IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

LA UNIÓN DEL PUEBLO ENTERO, *et al.*, Plaintiffs, v. WILBUR L. ROSS, in his official capacity as U.S. Secretary of Commerce, *et al.*, Defendants.	No. 8:19-cv-02710-GJH

CORRECTED MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO UN-RELATE AND REASSIGN THIS CASE

INTRODUCTION

Despite varying parties alleging new claims against a different governmental decision with different consequences, Plaintiffs have nonetheless designated this case as "related" to the prior litigation concerning a citizenship question on the 2020 Census. The Court should not allow Plaintiffs to undermine the judicial-assignment process and eschew the "general rule" that all new cases "are randomly assigned in order to ensure greater public confidence in the integrity of the judicial process, guarantee fair and equal distribution of cases to all judges, avoid public perception or appearance of favoritism in assignments, and reduce opportunities for judge-shopping." *Comm. on Judiciary v. McGahn*, 391 F. Supp. 3d 116, 118–19 (D.D.C. 2019) (citations omitted).

BACKGROUND

I. Prior Citizenship-Question Litigation

This Court is intimately familiar with the prior citizenship-question litigation. In March 2018, Secretary of Commerce Wilbur Ross issued a memorandum directing the Census Bureau to include a citizenship question on the 2020 Census. *Kravitz v. U.S. Dep't of Commerce*, 366 F. Supp. 3d 681, 693 (D. Md. 2019). "He asserted that the decision was prompted by a December 12, 2017 letter from DOJ, requesting the addition of a citizenship question to facilitate enforcement of Section 2 of the Voting Rights Act." *Id.* Specifically, the Secretary explained that "DOJ needed to obtain [citizen voting age population (CVAP)] block level data from Decennial Census data because current data

collected under the [American Community Survey (ACS)] are insufficient in scope, detail, and certainty to meet its purpose." *Id.* (quotation omitted).

After several months and five other lawsuits, 26 advocacy organizations and seven individuals filed a sixth lawsuit "challeng[ing] Commerce Secretary Wilbur Ross's decision to include a citizenship question on the 2020 Census."[1] *Id.* at 691; *see generally* Ex. A, First Am. Compl., *LUPE v. Ross*, No. 18-cv-1570 (D. Md. July 9, 2018), ECF No. 42 at ¶¶ 1–392. There, the plaintiffs alleged that "[t]he addition of a citizenship question to the decennial Census survey sent to every household in the country will result in an undercount of Latinos, African Americans, Asian Americans, Native Americans, immigrants, and other hard-to-count populations and will compromise the overall accuracy of the Census." Ex. A ¶ 1; *see e.g.*, *id.* ¶ 275 ("AZLLC and PAZ will be harmed by the inclusion of a citizenship question in the 2020 decennial Census because AZLLC has constituents and PAZ has members who are Latinos and/or non-U.S. citizens who will be deterred from responding to the 2020 Census because of the citizenship question."), ¶ 331 ("LUPE will be harmed by the inclusion of a citizenship question in the 2020 decennial Census because LUPE has members who are Latinos and/or non-U.S.

[1] Before trial, the Court consolidated that case with *Kravitz v. U.S. Dep't of Commerce*, No. 8:18-cv-01041 (D. Md.), ECF No. 90, which raised nearly-identical issues. Four other cases challenging the citizenship question—two in the Southern District of New York and two in the Northern District of California—were litigated simultaneously. *See Kravitz*, 366 F. Supp. 3d at 691–92.

citizens who will be deterred from responding to the 2020 Census because of the citizenship question.”).

The citizenship-question plaintiffs alleged five claims. First, that the Secretary’s “inclusion of a citizenship question in the 2020 Census questionnaire violates the ‘actual enumeration’ clause of the Constitution because the question will cause a disproportionate undercount of non-U.S. citizens, the U.S. citizen family members of non-U.S. citizens, Asian Americans, and Latinos.” Ex. A ¶ 366. Second, that the Secretary’s “addition of a citizenship question to the decennial Census will result in an undercount of the whole number of persons and inaccurate Census data for the purposes of congressional district apportionment” in violation of the Apportionment Clause. Ex. A ¶¶ 379–80. Third, that “[t]he inclusion of a citizenship question in the decennial Census violates the equal protection guarantee of the Fifth Amendment because it is motivated by racial animus towards Latinos, Asian Americans, and animus towards non-U.S. citizens and foreign-born persons.” Ex. A ¶ 371. Fourth, that “Defendant Ross, Defendant Jarmin, President Donald Trump, John Gore, Arthur Gary, Attorney General Sessions, Kris Kobach, and Stephen Bannon conspired to include a citizenship question in the 2020 decennial Census” in violation of 42 U.S.C. § 1985(3). Ex. A ¶ 375–77. Fifth and finally, that the Secretary’s inclusion of a citizenship question violated the Administrative Procedure Act (APA) because, among other things, it “failed to provide any independent analysis or support to justify the DOJ’s position that citizenship data is

required from the decennial Census in order to enforce the Voting Rights Act" and "Defendants failed to complete any studies or tests to research the impact a citizenship question on the decennial Census might have on response rates and accuracy among hard-to-count populations." Ex. A ¶¶ 383–91.

The Court eventually granted the citizenship-question plaintiffs' requested relief. After a year-long litigation and a six-day bench trial, this Court not only found that "the decision to add a citizenship question to the 2020 Census was arbitrary and capricious in violation of the APA," but that "the Secretary's articulated reason for adding a citizenship question to the 2020 Census—responding to DOJ's request—was not his real reason" in violation of the APA. *Kravitz*, 366 F. Supp. 3d at 691, 749–50. The Court also found that the Secretary's decision violated "the Constitution by unreasonably compromising the distributive accuracy of the Census contrary to the Enumeration Clause's mandate." *Id.* at 691. In rejecting the other claims, however, the Court concluded that the plaintiffs "did not meet their burden to prove Defendants' actions violate the Due Process Clause or amount to a conspiracy to violate civil rights because [p]laintiffs failed to show that the addition of the citizenship question was motivated by invidious racial discrimination." *Id.*

II. The Supreme Court's Decision and Executive Order 13880

While this Court's decision was pending on appeal, parallel cases challenging the citizenship question reached the Supreme Court.[2] Addressing the lawfulness of the Secretary's decision, the Supreme Court held that "[t]he Enumeration Clause of the Constitution does not provide a basis to set [it] aside," and that the Secretary's decision was not arbitrary or capricious because he "considered the relevant factors, weighed risks and benefits, and articulated a satisfactory explanation for his decision." *Dep't of Commerce v. New York*, 139 S. Ct. 2551, 2566, 2570 (2019). The Supreme Court nonetheless vacated and remanded the Secretary's decision under the APA, concluding that there was a "significant mismatch between the decision the Secretary made and the rationale he provided." *Id.* at 2575.

Several weeks later, the President issued Executive Order 13880. While noting the Supreme Court's holding that "the Department of Commerce [ ] may, as a general matter, lawfully include a question inquiring about citizenship status on the decennial census,"

[2] During the appeal's pendency, but before the Supreme Court's ruling, the plaintiffs moved for relief from judgment and sought an indicative ruling based on "newly discovered evidence" from the late Dr. Thomas Hofeller, which purportedly "provide[d] the link between the explicitly discriminatory purpose behind the citizenship question and the Commerce Department's actions." *Kravitz v. U.S. Department of Commerce*, No. 18-cv-1041 (D. Md. June 3, 2019), ECF No. 162-1 at 1. The Court concluded that the "newly discovered evidence" raised a "substantial issue" because it suggested "that Dr. Hofeller was motivated to recommend the addition of a citizenship question to the 2020 Census to advantage Republicans by diminishing Hispanics' political power." *Kravitz*, No. 18-cv-1041 (D. Md. June 24, 2019), ECF No. 175 at 8, 13. The Fourth Circuit later remanded the case in light of the Court's ruling, *Kravitz*, No. 18-cv-1041 (D. Md. June 24, 2019), ECF No. 177, but the issue was mooted by subsequent events.

the President explained that "[t]he Court's ruling . . . has now made it impossible, as a practical matter, to include a citizenship question on the 2020 decennial census questionnaire."[3] Exec. Order No. 13880 at § 1. But to "ensure that accurate citizenship data is compiled," the President ordered "all executive departments and agencies" to "provide the [Commerce] Department the maximum assistance permissible, consistent with law, in determining the number of citizens and non-citizens in the country, including by providing any access that the Department may request to administrative records that may be useful in accomplishing that objective." *Id.* The President also ordered "the establishment of an interagency working group to improve access to administrative records, with a goal of making available to the [Commerce] Department administrative records showing citizenship data for 100 percent of the population." *Id.*

III. The New Case

Nearly three months after EO 13880, Plaintiffs—two organizations and one individual who challenged the citizenship question, plus four additional individuals—now sue the Secretary of Commerce, the Director of the Census Bureau, and their respective agencies. But gone are 24 organizations and six individuals that brought the prior citizenship-question lawsuit. Gone are all allegations that there will be an inaccurate census. Gone are all allegations that Plaintiffs will be harmed by a loss of

[3] *Executive Order on Collecting Information about Citizenship Status in Connection with the Decennial Census* (July 11, 2019), *available at* https://www.whitehouse.gov/presidentialactions/executive-order-collecting-information-citizenship-status-connection-decennial-census/.

census-based funding. Gone are all allegations that Plaintiffs will be deprived of "representation in the U.S. House of Representatives as well as in state and local redistricting" due to a "disproportionate undercount" in the census.[4] Gone are all Enumeration Clause and Apportionment Clause claims. Gone are all claims based on the Secretary's decision to include a citizenship question on the 2020 Census. And gone are all allegations that "the Secretary's decision [to include a citizenship question] was made for the purpose of depressing immigrant response and motivated by discriminatory animus." *Kravitz*, 366 F. Supp. 3d at 754.

Instead, Plaintiffs now take issue with the exact decision some of them previously desired—the use of administrative records to gather citizenship data. Their complaint advances six claims: three discrimination-based claims under the Fifth Amendment, the APA, and 42 U.S.C. § 1985(3); an APA claim for supposedly exceeding statutory authority; and two APA claims based on Defendants' purported failure to follow certain procedures and provide "any independent analysis or support to justify collecting citizenship data to produce this data for use with the population tabulations provided to states in the 2020 Census P.L. 94-171 Redistricting Data File." First Am. Compl. ("FAC") ¶¶ 88–117, ECF No. 41. Plaintiffs' requested relief also has nothing to do with a citizenship question. They request, among other things, an injunction barring Defendants "from

[4] *See, e.g.*, Ex. A ¶ 368.

collecting data as dictated by EO 13380 and from producing tabulations of citizenship population for use alongside the P.L. 94-171 Redistricting Data File and population tabulations or including citizenship data in the File." FAC at 31–32.

In filing their complaint, Plaintiffs attached a civil cover sheet indicating that this case is "related" to the prior citizenship-question lawsuit (*LUPE v. Ross*, No. 18-cv-1570 (D. Md.)). *See* Civil Cover Sheet at 1, ECF No. 1-1. Defendants oppose that relatedness designation, and this motion follows.

LEGAL STANDARDS

"[I]t has been said that 'attempts to manipulate the random case assignment process are subject to universal condemnation.'" *In re BellSouth Corp.*, 334 F.3d 941, 958 (11th Cir. 2003) (quoting *United States v. Phillips*, 59 F. Supp. 2d 1178, 1180 (D. Utah 1999)). That is because "randomly assigned" cases "ensure greater public confidence in the integrity of the judicial process, guarantee fair and equal distribution of cases to all judges, avoid public perception or appearance of favoritism in assignments, and reduce opportunities for judge-shopping." *McGahn*, 391 F. Supp. 3d at 118–19 (citations omitted).

Indeed, allowing litigants to exploit the case-assignment system would "contravene the very purpose of random assignment, which is to 'prevent judge-shopping by any party, thereby enhancing public confidence in the assignment process.'" *Vaqueria Tres Monjitas, Inc. v. Rivera Cubano*, 341 F. Supp. 2d 69, 72–73 (D.P.R. 2004)

(quoting *United States v. Mavroules*, 798 F. Supp. 61 (D. Mass. 1992)). So "judges do not choose their cases, and litigants do not choose their judges. We all operate on a blind draw system." *United States v. Kelly*, 519 F. Supp. 1029, 1031 (D. Mass. 1981). Sometimes, "both litigants and judges are disappointed by the luck of the draw. But the possibility of such disappointment is a risk judges and litigants alike must assume if we are to have a blind draw system that is characterized by its integrity." *Id.*

Related cases are the exception to this crucial "general rule." *McGahn*, 391 F. Supp. 3d at 118. The civil cover sheet filed with every complaint, *see* Local Civ. R. 103.1(a), asks plaintiffs to indicate the "related case(s) if any," which it describes as only "related pending cases." *See* Civil Cover Sheet at 1–2, ECF No. 1-1. The District of Maryland Local Rules provide more guidance:

> If counsel for a plaintiff in a civil action believes that the action being filed and one (1) or more other civil actions or proceedings previously decided or pending in this Court (1) arise from the same or identical transactions, happenings, or events; (2) involve the identical parties or property; (3) involve the same patent or trademark; or (4) for any other reason would entail substantial duplication of labor if heard by different judges, counsel shall indicate that fact by designating the case as a "related case" on the civil cover sheet.

Local Civ. R. 103.1(b)(i).

"Any disputes regarding the designation of a case as being related to another case shall be presented by motion to the judge to whom the new or later case has been assigned." Local Civ. R. 103.1(b)(iii). "The party requesting the related-case designation bears the burden of showing that the cases are related." *McGahn*, 391 F. Supp. 3d at 119

(citations omitted) (applying the local rules of the U.S. District Court for the District of Columbia). "The burden on the party claiming relation is heavy as random assignment of cases is essential to the public's confidence in an impartial judiciary." *Id.*

ARGUMENT

Plaintiffs cannot meet their heavy burden of showing that this case is "related" to the prior citizenship-question case. They satisfy none of the Local Rules' three relevant criteria,[5] and nothing in either case would justify assigning this case to the same judge that heard challenges to a citizenship question unrelated in facts, law, or parties. The Court should therefore reject Plaintiffs' designation of "related" cases and allow this case to be randomly assigned.

I. The citizenship-question case and this case do not "arise from the same or identical transactions, happenings, or events."

Even a cursory glance at the citizenship-question litigation and the new complaint reveals that they do not "arise from the same or identical transactions, happenings, or events." Local Civ. R. 103.1(b)(i). For starters, the prior case "ar[o]se from" the Secretary's decision to include a citizenship question on the 2020 Census; this case "arise[s] from" the President's decision to gather citizenship information from administrative records. The Court would not be examining "the same or identical

[5] The citizenship-question case and this case do not "involve the same patent or trademark." Local Civ. R. 103.1(b)(i).

transactions, happenings, or events" to assess the lawfulness of those incongruent decisions.

For instance, all factual development that occurred in the prior year-long litigation concerned two issues: (1) the process preceding, and the reasons for, the Secretary's decision to include a citizenship question;[6] and (2) whether a citizenship question would cause an inaccurate census count after the Census Bureau's extensive Non-response Follow-up operations and imputation. *See Kravitz*, 366 F. Supp. 3d at 706–12 (recounting extra-record evidence of the Secretary's decision); *id.* at 712–33 (findings of fact related to plaintiffs' standing, including whether the census count would capture individuals deterred from responding to the census because of a citizenship question).

Neither of those factual issues have any relevance here. The series of events leading the Secretary to include a citizenship question on the 2020 Census (and his reasons for doing so) have nothing to do with the compilation of administrative records under a presidential directive. *Compare Kravitz*, 366 F. Supp. 3d at 751 (holding that "the Secretary failed to disclose the true basis for his decision" because "the VRA-enforcement rationale . . . was manufactured to 'get [ ] in place' Secretary Ross's 'months old request'

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[6] This Court, like other district courts, allowed discovery beyond the administrative record because "Plaintiffs [ ] made a strong preliminary showing that Defendants [ ] acted in bad faith, and that Defendants' stated reason for adding the citizenship question—to further enforce the VRA—was pretextual." *Kravitz v. U.S. Dep't of Commerce*, 336 F. Supp. 3d 545, 570 (D. Md. 2018). The Supreme Court later held that this was "premature," but "ultimately justified in light of the expanded administrative record." *Dep't of Commerce*, 139 S. Ct. at 2574.

that a citizenship question be included on the 2020 Census," (citations omitted)) *with* FAC ¶¶ 59–60 (describing reasons for compiling administrative records unrelated to the Voting Rights Act). And census accuracy—the primary focus of the citizenship-question litigation—is irrelevant here because the Complaint does not (and could not) advance any allegation that simply gathering citizenship information from other agencies would affect the census count. *See Dep't of Commerce*, 139 S. Ct. at 2565 (explaining that all of the plaintiffs' injuries "turn[ed] on their expectation that reinstating a citizenship question will depress the census response rate and lead to an inaccurate population count"). The lack of factual overlap alone should resolve this motion in Defendants' favor. *See Cassells v. Hill*, 2008 WL 11336886, at *2 (N.D. Ga. June 24, 2008) ("[A] case is *not* related if it has the same *legal* issue; if any issue of fact is only similar rather than identical; or if the event or transaction is only similar rather than identical.").

But there is also no overlap in legal issues. Unlike the citizenship-question case, Plaintiffs advance no Enumeration or Apportionment Clause claims. And all of Plaintiffs' claims challenge the decision to gather citizenship data from other agencies, not a citizenship question. Take Plaintiffs' primary APA claim: that "Defendants failed to provide any independent analysis or support to justify collecting citizenship data to produce this data for use with the population tabulations provided to states in the 2020 Census P.L. 94-171 Redistricting Data File." FAC ¶ 91. This is not only dissimilar, but antithetical to the citizenship-question plaintiffs' APA argument that "[t]he

uncontroverted evidence before the Secretary demonstrated that the use of [administrative records] alone without a decennial Census citizenship question—Alternative C—was superior to [including a citizenship question] by every relevant metric, including those that the Secretary purported [ ] to value." Pls.' Corrected Conclusions of Law, *Kravitz v. U.S. Department of Commerce*, No. 18-cv-1041 (D. Md. Feb. 18, 2019), ECF No. 151-2 at ¶ 129; *Kravitz*, 366 F. Supp. 3d at 745–47 (holding that the Secretary violated the APA because "the addition of the citizenship question will result in *less* accurate and *less* complete citizenship data").

Plaintiffs' other APA claims follow the same pattern. They allege that "Defendant Ross has exceeded his statutory authority over the conduct of the decennial census by following EO 13880." FAC ¶ 102. This claim has nothing to do with the citizenship-question case, where EO 18880 did not yet exist, and no party questioned the Secretary's authority to alter census questions. *See* 13 U.S.C. § 141(a), (f); *Dep't of Commerce*, 139 S. Ct. at 2572; *Kravitz*, 366 F. Supp. 3d at 734. Plaintiffs also allege that "Defendants departed from statutory and regulatory requirements . . . to collect and produce specific tabulations of population other than total population, race, and Hispanic/non-Hispanic origin for use along with the 2020 Census P.L. 94-171 Redistricting Data File." FAC ¶ 108. But this is a far cry from the previous litigation, where the citizenship-question plaintiffs alleged (and the Court found) that the Secretary violated the APA by "deviating from the Bureau's

rigorous pretesting standards" for census questions. *Kravitz*, 366 F. Supp. 3d at 748; Ex. A ¶ 386–87. No such claim appears in this case because no census question is at issue.

Plaintiffs' three discrimination-based claims similarly fail to show any relatedness between this case and the citizenship-question case. Here, Plaintiffs theorize that there is a discriminatory motive behind collecting citizenship data from agencies and producing it "for use along with the P.L. 94-171 Redistricting Data File." FAC ¶¶ 96, 112, 115–16. But even if these were cognizable claims, they are entirely distinct from the prior litigation. There, in stark contrast, the citizenship-question plaintiffs argued that "the Secretary's decision [to include a citizenship question] was made for the purpose of depressing immigrant response and motivated by discriminatory animus." *Kravitz* 366 F. Supp. 3d at 754. Neither "depressing immigrant response" nor including a citizenship question are at issue here.

Plaintiffs' requested relief demonstrates the obvious dissimilarity between these cases. While Plaintiffs here request, among other things, an injunction barring Defendants "from collecting data as dictated by EO 13380 and from producing tabulations of citizenship population," FAC at 31–32, the citizenship-question plaintiffs sought an injunction barring "Defendants and their agents from including a citizenship question on the 2020 Census questionnaire and from taking any irreversible steps to include a citizenship question on the 2020 Census questionnaire," Ex. A at 110. It is difficult to see how two cases "aris[ing] from the same or identical transactions,

happenings, or events," Local Civ. R. 103.1(b)(i), would request entirely disparate relief. *See Singh v. McConville*, 187 F. Supp. 3d 152, 157 (D.D.C. 2016) (finding related cases where "the plaintiffs in both cases seek the same relief").

The "transactions, happenings, or events" at issue—as well as attendant legal questions—are not similar, much less "the same or identical." Local Civ. R. 103.1(b)(i); *see* Oxford English Dictionary, https://www.oed.com/ (last visited Oct. 11, 2019) (defining "identical" as "[b]eing the same in identity; the very same, selfsame: said of one thing (or set of things) viewed at different times or in different relations"). Plaintiffs therefore cannot meet their heavy burden of showing that their case and the citizenship-question case "arise from the same or identical transactions, happenings, or events."

II. The citizenship-question case and this case do not "involve the identical parties or property."

This case and the prior citizenship-question lawsuit do not "involve the identical parties or property." Local Civ. R. 103.1(b)(i). No "property" is at issue. And while three plaintiffs appear in both cases (La Unión del Pueblo Entero, Promise Arizona, and Juanita Valdez-Cox), this case adds four plaintiffs (Lydia Camarillo, Rogene Gee Calvert, Zeenat Nisha Hasan, and Candy L. Gutierrez) and subtracts 24 organizations and six individuals that previously challenged the citizenship question. *Compare* FAC ¶¶ 6–14 *with* Ex. A

¶¶ 3–130. Even the defendants do not fully overlap.[7] So Plaintiffs cannot show that the two cases "involve the identical parties or property." Local Civ. R. 103.1(b)(i); *see* Oxford English Dictionary, https://www.oed.com/ (last visited Oct. 11, 2019) (defining "identical" as "[b]eing the same in identity; the very same, selfsame: said of one thing (or set of things) viewed at different times or in different relations").

III. There would be no "duplication of labor," let alone a "substantial duplication of labor," if a different judge heard this case.

With little to no overlap in "transactions, happenings, or events," parties, or legal issues, there would be no "substantial duplication of labor" if a different judge heard this case. Local Civ. R. 103.1(b)(i). To begin, this case can (and should) be decided on Defendants' forthcoming motion dismiss, which will present legal arguments tailored to the unique claims in *this* litigation. Since this case alleges new claims against a different governmental decision with different consequences, not even the motion-to-dismiss legal issues will duplicate the citizenship-question case. *See, e.g.*, *LUPE v. Ross*, 353 F. Supp. 3d 381 (D. Md. 2018) (finding standing at the motion-to-dismiss stage because, among other

[7] Secretary Ross, the Department of Commerce, and the Census Bureau were defendants in both cases. *Compare* FAC ¶¶ 15–18 *with* Ex. A ¶¶ 131–34. And Ron Jarmin was previously sued in his official capacity as Acting Director of the Census Bureau, while Steven Dillingham is now sued in his official capacity as Director of the Census Bureau. *Compare* FAC ¶ 16 *with* Ex. A ¶ 132. Although this would normally make little difference, *see* Fed. R. Civ. P. 25(d), plaintiffs in the citizenship-question case specifically alleged that, "[m]otivated by their racial and class-based animus . . . Defendant Ross, Defendant Jarmin, President Donald Trump, John Gore, Arthur Gary, Attorney General Sessions, Kris Kobach, and Stephen Bannon conspired to *include a citizenship question in the 2020 decennial Census*." Ex. A ¶ 375 (emphasis added). No such allegation is leveled against Dr. Dillingham in this case, *see, e.g.*, FAC ¶ 115, and Dr. Jarmin is absent from all allegations in the complaint.

reasons, the plaintiffs plausibly plead that "the citizenship question would have a coercive effect on individuals' decisions not to respond to the Census"); *id.* at 392–93 (concluding that the citizenship-question plaintiffs plausibly alleged a violation of the Enumeration Clause at the motion-to-dismiss stage); *Kravitz v. U.S. Dep't of Commerce*, 336 F. Supp. 3d 545, 568 (D. Md. 2018) (holding that "the standard of review set forth in § 706(a)(2) can be applied to the Secretary's decision to add the citizenship question").

To the extent this case survives Defendants' motion to dismiss, there would still be no "substantial duplication of labor." Local Civ. R. 103.1(b)(i). As explained above, this case concerns factual and legal claims entirely distinct from the citizenship question, so this case would be no easier for this Court to handle based on its familiarity with the prior litigation. *Molinari v. Bloomberg*, 2008 WL 4876847, at *2 (E.D.N.Y. Nov. 12, 2008) (refusing to relate cases because there was not "the kind of factual—or even legal—overlap between the supposedly related cases that will make it easier for [the prior judge] to get up to speed in the new case based on any familiarity with its predecessors."); *see also Singh*, 187 F. Supp. 3d at 156 (concluding two cases were related, in part because "the Court will be required to make similar factual determinations in both cases"); *Autumn Journey Hospice, Inc. v. Sebelius*, 753 F. Supp. 2d 135, 140 (D.D.C. 2010) (finding related cases where "there is substantial overlap in both the factual underpinning and the legal matters in dispute in each of these hospice cap cases."); *Assiniboine & Sioux Tribe of Fort Peck Indian Reservation v. Norton*, 211 F. Supp. 2d 157, 159 (D.D.C. 2002) (finding relation

appropriate where there were "many" overlapping "factual issues that this Court must resolve" in both cases).

Assigning this case to a different judge would not hinder judicial economy; it would simply reinforce the tenet that "litigants do not choose their judges." *Kelly*, 519 F. Supp. at 1031. But a contrary ruling would "contravene the very purpose of random assignment, which is to 'prevent judge-shopping by any party, thereby enhancing public confidence in the assignment process.'" *Vaqueria Tres Monjitas,* 341 F. Supp. 2d at 72–73 (quoting *Mavroules*, 798 F. Supp. 61).

CONCLUSION

For the reasons set forth above, the Court should un-relate this case from *LUPE v. Ross*, No. 18-cv-1570 (D. Md.), so that it may be randomly assigned.

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Respectfully submitted,

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