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

East Bay Sanctuary Covenant, *et al.*,

*Plaintiffs,*

v.

Joseph R. Biden, President of the United States, *et al.*,

*Defendants.*

Case No.: 18-cv-06810-JST

**PLAINTIFFS' NOTICE OF MOTION  
AND MOTION FOR LEAVE TO FILE  
AN AMENDED AND  
SUPPLEMENTAL COMPLAINT AND  
TO LIFT THE STAY OF  
PROCEEDINGS**

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**NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE SUPPLEMENTAL  
COMPLAINT AND TO LIFT THE STAY OF PROCEEDINGS**

**TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that as soon as they may be heard before the Honorable Jon S. Tigar in the District Court for the Northern District of California in Courtroom 6, 2nd Floor, Plaintiffs East Bay Sanctuary Covenant, Central American Resource Center of Los Angeles, Al Otro Lado, and Innovation Law Lab, and proposed additional Plaintiffs Tahirih Justice Center, National Center for Lesbian Rights, Immigrant Defenders Law Center, and American Gateways hereby move the Court for leave to file an Amended and Supplemental Complaint and to lift the stay of these proceedings.

Plaintiffs recognize this Court’s standing order regarding the consideration of motions and request that this Court hear this case as soon as possible, before the next available motions date of June 15, 2023. Plaintiffs intend to move for preliminary relief against the new asylum ban—Circumvention of Lawful Pathways (May 10, 2023) (the “Rule”). Should the Court wish to hear argument on this motion to amend and supplement, Plaintiffs request that the hearing be combined with Plaintiffs’ forthcoming motion for preliminary relief.

Plaintiffs seek to update their complaint to address the new asylum ban that modifies and rescinds the November 2018 interim final rule challenged in the original complaint, which this Court preliminarily enjoined. As Plaintiffs did in their original complaint, the proposed Amended and Supplemental Complaint likewise challenges the new asylum ban on the basis that it is contrary to law, is arbitrary and capricious, and unlawfully bypasses the Administrative Procedure Act (“APA”)’s procedural requirements. The new Rule is subject to these fatal flaws for many of the same reasons that this Court relied upon to enjoin the initial entry-ban rule: Among other things, it restricts access to asylum based on place and manner of entry, in violation of 8 U.S.C. § 1158(a)(1), and in passing the Rule the agencies failed to comply with the APA’s requirement to provide the public with an adequate opportunity to comment. A copy of Plaintiffs’ proposed First Amended and Supplemental Complaint is attached to this motion as Exhibit A. A redlined version that identifies the proposed additions and alterations is attached as Exhibit B.

This motion is brought pursuant Federal Rule of Civil Procedure 15, and it is based on the enclosed Memorandum of Points and Authorities and materials cited therein; the attached proposed Amended and Supplemental Complaint; the pleadings and evidence on file in this matter; and such other materials and argument as may be presented in connection with the hearing on the motion.

Dated: May 11, 2023

Respectfully submitted,

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