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 Attorneys for Defendants

11 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
 12 **SAN FRANCISCO DIVISION**

13 CITY AND COUNTY OF SAN
 FRANCISCO,

14 Plaintiff,

15 vs.

16 ALEX M. AZAR II et al.,
 17 Defendants.

No. C 19-02405 WHA
Related to
 No. C 19-02769 WHA
 No. C 19-02916 WHA

18 STATE OF CALIFORNIA, *by and*
through ATTORNEY GENERAL
 19 XAVIER BECERRA,

20 Plaintiff,

21 vs.

22 ALEX M. AZAR II et al.,
 Defendants.

**UNOPPOSED ADMINISTRATIVE
 MOTION TO ENLARGE TIME TO
 FILE RESPONSE TO THE
 COMPLAINTS**

Hon. William Alsup
 Hearing: October 30, 2019, 8:00 a.m.

23 COUNTY OF SANTA CLARA et al.,
 24 Plaintiffs,

25 vs.

26 U.S. DEPARTMENT OF HEALTH AND
 HUMAN SERVICES et al.,
 27 Defendants.

Phillip Burton Federal Building & United
 States Courthouse, Courtroom 12, 19th
 Floor,
 450 Golden Gate Ave., San Francisco, CA
 94102

1 Defendants respectfully request, pursuant to Rules 6-3 and 7-11 of the Local Rules of Practice in
2 Civil Proceedings before the United States District Court for the Northern District of California, that the
3 Court enlarge the time for Defendants to file their response to the complaints in *County of Santa Clara v.*
4 *HHS* and *City and County of San Francisco v. Azar* and the non-Freedom of Information Act claims in
5 *California v. Azar* until noon on August 21, 2019, the deadline for their motion for summary judgment.
6 At present, Defendants' response deadline in *California* is July 27, 2019, *County of Santa Clara* is July
7 30, 2019, and *City and County of San Francisco* is August 6, 2019. Plaintiffs in all three cases do not
8 oppose this request.

9 Defendants' request is warranted in light of the current deadline for their motion for summary
10 judgment. Defendants intend to file a consolidated motion to dismiss, or in the alternative, for summary
11 judgment on August 21, 2019. Requiring Defendants to file separate responses to the complaints several
12 weeks earlier would be unnecessarily duplicative and would burden the Court with excess filings.

13 Last, although Defendants do not request an enlargement of time to respond to California's FOIA
14 claim, California asked Defendants to include the following statement in this motion: "California opposes
15 any request to extend the time further on the FOIA claim beyond the enlargement provided by the court
16 in its June 28, 2019 order (ECF No. 39), but does not oppose a request to enlarge, to August 21, 2019,
17 Defendants' response to the other non-FOIA claims."

18 Dated: July 18, 2019

Respectfully Submitted,

19 JOSEPH H. HUNT
20 Assistant Attorney General

21 MICHELLE BENNETT
22 Assistant Branch Director
23 Civil Division

24 /s/ Benjamin T. Takemoto
25 REBECCA M. KOPPLIN
(CA Bar # 313970)
26 BENJAMIN T. TAKEMOTO
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27 Trial Attorney
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 11 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA
 12 **SAN FRANCISCO DIVISION**

13 CITY AND COUNTY OF SAN
 FRANCISCO,

14 Plaintiff,

15 vs.

16 ALEX M. AZAR II et al.,

17 Defendants.

No. C 19-02405 WHA

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18 STATE OF CALIFORNIA, *by and*
through ATTORNEY GENERAL
 19 XAVIER BECERRA,

20 Plaintiff,

21 vs.

22 ALEX M. AZAR II et al.,

Defendants.

**DECLARATION OF BENJAMIN T.
 TAKEMOTO**

Hon. William Alsup

Hearing: October 30, 2019, 8:00 a.m.

Phillip Burton Federal Building & United
 States Courthouse, Courtroom 12, 19th
 Floor,
 450 Golden Gate Ave., San Francisco, CA
 94102

23 COUNTY OF SANTA CLARA et al.,

24 Plaintiffs,

25 vs.

26 U.S. DEPARTMENT OF HEALTH AND
 HUMAN SERVICES et al.,

27 Defendants.

1 I, Benjamin T. Takemoto, declare as follows:

- 2 1. I am a trial attorney at the Federal Programs Branch of the Civil Division of the United States
3 Department of Justice. I represent Defendants in this case.
- 4 2. The statements made herein are based on my personal knowledge and on information made
5 available to me in the course of my representation of Defendants.
- 6 3. Plaintiff in *California v. Azar* effected service on the United States Attorney's Office on May 28,
7 2019. On June 28, 2019, the Court issued an order enlarging the deadline for Defendants response
8 to Plaintiff's Freedom of Information Act (FOIA) claim until July 27, 2019. The deadline for
9 Defendants' response to the entire complaint is July 27, 2019.
- 10 4. Plaintiffs in *County of Santa Clara v. HHS* effected service on the United States Attorney's Office
11 on May 31, 2019. The deadline for Defendants' response to that complaint is July 30, 2019.
- 12 5. Plaintiff in *City and County of San Francisco v. Azar* effected service on the United States
13 Attorney's Office on June 7, 2019. The deadline for Defendants' response to that complaint is
14 August 6, 2019.
- 15 6. Defendants request an enlargement of time to file their response to the complaints in *County of*
16 *Santa Clara* and *City and County of San Francisco* and the non-FOIA claims in *California* until
17 noon on August 21, 2019 for several reasons. That is the current deadline for Defendants' motion
18 for summary judgment. Requiring Defendants to file separate responses to the complaints several
19 weeks before that deadline, as is currently the case, would be unnecessarily duplicative and would
20 burden the Court with excess filings. Furthermore, such a requirement would prejudice Defendants
21 because they would be required to prepare responses earlier than the motion for summary judgment
22 deadline set forth by the Court.
- 23 7. This is Defendants' first request to enlarge time to file their response to the complaint in *County*
24 *of Santa Clara* and *City and County of San Francisco*. It is their second request in *California*. On
25 June 27, 2019, Defendants requested an enlargement of time to file their response to the State of
26 California's FOIA claim. The Court granted that request on June 28, 2019.
- 27 8. The undersigned has attempted to obtain a stipulation from Plaintiffs. Although Plaintiffs do not
28 oppose Defendants' request, they do not agree to file a stipulation.

1 9. The only effect that the requested time modification would have on the schedule of the case is to
2 delay Defendants' response to the complaints.

3 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
4 correct.

5 Executed on July 18, 2019.

/s/ Benjamin T. Takemoto
BENJAMIN T. TAKEMOTO

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff,

vs.

ALEX M. AZAR II et al.,

Defendants.

No. C 19-02405 WHA

Related to

No. C 19-02769 WHA

No. C 19-02916 WHA

STATE OF CALIFORNIA, *by and through* ATTORNEY GENERAL XAVIER BECERRA,

Plaintiff,

vs.

ALEX M. AZAR II et al.,

Defendants.

[PROPOSED] ORDER

Hon. William Alsup

Hearing: October 30, 2019, 8:00 a.m.

Phillip Burton Federal Building & United States Courthouse, Courtroom 12, 19th Floor, 450 Golden Gate Ave., San Francisco, CA 94102

COUNTY OF SANTA CLARA et al.,

Plaintiffs,

vs.

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES et al.,

Defendants.

Defendants' administrative motion to enlarge time to file their response to the complaints is **GRANTED**. Defendants' response to all non-Freedom of Information Act claims shall be due at **NOON** on **AUGUST 21, 2019**.

IT IS SO ORDERED.

Dated: _____

WILLIAM ALSUP

UNITED STATES DISTRICT JUDGE