

Consolidated Case Nos. 18-15068, 18-15069, 18-15070,
18-15071, 18-15072, 18-15128, 18-15133, 18-15134

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

REGENTS OF THE UNIVERSITY OF CALIFORNIA, et al.,

Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF HOMELAND SECURITY, et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the Northern District of California

OPPOSED MOTION FOR EXPEDITION

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1. This appeal arises from district court suits challenging the Acting Secretary's discretionary determination to wind down the policy known as DACA (Deferred Action for Childhood Arrivals). On January 26, 2018, this Court entered an order setting the briefing dates as follows: defendants' opening brief due February 13; plaintiffs' opening and response brief due March 13; defendants' response and reply brief due April 10; and plaintiffs' reply brief due within 21 days of the filing of defendants' brief. Defendants filed their opening brief on February 13.

2. On February 26, 2018, the Supreme Court denied, without prejudice, the government's writ for certiorari before judgment in this case. In its order, the Supreme Court stated that "[i]t is assumed that the Court of Appeals will proceed expeditiously to decide this case." *U.S. Dep't of Homeland Security v. Regents of the University of California*, No. 17-1003 (Feb. 26, 2018); *see also* 28 U.S.C. § 1657 (directing courts to give priority to actions for preliminary injunction).

3. In light of the Supreme Court's indication that these cases should proceed expeditiously, and the government's desire for resolution of these cases as quickly as possible, while remaining fair and reasonable, the government proposes to alter the briefing schedule. The government will file its response and reply brief by April 3rd, which is within 21 days of the filing of plaintiffs' opening and response brief. The government also requests that this Court shorten plaintiffs' time for reply to 14 days, which would be April 17th at the latest.

The government further requests that oral argument and decision be expedited in order to facilitate the Supreme Court’s potential review of the issues presented in this case. The government would like to preserve the opportunity for the Supreme Court to issue any writ of certiorari prior to the summer recess.

As noted below, although Plaintiffs do not object to the government filing its response and reply brief a week or more earlier than previously scheduled, they object to having their cross-reply brief period shortened from 21 days to 14 days. But that modest reduction will not materially affect their ability to prepare their final brief in this already exhaustively litigated case. By contrast, that reduction will have a material effect on the ability of this Court to render a decision in time to facilitate the Supreme Court’s potential grant of review prior to the summer recess—consistent with the Court’s suggestion of expeditious resolution.

4. In response to this motion, plaintiffs state the following: “Plaintiffs do not see any need to modify the current expedited briefing schedule set by the Court. Under that schedule, defendants are free to file their third brief on cross-appeal any time after March 13; the schedule also sets an appropriate amount of time for plaintiffs to file their final briefs, given the importance and complexity of the case. As to the timing of argument, plaintiffs will be prepared to argue the case on whatever date the Court deems appropriate.”

CONCLUSION

For the foregoing reasons, this Court should adopt the expedited schedule presented above.

Respectfully submitted,

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MARCH 2018

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the word limit of Federal Rule of Appellate Procedure 21(d)(1) because the motion contains 512 words, excluding the parts of the motion exempted by Federal Rule of Appellate Procedure 32(f). I further certify that this motion complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared using Microsoft Word 2013 in a proportionally spaced typeface, 14-point Garamond font.

s/ Mark B. Stern
MARK B. STERN

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2018, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. Service will be accomplished automatically by the appellate CM/ECF system on all other counsel.

s/ Mark B. Stern
MARK B. STERN