

**No. 19-16487**

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

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**EAST BAY SANCTUARY COVENANT, *et al.*,**

*Plaintiffs-Appellees,*

v.

**WILLIAM BARR, Attorney General, *et al.***

*Defendants-Appellants.*

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*On Appeal from the United States District Court  
for the Northern District of California  
No. 3:19-cv-04073-JST*

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**APPELLEES' OPPOSITION TO APPELLANTS' MOTION FOR  
ADMINISTRATIVE STAY PENDING RESOLUTION OF  
APPELLANTS' MOTION FOR STAY PENDING APPEAL**

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Lee Gelernt

Omar C. Jadwat

Anand Balakrishnan

AMERICAN CIVIL LIBERTIES

UNION FOUNDATION

IMMIGRANTS' RIGHTS PROJECT

125 Broad St., 18th Floor

New York, NY 10004

Telephone: (212) 549-2660

Katrina Eiland

Cody Wofsy

Spencer Amdur

Julie Veroff

AMERICAN CIVIL LIBERTIES

UNION FOUNDATION

IMMIGRANTS' RIGHTS

PROJECT

39 Drumm Street

San Francisco, CA 94111

Telephone: (415) 343-0770

*Attorneys for Plaintiffs-Appellees*

*(Additional Counsel on Next Page)*

Melissa Crow  
SOUTHERN POVERTY LAW  
CENTER  
1101 17th Street, NW Suite 705  
Washington, D.C. 20036  
T: (202) 355-4471  
F: (404) 221-5857

Mary Bauer  
SOUTHERN POVERTY LAW  
CENTER  
1000 Preston Avenue  
Charlottesville, VA 22903  
T: (470) 606-9307  
F: (404) 221-5857

Baher Azmy  
Angelo Guisado  
Ghita Schwarz  
CENTER FOR CONSTITUTIONAL  
RIGHTS  
666 Broadway, 7th Floor  
New York, NY 10012  
T: (212) 614-6464  
F: (212) 614-6499

Christine P. Sun  
Vasudha Talla  
Angélica Salceda  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
NORTHERN CALIFORNIA, INC.  
39 Drumm Street  
San Francisco, CA 94111  
T: (415) 621-2493  
F: (415) 255-8437

## **CORPORATE DISCLOSURE STATEMENT**

Appellees are non-profit entities that do not have parent corporations. No publicly held corporation owns 10 percent or more of any stake or stock in Appellees.

By: /s/ Lee Gelernt  
Lee Gelernt  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
IMMIGRANTS' RIGHTS PROJECT  
125 Broad Street, 18th Floor  
New York, NY 10004  
T: (212) 549-2616  
F: (212) 549-2654

The Court should deny the government's request for an administrative stay pending resolution of its motion for a stay pending appeal. The government has not made the extraordinary showing of immediate irreparable harm required to warrant relief before Plaintiffs can even weigh in. *See* Circuit Rule 27-3. To the contrary, an administrative stay would upset an unbroken decades-long status quo that has existed ever since Congress created the U.S. asylum system, under which merely transiting through another country cannot be and never has been a basis for categorically denying asylum. If the Rule is allowed to go into effect, it will erase virtually the entire asylum process Congress has maintained for the last forty years. This Court denied the government's motion for an emergency administrative stay in the first *East Bay* case the same day the motion was filed, and it should do the same here. *See East Bay Sanctuary Covenant v. Trump*, No. 18-17274, Dkt. 5 (9th Cir. Dec. 1, 2018); *see also id.*, -- F.3d. --, 2018 WL 8807133, at \*24 (9th Cir. Dec. 7, 2018) (denying administrative stay, ordering stay briefing from Plaintiffs, and then denying stay pending appeal where district court's injunction "temporarily restored the law to what it had been for many years prior to [the challenged asylum ban]"); *Trump v. East Bay Sanctuary Covenant*, 139 S.Ct. 782 (2018) (also denying stay pending appeal of first asylum ban).

As for the government's motion for a stay pending appeal, should the Court wish to receive briefing, Plaintiffs-Appellees respectfully request that their

opposition be due Thursday, August 8, 2019, at 5:00 p.m. Pacific Time. Plaintiffs are, however, prepared to file an opposition as quickly as the Court wishes.

Dated: August 2, 2019

Katrina Eiland  
Cody Wofsy  
Spencer Amdur  
Julie Veroff  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
IMMIGRANTS' RIGHTS PROJECT  
39 Drumm Street  
San Francisco, CA 94111  
T: (415) 343-0774  
F: (415) 395-0950  
keiland@aclu.org  
cwofsy@aclu.org  
samdur@aclu.org  
jveroff@aclu.org

Melissa Crow  
SOUTHERN POVERTY LAW  
CENTER  
1101 17th Street, NW Suite 705  
Washington, D.C. 20036  
T: (202) 355-4471  
F: (404) 221-5857  
*melissa.crow@splcenter.org*

Respectfully submitted,

By: /s/ Lee Gelernt  
Lee Gelernt  
Omar C. Jadwat  
Anand Balakrishnan  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
IMMIGRANTS' RIGHTS PROJECT  
125 Broad Street, 18th Floor  
New York, NY 10004  
T: (212) 549-2616  
F: (212) 549-2654  
lgelernt@aclu.org  
ojadwat@aclu.org  
abalakrishnan@aclu.org

Baher Azmy  
Angelo Guisado  
Ghita Schwarz  
CENTER FOR CONSTITUTIONAL  
RIGHTS  
666 Broadway, 7th Floor  
New York, NY 10012  
T: (212) 614-6464  
F: (212) 614-6499  
*bazmy@ccrjustice.org*  
*aguisado@ccrjustice.org*  
*gschwarz@ccrjustice.org*

Mary Bauer  
SOUTHERN POVERTY LAW  
CENTER  
1000 Preston Avenue  
Charlottesville, VA 22903  
T: (470) 606-9307  
F: (404) 221-5857  
*mary.bauer@splcenter.org*

*Attorneys for Plaintiffs-Appellees*

Christine P. Sun  
Vasudha Talla  
Angélica Salceda  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
NORTHERN CALIFORNIA, INC.  
39 Drumm Street  
San Francisco, CA 94111  
T: (415) 621-2493  
F: (415) 255-8437  
*csun@aclunc.org*  
*vtalla@aclunc.org*  
*asalceda@aclunc.org*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 2, 2019, I electronically filed the foregoing with the Clerk for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the appellate CM/ECF system. There are no unregistered participants.

/s/ Lee Gelernt

Lee Gelernt

Dated: August 2, 2019

**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing motion complies with the type-volume limitation of Fed. R. App. P. 27 because it contains 282 words. This brief 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.

/s/ Lee Gelernt

Lee Gelernt

Dated: August 2, 2019