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26 **UNITED STATES DISTRICT COURT**
27 **CENTRAL DISTRICT OF CALIFORNIA**
28 **WESTERN DIVISION (LOS ANGELES)**

29 ANDREW MASON DVASH-
30 BANKS and E.J. D.-B.,
31
32 Plaintiffs,

33 v.

34 THE UNITED STATES
35 DEPARTMENT OF STATE,
36 and THE HONORABLE
37 MICHAEL R. POMPEO,
38 Secretary of State,
39
40 Defendants.

Case No. 2:18-cv-00523-JFW-JCx

**JOINT STIPULATION TO
MODIFY SCHEDULING ORDER
UNDER RULE 16(b)**

Judge: Hon. John F. Walter

1 **STIPULATION TO MODIFY THE DEADLINE FOR AMENDING THE**
2 **PLEADINGS IN THE COURT’S SCHEDULING ORDER**

3 WHEREAS, Plaintiffs Andrew Mason Dvash-Banks (“Andrew”) and
4 E.J.D.-B. (“E.J.”; together, “Plaintiffs”) filed the initial Complaint in the above-
5 entitled action (the “Action”) on January 22, 2018;

6 WHEREAS, the Complaint alleged four claims: (1) violation of due
7 process under the Fifth Amendment (Count I); (2) violation of equal protection
8 under the Fifth Amendment (Count II); (3) violation of Section 706(2)(A) of the
9 Administrative Procedure Act (the “APA”) (Count III); and (4) declaratory
10 judgment pursuant to Section 1503 of the Immigration and Nationality Act
11 (“INA”) that E.J. is a U.S. citizen at birth (Count IV).

12 WHEREAS, Defendants the United States Department of State (the
13 “State Department”) and the Honorable Michael R. Pompeo, Secretary of State in
14 his official capacity (together with the State Department, “Defendants,” and jointly
15 with Plaintiffs, “the Parties”), answered the Complaint on July 16, 2018;

16 WHEREAS, the Court issued a Scheduling and Case Management
17 Order (the “Scheduling Order”) on August 21, 2018 (Dkt. No. 52), setting out
18 various deadlines for the Action;

19 WHEREAS, the deadline for amending the pleadings (as set out in the
20 Scheduling Order) was October 20, 2018;

21 WHEREAS, the current deadline for filing motions for summary
22 judgment, as stipulated to by the parties on December 21, 2018 and ordered by the
23 Court on December 26, 2018, is January 7, 2019;

24 WHEREAS, the Parties intend to cross-move for partial summary
25 judgment on January 7, 2019;

26 WHEREAS, in an effort to streamline the issues for the Court’s
27 consideration and adjudication, that Parties have met and conferred regarding the
28 possibility of eliminating claims from the Action;

1 WHEREAS, the Parties met and conferred telephonically on
2 December 21, 2018, and January 2 and January 3, 2019, and agreed, subject to the
3 approval of the Court, to the withdrawal without prejudice of Plaintiffs' equal
4 protection claim (Count II of the operative Complaint) from the Action via
5 amendment of the Complaint under Fed. R. Civ. P. 15(a);

6 WHEREAS, the deadline for amending the pleadings (October 20,
7 2018) has passed;

8 WHEREAS, good cause exists for modifying the Scheduling Order to
9 allow Plaintiffs to file a First Amended Complaint solely for the purpose of
10 removing their equal protection claim and thereby eliminating the need for the
11 Court to adjudicate that claim;

12 WHEREAS, removal of Plaintiffs' equal protection claim would
13 narrow the issues for the Court's review and thereby conserve the Court's and the
14 parties' resources.

15 WHEREAS, removal of Plaintiffs' equal protection claim would not
16 prejudice Defendants;

17 WHEREAS, Defendants consent, under Fed. R. Civ. P. 15(a), to
18 Plaintiffs' amendment of the Complaint to delete their equal protection claim.

19 WHEREAS, Plaintiffs intend to file, concurrently with this Joint
20 Stipulation, an unopposed *ex parte* motion for leave to amend the Complaint to
21 remove the equal protection claim under Fed. R. Civ. P. 15(a), accompanied by the
22 proposed First Amended Complaint.

23 WHEREAS the Parties stipulate and agree that Defendants are not
24 required to respond to the First Amended Complaint and no other case deadlines
25 should be altered in light of (1) Defendants' prior answer to the Complaint, which
26 is identical to the First Amended Complaint except for the First Amended
27 Complaint's omission of Plaintiffs' equal protection claim; and (2) the Parties'
28 forthcoming motions for partial summary judgment.

1 NOW, THEREFORE, the Parties, through their undersigned counsel,
2 hereby stipulate and agree, subject to the approval of the Court, that the Scheduling
3 Order shall be modified to allow Plaintiffs to file a First Amended Complaint
4 removing without prejudice their equal protection claim (Count II of the operative
5 Complaint).

6
7 Dated: January 4, 2019

Respectfully submitted,

8 By: /s/ Alexa M. Lawson-Remer

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Attorneys for Defendants

ATTESTATION

Pursuant to Local Rule 5-4.3.4(a)(2)(i), the filer attests that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: January 4, 2019

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40 Defendants.

Case No. 2:18-cv-00523-JFW-JCx

**[PROPOSED] ORDER TO MODIFY
SCHEDULING ORDER UNDER
RULE 16(b)**

Judge: Hon. John F. Walter

1 PURSUANT TO JOINT STIPULATION OF THE PARTIES TO MODIFY THE
2 COURT'S SCHEDULING ORDER UNDER RULE 16(b) AND FOR GOOD
3 CAUSE APPEARING, IT IS SO ORDERED THAT:

4 (1) The deadline for amending the pleadings in the Court's Scheduling
5 and Case Management Order shall be modified to permit Plaintiffs to
6 file a First Amended Complaint for the purpose of removing their
7 equal protection claim (Count II of the initial Complaint).

8 (2) Defendants are not required to respond to the First Amended
9 Complaint and no other case deadlines should be altered.

10
11 Date: _____

_____ The Honorable John F. Walter

12
13
14 Respectfully submitted,

15 By: /s/ Alexa M. Lawson-Remer

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