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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CITY AND COUNTY OF SAN FRANCISCO, Plaintiff, v. DONALD J. TRUMP, *et al*., Defendants.	**REPLY IN SUPPORT OF DEFENDANTS' MOTION FOR RECONSIDERATION OR, IN THE ALTERNATIVE, CLARIFICATION OF THE COURT'S ORDER OF APRIL 25, 2017** No. 3:17-cv-00485-WHO
COUNTY OF SANTA CLARA, Plaintiff, v. DONALD J. TRUMP, *et al*., Defendants.	No. 3:17-cv-00574-WHO

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INTRODUCTION

In opposing defendants' motion for reconsideration of the Court's preliminary injunction, plaintiffs San Francisco and Santa Clara County fail to acknowledge that the Attorney General's Memorandum on implementing Section 9 of Executive Order 13,768 is more than a mere "interpretation" of the Order. Rather, it sets forth formal guidance and direction by the Nation's chief legal officer and one of the officials responsible for implementing the grant eligibility provision in Section 9. Thus, the AG Memorandum constitutes new evidence and new authority for purposes of seeking reconsideration. The Memorandum is also an authoritative elucidation of the grant eligibility provision that alleviates the concerns expressed by the Court on the merits of plaintiffs' claims.

When counsel for defendants conveyed defendants' understanding of Section 9 during argument on the motions for preliminary injunction, counsel for Santa Clara County questioned whether the Attorney General had "signed off" on that understanding.[1] Obviously, the AG Memorandum eliminates that objection.

Accordingly, the Court should reconsider its order granting plaintiffs' motions for preliminary injunction.[2]

ARGUMENT

I. The Relevant Standards Here Are Those That Govern a Motion for Reconsideration, Not a Request for Leave to File a Motion

Plaintiffs' oppositions to the motion for reconsideration recite and address the standards of Civil Local Rule 7-9 (SF Dkt. No. 108 at 4-6; SC Dkt. No. 114 at 9-14), but those standards are no longer relevant. Civil Local Rule 7-9 provides that "[n]o party may notice a motion for reconsideration without first obtaining leave of Court to file the motion," and it requires parties to make certain showings in requesting leave. *See* Civil L.R. 7-9(a); *see also id*. 7-9(b), (c).

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[1] Tr. of Oral Arg. at 46:1-3, *City & Cnty. of San Francisco v. Trump*, No. 3:17-cv-00485 (N.D. Cal. Apr. 14, 2017).

[2] Both of the plaintiffs oppose defendants' alternative request for clarification of the Court's preliminary injunction (SC Dkt. No. 114 at 23; SF Dkt. No. 108 at 24-25). If the Court believes defendants correctly read the Order of April 25, 2017, as not enjoining them from exercising legal authority, independent of the Executive Order, to impose conditions on grant programming, then formal clarification may be unnecessary.

Defendants filed motions for leave in these actions on May 22, 2017 (SF Dkt. No. 102; SC Dkt. No. 108). On May 23, 2017, the Court entered an "Order Granting Motion for Leave to File Motion for Reconsideration," stating that the Court would "GRANT the government's Motion for Leave . . . and deem the government's Motions for Reconsideration" filed as of that date (SF Dkt. No. 106 at 2). Although the Court noted that it would "consider the issues raised in the Counties' short oppositions regarding diligence and material change of fact *when evaluating the merits of the government's motion for reconsideration*" (*id*., emphasis added), the Court's Order resolved defendants' compliance with Civil Local Rule 7-9. Presently before the Court, therefore, are "the merits of the government's motion for reconsideration," which should be judged according to the standards governing such motions, as discussed below.

II. Defendants' Motion for Reconsideration Is Timely

Plaintiffs argue that defendants have not been "diligent" in submitting their motion for reconsideration (SF Dkt. No. 108 at 5-6; SC Dkt. No. 114 at 9-10). To the extent the timing of defendants' motion is relevant to its merits, the motion is timely – as was, indeed, the AG Memorandum itself. Two time periods are involved here: the period between promulgation of the Executive Order and issuance of the AG Memorandum, and the period between issuance of the AG Memorandum and the filing of defendants' motion for leave. Plaintiffs cannot complain about the length of the second period, which lasted less than a day. Nor can plaintiffs complain about the length of the first period, during which defendants were preparing to implement the grant eligibility provision in the Executive Order. This litigation commenced only a few days after issuance of the Executive Order, and defendants explained, in their opposition to plaintiffs' motions for preliminary injunction, that the government would need more time to implement the grant eligibility provision. The AG Memorandum was issued once it was ready. *Cf. Coal. for Healthy Ports v. U.S. Coast Guard*, No. 13-CV-5347 (RA), 2015 WL 7460018, at *2 (S.D.N.Y. Nov. 24, 2015) (referring to agency guidance that "clarified" an Executive Order issued three years earlier).

Furthermore, the passage of time between promulgation of the Executive Order and issuance of the AG Memorandum did not harm the plaintiffs. During that time, the grant eligibil-

ity provision was not implemented, and, indeed, its implementation was judicially enjoined as of April 25, 2017. Although San Francisco argues that this sequence of events "maintained the full coercive force of the Executive Order for as long as possible" (SF Dkt. No. 108 at 1), plaintiff does not allege (and cannot allege) that the Order has had *any* "coercive force" on the City. Finally, as plaintiffs concede, defendants' motion for reconsideration is timely under Rule 59(e) of the Federal Rules of Civil Procedure, as it was filed 28 days after the Court's preliminary injunction. *See Vargasarellano v. Hessling*, No. 16-CV-00919-YGR (PR), 2017 WL 661367, at *1-2 (N.D. Cal. Feb. 17, 2017) (noting timeliness of motion for reconsideration filed within 28 days).[3]

III. The AG Memorandum Constitutes New Evidence and New Authority Relevant to the Motions for Preliminary Injunction

The Court of Appeals has held that reconsideration of a prior decision is appropriate if the court is presented with "newly discovered evidence," there has been "an intervening change in controlling law," the court committed "clear error," or the decision was "manifestly unjust." *See Sch. Dist. No. 1J, Multnomah Cty., Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993); *see also Aris Helicopters, Ltd. v. Avco Corp., Textron Lycoming Div.*, 956 F.2d 274 (9th Cir. 1992) (noting that reconsideration may be based on "new authority or new evidence"). Here, the AG Memorandum constitutes both new evidence and new legal authority. Plaintiffs argue that the Memorandum does not constitute new authority because it merely repeats the representations of government counsel at oral argument on the motions for preliminary injunction (SC Dkt. No. 114 at 6-8, 10-; SF Dkt. No. 105 at 6-7). But they fail to recognize that the significance of the AG Memorandum lies not only in what it says, but also in the fact that the Attorney General himself has now provided guidance, and in a formal way that is binding on those who will implement the grant eligibility provision – thus directly affecting the likelihood that the Order could be implemented in any way that violates the Constitution or injures the plaintiffs. The Attorney General is not only the "chief legal advisor" to the President, *United States v. Ehrlichman*, 546 F.2d 910,

[3] Defendants regret the short time allowed for the Court to act on their motion for leave, and appreciate the Court's quick action.

925 (D.C. Cir. 1976), but also one of the two officials charged with implementing Section 9. Thus, the AG Memorandum constitutes more than a mere "interpretation" of Section 9 (SC Dkt. No. 114 at 1; SF Dkt. No. 108 at 1).

In fact, at oral argument, counsel for Santa Clara County argued against relying on the representations made by defendants' counsel specifically because they were not made by the Attorney General:

> [I]t's not binding on anybody. [W]hat we're worried about is the President, we're worried about the Attorney General. [W]ith all deference, what a Justice Department lawyer down the food chain says, without a declaration, without an affidavit, without any binding effect, is not something that you should consider, we believe.

Tr. of Oral Arg. at 11:7-13, *City & Cnty. of San Francisco v. Trump*, No. 3:17-cv-00485 (N.D. Cal. Apr. 14, 2017). And later, counsel added: "I didn't hear that Attorney General Sessions had signed off to this new interpretation." *Id*. at 46:1-3. The Attorney General himself has now issued authoritative guidance regarding the implementation of Section 9.[4]

IV. The AG Memorandum Provides a Basis for the Court to Reconsider Its Preliminary Injunction

Not only does the AG Memorandum constitute new evidence and new authority justifying a motion for reconsideration, but it also sets forth an authoritative elucidation of Section 9 of the Executive Order. Further, the Attorney General's guidance undercuts the Court's findings that plaintiffs' claims are justiciable and that plaintiffs are likely to succeed on the merits.

A. The AG Memorandum Is an Authoritative Elucidation of the Executive Order

Plaintiffs challenge the extent to which the AG Memorandum authoritatively "binds other Executive Branch agencies and officials" regarding the scope of the grant eligibility provision (SF Dkt. No. 108 at 10). As noted in defendants' motion for reconsideration, however, the Attorney

[4] Thus, this case is unlike *Doe v. Harris*, 772 F.3d 563 (9th Cir. 2014), on which San Francisco relies (SF Dkt. No. 108 at 9). There, the court rejected an argument that the challenged provision would be implemented consistent with "general principles of good police practices" and thus was not overly broad. *Id*. at 581. In this case, by contrast, the very official charged with implementing the grant eligibility provision – and with providing legal advice to other agencies – has stated how the provision will be implemented.

General has a statutory duty to advise executive department heads on "questions of law," 28 U.S.C. § 512, and to furnish formal legal opinions to executive agencies, 28 C.F.R. § 0.5(c).[5] Also, although the Secretary of Homeland Security is principally responsible for administering the immigration laws, the Immigration and Nationality Act ("INA") provides that "the determination and ruling by the Attorney General with respect to all questions of law shall be controlling." 8 U.S.C. § 1103(a)(1).

The AG Memorandum obviously deals with underlying "questions of law," such as the application of 8 U.S.C. 1373. *See* 28 U.S.C. § 512; 28 C.F.R. § 0.5(c); *see also ACLU v. Dep't of Def.*, 396 F. Supp. 2d 459, 462 (S.D.N.Y. 2005) ("The Office of the Attorney General of the DOJ is empowered to furnish advice and opinions on legal matters to government agencies, 28 C.F.R. § 0.5 (2005), and has issued public memoranda interpreting the Convention Against Torture."). Similarly, for purposes of the INA, the AG Memorandum clearly constitutes a "determination" on underlying "questions of law." *See* 8 U.S.C. § 1103(a)(1). San Francisco argues that these statutory and regulatory provisions do not apply because the AG Memorandum does not contain "legal analysis" or set forth "opinions on questions of law" (SF Dkt. No. 108 at 10), but there is no indication in 28 U.S.C. § 512 or 28 C.F.R. § 0.5(c) that an opinion thereunder must contain any particular degree of "analysis." Additionally, the Order instructs the Attorney General and the Secretary to "ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary." Exec. Order No. 13,768, § 9(a). Necessarily, therefore, the grant eligibility provision can have no broader scope than that specified by the Attorney General and the Secretary, even aside from any general statutory or regulatory statement of their duties.[6]

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[5] Additionally, except as otherwise authorized by law, the Attorney General or his designee conducts litigation on behalf of the United States and its agencies. *See* 28 U.S.C. § 516.

[6] Further, the issue here is not whether *this Court* is bound by the Attorney General's determination as to the scope and meaning of the grant eligibility provision, but rather whether *other federal agencies* are bound by it. Thus, the rules of judicial deference are inapplicable. *See* SC Dkt. No. 114 at 11-14; SF Dkt. No. 108 at 13-16 & n.9.

Plaintiffs argue that the Court should not credit the AG Memorandum because it was issued "in the context of this litigation" and therefore was meant merely "to gain a litigation advantage" (SF Dkt. No. 108 at 15-16; *see* SC Dkt. 114 at No. 1, 5, 16). But the fact that the Memorandum was issued during the course of litigation is attributable to the timing of this litigation, not to the Attorney General's timing. The President signed the Executive Order on January 25, 2017, and San Francisco filed its original complaint six days later, on January 31. The Order required the Attorney General to take various actions to implement Section 9(a) and, as defendants indicated in response to plaintiffs' motions for preliminary injunctions and in the hearing before the Court on those motions, those actions had not yet been completed. The Attorney General, of course, was required to take action at some point to implement Section 9(a), and the fact that he took action during the course of this ongoing litigation should not undercut the authoritativeness of the AG's memorandum.

Plaintiffs also argue that the Court should not rely on the AG Memorandum in relation to the meaning of the term "sanctuary jurisdiction" "because the Executive Order gives the Secretary – not the Attorney General – the authority and discretion to designate sanctuary jurisdictions" (SF Dkt. No. 108 at 21; *see* SC Dkt. No. 114 at 1-2, 6, 16). The plaintiffs, however, are confusing the elucidation of that term with the responsibility to *designate* individual sanctuary jurisdictions. The Order gives the Secretary "the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction." Exec. Order No. 13,768, § 9(a). But the AG Memorandum does not "designate" any sanctuary jurisdictions; it only clarifies what the Executive Order says about the meaning of the term – that is, that it "will refer only to jurisdictions that 'willfully refuse to comply with 8 U.S.C. 1373.'" AG Mem. at 2. And the Memorandum makes clear that the Secretary concurs in that understanding.[7]

[7] Lastly, plaintiffs argue that the AG Memorandum is not authoritative or binding because the Attorney General could issue a differing guidance in the future (SF Dkt. No. 108 at 12-13; SC Dkt. No. 114 at 22). But that is true of any authoritative guidance issued by a federal official.

B. The AG Memorandum Provides a Basis for the Court to Reconsider Its Justiciability Determination

The AG Memorandum undercuts this Court's findings and conclusions regarding the justiciability of plaintiffs' claims. In opposing plaintiffs' motions for preliminary injunction, defendants argued that the Executive Order had not been applied to the plaintiffs, such as through a loss of federal funds or a designation of "sanctuary jurisdictions," so that plaintiffs lacked the "concrete," "objective," and "palpable" injury needed for constitutional standing and the Order had not been "formalized and its effects felt in a concrete way" as needed for constitutional ripeness (SF Dkt. No. 35 at 19; SC Dkt. No. 46 at 17-18). In rejecting those arguments, the Court found, among other things, that plaintiffs had a "well-founded fear" of the "withholding [of] all federal funds, or at least all federal grants," which made up "a significant part of the Counties' budgets" (SF Dkt. No 82 at 29, 32). The Court found that a loss of such grants would, among other things, "require severe cuts to [San Francisco's] transportation system; threaten the Mayor's program to end chronic veterans' homelessness by 2018; and likely require cuts to social services, such as senior meals, safety net services for low-income children, and domestic violence prevention services" (*id*. at 30). "[This] potential loss of all federal grants," the Court observed, "creates a contingent liability large enough to have real and concrete impacts on the Counties' ability to budget and plan for the future" (*id*. at 29).

The AG Memorandum completely eliminates this element of the Court's justiciability analysis. The Memorandum makes clear that the grant eligibility provision will be applied only to DOJ and DHS grants, not to "all federal grants" (much less "all federal funds").[8] There is no indication that grants from those two agencies make up a "a significant part of the Counties'

[8] In arguing to the contrary, Santa Clara County seeks to rely on Section 9(c) of the Order (SC Dkt. No. 114 at 14-15), which directs the Office of Management and Budget to "obtain and provide relevant and responsive information on *all* Federal grant money that currently is received by any sanctuary jurisdiction." *See* Exec. Order No. 13,768, § 9(c) (emphasis added). That provision, however, is consistent with the AG Memorandum's statements regarding the grant eligibility provision in Section 9(a). The President can direct the gathering and dissemination of information in an effort to affect public perception and opinion, separately from directing certain agencies to use their discretion to impose conditions on certain federal grants, where statutorily authorized.

budgets," and they do not include grants for "social services, such as senior meals, [or] safety net services for low-income children." Plaintiffs do not address this aspect of the justiciability analysis in opposing defendants' motion for reconsideration.

C. The AG Memorandum Alleviates the Court's Concerns on the Merits

The AG Memorandum also alleviates the concerns expressed by the Court on the merits of plaintiffs' claims under the Separation of Powers, the Spending Clause, the Tenth Amendment, and the Fifth Amendment (vagueness and procedural due process). The Memorandum's effect on these claims is addressed in defendants' motions to dismiss (SF Dkt. No. 111; SC Dkt. No. 115), which also refute many of the arguments that plaintiffs make in opposing defendants' motion for reconsideration. The points in plaintiffs' oppositions are addressed below to the extent they are not already refuted in the motions to dismiss.[9]

1. The AG Memorandum Alleviates the Court's Separation of Powers Concerns

In relation to plaintiffs' Separation of Powers claims, the AG Memorandum makes clear that the Executive Order does not "purport to expand the existing statutory or constitutional authority of the Attorney General and the Secretary," and that compliance with Section 1373 will be imposed as a condition of grant eligibility only where the agency "is statutorily authorized to impose such a condition." AG Mem. at 2; *see*, *e.g.*, 42 U.S.C. § 3712(a)(6) (authorizing certain DOJ officials to place "special conditions" on particular grants); *id*. § 3752(a)(5)(D) (authorizing Office of Justice Programs to require applicants to certify compliance "with all provisions of this part and all other applicable Federal laws"); *Morton v. Ruiz*, 415 U.S. 199, 230 (1974) (finding that, in certain instances, such as where a congressional appropriation is insufficient to carry out its purpose, the agency administering the program is deemed authorized "to create reasonable classifications and eligibility requirements in order to allocate the limited funds available"). This eliminates any concern in relation to the Separation of Powers.[10]

[9] Santa Clara County's opposition says nothing about its procedural due process claim (SC Dkt. No. 114), so that claim is not addressed below.

[10] Thus, this case is similar to *Building & Construction Trades Department, AFL-CIO v. Allbaugh*, 295 F.3d 28 (D.C. Cir. 2002), where the President issued an executive order instructing his subordinates to take certain action "[t]o the extent permitted by law." *Id*. at 30. Santa Clara

Nevertheless, San Francisco argues that these existing authorities must not include the authority to condition grants on compliance with Section 1373 because the President has proposed certain amendments to Section 1373 related to grant-making (SF Dkt. 108 at 19-20). Specifically, the proposed amendments would expressly authorize the Attorney General and the Secretary to condition any grant "related to immigration, national security, law enforcement, or preventing, preparing for, protecting against or responding to acts of terrorism" on the grantee's agreement to comply with immigration detainer requests and otherwise to assist federal immigration officials in specific ways (SF Dkt. No. 109-1, Ex. A). That proposal, however, is much broader than existing authorities, so that it does not suggest any uncertainty about the existing authorities.

2. The AG Memorandum Alleviates the Court's Spending Clause Concerns

In relation to plaintiffs' Spending Clause claims, the AG Memorandum makes clear that the grant eligibility provision will be applied only to certain future grants administered by the Department of Justice[11] and the Department of Homeland Security, that "[a]ll grantees will receive notice of their obligation to comply with [8 U.S.C. § 1373]," and that grantees will only be required to certify compliance with Section 1373, which proscribes prohibiting or restricting the sharing of information with federal immigration authorities. This should eliminate any Spending Clause concerns.

In arguing to the contrary, San Francisco asserts that the AG Memorandum "does not limit application of the Executive Order to funds related to immigration enforcement, as required to satisfy the nexus requirement" (SF Dkt. No. 108 at 21). This gives the nexus principle much too

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County seeks to distinguish *Allbaugh* by saying that the statute involved there "had expressly authorized a role for the President" (SC Dkt. No. 114 at 18-19). But that is actually a point of similarity: As with the President's instruction in *Allbaugh*, the grant eligibility provision here will be applied only where statutorily authorized.

[11] Santa Clara County argues that DOJ's identification of three grant programs as subject to the grant eligibility provision is unreasonable because they are "all law enforcement programs" and the Executive Order excepts grant payments that are "deemed necessary for law enforcement purposes" (SC Dkt. No. 114 at 15). But the fact that a given program is meant to assist law enforcement does not mean that a specific disbursement under such a program, to a specific jurisdiction on a specific occasion, would be deemed "necessary."

narrow a focus, however. As the Court of Appeals has held, this aspect of *South Dakota v. Dole*, 483 U.S. 203 (1987), "only suggests that [an enactment] *might* be illegitimate without demonstrating a nexus between the conditions and a specified national interest," and it does not impose "an exacting standard for relatedness." *Mayweathers v. Newland*, 314 F.3d 1062, 1067 (9th Cir. 2002). Specifically, the court said, conditions on federal funding must only "bear some relationship to the purpose of the federal spending." *Id*. (quoting *New York v. United States*, 505 U.S. 144, 167 (1992)); *see Barbour v. Washington Metro. Area Transit Auth.*, 374 F.3d 1161, 1168 (D.C. Cir. 2004) (noting that Supreme Court has never "overturned Spending Clause legislation on relatedness grounds").

That standard is easily met here, where the grant eligibility provision will be applied only to certain grants administered by two federal law enforcement agencies. Each of these agencies has grant programs whose purposes obviously "bear some relationship" to encouraging grantees to cooperate with federal law enforcement agencies. Moreover, any alleged violation of this principle in connection with a specific grant could be raised in an as-applied challenge.[12]

3. The AG Memorandum Alleviates the Court's Tenth Amendment Concerns

In relation to San Francisco's Tenth Amendment claim, the AG Memorandum makes clear that, "for purposes of enforcing the Executive Order, the term 'sanctuary jurisdiction' will refer only to jurisdictions that 'willfully refuse to comply with 8 U.S.C. 1373'," which simply proscribes prohibiting or restricting the sharing of information with federal immigration authorities, and that the grant eligibility provision will be implemented by requiring grantees to certify their compliance with Section 1373. AG Mem. at 2. Thus, a potential grantee can avoid any possibility of encroachment by the Federal Government simply by refraining from seeking or accepting funds under the covered grant programs. *See Envtl. Def. Ctr., Inc. v. EPA*, 344 F.3d 832, 847 (9th Cir. 2003) ("[A]s long as the alternative to implementing a federal regulatory program does not offend the Constitution's guarantees of federalism, the fact that the alternative

[12] Plaintiffs point to certain specific grants (SC Dkt. No. 114 at 20; SF Dkt. No. 108 at 21 n.13), but there is no indication that the grant eligibility provision will be applied in relation to any of them.

is difficult, expensive or otherwise unappealing is insufficient to establish a Tenth Amendment violation.") (internal quotation marks omitted).

In opposing reconsideration, plaintiffs express a concern that a federal agency may take action under the Executive Order to try to compel them to comply with federal immigration detainer requests (SF Dkt. No. 108 at 22-23; SC Dkt. No. 114 at 22). But a jurisdiction can choose whether to participate in a given grant program, and thus necessarily cannot be "commandeered" in that way (SC Dkt. No. 114 at 22). Further, in expressing a concern that the Attorney General might seek to compel compliance with detainer requests under the provision in the Order instructing the Attorney General to take "appropriate enforcement action" against certain jurisdictions (SF Dkt. No. 108 at 22-23), San Francisco ignores the fact that the government has recently confirmed its position that such requests "are voluntary . . . rather than mandatory commands." *See* Br. of the United States as Amicus Curiae at 22, *Mass. v. Lunn*, No. SJC-12276, 2017 WL 1240651, at *22 (D. Mass. Mar. 27, 2017). In any event, if the Attorney General were to take any "enforcement action" that San Francisco believed to be unconstitutional, the City could assert the unconstitutionality at that time.

4. The AG Memorandum Alleviates the Court's Vagueness Concerns

Finally, in relation to Santa Clara County's vagueness claim, the Supreme Court has noted that facial vagueness challenges are "disfavored for several reasons," including because such claims often "rest on speculation." *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 (2008). Further, the Court of Appeals has held that "[o]utside the First Amendment context, a plaintiff alleging facial vagueness must show that the enactment is impermissibly vague in all its applications." *Humanitarian Law Project v. U.S. Treasury Dep't*, 578 F.3d 1133, 1146 (9th Cir. 2009) (internal quotation marks omitted). The County's opposition does not mention either of these decisions, and the AG Memorandum forecloses any ability to show that Section 9 of the Order is "impermissibly vague in all its applications." *See id*.

The County asserts that the Order is still unconstitutionally vague because it does not define the phrase "willfully refuse to comply with 8 U.S.C. 1373" (SC Dkt. No. 114 at 21). Any

uncertainty on that subject cannot support a facial vagueness challenge, however. Although the margins of Section 1373's coverage may be unsettled, it obviously covers "information regarding the citizenship or immigration status, lawful or unlawful, of any individual." 8 U.S.C. § 1373(a).

CONCLUSION

Accordingly, the Court should grant Defendants' Motion for Reconsideration or, in the Alternative, Clarification of the Court's Order of April 25, 2017.

Dated: June 13, 2017

Respectfully submitted,

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