

**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, Honorable William H. Alsup Presiding**

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA'S OPPOSITION
TO DEFENDANTS' MOTION TO EXPEDITE**

Jeffrey M. Davidson
Erika Douglas
David Watnick
Breanna Jones
COVINGTON & BURLING LLP
One Front Street, 35th Floor
San Francisco, CA 94111-5356
(415) 591-6000

Robert A. Long
Mark H. Lynch
Alexander A. Berengaut
Megan A. Crowley
Ivano Ventresca
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Avenue, NW
Washington, DC 20001

Attorneys for Plaintiffs The Regents of the University of California, et al.

1. On January 26, 2018, this Court *sua sponte* expedited the consolidated appeals in this case. (DE 21.) On February 26, 2018, the Supreme Court denied the government’s petition for a writ of certiorari before judgment, rejecting the government’s contention that this case warrants extraordinarily expedited review by the Supreme Court, while stating 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 (S. Ct. Feb. 26, 2018).

2. On March 8, 2018, the government filed a “Motion for Expedition” that fails to acknowledge that the proceedings before this Court are already expedited, as the Supreme Court assumed they would be. The government fails to articulate, let alone satisfy, the “good cause” standard for further expedition, which can be satisfied by a showing, for example, that “in the absence of expedited treatment, irreparable harm may occur or the appeal may become moot.” L.R. 27-12.

3. The government has not sought a stay of the district court’s injunction from the district court, this Court or the Supreme Court, because it purportedly desires to “avoid the disruptive effects on all parties of abrupt shifts in the enforcement of the Nation’s immigration laws.” Pet. for Cert. Before J. at 12, No. 17-801 (S. Ct. Jan. 18, 2018). The government’s litigation decisions are therefore inconsistent with an argument that it will suffer irreparable harm unless this Court further expedites the appeal.

4. The government proposes to file its response and reply brief by April 3—which is already permitted under this Court’s order. It also requests that this Court shorten plaintiffs’ time to reply to the government’s response from 21 to 14 days. Given the number and complexity of the issues presented by these appeals, and their importance, plaintiffs believe that both they and this Court would benefit from the additional development of the issues that the extra week would provide. Accordingly, plaintiffs oppose the request to shorten the time for filing their reply brief.

5. The government also requests that this Court schedule oral argument on a date that will preserve “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.” That is a truly extraordinary request that, if granted, would not allow this Court adequate time to consider the arguments of the parties and write a decision. Even if this Court were to issue a decision almost immediately after reviewing the briefs and record and receiving oral argument, it would be extraordinarily difficult for the Supreme Court to consider and rule on a petition for certiorari (along with briefs in opposition to certiorari and replies) before the end of June. The government’s request goes beyond “expedition” and seeks to deprive this Court of adequate time to deliberate and write a considered opinion.

Plaintiffs are prepared to argue the appeal on whatever date the Court deems appropriate. In plaintiffs' view, however, the government's request goes well beyond the Supreme Court's guidance and would improperly constrict the Court's consideration of this important case, and should be denied.

Dated: March 9, 2018

Respectfully submitted,

COVINGTON & BURLING LLP

s/ Jeffrey M. Davidson

Jeffrey M. Davidson

Dylan Silva

One Front Street, 35th Floor

San Francisco, CA 94111-5356

Telephone: (415) 591-6000

Facsimile: (415) 591-6091

Email: jdavidson@cov.com,

dsilva@cov.com,

Lanny A. Breuer

Mark H. Lynch

Alexander A. Berengaut

Megan A. Crowley

Ivano Ventresca

One CityCenter

850 Tenth Street, NW

Washington, DC 20001-4956

Telephone: (202) 662-6000

Facsimile: (202) 662-6291

E-mail: lbreuer@cov.com,

mlynch@cov.com,

aberengaut@cov.com,

mcrowley@cov.com,

iventresca@cov.com

CERTIFICATE OF COMPLIANCE

I hereby certify that this opposition brief complies with the page limit of Ninth Circuit Rule 21-2(c) because the brief does not exceed 30 pages, excluding the parts of the motion exempted by Federal Rule of Appellate Procedure 32(f). I further certify that this opposition brief 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 2016 in a proportionally spaced typeface, 14-point Times New Roman font.

DATED: March 9, 2018

COVINGTON & BURLING LLP

s/ Jeffrey M. Davidson
Jeffrey M. Davidson

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 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 CMECF system on all other counsel.

s/ Jeffrey M. Davidson
Jeffrey M. Davidson