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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION - SANTA ANA**

DOROTHY McKAY, DIANA
KILGORE, PHILLIP WILLMS,
FRED KOGEN, DAVID WEISS, and
THE CRPA FOUNDATION,

Plaintiffs

vs.

SHERIFF SANDRA HUTCHENS,
individually and in her official
capacity as Sheriff of Orange County,
California, ORANGE COUNTY
SHERIFF-CORONER
DEPARTMENT, and DOES 1-10,

Defendants.

CASE NO. SACV 12-1458JVS (JPRx)

**STIPULATION OF PARTIES TO
STAY FURTHER DISTRICT COURT
PROCEEDINGS PENDING APPEAL
OF COURT'S ORDER DENYING
MOTION FOR PRELIMINARY
INJUNCTION**

**(Filed Concurrently with [*Proposed*]
Order)**

1 This stipulation is entered into by and among Plaintiffs DOROTHY McKAY,
2 DIANA KILGORE, PHILLIP WILLMS, FRED KOGEN, DAVID WEISS, and
3 THE CRPA FOUNDATION (“Plaintiffs”) and Defendants SHERIFF SANDRA
4 HUTCHENS and the ORANGE COUNTY SHERIFF-CORONER DEPARTMENT
5 (“Sheriff Hutchens”), by and through their respective attorneys of record, pursuant
6 to Central District Local Rule 7-1.

7 WHEREAS, this Court entered a denial of Plaintiffs’ Motion for Preliminary
8 Injunction on November 1, 2012;

9 WHEREAS, Plaintiffs timely appealed this Court’s denial of their Motion
10 for Preliminary Injunction to the Ninth Circuit Court of Appeals on November 9,
11 2012;

12 WHEREAS, “[t]he filing of a notice of appeal is an event of jurisdictional
13 significance” that “confers jurisdiction on the court of appeals and divests the
14 district court of its control over those aspects of the case involved in the appeal,”
15 *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam);

16 WHEREAS, even pending an appeal of a preliminary injunction denial, a
17 district court must refrain from ruling on issues over which appellate review is
18 imminent. 16 Charles A. Wright, Arthur R. Miller & Edward H. Cooper, Federal
19 Practice and Procedure § 3921.2 at 56 (2d ed.1997);

20 WHEREAS, the Court retains jurisdiction to stay its own proceedings
21 pending appeal, *see, e.g., Gray v. Golden Gate Nat’l Recreation Area*, No. 08-
22 00722, 2011 WL 6934433, at *1 (N.D. Cal. Dec. 29, 2011); *see also* Fed. R. App.
23 P. 8;

24 WHEREAS, here, a stay of further proceedings is warranted because
25 Plaintiffs’ appeal raises serious questions of constitutional law, *see Guifu Li v. A*
26 *Perfect Franchise, Inc.*, No. 10-01189, 2011 WL 2293221, at *3 (N.D. Cal. June 8,
27 2011);

28 WHEREAS, neither party will be harmed by the issuance of a stay – instead,

“granting a stay will benefit both parties to this action by sparing them the expense of contemporaneous litigation and the accompanying fees and expenditure of time” inherent in pursuing litigation in *both* this Court and the Court of Appeals, Order at 6, *Baker v. Kealoha*, No. 11-00528 (D. Haw. June 19, 2012);

IT IS HEREBY STIPULATED by and between all parties through their respective counsel that, subject to court approval, all further proceedings in this matter, including the Federal Rule of Civil Procedure scheduling requirements per Rules 16(b) and 26(f), discovery, pre-trial motions, and trial, shall be stayed until further order of this Court, pending resolution of Plaintiffs’ appeal of this Court’s interlocutory order denying Plaintiffs’ Motion for Preliminary Injunction.

IT IS FURTHER STIPULATED that Plaintiffs’ counsel shall file with this Court a copy of the Ninth Circuit’s decision in Plaintiffs’ interlocutory appeal in this action within ten (10) days from its issuance.

Date: December 17, 2012 MICHEL & ASSOCIATES, PC

/s/ C. D. Michel
C. D. Michel
Attorney for Plaintiffs

Date: December 17, 2012 NICHOLAS CHRISOS, COUNTY COUNSEL
NICHOLE M. WALSH, DEPUTY, and
ELIZABETH A. PEJEAU

* /s/ Elizabeth A. Pejeau
Elizabeth A. Pejeau, Deputy
Attorney for Defendants

* Pursuant to Local Rule 5-4.3.4(a)(2)(i), this signatory, on whose behalf the filing is submitted, concurs in this filing’s content and has authorized this filing.

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

DOROTHY McKAY, DIANA KILGORE, PHILLIP WILLMS,
FRED KOGEN, DAVID WEISS, and
THE CRPA FOUNDATION,

CASE NO. SACV 12-1458JVS (JPRx)

CERTIFICATE OF SERVICE

Plaintiffs

vs.

SHERIFF SANDRA HUTCHENS,
individually and in her official
capacity as Sheriff of Orange County,
California, ORANGE COUNTY
SHERIFF-CORONER
DEPARTMENT, COUNTY OF
ORANGE, CALIFORNIA, and
DOES 1-10,

Defendants.

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 E. Ocean Blvd., Suite 200, Long Beach, California, 90802.

I am not a party to the above-entitled action. I have caused service of:

**STIPULATION OF PARTIES TO STAY FURTHER DISTRICT COURT
PROCEEDINGS PENDING APPEAL OF COURT'S ORDER DENYING
MOTION FOR PRELIMINARY INJUNCTION**

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Nicholas S. Chrisos, County Counsel
Marianne Van Riper, Supervising Deputy
Elizabeth A. Pejueau, Deputy
333 West Santa Ana Blvd., Suite 407
Post Office Box 1379
Santa Ana, CA 92702-1379

I declare under penalty of perjury that the foregoing is true and correct.
Executed on December 17, 2012.

C. D. Michel
Attorney for Plaintiffs