

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

SIERRA CLUB, et al.,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, in his official
capacity, et al.,

Defendants-Appellants.

No. 19-16102

No. 19-16300

STATE OF CALIFORNIA, et al.,

Plaintiffs-Appellees/ Cross-
Appellants,

v.

DONALD J. TRUMP, in his official
capacity, et al.,

Defendants-Appellants.

No. 19-16299

No. 19-16336

UNOPPOSED RULE 27-12 MOTION TO EXPEDITE

Appellees Sierra Club and Southern Border Communities Coalition (“Sierra Club Case plaintiffs”), and Appellees/Cross-Appellants California and New Mexico (“States Case plaintiffs”) respectfully request (1) that the briefing schedule for the consolidated appeals be expedited by approximately a month, and (2) that an expedited hearing on the consolidated appeals be set for the first available argument calendar in October, following completion of briefing. Defendants have informed the Sierra Club Case plaintiffs that they do not oppose this motion.

Motions seeking expedited briefing and hearings “will be granted upon a showing of good cause.” Cir. R. 27-12. Good cause includes, but is not limited to, showing that “in the absence of expedited treatment, irreparable harm may occur or the appeal may become moot.” Cir. R. 27-12(3).

Good cause exists to expedite these consolidated appeals because the Supreme Court has stayed the permanent injunction under appeal in the Sierra Club case. *See* Order, 19A-60 (U.S. July 26, 2019). In the absence of that injunction, the Defendants are currently free to spend funds and commence the construction that is the subject of these appeals. This Court has already determined that “allowing Defendants to move forward with spending the funds will allow construction to begin, causing immediate, and likely irreparable, harm to Plaintiffs.” Order 31. Moreover, this Court has also expressed concern that “many of the issues in this case may become moot or largely moot before fuller litigation

of the appeal can be completed.” Order 31. Accordingly, the requirements for expedition under either prong of Cir. R. 27-12(3) are met here.

Plaintiffs therefore respectfully request that the Court shorten the remaining briefing schedule as follows, and schedule a hearing on this preliminary injunction appeal in October, on the first available argument calendar following the completion of briefing. *See, e.g., Isaacson v. Horne*, No. 12-16670, 2012 WL 3126829, at *1 (9th Cir. Aug. 1, 2012) (expediting hearing of civil rights litigants’ appeal by “plac[ing] [it] on the first available argument calendar following the completion of briefing”).

- Defendants’ Opening Brief: July 31, 2019 (unchanged)
- Sierra Club Case plaintiffs’ response brief, and States Case plaintiffs’ response brief and opening brief on cross-appeal: August 15, 2019 (currently August 30, 2019).
- Defendants’ reply brief and response brief to States Case plaintiffs’ cross-appeal: August 30, 2019 (currently September 20, 2019).
- States Case plaintiffs’ reply brief on cross-appeal: Sept 13, 2019 (currently October 11, 2019).

Defendants do not oppose this proposed schedule.

Dated: July 30, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2019, I electronically filed the foregoing with the Clerk for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in this case are registered CM/ECF users and will be served by the appellate CM/ECF system. There are no unregistered participants.

/s/ Dror Ladin
Dror Ladin
Dated: July 30, 2019

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the type-volume limitation of Fed. R. App. P. 27 because it contains 401 words. This brief complies with the typeface and the type style requirements of Fed. R. App. P. 27 because this brief has been prepared in a proportionally spaced typeface using Word 14-point Times.

/s/ Dror Ladin
Dror Ladin
Dated: July 30, 2019