrosenspire@kaufmanlegalgroup.com <hrosenspire@kaufmanlegalgroup.com>; asalceda@aclunc.org <asalceda@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; jshelly@elias.law <jshelly@elias.law>; gzelphin@aclunc.org <gzelphin@aclunc.org>
Cc: Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Riordan, Maureen (CRT) <Maureen.Riordan2@usdoj.gov>
Subject: Re: Notice of Intent to File Order to Show Cause

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Thank you for your reply. That time works for us. Is a representative from each of the other parties able to appear at that time?

Get [Outlook for iOS](#)

From: Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>
Sent: Friday, November 21, 2025 6:04:25 PM
To: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>; William Bellamy <William.Bellamy@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; tbishop@elias.law <tbishop@elias.law>; Michael Cohen <Michael.Cohen@doj.ca.gov>; cdodge@elias.law <cdodge@elias.law>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; jgomez@aclusocal.org <jgomez@aclusocal.org>; lmadduri@elias.law <lmadduri@elias.law>; wmckusick@elias.law <wmckusick@elias.law>; Kevin Quade <Kevin.Quade@doj.ca.gov>; omar@qureshi.law <omar@qureshi.law>; hrosenspire@kaufmanlegalgroup.com <hrosenspire@kaufmanlegalgroup.com>; asalceda@aclunc.org <asalceda@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; jshelly@elias.law <jshelly@elias.law>; gzelphin@aclunc.org <gzelphin@aclunc.org>
Cc: Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Riordan, Maureen (CRT) <Maureen.Riordan2@usdoj.gov>
Subject: [EXTERNAL] Re: Notice of Intent to File Order to Show Cause

Hi Eric:

Thank you for your email. California is available to meet and confer on Monday regarding your Motion for an Order to Show Cause, and appreciates the opportunity to review a copy of the filing whenever it's ready. Our team is free between 12:30-1:30 p.m. PT / 3:30-4:30 p.m. ET on Monday. We also agree the Local Rules govern this filing, and thus object to DOJ filing its Motion for an OSC in advance of the LR 7-3 requirement, which requires filing at least seven days after the actual meet and confer, not the request to meet and confer.

We'd also note that Judge Carter stated at Wednesday's hearing that he would be issuing an order on the Motions to Dismiss by the end of the following weekend, so we do not believe there is any reason your Motion for OSC would (or should) be heard that same day. All parties and the Court would benefit from the outcome of the Motions to Dismiss before addressing DOJ's forthcoming Motion for OSC, particularly because the issues raised by defendants are threshold questions that are upstream from an OSC. And of course, the Local Rules require noticing a hearing at least 28 days from the filing date of the Motion for OSC, and December 4 would not meet that requirement.

Finally, we do not understand how an OSC would be an appropriate next step under the Federal Rules of Civil Procedure, even if the Court determines that DOJ has plausibly alleged cognizable causes of action. California expects that if its MTD is not granted, it will plan to oppose DOJ's Motion for an OSC and seek discovery, though we look forward to discussing further at the meet and confer.

Please let us know if the time we identified on Monday works for you, and we can send a calendar invite. Otherwise, please propose an alternative that works for you.

Best,
Malcolm

From: Neff, Eric (CRT) <Eric.Neff@usdoj.gov>
Sent: Friday, November 21, 2025 12:31 PM
To: William Bellamy <William.Bellamy@doj.ca.gov>; Anne Bellows <Anne.Bellows@doj.ca.gov>; tbishop@elias.law <tbishop@elias.law>; Malcolm Brudigam <Malcolm.Brudigam@doj.ca.gov>; Michael Cohen <Michael.Cohen@doj.ca.gov>; cdodge@elias.law <cdodge@elias.law>; Lisa Ehrlich <Lisa.Ehrlich@doj.ca.gov>; jgomez@aclusocal.org <jgomez@aclusocal.org>; lmadduri@elias.law <lmadduri@elias.law>; wmckusick@elias.law <wmckusick@elias.law>; Kevin Quade <Kevin.Quade@doj.ca.gov>; omar@qureshi.law <omar@qureshi.law>; hrosenspire@kaufmanlegalgroup.com <hrosenspire@kaufmanlegalgroup.com>; asalceda@aclunc.org <asalceda@aclunc.org>; William Setrakian <William.Setrakian@doj.ca.gov>; jshelly@elias.law <jshelly@elias.law>; gzelphin@aclunc.org <gzelphin@aclunc.org>
Cc: Bennett, Brittany (CRT) <Brittany.Bennett@usdoj.gov>; Hamill, Julie (USACAC) <Julie.Hamill@usdoj.gov>; Riordan, Maureen (CRT) <Maureen.Riordan2@usdoj.gov>
Subject: Notice of Intent to File Order to Show Cause

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

Counsel,

This email is to provide notice of the United States' intent to file an Order to Show Cause in this case. If the Motion to Dismiss is denied on December 4, the United States intends to ask immediately for its issuance. The United States' position is that all dispositive issues will be resolved at that point and that all that remains is the issuance of an appropriate order to effect the production of records in question.

While the OSC itself cannot be filed immediately, due to meet and confer Local Rules (see Rule 7.3-7.8), we in the meantime are amenable to any discussions on Monday any parties wish to have as far as this request of the court. We are also willing to provide a draft of what we intend to file in advance of the filing so counsel can review and take any necessary actions your clients' deem appropriate. We expect a final or near-final draft version to be ready early next week.

Also, we ask if any parties have any objection to the United States filing the OSC in advance of November 28, 2025, so that the court as well will have additional time to review the filing. This would not be deemed in any way a waiver of any and all notice and calendar

requirements on behalf of your clients. It would merely be a courtesy for the court.

Best,

Eric

Eric Neff

Trial Attorney

Civil Rights Division

Department of Justice

150 M St. NE, Ste. 8-139

Washington, DC 20002

Eric.Neff@usdoj.gov

Cell: 202-532-3628



CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

EXHIBIT 2

From: [Malcolm Brudigam](#)
To: [Riordan, Maureen \(CRT\)](#); [Bennett, Brittany \(CRT\)](#); [Hamill, Julie \(USACAC\)](#); [Eric \(CRT\)](#)"
Cc: [asalceda@aclunc.org](#); [Lali Madduri](#); [Tyler Bishop](#); [Chris Dodge](#); [Julia Gomez](#); [Walker McKusick](#); [Jacob Shelly](#); [Grace Zelphin](#); [William Setrakian](#); [Anne Bellows](#); [Lisa Ehrlich](#); [Michael Cohen](#); [William Bellamy](#); [Lisa Ehrlich](#); [Kevin Quade](#)
Subject: [United States v. Weber, et al.] -- Notice of Ex Parte Application
Date: Tuesday, December 2, 2025 1:37:18 PM
Attachments: [Outlook-hnpegd5a.png](#)

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 Plaintiff's Motion for an Order to Produce Records, filed last night. We will be asking the Court to strike Plaintiff's filing, or alternatively strike and reset the December 4 hearing date for the filing, on the grounds that the filing violates the Court's Local Rules, denies Defendants due process, and likewise deprives the Court of the parties' considered briefing.

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

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

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

SHIRLEY WEBER, in her official capacity as Secretary of State of the State of California, and the STATE OF CALIFORNIA,

Defendants.

2:25-cv-09149-DOC-ADS

HON. DAVID O. CARTER

**EX PARTE APPLICATION FOR
MOTION TO STRIKE
PLAINTIFF'S MOTION FOR
ORDER TO PRODUCE RECORDS
[DKT. NO. 87]**

Date: December 4, 2025

Date: December
Time: 7:30 A.M.

Courtroom: TBD

Judge: Hon. David O. Carter

Action Filed: Sept. 25, 2025

[PROPOSED] ORDER

The Court, having considered Defendants' Ex Parte Application for Motion to Strike Plaintiff's Motion for Order to Produce Records ([ECF No. 87](#)), the supporting papers, and all matters presented, and good cause appearing, hereby ORDERS as follows:

[Plaintiff's Motion for Order to Produce Records is stricken for failure to comply with Local Rule 6-1.]

[The hearing on Plaintiff's Motion for Order to Produce Records, previously set for December 4, 2025, is continued to _____.]

IT IS SO ORDERED this day of December 2025.

Honorable David O. Carter
District Court Judge