

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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**No. 17-17168**  
(1:17-cv-00050-DKW-KSC)

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**STATE OF HAWAII**, et al.,

Plaintiffs – Appellees

v.

**DONALD J. TRUMP**, et al.,

Defendants – Appellants.

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**CONSENT MOTION UNDER CIRCUIT RULE 3-3  
FOR ENTRY OF AN EXPEDITED BRIEFING SCHEDULE  
NEGOTIATED BY THE PARTIES**

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The parties to this preliminary injunction appeal request that this Court enter an expedited briefing schedule pursuant to Ninth Circuit Rule 3-3. The parties have conferred and agreed upon a schedule for expedited briefing. They respectfully ask this Court to enter an order adopting that schedule.

1. On September 24, 2017, the President announced Presidential Proclamation No. 9645, “Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or other Public-Safety Threats,” 82 Fed. Reg. 45,161 (Sept. 27, 2017). The Proclamation imposes

certain country-specific restrictions upon the entry of foreign nationals seeking admittance to the United States. Many of these restrictions were scheduled to come into effect on October 18, 2017. *See* Procl. Section 7(b), 82 Fed. Reg. 45,171

2. Plaintiffs challenged the Proclamation in district court, and on October 17, 2017, the district court granted in part their motion for a worldwide temporary restraining order. *Hawaii v. Trump*, No. 17-00050 (D. Haw.), ECF 387. With limited exceptions, the court's temporary restraining order prevented the Proclamation from taking effect. The district court subsequently converted its temporary restraining order to a preliminary injunction on October 20, 2017.

3. On October 24, 2017, the government filed its notice of appeal from the preliminary injunction, and this Court docketed this appeal.

4. Circuit Rule 3-3(c) authorizes the entry of an expedited briefing schedule if a party moves for a stay pending appeal. The government has moved for an emergency administrative stay and stay pending appeal. Further, both parties agree that expedition is warranted, and that the litigation should proceed, if possible, on a schedule that will allow the Supreme Court the option of hearing the case during its current Term, with reasonable expedition by the parties.

On this understanding, the parties have agreed to briefing schedules for both the stay motion and the merits of the preliminary injunction appeal, as follows:

On the stay motion:

Government's stay motion -	October 24
Opposition to stay -	October 31
Reply to opposition -	November 2

On the merits of the preliminary injunction:

Government's opening brief -	November 2
Answering brief -	November 18
Reply brief -	November 29

5. In light of the need for expedition, the parties further respectfully request that this Court consider this case for oral argument on an expedited basis. The parties note that the Court has oral argument sessions currently scheduled for December 4-8, 2017 in San Francisco, Seattle and Pasadena.

## CONCLUSION

The parties respectfully request that the Court enter the expedited briefing schedule negotiated by the parties to this preliminary injunction appeal, and schedule oral argument as soon as possible following the conclusion of briefing.

Respectfully submitted,

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### **CERTIFICATE OF COMPLIANCE**

I hereby certify that this motion complies with the type-face requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A). This motion contains 443 words, excluding the parts of the motion excluded by Federal Rules of Appellate Procedure 27(d)(2) and 32(f).

s/Anne Murphy  
Anne Murphy

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 25th day of October, 2017, I filed the foregoing motion using the Ninth Circuit's CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

s/Anne Murphy  
Anne Murphy