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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, a California
Corporation,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; CHAD F. WOLF, in
his official capacity as Acting Secretary of
the United States Department of
Homeland Security; and MATTHEW
ALBENCE, in his official capacity as
Acting Director of U.S. Immigration and
Customs Enforcement,

Defendants.

Case No. 3:20-cv-04621

**PLAINTIFF THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA'S *EX*
PARTE MOTION FOR ORDER
SHORTENING TIME RE: MOTION FOR
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION;
DECLARATION OF JENNIFER S.
ROMANO IN SUPPORT THEREOF**

[Civil L.R. 6-3]

Complaint filed: July 10, 2020

Plaintiff The Regents of the University of California (“The Regents”) hereby moves pursuant to Civil Local Rule 6-3 for an Order Shortening Time for the Court to hear The Regents’ concurrently filed *Ex Parte* Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction (“TRO Motion”) to enjoin Defendants United States Department of Homeland Security, Acting Secretary of Department of Homeland Security Chad F. Wolf, United States Immigration and Customs Enforcement, and Acting Director of U.S. Immigration and Customs Enforcement Matthew Albence (collectively, “Defendants”) from implementing their July 6, 2020, memorandum (the “July 6 Directive”), which announced, *inter alia*, that “schools adopting a hybrid model – that is, a mixture of online and in person classes –” must by August 4, 2020, certify to SEVP for each F-1 visa student attending such school that, among other things, “the student is not taking an entirely online course load for the fall 2020 semester, and that the student is taking the minimum number of online classes required to make normal progress in their degree program.” Students for whom the school cannot so certify “must leave the country or take alternate steps to maintain their nonimmigrant status such as transfer to a school with in-person instruction” (“the Directive”). *See* Decl. of Jennifer S. Romano in Support of *Ex Parte* Motion to Shorten Time, at ¶ 2. Due to the exigent circumstances created by Defendants’ Directive, which has immediate effect on universities and their students, The Regents has suffered and will continue to suffer serious and irreparable injury that can only be redressed by the relief sought in the TRO Motion. *Id.* at ¶ 3. Accordingly, The Regents respectfully requests that the TRO Motion be heard by the Court on July 14, 2020, or the soonest date thereafter as the Court may be available.

As set forth in the concurrently filed Declaration of Jennifer S. Romano and detailed in the materials submitted in support of The Regents’ TRO Motion, The Regents respectfully maintains that all of the requirements of Civil Local Rule 6-3 have been met.

1. Reasons for Requested Shortening of Time.

As detailed in the materials submitted in support of The Regents’ TRO Motion, immediate relief is necessary to prevent substantial and irreparable damage to The Regents’ academic community, including the immediate loss of valued international students and the erosion of any

gains made to date in protecting its community from an even higher rate of transmission of the potentially deadly COVID-19 virus. *Id.* at ¶ 3. The Directive creates economic harm to the University, the communities it serves and will prevent it from carrying out planned infrastructure and capital improvements to its campus facilities. *Id.*

2. Efforts Made to Obtain Stipulation.

On July 10, 2020, The Regents served Defendants with the summons, complaint, TRO Motion, and its supporting papers filed in this matter. *Id.* at ¶ 2. In addition, in-house counsel for Plaintiff, Margaret Wu, reached out with counsel for the California Attorney General's Office, Lee Sherman, to counsel for the Defendants, Rayford Farquhar, to advise counsel for the Defendants of Plaintiff's impending complaint and TRO Motion, and proposed a briefing schedule for the Court to hear The Regents' TRO Motion on an expedited basis. *Id.* at ¶ 5. Ms. Wu was unable to reach an agreement or enter into a stipulation with Defendants to shorten time. *Id.*

3. Substantial Harm Will Occur if the Court Does Not Shorten Time.

As detailed in the TRO Motion, if the Directive is implemented, the University will suffer: international students integral to the university experience will be lost; international students' contributions to the University's financial stability and the local economy will be lost; and gains in public safety could be eliminated if schools are forced to reopen prematurely. *Id.* at ¶ 2.

Normally, 35 days are required between the filing of a motion and the hearing. Civil L.R. 7-2(a). If the Court does not shorten the time for hearing to less than 35 days and set a hearing date for July 14, 2020, or as soon thereafter as possible, The Regents will be forced to comply with an administrative policy that it contends is in violation of the Administrative Procedures Act and therefore unlawful. *Id.* at ¶ 4. In particular, The Regents will have to either consider revising plans to conduct courses in person rather than online as planned in contravention of the advice of health experts or inform thousands of international students that they may not attend courses at the University of California this fall in accordance with the Directive of ICE. *Id.* The date of mandatory orientation and check-in for students planning to attend Berkeley this fall is August 19, 2020, less than a week after the earliest hearing date under a standard briefing schedule. *Id.* By

1 then, it will be too late to revise the curricula or provide reasonable notice to students that they
2 will be expected to attend classes in person rather than online. *Id.*

3 4. The Underlying Disputes That Would Be Resolved in the Motion.

4 Plaintiff so moves, on the basis that it will demonstrate that (1) it is likely to succeed on
5 the merits of its claims under the Administrative Procedure Act (“APA”); (2) Plaintiff and its
6 students, including its international students who are in the United States on the nonimmigrant
7 student visa known as the “F-1” visa, are likely to suffer irreparable harm in the absence of
8 preliminary relief; and (3) the balance of equities and the public interest weigh heavily in favor of
9 returning to the status quo existing prior to the issuance of the Directive. Plaintiff’s Motion is
10 based upon the currently available administrative record, the declarations and exhibits submitted
11 in support of this Motion, and on such further evidence and argument as the Court may consider
12 at the hearing on this Motion.

13 5. Prior Extension.

14 There have been no prior extensions requested—by stipulation or otherwise—in this case.
15 *Id.* at ¶ 6.

16 6. Effect on Schedule.

17 If granted, the requested extension will have no effect on the schedule. *Id.* at ¶ 6. The
18 Regents filed its complaint on July 10, 2020, the same day as its *Ex Parte* Motion for Temporary
19 Restraining Order and an Order to Show Cause re: Preliminary Injunction and the present Motion
20 for an Order Shortening Time. *Id.* Nor has this Court issued its Order Setting Initial Case
21 Management Conference, per Civil L.R. 16-2. *Id.*

1 Dated: July 10, 2020

Respectfully submitted,

2 CROWELL & MORING LLP

3 By: /s/ Jennifer S. Romano

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24 *Attorneys for Plaintiff*
THE REGENTS OF THE UNIVERSITY OF
25 *CALIFORNIA*

DECLARATION OF JENNIFER S. ROMANO

I, Jennifer S. Romano, declare as follows:

1. I am a partner at Crowell & Moring LLP, counsel for Plaintiff The Regents of the University of California (“The Regents”). I make this declaration in support of The Regents’ Motion for an Order Shortening Time (the “Motion”) re: Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction (the “TRO Motion”). I have firsthand knowledge of the facts set forth in this declaration and could and would competently testify thereto if called upon to do so.

2. On July 10, 2020, The Regents served Defendants with the summons and complaint filed in this matter, as well as a Motion for Temporary Restraining Order and Order to Show Cause re: Preliminary Injunction (“TRO Motion”) to enjoin Defendants United States Department of Homeland Security, Acting Secretary of Department of Homeland Security Chad F. Wolf, United States Immigration and Customs Enforcement, and Acting Director of U.S. Immigration and Customs Enforcement Matthew Albence (collectively, “Defendants”) from implementing their July 6, 2020, memorandum and news release, which announced, *inter alia*, that “schools adopting a hybrid model – that is, a mixture of online and in person classes –” must by August 4, 2020, certify to SEVP for each F-1 visa student attending such school that, among other things, “the student is not taking an entirely online course load for the fall 2020 semester, and that the student is taking the minimum number of online classes required to make normal progress in their degree program.” Students for whom the school cannot so certify “must leave the country or take alternate steps to maintain their nonimmigrant status such as transfer to a school with in-person instruction” (“the Directive”).

3. The Regents contends that due to the exigent circumstances created by Defendants’ Directive, which has immediate effect on universities and their students, The Regents has suffered and will continue to suffer serious and irreparable injury that can only be redressed by the relief sought in the TRO Motion. As detailed in the materials submitted in support of The Regents’ TRO Motion, The Regents contends that immediate relief is necessary to prevent substantial and irreparable damage to The Regents’ academic community, including the

1 immediate loss of valued international students and the erosion of any gains made to date in
 2 protecting its community from an even higher rate of transmission of the potentially deadly
 3 COVID-19 virus. The Regents contends that the Directive creates economic harm to the
 4 University, the communities it serves and will prevent it from carrying out planned infrastructure
 5 and capital improvements to its campus facilities.

6 4. If the Court does not shorten the time for hearing to less than 35 days and set a
 7 hearing date for July 14, 2020, or as soon thereafter as possible, The Regents will be forced to
 8 comply with an administrative policy that it contends is in violation of the Administrative
 9 Procedures Act and therefore unlawful. In particular, The Regents contends that it will have to
 10 either consider revising plans to conduct courses in person rather than online as planned in
 11 contravention of the advice of health experts or inform thousands of international students that
 12 they may not attend courses at the University of California this fall in accordance with the
 13 Directive of ICE. On information and belief, the date of mandatory orientation and check-in for
 14 students planning to attend Berkeley this fall is August 19, 2020, less than a week after the
 15 earliest hearing date under a standard briefing schedule. By then, The Regents contends it will be
 16 too late to revise the curricula or provide reasonable notice to students that they will be expected
 17 to attend classes in person rather than online.

18 5. On information and belief, on July 10, 2020, in-house counsel for Plaintiff,
 19 Margaret Wu, reached out with counsel for the California Attorney General's Office, Lee
 20 Sherman, to counsel for the Defendants, Rayford Farquhar, to advise counsel for the Defendants
 21 of Plaintiff's impending complaint and TRO Motion, and to proposed a briefing schedule for the
 22 Court to hear The Regents' TRO Motion on an expedited basis. Ms. Wu was unable to reach an
 23 agreement or enter into a stipulation with Defendants to shorten time.

24 6. There have been no prior extensions requested—by stipulation or otherwise—in
 25 this case. If granted, the requested extension will have no effect on the schedule. Nor has this
 26 Court issued its Order Setting Initial Case Management Conference, per Civil L.R. 16-2.

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1 I declare under penalty of perjury under the laws of the United States that the foregoing is
2 true and correct. Executed this 10th day of July, 2020 at Los Angeles, California.

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4 /s/ Jennifer S. Romano
Jennifer S. Romano
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, a California
corporation,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY; U.S.
IMMIGRATION AND CUSTOMS
ENFORCEMENT; CHAD F. WOLF, in
his official capacity as Acting Secretary of
the United States Department of
Homeland Security; and MATTHEW
ALBENCE, in his official capacity as
Acting Director of U.S. Immigration and
Customs Enforcement,

Defendants.

Case No. 3:20-cv-04621

**[PROPOSED] ORDER GRANTING
PLAINTIFF THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA'S
MOTION FOR AN ORDER SHORTENING
TIME TO HEAR THE REGENTS' EX
PARTE MOTION FOR A TEMPORARY
RESTRAINING ORDER**

Complaint filed: July 10, 2020

1 Having considered Plaintiff The Regents of the University of California's ("Plaintiff" or
2 "The Regents") Administrative Motion for an Order Shortening Time for the Court to Hear The
3 Regents' concurrently filed *Ex Parte* Motion for Temporary Restraining Order and Order to Show
4 Cause re: Preliminary Injunction ("Plaintiff's Motion to Shorten Time") and the papers and
5 arguments submitted in support and in opposition, this Court finds good cause and hereby
6 GRANTS Plaintiff's Motion to Shorten Time.

7 The Court will schedule a hearing on Plaintiff's *Ex Parte* Motion for Temporary
8 Restraining Order and Order to Show Cause re: Preliminary Injunction for Tuesday, July 14,
9 2020 at _____ a.m./p.m. Said hearing will take place at _____.

10 **IT IS SO ORDERED.**

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12 Dated: _____

13 _____
14 UNITED STATES DISTRICT JUDGE
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