

1 XAVIER BECERRA, State Bar No. 118517
Attorney General of California
2 MARK R. BECKINGTON, State Bar No. 126009
Supervising Deputy Attorney General
3 JOHN D. ECHEVERRIA, State Bar No. 268843
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 510-3479
Fax: (415) 703-1234
6 E-mail: John.Echeverria@doj.ca.gov
Attorneys for Defendants

7
8 George M. Lee, State Bar No. 172982
SEILER EPSTEIN LLP
275 Battery Street, Suite 1600
9 San Francisco, CA 94111
Telephone: (415) 979-0500
10 E-mail: gml@seilerepstein.com

11 Raymond M. DiGuiseppe, State Bar No. 228457
THE DIGUISEPPE LAW FIRM, P.C.
12 4320 Southport-Supply Road, Suite 300
Southport, North Carolina 28461
13 Phone: (910) 713-8804
Fax: (910) 672-7705
14 Email: law.rmd@gmail.com
Attorneys for Plaintiffs

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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE EASTERN DISTRICT OF CALIFORNIA
18 SACRAMENTO DIVISION

19
20 **WILLIAM WIESE, et al.,**

21 Plaintiff,

22 v.

23 **XAVIER BECERRA, et al.,**

24 Defendant.
25

2:17-cv-00903-WBS-KJN

**JOINT STATUS REPORT
FOLLOWING DUNCAN v. BECERRA**

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1 Pursuant to this Court's Order of May 8, 2019 [Dkt. 110], in which this Court ordered the
2 parties to submit a joint status report within fourteen (14) days after the Ninth Circuit issues its
3 decision in *Duncan v. Becerra*, No. 19-55376, the parties to the above-entitled action hereby
4 submit this Joint Status Report following the Ninth Circuit's issuance of an opinion on August 14,
5 2020.

6
7 **DUNCAN V. BECERRA**

8 On August 14, 2020, the Ninth Circuit issued an opinion in *Duncan v. Becerra*, No. 17-
9 56081, in which a divided panel affirmed the district court's grant of summary judgment for the
10 plaintiffs in that action, Southern District of California No. 3:17-cv-01017-BEN-JLB, Hon. Roger
11 T. Benitez presiding. A copy of the Ninth Circuit opinion is attached hereto as **Exhibit A**.

12
13 **PLAINTIFFS' POSITION RE LIFTING THE STAY, AND MOTION FOR SUMMARY JUDGMENT**

14 In light of the Ninth Circuit's opinion in *Duncan*, and the long stay that has been imposed
15 in this case while awaiting the same,¹ plaintiffs in the instant case request that this Court now lift
16 its stay ordered on May 8, 2019 [ECF No. 110], and would propose that the court order a briefing
17 and hearing schedule on plaintiffs' anticipated motion for summary judgment as to all claims.
18 Plaintiffs propose to file their motion for summary judgment and supporting papers by October 1,
19 2020, with a briefing and hearing schedule to be set by the Court. Plaintiffs would be willing to
20 submit said motion to be decided on the papers, without necessity of a hearing, unless the Court
21 would find a hearing to be necessary or helpful.

22
23 **DEFENDANTS' POSITION**

24 Although the Ninth Circuit has issued an opinion in *Duncan v. Becerra*, the mandate has
25 not issued and the appeal is not yet final. Defendants respectfully request that the Court continue
26 the stay of proceedings in this case until the *Duncan* appellate proceedings are finally resolved,

27 _____
28 ¹ Plaintiffs would note that the instant case was filed on April 28, 2017, several weeks
before the *Duncan* case was filed in the Southern District of California.

1 requiring the parties to submit a joint status report within fourteen (14) days of the issuance of the
2 mandate in *Duncan*.

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5 The parties are available to attend a scheduling conference to discuss these matters, should
6 it please the Court. The parties would request to appear by telephone at any such conference.

7 Respectfully submitted,

8 Dated: August 26, 2020

SEILER EPSTEIN LLP

9
10 /s/ George M. Lee

George M. Lee
Attorneys for Plaintiffs

11
12 Dated: August 26, 2020

XAVIER BECERRA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General

13
14
15 /s/ John D. Echeverria

JOHN D. ECHEVERRIA
Deputy Attorney General
Attorneys for Defendants