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11
 12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 14 SAN FRANCISCO DIVISION

15 CITY AND COUNTY OF SAN
 16 FRANCISCO,

17 Plaintiff,

18 v.

19 DONALD J. TRUMP, *et al.*,

20 Defendants.

No. 3:17-cv-00485-WHO

**DEFENDANTS' RESPONSE TO
 ADMINISTRATIVE MOTION TO
 CONSIDER WHETHER CASES
 SHOULD BE RELATED PURSUANT TO
 N.D. CAL. CIVIL L.R. 3-12(B)**

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 23 The City and County of San Francisco asks this Court to consider whether a new case that
 24 San Francisco has filed, *City and County of San Francisco v. Sessions, et. al.*, Case No. 3:17-cv-
 25 04642-SBA, should be deemed related to this case. The government would have no objection to
 26 the standard, random assignment of Case No. 4642 to this judge or any other district judge of this
 27 Court pursuant to the Court's Assignment Plan. *See* General Order No. 44.
 28

1 Plaintiff asks the Court to deviate from the standard assignment plan based on Civil Local
2 Rule 3-12(a), which provides that one civil action is related to another, and thus should be
3 assigned to the same judge, when “(1) The actions concern substantially the same parties,
4 property, transaction or event; and (2) It appears likely that there will be an unduly burdensome
5 duplication of labor and expense or conflicting results if the cases are conducted before different
6 Judges.” Civ. L.R. 3-12(a).

7 Defendants have not objected to prior related-case motions in this action. Nevertheless,
8 the unique aspects of this case and Case No. 4642, reflected in part in the Court’s prior rulings in
9 this action, suggest that the two cases do not satisfy Rule 3-12(a)’s “substantially the same”
10 standard. In its Order of April 25, 2017, preliminarily enjoining Section 9(a) of Executive Order
11 13,768, the Court emphasized the precise confines of this litigation. Specifically, the Court did
12 “not address or enjoin any other independent authority that may allow the government to impose
13 grant conditions on funds, *as no such issue was before the court.*” *Cty. of Santa Clara v. Trump*,
14 ___ F. Supp. 3d ___, 2017 WL 3086064, at *1 n.1 (N.D. Cal. July 20, 2017) (emphasis added).
15 In contrast to this challenge to Executive Order No. 13,768, an action by the President, Case No.
16 4642 concerns a program operated through the Attorney General, pursuant to statutory authority
17 (independent of the Executive Order) to impose conditions on the acceptance of a particular
18 federal grant that the Department of Justice administers. *See* Case No. 4642, Compl. ¶¶ 1, 6; 42
19 U.S.C. §§ 3712(a)(6), 3752(a)(5). In other words, Case No. 4642 centers on an issue not
20 challenged or addressed in this action, namely, the Department’s “exercising [of] legal authority,
21 independent of the Executive Order, to impose conditions on grant programming.” 2017 WL
22 3086064, at *1 n.1 (quoting Dkt. No. 113 at 1 n.2).

23 Accordingly defendants doubt whether Civil Local Rule 3-12(a) is satisfied here.

24 Dated: August 18, 2017

25 Respectfully submitted,

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