



**U.S. Department of Justice**  
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VIA CM/ECF

October 17, 2018

Ms. Molly C. Dwyer  
Clerk, United States Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94103-1526

RE: *Regents of the University of California v. U.S. Department of Homeland Security*,  
Consolidated Case No. 18-15068 (9th Cir.) (oral argument May 15, 2018,  
before Judges Wardlaw, Nguyen, Owens)

Dear Ms. Dwyer:

This case concerns the legality of the Secretary of Homeland Security's decision to rescind the policy of immigration enforcement discretion known as Deferred Action for Childhood Arrivals (DACA). On January 9, 2018, the district court concluded that the plaintiff were likely to succeed in their challenge and ordered the government to maintain the DACA policy on a nationwide basis pending the resolution of this litigation. 279 F. Supp. 3d 1011. On February 26, the Supreme Court declined to grant a petition for a writ of certiorari before judgment to review the district court's decision, but stated that it assumed this Court would "proceed expeditiously to decide this case." 138 S. Ct. 1182. This Court heard oral argument in the case on May 15. We respectfully write to inform the Court that, in order to ensure review by the Supreme Court during its current Term, we intend to again petition the Supreme Court for a writ of certiorari before judgment to review the district court's preliminary injunction order and related orders in the event that this Court does not issue its judgment by Wednesday, October 31.

The district court has entered a nationwide injunction that requires the Department of Homeland Security (DHS) to keep in place a discretionary policy of non-enforcement that no one contends is required by federal law and that DHS has

determined is unlawful and should be discontinued. The district court's order requires the government to indefinitely tolerate—and, indeed, affirmative sanction—an ongoing violation of federal law being committed by nearly 700,000 aliens pursuant to the DACA policy. The district court's injunction has now been in place for more than nine months and, unless either this Court or the Supreme Court promptly intervenes, it could remain in force for at least another year, given the Supreme Court's argument calendar. If this Court's decision is not issued promptly, even if the losing party were to seek certiorari immediately, the Supreme Court would not be able to review the decision in the ordinary course until next Term at the earliest.

Given the importance to the government of the enforcement of the immigration laws and the issues presented in this case, we respectfully request that this Court resolve the government's appeal by October 31, 2018.

Sincerely,

Mark B. Stern

Mark B. Stern

Attorney

cc: all counsel (via CM/ECF)

**CERTIFICATE OF SERVICE**

I hereby certify that on October 17, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

*s/Mark B. Stern*  
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MARK B. STERN