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**No. 19-15716**

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

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INNOVATION LAW LAB, et al.  
Plaintiffs-Appellees,

v.

KIRSTJEN NIELSEN,  
Secretary of Homeland Security, et al.  
Defendants-Appellants.

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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**REPLY IN SUPPORT OF MOTION FOR  
ADMINISTRATIVE STAY**

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## REPLY IN SUPPORT OF ADMINISTRATIVE STAY

The Court should grant an administrative stay of the district court's extraordinary injunction. Plaintiffs' arguments to the contrary (Opp. 2-4) lack merit.

First, Plaintiffs contend that an administrative stay is not warranted because the government "delay[ed] in submitting its stay motion" by not filing it until last night. Opp. 3; *see also* Opp. 2. That argument is not credible. The district court's decision was issued late on Monday, the government filed a notice of appeal on Wednesday, and it filed its stay motion on Thursday. Notably, the Migrant Protection Protocols (MPP) had been in effect for more than two months before the district court issued its injunction. Once the injunction was entered, the government moved promptly to seek to maintain the status quo. The government moved with expedition—and that expedition supports an administrative stay. Indeed, Plaintiffs' position is further undercut by the fact that they request four days to merely file a response defending the district court's decision, yet criticize the government for filing its stay motion in less time—three days—after the district court entered its order.

Second, Plaintiffs contend that "the government's claims of irreparable harm and the need for an administrative stay are seriously undermined by the fact that it has reportedly already voluntarily stopped returning migrants to Mexico since the issuance of the district court's decision on Monday," since the government's

“decision to voluntarily stop returns to Mexico” purportedly shows that “compliance with the injunction” cannot be so “disastrous” as to warrant an administrative stay. Opp. 2, 3. This argument is incorrect. In the face of an injunction that is now set to take effect imminently, earlier this week the Department of Homeland Security (DHS) took appropriate steps to initiate its compliance with the injunction. DHS reports that its components, including CBP, USCIS, and ICE, issued guidance to their operational personnel on April 8, 2019, following receipt of the injunction order, to expeditiously halt implementation of MPP and returns to Mexico. The district court had deemed MPP unlawful, and these steps toward compliance were reasonable. Moreover, a decision to halt a major policy initiative and accompanying directions must be communicated to numerous officers in the field, and it can be difficult to stop on a dime a policy initiative that had until this week been implemented widely and had been in effect for months. DHS took action that enabled its timely compliance. It would be perverse if that prudent, measured decision somehow were to count against the government and its strong case for an immediate return to the status quo. The court gave DHS four days to come into compliance—not just to seek stay relief from a higher court—and Plaintiffs should not complain that DHS was taking steps during that time to come into compliance.

The Court should grant an administrative stay so that the government can implement MPP, as it had been doing for nearly two-and-a-half months, pending

further action of this Court.

Respectfully submitted,

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By: /s/ Erez Reuveni

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Dated: April 12, 2019

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 12, 2019, I electronically filed the foregoing document with the Clerk of the United States Court of Appeals for the Ninth Circuit by using the CM/ECF system. Counsel in the case are registered CM/ECF users and service will be accomplished by the CM/ECF system.

By: /s/ Erez Reuveni  
EREZ REUVENI  
Assistant Director  
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## CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document complies with the type-volume limitation of Fed. R. App. P. 27 because it contains 492 words. This document complies with the typeface and the type style requirements of Fed. R. App. P. 27 because this brief has been prepared in a proportionally spaced typeface using Word 14-point Times New Roman typeface.

By: /s/ Erez Reuveni  
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