

1 [Counsel identified on signature pages]

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UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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14 NATIONAL URBAN LEAGUE, et al.,

CASE NO. 5:20-cv-05799-LHK

15

16 Plaintiffs,

**JOINT CASE MANAGEMENT  
STATEMENT**

17

v.

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GINA RAIMONDO, et al.,<sup>1</sup>

Date: March 19, 2021

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Time: 10:00 a.m. PST

20 Defendants.

Place: Courtroom 8

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Judge: Hon. Lucy H. Koh

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), Secretary of Commerce Gina Raimondo is automatically substituted as a Defendant in her official capacity for former Acting Secretary of Commerce Wynn Coggins.

1 Pursuant to Civil Local Rule 16-10(d) and the Court’s February 25, 2021 Order (Dkt.  
 2 472), the parties to this action, by their respective counsel, respectfully submit the following  
 3 Joint Case Management Statement in anticipation of the Further Case Management Conference  
 4 scheduled for March 19, 2021 at 10:00 a.m. For the reasons set forth below, in light of  
 5 Executive Order No. 13986, “Executive Order on Ensuring a Lawful and Accurate Enumeration  
 6 and Apportionment Pursuant to the Decennial Census,” issued on January 20, 2021, and the  
 7 parties’ ongoing discussions concerning what further proceedings may be appropriate in this  
 8 case, the parties request a further 14-day stay of the case. Additionally, in light of the provision  
 9 of certain data and the hopeful resolution of certain data issues between the parties, Defendants  
 10 also request a further 14-day stay of further proceedings on Plaintiffs’ Motion to Compel and for  
 11 Sanctions, currently stayed until March 19, 2021, pursuant to the Court’s February 25, 2021  
 12 Order (Dkt. 472).

13 The parties propose that the case management conference scheduled for March 19, 2021,  
 14 be continued to April 2, 2021, at which point the parties expect to provide detailed updates to the  
 15 Court about the status of their discussions and potential resolution of this matter.

16 **I. REQUEST FOR A FURTHER 14-DAY STAY OF LITIGATION TO ALLOW**  
 17 **FOR ONGOING DISCUSSIONS BETWEEN THE PARTIES**

18 The parties continue to engage in good-faith discussions concerning the potential  
 19 resolution of this case. Conversations have taken place and will continue to take place between  
 20 counsel representing the parties and between Plaintiffs’ counsel and Census Bureau personnel.  
 21 These discussions have been fruitful and parties have largely reached agreement on key portions  
 22 of Plaintiffs’ claims. For example:

- 23 1) **Presidential Memorandum.** On January 20, 2021, President Biden signed  
 24 Executive Order 13986, which revoked Executive Order 13880 (“Collecting  
 25 Information About Citizenship Status in Connection With the Decennial Census”) and the Presidential Memorandum of July 21, 2020 (“Excluding Illegal Aliens from  
 26 the Apportionment Base Following the 2020 Census”). Exec. Order No. 13986, 86  
 27 Fed. Reg. 7015 (Jan. 25, 2021). Consistent with Executive Order 13986, the  
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1 tabulation of total population by States based on 2020 Census data and described by  
2 13 U.S.C. § 141(b), and the P.L. 94-171 Redistricting Summary Data File based on  
3 2020 Census data and described by 13 U.S.C. § 141(c), will not include or otherwise  
4 incorporate any information on citizenship or immigration status, nor will such counts  
5 or data products be affected by any information on citizenship or immigration status.

6 2) **Processing Timeline.** The Census Bureau is scheduled to release the results of the  
7 2020 Census by April 30, 2021. As in prior censuses, the Census Bureau may wish to  
8 release the results a short period before the scheduled release date. However, the  
9 Census Bureau will not under any circumstances report the results of the 2020 Census  
10 to the Secretary of the Department of Commerce, the President, and Congress, before  
11 April 16, 2021. This schedule is equivalent to the COVID-19 plan timeline for data  
12 processing sought by Plaintiffs' Second Amended Complaint.

13 The parties previously memorialized these two resolved issues in a stipulation submitted  
14 to the Court.

15 The parties are continuing to engage in good faith discussions regarding resolving the  
16 remaining issues in this case, in whole or in part, including (a) data processing steps being taken  
17 and that should appropriately be taken, and (b) identification and appropriate rectification of  
18 potential field operation/data collection quality issues (if any). Defendants have also made a  
19 number of their subject-matter experts available for informal discussions with Plaintiffs'  
20 consultants in order to facilitate a possible resolution to this matter. These discussions are  
21 ongoing, and the parties believe that it is in the best interests of the parties and the public to stay  
22 further proceedings in this case to allow those discussions to continue. The proposed stay would  
23 apply to any outstanding obligations to the Court, including Plaintiffs' Renewed Motion to  
24 Compel and deferred ruling on their Motion for Sanctions (Dkt. 462), as well as to all  
25 outstanding discovery.

26 The parties agree that nothing in this Joint Case Management Statement or in the  
27 representations made by either party during their ongoing discussions shall apply to change or  
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1 limit Defendants' obligations to respond to information requests from Congress, the Office of  
2 Inspector General, or the Government Accountability Office.

3 The parties therefore request a stay of all proceedings and obligations not otherwise  
4 specifically addressed in this Case Management Statement until April 2, 2021. The parties  
5 request that the Court continue the Case Management Conference currently scheduled for Friday,  
6 March 19, 2021, until Friday, April 2, 2021.

7 **2. EXPIRATION OF THE REQUESTED STAY**

8 Defendants acknowledge and represent that, should the parties not reach resolution (or  
9 request an additional stay) and the case restarts once the 14-day stay is lifted (under the exact  
10 same schedule currently in place, continued by 14 days), Defendants will not resist or challenge  
11 any of their discovery obligations or depositions as a result of the scheduling stays in this case,  
12 but Defendants reserve their rights to assert the objections that they would have had in the  
13 normal course.

14 The parties propose providing a Joint Case Management Statement one business day  
15 before the conclusion of the proposed 14-day stay, should the Court enter a stay.

16 **3. OHIO LITIGATION (Case No. 3:21-cv-64 (S.D. Ohio))**

17 On February 25, 2021, the State of Ohio filed a complaint challenging the Census  
18 Bureau's plan to provide redistricting data to states by September 30, 2021, and seeks a  
19 preliminary injunction that would require the Census Bureau to meet its statutory deadline of  
20 March 31, 2021 to provide redistricting data. Defendants there oppose the preliminary  
21 injunction and filed their Opposition on March 12, 2021. Plaintiffs filed an amicus brief with the  
22 Ohio court on March 13, 2021. The State of Ohio filed its Reply on March 14, 2021.

23  
24 Dated: March 17, 2021

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**ATTESTATION**

I, Sadik Huseny, am the ECF user whose user ID and password authorized the filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document have concurred in this filing.

Dated: March 17, 2021

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