

**FOR PUBLICATION**

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

IN RE UNITED STATES OF  
AMERICA; DONALD J. TRUMP;  
U.S. DEPARTMENT OF  
HOMELAND SECURITY; ELAINE  
C. DUKE,

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UNITED STATES OF AMERICA;  
DONALD J. TRUMP; U.S.  
DEPARTMENT OF HOMELAND  
SECURITY; ELAINE C. DUKE, in  
her official capacity as Acting  
Secretary of the Department of  
Homeland Security,  
*Petitioners,*

v.

UNITED STATES DISTRICT  
COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA, SAN  
FRANCISCO,  
*Respondent,*

REGENTS OF THE UNIVERSITY  
OF CALIFORNIA; JANET  
NAPOLITANO, In her official  
capacity as President of the  
University of California; STATE

No. 17-72917

D.C. Nos.  
3:17-cv-05211-WHA  
3:17-cv-05235-WHA  
3:17-cv-05329-WHA  
3:17-cv-05380-WHA  
3:17-cv-05813-WHA

ORDER

OF CALIFORNIA; STATE OF  
MAINE; STATE OF MINNESOTA;  
STATE OF MARYLAND; CITY OF  
SAN JOSE; DULCE GARCIA;  
MIRIAM GONZALEZ AVILA;  
VIRIDIANA CHABOLLA  
MENDOZA; NORMA RAMIREZ;  
COUNTY OF SANTA CLARA;  
SERVICE EMPLOYEES  
INTERNATIONAL UNION LOCAL  
521; JIRAYUT  
LATTHIVONGSKORN; SAUL  
JIMENEZ SUAREZ,  
*Real Parties in Interest.*

Filed November 21, 2017

Before: Kim McLane Wardlaw, Ronald M. Gould,  
and Paul J. Watford, Circuit Judges.

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**ORDER**

Before the court is the government's emergency motion for a stay of our order of November 16, 2017, which denied the government's petition for a writ of mandamus and lifted a temporary stay that we had previously imposed. As the order denying mandamus relief was effective immediately upon its issuance, *see Ellis v. U.S. Dist. Court*, 360 F.3d 1022, 1023 (9th Cir. 2004) (en banc), jurisdiction now lies with the district court, and not with this court. *Compare Daimler-Benz Aktiengesellschaft v. U.S. Dist. Court*, 805 F.2d 340, 341–42 (10th Cir. 1986) (ordering a stay of district court proceedings *before* any order denying or granting mandamus had issued). If the government seeks further relief from this court, it must do so in a new petition for mandamus. The government's emergency motion for a stay is therefore **DISMISSED**.

**IT IS SO ORDERED.**