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 Attorneys for Defendants

11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
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,
 Plaintiff,
 20 vs.
 21 ALEX M. AZAR II et al.,
 22 Defendants.

**DEFENDANTS' ADMINISTRATIVE
 MOTION FOR ENTRY OF ORDER**

Hon. William Alsup

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 Pursuant to Rule 7-11 of the Local Rules of Practice in Civil Proceedings before the United States
2 District Court for the Northern District of California, Defendants respectfully file this administrative
3 motion for an order authorizing the release of certain materials that are a part of the administrative record.
4 Specifically, those materials include complaints that individuals have submitted to the United States
5 Department of Health and Human Services Office for Civil Rights. Although Defendants have endeavored
6 to identify and redact personally identifiable information in those complaints, they request out of an
7 abundance of caution that the Court enter an order authorizing the release of these materials as part of the
8 administrative record, including any information that may be covered by the Privacy Act, 5 U.S.C. § 552a.
9 *See* 5 U.S.C. § 552a(b)(11) (permitting disclosure of information protected by the Privacy Act pursuant
10 to a court order).

11 Counsel for Defendants have conferred with counsel for Plaintiffs in all three cases concerning
12 this request. Plaintiffs do not oppose Defendants' request. Counsel for the State of California requested
13 that Defendants note in their motion the following: "California does not oppose Defendants'
14 administrative motion to ensure that Defendants comply with the Court-ordered deadline for production
15 of the administrative record. However, California reserves its right to seek the redacted information in
16 the forthcoming administrative record under FOIA or other legal authority."

17 A proposed order is attached for the Court's convenience. Defendants respectfully request that the
18 Court enter the order by July 22, 2019, the date by which Defendants are to produce the administrative
19 record to Plaintiffs. Unless and until the Court enters the requested order, Defendants will be able to
20 produce to Plaintiffs only the portions of the record that do not contain potentially Privacy Act-covered
21 information.

22 Dated: July 19, 2019

Respectfully Submitted,

23 JOSEPH H. HUNT
24 Assistant Attorney General

25 MICHELLE BENNETT
26 Assistant Branch Director
Civil Division

27 /s/ Rebecca M. Kopplin
28 REBECCA M. KOPPLIN
(CA Bar # 313970)

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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

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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 REBECCA M.
 KOPPLIN IN SUPPORT OF
 DEFENDANTS' ADMINISTRATIVE
 MOTION FOR ENTRY OF ORDER**

Hon. William Alsup

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, Rebecca M. Kopplin, declare as follows:
2

- 3 1. I am a trial attorney at the Federal Programs Branch of the Civil Division of the United States
4 Department of Justice. I represent Defendants in these cases.
- 5 2. The statements made herein are based on my personal knowledge and on information made
6 available to me in the course of my representation of Defendants.
- 7 3. I have attempted to obtain a stipulation with Plaintiffs in these three cases for entry of the
8 requested order. Counsel for all plaintiffs in these three cases indicated that they did not oppose
9 Defendants' request, but that they preferred Defendants proceed through an administrative
10 motion rather than through stipulation. Counsel for the State of California also requested that
11 Defendants state the following: "California does not oppose Defendants' administrative
12 motion to ensure that Defendants comply with the Court-ordered deadline for production of
13 the administrative record. However, California reserves its right to seek the redacted
14 information in the forthcoming administrative record under FOIA or other legal authority."
15

16 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and
17 correct.
18

19 Executed on July 19, 2019.

/s/ Rebecca M. Kopplin

20 REBECCA M. KOPPLIN
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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

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 for entry of order is **GRANTED**. Defendants are authorized to release the information described in their administrative motion for entry of order that may be covered by the Privacy Act, 5 U.S.C. § 552a, without obtaining the prior written consent of the individuals to whom such records or information pertain.

IT IS SO ORDERED.

Dated: _____

WILLIAM ALSUP

UNITED STATES DISTRICT JUDGE