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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NATIONAL TPS ALLIANCE, *et. al.*,

Plaintiff,

v.

KRISTI NOEM, in her official capacity as
Secretary of Homeland Security, *et. al.*,

Defendants.

Case No. 3:25-cv-1766-EMC

**DEFENDANTS' MOTION TO STAY FURTHER
DISTRICT COURT PROCEEDINGS
(NO HEARING REQUESTED)**

Judge: Hon. Edward M. Chen

DEFENDANTS' MOT. TO ADMINISTRATIVELY STAY FURTHER PROCEEDINGS
No. 3:25-cv-1766-EMC

Pursuant to Federal Rule of Civil Procedure 7(b), Defendants move the Court to administratively stay further district court proceedings, including the answer or other dispositive pleading, discovery, and all other pending deadlines related to the Venezuela TPS determinations, to preserve the status quo between the parties. *See Doe #1 v. Trump*, 944 F.3d 1222, 1223 (9th Cir. 2019). On March 31, 2025, this Court postponed the effective date of Secretary Noem’s 2025 Vacatur and Termination of TPS for Venezuela, preserving Temporary Protected Status for Venezuelans covered by the 2021 and 2023 Designations.¹ ECF No. 93. On April 1, 2025, Defendants filed a notice of appeal from the Court’s order. ECF No. 94. In the Ninth Circuit, Defendants sought an emergency stay of the Court’s order and stay briefing largely focused on threshold questions of subject-matter jurisdiction. ECF No. 109; *see* Docket, *Nat’l TPS Alliance, et al., v. Noem, et al.*, 25-2120 (9th Cir.). The Ninth Circuit denied the stay on the sole basis that Defendants did not demonstrate irreparable harm. ECF No. 113. Defendants’ opening brief on the interlocutory appeal is due on April 30, 2025. ECF No. 100. In light of Defendants’ appeal, this Court should stay further proceedings in the district court until the Ninth Circuit rules, because doing so will promote the fair and efficient resolution of the issues presented in this case. Defendants advised Plaintiffs of this motion during a conference on April 25, 2025, who indicated they oppose an administrative stay.

“The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket.” *Clinton v. Jones*, 520 U.S. 681, 706 (1997). That includes entering an administrative stay if “it is efficient for its own docket and the fairest course for the parties . . . pending resolution of independent proceedings which bear upon the case.” *In re PG&E Corp. Sec. Lit.*, 100 F.4th 1076, 1085 (9th Cir. 2024). The Ninth Circuit has identified three non-exclusive factors to consider in deciding whether to issue a stay: “(1) the possible damage which may result from the granting of a stay; (2) the hardship or inequity which a party may suffer in being required to go forward; and (3) the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law.”

¹ *Vacatur of 2025 TPS Decision for Venez.*, 90 Fed. Reg. 8,805 (Feb. 3, 2025) (“2025 Vacatur”); *Termination of the October 3, 2023 Designation of Venez. for TPS*, 90 Fed. Reg. 9,040 (Feb. 5, 2025) (“2025 Termination”).

1 *In re PG&E Corp. Sec. Lit.*, 100 F.4th at 1085 (cleaned up). All three factors weigh in favor of a stay of
 2 district court proceedings in this case pending resolution of Defendants’ appeal to the Ninth Circuit Court
 3 of Appeals. ECF No. 94.

4 First, a stay will serve “the orderly course of justice” by “simplifying” or resolving central (and
 5 potentially dispositive issues) in this litigation. *In re PG&E Corp. Sec. Lit.*, 100 F.4th at 1085. Here, the
 6 Court concluded that it had jurisdiction to review the Secretary’s 2025 Vacatur and Termination
 7 determinations under the Administrative Procedures Act notwithstanding the jurisdictional bar at 8 U.S.C.
 8 § 1254a(b)(5)(A). ECF No. 93 at 15-30. This threshold—and, as Defendants argue, dispositive—
 9 jurisdictional issue is now before the Ninth Circuit. Any legal questions it resolves will bind the Court.
 10 *See Ranchers Cattlemen Action Legal Fund v. U.S. Dep’t of Agriculture*, 499 F.3d 1108, 1114 (9th Cir.
 11 2007) (“A fully considered appellate ruling on an issue of law made on a preliminary injunction appeal .
 12 . . become[s] the law of the case for further proceedings in the trial court on remand and in any subsequent
 13 appeal.”) (quoting 18 Wright & Miller, Federal Practice & Procedure § 4478.5 (2002)). Even if the Ninth
 14 Circuit were to reject Defendants’ jurisdictional arguments, its decision will still materially affect how
 15 this case proceeds before this Court. *See In re PG&E Corp. Sec. Lit.*, 100 F.4th at 1085 (“A district court
 16 may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a
 17 stay of an action before it, pending resolution of independent proceedings which bear upon the case.”)
 18 (cleaned up). In short, because the Ninth Circuit “must address issues identical to those presented in this
 19 action” this Court “could receive considerable assistance in resolving this action” and a stay is warranted
 20 as a matter of judicial efficiency. *In re PG&E Corp. Sec. Lit.*, 100 F.4th at 1086 (cleaned up).

21 A stay would also serve “the orderly course of justice” by preserving judicial resources and the
 22 litigation resources of both parties. *Id.* at 1085. Any court-ordered deadlines and proceedings set before
 23 the Ninth Circuit renders a decision on Defendants’ appeal would be premature and may require
 24 reconsideration in light of that decision. *See Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 864
 25 (9th Cir. 1979) (observing that an administrative stay may be granted if “the other proceedings will be
 26 conducted within a reasonable time in relation to the urgency of the claims presented to the court.”); 9th
 27 Cir. R. 3-3(b) (establishing an expedited briefing schedule by default for cases challenging district court
 28 DEFENDANTS’ MOT. TO ADMINISTRATIVELY STAY FURTHER PROCEEDINGS
 No. 3:25-cv-1766-EMC

interlocutory orders). Additionally, if the district court proceedings continue until final judgment, rendering the postponement order under 5 U.S.C. § 705 moot, the Ninth Circuit would be required to rededicate its resources to the entire case at that stage, even though it may conclusively determine the legal issues before it at this time. *See Ranchers Cattlemen Action Legal Fund*, 499 F.3d at 1114. The judicial resources dedicated to the intervening appeal would thus be wasted. An administrative stay should be issued to avoid that result.

Second, a stay will eliminate the “hardship and inequity” that the parties would otherwise suffer in “being required to go forward” without guidance from the Ninth Circuit. *In re PG&E Corp. Sec. Lit.*, 100 F.4th at 1085. Just as the Court would devote time and resources to this proceeding, so too the parties would devote their own resources to participating in discovery and litigating issues that may ultimately be mooted, clarified, or narrowed by the Ninth Circuit’s decision. *See United States v. Texas*, 144 S. Ct. 797, 798 (2024) (Barrett, J., concurring) (observing that one point of administrative stays “is to minimize harm while an appellate court deliberates”). That is particularly true here because the Court’s order permits Plaintiffs to serve “discovery requests on the government” and requires the government to take other actions that are predicated on the very jurisdictional rulings that are now before the Ninth Circuit. ECF No. 93 at 77; *see Leyva*, 593 F.3d at 864 (“It would waste judicial resources and be burdensome upon the parties if the district court . . . were mandated to permit discovery, and upon completion of pretrial proceedings, to take evidence and determine the merits of the case at the same time as” the issues are “going through a substantially parallel process.”). Moreover, because any review of the Secretary’s TPS determinations is limited to the administrative record, there is no risk that relevant evidence in this case will become stale during a stay of proceedings. 5 U.S.C. § 706, Fed. R. Civ. P. 26(a)(1)(B)(i).

Third, Defendants have taken steps, as required by Fed. R. Civ. P. 26, to preserve potentially discoverable materials while the Ninth Circuit resolves Defendants’ expedited appeal. Indeed, in response to this Court’s order, the Parties submitted a Joint Status Report and are actively conferring regarding an ESI protocol. Defendants have also filed the administrative records. ECF Nos. 103, 104 (administrative records); *see* ECF 93 at 77. Thus, Defendants have already taken the necessary steps at this time.

1 In short, while the Ninth Circuit reviews the threshold jurisdictional issues that must be decided
2 before Plaintiffs' challenge to the Venezuela TPS determinations continues, this Court should
3 administratively stay this case (and all associated deadlines) pending resolution of the docketed appeal.
4 *See In re PG&E Corp. Sec. Lit.*, 100 F.4th at 1085; *Doe # I*, 944 F.3d at 1223.

5 Dated: April 25, 2025

Respectfully submitted,

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Case No. 3:25-cv-1766-EMC

[PROPOSED] ORDER GRANTING
MOTION TO STAY FURTHER
DISTRICT COURT PROCEEDINGS

[PROPOSED] ORDER GRANTING ADMINISTRATIVE STAY
No. 3:25-cv-1766-EMC

1 Before the Court is Defendants' motion for an administrative stay postponing all further district
2 court proceedings and deadlines associated with Plaintiffs' challenge to the Venezuela TPS determinations
3 until the Ninth Circuit Court of Appeals has ruled on Defendants' appeal (ECF No. 94) of this Court's
4 postponement order (ECF No. 93). Having reviewed the motion, IT IS ORDERED that Defendant's
5 motion for an administrative stay of further district court proceedings is GRANTED.

6
7 Issued this ____ day of April, 2025.

8 _____
9 Edward M. Chen
United States District Judge