

1 BRIAN J. STRETCH (CABN 163973)  
 United States Attorney  
 2 SARA WINSLOW (DCBN 457643)  
 Chief, Civil Division  
 3 WENDY M. GARBERS (CABN 213208)  
 Assistant United States Attorney  
 4 DAVID A. PEREDA (CABN 237982)  
 Assistant United States Attorney  
 5 450 Golden Gate Avenue, Box 36055  
 6 San Francisco, California 94102-3495  
 Telephone: (415) 436-6475  
 7 FAX: (415) 436-7234  
 wendy.garbers@usdoj.gov  
 8

9 Attorneys for Defendant SECRETARY OF  
 THE DEPARTMENT OF HOMELAND  
 SECURITY

10 UNITED STATES DISTRICT COURT  
 11 NORTHERN DISTRICT OF CALIFORNIA  
 12 SAN FRANCISCO DIVISION  
 13

14 K. H., C.V., W.L., J.M., JEFFREY BOYER, )  
 BRIAN PIEROG, DONNA BAXTER, )  
 15 RICHARD DEVIVO, and GARY )  
 MCCONAGHY, on behalf of themselves and )  
 16 those similarly situated, )

Case No. 15-cv-02740 JST

**STIPULATION AND [PROPOSED] ORDER RE  
 PENDING SUMMARY JUDGMENT MOTIONS**

17 Plaintiffs, )  
 18

Current Date: April 20, 2017  
 Proposed New Date: June 8, 2017  
 Time: 2:00 p.m.  
 The Honorable Jon S. Tigar

19 v. )

20 THE SECRETARY OF THE DEPARTMENT )  
 OF HOMELAND SECURITY, )

21 Defendant. )

22  
 23 **STIPULATION**

24 WHEREAS, defendant filed their summary judgment motions on February 3, 2017;

25 WHEREAS, since the filing of the motions, counsel for defendant learned that one piece of data  
 26 cited in the motions titled “FY13 Average Daily Scheduled US Carrier Passenger Flights (Departures and  
 27 Arrivals)” actually refers to Average Daily Scheduled High Risk US Carrier Passenger Flights (Departures  
 28

1 and Arrivals). While this difference does not change the substance of defendant's argument, defendant  
2 wishes to correct the record. This issue impacts only the summary judgment motion with Docket Number  
3 69, and does not impact the summary judgment motion with Docket Number 73;

4 WHEREAS, the parties have conferred and plaintiffs do not object to defendant filing an amended  
5 summary judgment motion (ECF 69);

6 IT IS HEREBY STIPULATED, by the parties to the above-captioned action, by and through their  
7 respective counsel of record, that:

8 1. Defendant will file an amended motion for summary judgment (re ECF 69) on or before  
9 February 28, 2017.

10 2. Plaintiffs' oppositions to both summary judgment motions (ECF 69 and 73) will due on March  
11 31, 2017;

12 3. Defendant's reply memoranda in support of the summary judgment motions will be due on April  
13 28, 2017; and

14 4. Subject to the Court's availability, the hearing on the summary judgment motions will be reset to  
15 June 8, 2017, at 2:00 p.m.

16  
17 DATED: February 23, 2017

Respectfully submitted,

18 BRIAN J. STRETCH  
Acting United States Attorney

19 /s/ Wendy M. Garbers  
20 WENDY M. GARBERS  
Assistant United States Attorney  
21 Attorneys for Defendant

22 DATED: February 23, 2017

MORRIS POLICH & PURDY LLP

23  
24 /s/ Nicholas M. Wieczorek \*  
25 NICHOLAS M. WIECZOREK  
26 Attorneys for Plaintiff

27 \*In compliance with Civil Local Rule 5-1(i)(3), the filer of this document attests under penalty of perjury  
28 that plaintiffs have concurred in the filing of this document.

1 **[PROPOSED] ORDER**

2  
3 PURSUANT TO STIPULATION, IT IS SO ORDERED.

4  
5 Dated: February 23, 2017

6  
7   
8 THE HONORABLE JON S. TIGAR

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28