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**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

East Bay Sanctuary Covenant; Al Otro Lado;
 Innovation Law Lab; and Central American
 Resource Center in Los Angeles,

Plaintiffs,

v.

Donald J. Trump, President of the United States, in
 his official capacity; Matthew G. Whitaker, Acting
 Attorney General, in his official capacity; U.S.
 Department of Justice; James McHenry, Director
 of the Executive Office for Immigration Review,
 in his official capacity; the Executive Office for
 Immigration Review; Kirstjen M. Nielsen,
 Secretary of Homeland Security, in her official
 capacity; U.S. Department of Homeland Security;
 Lee Francis Cissna, Director of the U.S.
 Citizenship and Immigration Services, in his
 official capacity; U.S. Citizenship and
 Immigration Services; Kevin K. McAleenan,
 Commissioner of U.S. Customs and Border
 Protection, in his official capacity; U.S. Customs
 and Border Protection; Ronald D. Vitiello, Acting
 Director of Immigration and Customs
 Enforcement, in his official capacity; Immigration
 and Customs Enforcement,

Defendants.

Case No.: 18-cv-06810

**PLAINTIFFS' ADMINISTRATIVE
 MOTION TO CONSIDER
 WHETHER CASES SHOULD BE
 RELATED, PURSUANT TO CIVIL
 L.R.7-11**

[IMMIGRATION ACTION]

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16 **Pro hac vice application forthcoming*
17 ***Application for admission forthcoming*
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Plaintiffs in *Innovation Law Lab v. Nielsen*, Case No. 3-19-cv-00807 (N.D. Cal.)—Innovation Law Lab; Central American Resource Center of Northern California; Centro Legal de la Raza; Immigration and Deportation Defense Clinic at the University of San Francisco School of Law; Al Otro Lado; Tahirih Justice Center; John Doe; Gregory Doe; Bianca Doe; Dennis Doe; Alex Doe; Christopher Doe; Evan Doe; Frank Doe; Kevin Doe; Howard Doe; Ian Doe (hereinafter “Plaintiffs”)—respectfully submit this Notice of a Related Case, pursuant to Civil L.R. 3-12, and the required Administrative Motion to Consider Whether Cases Should Be Related, pursuant to Civil L.R. 7-11. Plaintiffs notified counsel for Defendants in *Innovation Law Lab* (Erez R. Reuveni) via email on February 14, 2019, of their intent to file this motion. Counsel for Defendants stated via email that Defendants oppose the motion.

I. APPLICABLE STANDARD UNDER CIVIL L.R. 3-12

Under Civil Local Rule 3-12, an “action is related to another when: (1) the actions concern substantially the same parties, property, transaction or event, and (2) it appears likely that there will be an unduly burdensome duplication of labor and expense or conflicting results if the cases are conducted before different Judges.” Civil L.R. 3-12(a).

Whenever a party knows or believes that an action may be related to an action which is or was pending in the Northern District, said party “must promptly file in the earliest-filed case an Administrative Motion to Consider Whether Cases Should be Related, pursuant to Civil L.R. 7-11.” Civil L.R. 3-12(b). That motion must include: “(1) The title and case number of each apparently related case; (2) A brief statement of the relationship of the actions according to the criteria set forth in Civil L.R. 3-12(a).” Civil L.R. 3-12(d).

II. INNOVATION LAW LAB IS RELATED TO EAST BAY SANTUARY COVENANT

Innovation Law Lab v. Nielsen, Case No. 3-19-cv-00807, is an action for declaratory and injunctive relief that challenges the Department of Homeland Security’s (“DHS”) new policy of forcing asylum seekers who arrive at the southern border to return to Mexico while their removal proceedings are being decided. Plaintiffs challenge the lawfulness of DHS’s policy as violating the Immigration and Nationality Act, the Administrative Procedure Act, and the United States’ duty of *nonrefoulement* under international law. See *Innovation Law Lab Compl.* ¶¶ 7; Causes of Action.

1 *Innovation Law Lab* is related to *East Bay Sanctuary v. Trump*, No. 3:18-cv-06810-JST
 2 (N.D. Cal.), under the criteria set forth in Civil Local Rule 3-12(a). Most significantly, the actions
 3 involve a substantially similar body of facts. Each action involves, and so requires an understanding
 4 of, migration trends at the southern border, including apprehension numbers and U.S. Customs and
 5 Border Protection resources as well as trends regarding asylum seekers from Central America.
 6 *Compare, e.g.,* EBSC Compl. ¶¶ 45-47, 71-76, *with* *Innovation Law Lab* Compl. ¶¶ 39-41. Each
 7 action also involves, and so requires an understanding of, the dangers facing asylum seekers in
 8 Mexico as well as in their home countries, and the ways in which these dangers have evolved over
 9 time. *Compare, e.g.,* EBSC Compl. ¶¶ 45-53, 66-70 *with* *Innovation Law Lab* Compl. ¶¶ 39-71.
 10 Furthermore, each action involves, and so requires an understanding of, the factual underpinnings of
 11 the government’s asserted justifications for denying migrants at the southern border meaningful
 12 access to the asylum process. For example, to justify both the Interim Final Rule at issue in *East*
 13 *Bay Sanctuary* and the forced return policy at issue in *Innovation Law Lab*, Defendants rely on *in*
 14 *absentia* rates and the number of asylum seekers from El Salvador, Guatemala, and Honduras with
 15 meritorious asylum claims. *Compare, e.g.,* EBSC Compl. ¶¶ 52-53, 77 *with* *Innovation Law Lab*
 16 Compl. ¶¶ 42-43. The parties in *East Bay Sanctuary* disagreed about how to calculate and interpret
 17 these figures, and Plaintiffs anticipate similar disagreement in *Innovation Law Lab*.

18 The Court has already expended significant resources developing expertise regarding this
 19 body of facts in *East Bay Sanctuary* by virtue of adjudicating a Motion for Temporary Restraining
 20 Order, Motion for Stay, and Motion for Preliminary Injunction. In doing so, the Court examined
 21 over twenty declarations from academics, former government officials, and leaders of human rights
 22 organizations, among others. Plaintiffs anticipate filing declarations from several of the same
 23 declarants in *Innovation Law Lab*. The Court also examined a lengthy administrative record in *East*
 24 *Bay Sanctuary* that contained data and reports Plaintiffs anticipate again will be at issue in
 25 *Innovation Law Lab*.

26 In addition, the actions concern “substantially the same parties.” Common to both actions are
 27 Plaintiffs Al Otro Lado and *Innovation Law Lab*, and Defendants the Department of Homeland
 28 Security, U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, U.S.

Immigration and Customs Enforcement, and the corresponding agency heads. The actions also both concern the administration's policy and practice of denying migrants at the southern border meaningful access to the asylum process, and returning them to situations where they face persecution and other severe harm.

In light of the resources committed to understanding the factual corpus in *East Bay Sanctuary*, the substantial overlap with the factual corpus in *Innovation Law Lab*, and the centrality of those facts to the legal claims in each case, "it appears likely there will be an unduly burdensome duplication of labor and expense" should *Innovation Law Lab* not be assigned to Judge Tigar. Civil L.R. 3-12(a).

Dated: February 14, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2019, I caused a PDF version of the foregoing document to be electronically transmitted to the Clerk of the Court, using the CM/ECF system for filing and mailed courtesy copies to all necessary parties using certified mail.

Dated: February 14, 2019

/s/ Jennifer Chang Newell
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Attorney for Plaintiffs