County of Santa Clara
Federal Affairs Advocacy Task Force

Supervisor S. Joseph Simitian, Chairperson. Supervisor Dave Cortese, Vice Chairperson.

By Virtual Teleconference Only –

DATE: June 3, 2020, Regular Meeting

TIME: 10:00 AM

PLACE: **By Virtual Teleconference Only**

Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, this meeting will be held by teleconference only. No physical location will be available for this meeting; however, members of the public will be able to participate in the meeting as noted below, and online streaming will continue as normal via the County Agenda Portal, YouTube Channel, and Live Audio Stream.

To address the Board in public comment, please review the Public Comment Instructions below, then access the teleconference at: https://sccgov-org.zoom.us/j/93055882643

Further instructions for accessing the teleconference will be posted online at: www.sccgov.org/bosmeeting

AGENDA

-- The recommended actions appearing on the agenda are those recommended by staff. The Committee may take other actions relating to the issues as may be determined following consideration of the matter and discussion of the recommended actions.

-- Items that will require action by the Board of Supervisors may be forwarded to a future Board of Supervisors meeting for consideration.

-- Language interpretation services are available. Please contact the Office of the Clerk of the Board at (408) 299-5001 no less than three business days prior to the meeting to request an interpreter.

-- In compliance with the Americans with Disabilities Act and the Brown Act, those requiring accommodations in this meeting should notify the Clerk of the Board's Office 24 hours prior to the meeting at (408) 299-5001, or TDD (408) 993-8272.

-- To obtain a copy of any supporting document that is available, contact the Office of the Clerk of the Board at (408) 299-5001.

-- Any disclosable public records related to an open session item on a regular meeting agenda and distributed by the County to all or a majority of the Board of Supervisors (or any other commission, or board or committee) less than 72 hours prior to that meeting are available for public inspection at the Office of the Clerk of the Board, 70 West Hedding Street, 10th Floor, during normal business hours.

Public Comment Instructions

Members of the Public may provide public comments at this meeting as follows:

- Written public comments may be submitted by email to BoardOperations@cob.sccgov.org. Written comments will be distributed to the Committee as quickly as possible, however, please note that documents may take up to 24 hours to be posted to the agenda outline.
- Spoken public comments will be accepted through the teleconference meeting. To address the Committee, click on the link above for the appropriate meeting to access the Zoom-based meeting. Please read the following instructions carefully.
    1. You may download the Zoom client or connect to the meeting in-browser. If using your browser, make sure you are using a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer.

2. You will be asked to enter an email address and name. The Clerk requests that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
3. When the Chairperson calls for the item on which you wish to speak, click on "raise hand." The Clerk will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak.
4. When called to speak, please limit your remarks to the time limit allotted.

Opening

1. Call to Order.
2. Public Comment.

   This item is reserved for persons desiring to address the Task Force on any matter not on this agenda. Members of the public who wish to address the Task Force on any item not listed on the agenda should request to speak at this time. The Chairperson will call individuals to the podium in turn.

   Speakers are limited to the following: three minutes if the Chairperson or designee determines that five or fewer persons wish to address the Task Force; two minutes if the Chairperson or designee determines that between six and fourteen persons wish to address the Task Force; and one minute if the Chairperson or designee determines that fifteen or more person wish to address the Task Force. All Request to Speak Forms must be submitted prior to the start of Public Comment.

   The law does not permit Task Force action or extended discussion of any item not on the agenda except under special circumstances. If Task Force action is requested, the Task Force may place the matter on a future agenda. Statements that require a response may be referred to staff for reply in writing.
3. Approve Consent Calendar and changes to the Task Force's agenda.

   Items removed from the Consent Calendar will be considered at the end of the regular agenda for discussion. The Task Force may also add items on the regular agenda to the Consent Calendar.

   Notice to the public: there is no separate discussion of Consent Calendar items, and the recommended actions are voted on in one motion. If an item is approved on the consent vote, the specific action recommended by staff is adopted. Members of the public who wish to address the Task Force on Consent Calendar items should comment under this item. Each speaker is limited to two minutes total.

Regular Agenda - Items for Discussion

4. Receive verbal reports from Chairperson and Vice Chairperson relating to items of interest to the Task Force.
5. Receive verbal report from the Office of the County Executive relating to items of interest to the Task Force.
6. Receive report from the Office of the County Counsel relating to items of interest to the Task Force. (ID# 101617)

7. Receive verbal report from the Office of the County Executive relating to Federal legislative action in response to COVID-19, including House Resolution 266, the Paycheck Protection Program and Health Care Enhancement Act, which allocated funding for COVID-19 testing, laboratory capacity, and contact tracing.
8. Receive verbal report from the Office of the County Executive relating to Federal legislative action regarding housing policies in response to COVID-19, including rent abatement and mortgage forbearance.

Consent Calendar

9. Approve minutes of the May 6, 2020 Regular Meeting.

Adjourn

10. Adjourn to the next regular meeting on Wednesday, September 2, 2020, at 10:00 a.m. in the Board of Supervisors' Chambers, County Government Center, 70 West Hedding Street, San Jose.

County of Santa Clara
Office of the County Counsel

101617

DATE: June 3, 2020

TO: Federal Affairs Advocacy Task Force

FROM: James R. Williams, County Counsel

SUBJECT: Report from the Office of the County Counsel

RECOMMENDED ACTION

Receive report from the Office of the County Counsel relating to items of interest to the Task Force.

ATTACHMENTS:

- Current Litigation Challenging Federal Actions (PDF)

Current Litigation Challenging Federal Actions*

Issue/Federal Action Challenged	Cases and Outcomes
Issues in Which the County is a Party	
Census	• **County has intervened as a defendant:** *Alabama v. U.S. Dep't of Commerce* (18-772, N.D. Ala.): On May 21, 2018, the State of Alabama sued the Commerce Department and Census Bureau, arguing that the inclusion of undocumented individuals in the census count will reallocate congressional representative to disadvantage Alabama. The lawsuit alleges claims under the Fourteenth Amendment, Actual Enumeration Clause of Article I of the U.S. Constitution, and Administrative Procedure Act and amounts to a claim that undocumented individuals are not "persons" for these Constitutional provisions. On November 13, 2018, the Census Bureau filed a motion to dismiss for lack of jurisdiction and standing. **On December 13, 2018, the Court granted the County's motion—joined by the City of San José and King County, Washington—to intervene and defend the Census Bureau's longstanding practice of counting undocumented individuals in the census because the federal government would not adequately do so. This means the County is now a party to this case.** The Court also allowed a group of individuals and organizations represented by the Mexican American Legal Defense and Educational Fund to intervene as defendants. The Census Bureau's motion to dismiss was denied on June 5, 2019. On August 12, several states (including California and New York) and several cities and counties from across the country filed motions to intervene. On September 9, 2019, the judge granted the motion to intervene. Alabama filed an amended complaint for declaratory relief on September 10, 2019 and the defendants have answered the complaint. The defendants filed the administrative record on November 1, 2019. Discovery ends on July 10, 2020 and dispositive motions are due August 24, 2020.

* As of May 19, 2020. New updates are noted in red text. Please note that this list is not exhaustive.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Census (continued)	• **County is Amicus:** *New York v. U.S. Dep't of Commerce* (18-2921, S.D.N.Y.): filed in New York federal court on April 3, 2018 by 17 states, the District of Columbia, 6 cities, and the U.S. Conference of Mayors, also challenging the Census's citizenship question. On July 26, 2018, the court dismissed the plaintiffs' claim based on the Enumeration Clause but allowed their APA and due process claims to proceed. In September, the court denied the plaintiffs' request to seek discovery from Kris Kobach, but ordered a limited deposition of Secretary of Commerce Wilbur Ross. On October 22, 2018, the Supreme Court blocked the deposition of Secretary Ross, but allowed the deposition of Acting Assistant Attorney General John Gore. The district court held a bench trial, and on January 15, 2019 issued a ruling on in favor of plaintiffs' Administrative Procedure Act claim, because the administrative process that had added the citizenship question to the Census failed the requirements of the Act. But the court also found that plaintiffs had not proved their due process claim. The district court vacated the federal government's decision to add the citizenship question and enjoined the government from adding such a question until it had satisfied the requirements of the Administrative Procedure Act. The Supreme Court granted the federal government's request to hear the case on a fast track and without intermediate appellate court review. The County, on behalf of itself, other local public entities, and the National League of Cities filed an amicus brief on April 1, 2019 in support of the challenge to Secretary Ross's decision to add a citizenship question to the 2020 Census. On June 27, 2019, the Supreme Court issued an opinion affirming the district court's decision in part and striking down the citizenship question because the rationale provided by the Commerce Department was not supported by the evidence in the case. The case was remanded to the district court, where the Commerce Department would have the opportunity to offer a new justification for its approach to the citizenship question. The Trump Administration, however, has indicated that it will no longer pursue a citizenship question for the 2020 Census. On July 16, 2019, the Southern District of New York District Court entered a permanent injunction prohibiting the Commerce Department from

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Census (continued)	including a citizenship question on the 2020 census, from delaying the process for printing 2020 census for purpose of including a citizenship question, and from otherwise asking persons about citizen status on the 2020 census questionnaire. The district court retained jurisdiction to ensure the 2020 census results are processed appropriately. Plaintiffs are now seeking sanctions against the Commerce Department for providing false testimony and withholding evidence—in other words, engaging in litigation conduct that is "nothing less than a fraud on the court." The Commerce Department was required to produce all responsive, non-privileged documents that were previously withheld no later than February 21, 2020. On March 2, 2020, the parties submitted letter briefs regarding their views on what bearing, if any, these newly produced documents have on the Plaintiffs' pending motion for sanctions. The Commerce Department filed an additional letter brief in response to New York's on March 13, 2020. The issue is still pending before the district court. • **County is Monitoring:** *California v. Ross* (18-1865, N.D. Cal.; 19-15456, 9th Cir.): filed in California federal court on March 26, 2018 by the State of California challenging the federal government's decision to request citizenship information in the 2020 Census. The lawsuit alleges violations of the Enumeration Clause of the U.S. Constitution and Administrative Procedure Act. The case has been related to San José's case below, so the two will proceed in parallel before the same judge. The Los Angeles Unified School District intervened in the case. Following a bench trial, the district court entered a final judgment in favor of plaintiffs, holding both that the Secretary's decision was arbitrary and capricious, in violation of the Administrative Procedure Act, and that it ran afoul of the Constitution. The federal government appealed to the Ninth Circuit. Following the Supreme Court's decision in *New York v. U.S. Dep't of Commerce*, the Court granted a writ of certiorari, vacated the district court's decision, and remanded the case to the Ninth Circuit for further consideration in light of the *New York* decision. On July 30, 2019, the State of California filed a motion for a permanent injunction and for entry of final

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Census (continued)	judgment, and indicated that Defendants do not oppose the motion. On August 1, 2019, the district court granted that motion. The parties reached a settlement regarding Plaintiffs' claims for fees, costs, and expenses. • **County is Monitoring:** *City of San José v. Ross* (18-2279, N.D. Cal.): filed in California federal court on April 17, 2018 by the City of San José and the nonprofit Black Alliance for Just Immigration, also challenging the Census's citizenship question. The lawsuit alleges violations of the Enumeration Clause and Apportionment Clause of the U.S. Constitution, and the Administrative Procedure Act. The case was tried alongside *California v. Ross* (above). • **County is Monitoring:** *New York Immigration Coalition v. U.S. Dep't of Commerce* (18-5025, S.D.N.Y.): filed in New York federal court on June 6, 2018 by five organizations, also challenging the Census's citizenship question. This case has been consolidated with the states' case above. • **County is Monitoring:** *Kravitz v. U.S. Dep't of Commerce* (18-1041, D. Md.; 19-1387, 4th Circuit): filed in Maryland federal court on April 11, 2018 by several citizen residents of Maryland and Arizona, also challenging the Census's citizenship question. The lawsuit alleges violations of the Enumeration Clause and Administrative Procedure Act. On August 22, 2018, the court denied the federal government's motion to dismiss the case and granted plaintiffs' motion to seek discovery beyond the administrative record. Following a bench trial, the district court entered a final judgment in favor of plaintiffs, holding both that the Secretary's decision was arbitrary and capricious, in violation of the Administrative Procedure Act, and that it ran afoul of the Constitution. The federal government has appealed to the Fourth Circuit. Plaintiffs have filed a motion in the Fourth Circuit requesting expedited review and pointing out that the Supreme Court, in reviewing New York's challenge to the citizenship question, will not reach the Fifth Amendment claim upon which the *Kravitz* plaintiffs prevailed. On June 24, 2019 and in order for the

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Census (continued)	district court to address the plaintiffs' Fifth Amendment equal protection claim, the Fourth Circuit partially granted the plaintiffs' motion to remand. Plaintiffs moved for a preliminary injunction on June 26, 2019. On July 16, 2019, the District of Maryland District Court entered a permanent injunction prohibiting the Commerce Department from including a citizenship question on the 2020 census. The Fourth Circuit granted a voluntary motion to dismiss the appeal, and the entire case was returned to district court with instructions to vacate part of the injunction granting plaintiffs relief on the basis of the Due Process Clause of the Fifth Amendment. However, in light of the Supreme Court's decision, the Department of Commerce is still enjoined from including a citizenship question on the 2020 census questionnaire. • **County is Monitoring:** *La Union del Pueblo Entero v. Ross* (18-1570, D. Md.): On May 31, 2018, several nonprofit organizations filed this lawsuit, also challenging the Census's citizenship question. The lawsuit alleges violations of the Enumeration Clause, the Fifth Amendment Equal Protection Clause, the Apportionment Clause, and the Administrative Procedure Act, as well as a conspiracy to violate civil rights. On August 22, 2018, the federal government filed a motion to dismiss. The motion has been fully briefed, and the parties are waiting on a ruling from the court. This case was consolidated with the *Kravitz* case above and the case history regarding the injunction is identical.
Executive Order on "Sanctuary Jurisdictions" (Executive Order issued January 27, 2017)	• **Case Concluded/County was a Party:** *County of Santa Clara v. Trump* (17-574, N.D. Cal.; 17-17480, 9th Cir.): the County's lawsuit, filed on February 3, 2017, raising constitutional challenges to the Executive Order that threatens to withhold federal funding from cities and counties that have sanctuary-type policies or, in the Administration's judgment, "hinder" the enforcement of immigration law. The County was the first to seek a nationwide preliminary injunction against enforcement of the Executive Order. **The court issued a preliminary injunction barring enforcement of Section 9(a) of the order on April 25, 2017, prohibiting the federal administration from withholding**

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Executive Order on "Sanctuary Jurisdictions" (continued)	**funds from sanctuary jurisdictions.** On July 20, 2017, the court denied the federal government's motion for reconsideration of the preliminary injunction and motion to dismiss the lawsuit, leaving the nationwide injunction in place pending trial. On November 20, 2017, the district court granted the County's motion for summary judgment and issued a permanent injunction prohibiting the Trump Administration from enforcing Section 9(a) of the Executive Order. The federal government appealed the order to the Ninth Circuit. **On August 1, 2018, in a 2-1 decision, the Ninth Circuit affirmed the district court's decision to permanently block implementation of the Executive Order in California, but remanded to the district court for further proceedings on whether a nationwide injunction is appropriate.** On August 23, 2019, the district court entered a stipulated permanent injunction barring enforcement of the Executive Order anywhere in the State of California, thus ending the litigation in the County's favor. • **Case Concluded/County was Monitoring:** *City & County of San Francisco v. Trump* (17-485, N.D. Cal.; 17-16886, 9th Cir.): San Francisco filed a similar lawsuit days before the County, and filed a motion for a preliminary injunction shortly after the County. The cases were related and considered together at the district court, and were consolidated at the Ninth Circuit. • **Case Concluded/County was Monitoring:** *City of Seattle v. Trump* (17-497, W.D. Wash.): Seattle filed a case in federal court in Washington on March 29, 2017, seeking a declaration that it is in compliance with federal immigration enforcement laws and that the Executive Order violates the Constitution. Portland joined as a Plaintiff in June 2017. Following the Ninth Circuit's ruling in the County's case, the parties submitted a proposed stipulated judgment, which states that the Executive Order is unconstitutional and that it would be unconstitutional for the Executive Branch to rely on the Executive Order to withhold appropriated funds from Seattle or Portland. The court approved the stipulated judgment on October 24, 2018.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Executive Order on "Sanctuary Jurisdictions" (continued)	• **Case Concluded/County was Monitoring:** *Cities of Chelsea & Lawrence v. Trump* (17-10214, D. Mass.): two Massachusetts cities sued in federal court in Massachusetts on February 8, 2017, seeking a declaration that they comply with federal immigration enforcement laws and an injunction against enforcement of the Executive Order. The case has been stayed and administratively closed in light of the preliminary injunction issued in the County's case, and the federal government's motion to dismiss has been denied without prejudice to renewal if the case is reopened. • **Case Concluded/County was Monitoring:** *City of Richmond v. Trump* (17-1535, N.D. Cal.): the City of Richmond filed a similar lawsuit on March 21, 2017. On August 21, 2017, however, the court dismissed Richmond's case on the ground that Richmond had not shown a well-founded fear that the Executive Order would be enforced against it. The district court allowed Richmond to file an amended complaint, but Richmond declined to do so.
HHS Rule on Protecting Conscience Rights in Health Care	• **County is a Party:** *County of Santa Clara v. U.S. Department of Health & Human Services* (19-2916, N.D. Cal.; 20-15399, 9th Cir.): On May 28, 2019, the County filed a lawsuit challenging the HHS rule, arguing the rule is illegal because it (1) improperly attempts to broaden the substantive scope of statutory conscience-based protections; (2) invites discrimination against patients who face significant barriers to care; and (3) imposes significant and unnecessary burdens on safety-net providers such as the County. Other states and local governments have filed similar lawsuits. On June 13, 2019, the district court granted a motion to relate the cases brought by the County, the City and County of San Francisco (see below), and the state of California (see below). The parties stipulated that the court would enter an order delaying the effective date of the rule by several months to November 22, 2019. The court entered the order and held the preliminary injunction motions in abeyance on July 1, 2019. Defendants filed their motion for summary judgment by August 21, 2019. The County filed its opposition and cross-

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
HHS Rule on Protecting Conscience Rights in Health Care (continued)	motion for summary judgment on September 12, 2019. Oral argument was held October 30, 2019. On November 19, 2019, the Court granted the County's motion for summary judgment and vacated the rule in its entirety, holding that the agency lacked substantive rulemaking authority and that the rule went beyond the scope of the statute it purported to implement. The district court entered final judgment on January 8, 2020. Defendants have appealed that judgment to the Ninth Circuit. The Ninth Circuit has granted the Defendants' unopposed motion to consolidate their appeals in the County's case, San Francisco's case, and Washington's case. A briefing schedule has not yet been set. • **County is Monitoring:** *City & County of San Francisco v. U.S. Department of Health & Human Services* (19-2405, N.D. Cal.; 20-15398, 9th Cir.) On May 2, 2019, the City and County of San Francisco filed a lawsuit challenging the HHS rule on the same grounds as the County's (see above). As in the County's case, which was related to this one, the district court granted San Francisco's motion for summary judgment on November 19, 2019 and entered judgment on January 8, 2020. Defendants have appealed that judgment to the Ninth Circuit. This appeal has been consolidated with the Defendants' appeal in the County's case. • **County is Monitoring:** *State of California v. U.S. Department of Health & Human Services* (19-cv-2769, N.D. Cal.): On May 21, 2019, the State of California filed a lawsuit challenging the HHS rule on the same grounds as the County's lawsuit (see above). As in the County's case, which was related to this one, the district court granted California's motion for summary judgment on November 19, 2019. However, California's case involves slightly different claims, and on March 20, 2020, the district court denied the state's motion for entry of partial judgment. The case therefore remains pending before the district court. The district court did note, however, that California may participate as an amicus in the County and San Francisco's appeals processes before the Ninth Circuit.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
HHS Rule on Protecting Conscience Rights in Health Care (continued)	• **County is Monitoring:** *State of Washington v. U.S. Department of Health & Human Services* (19-183, E.D. Wash.; 20-35044, 9th Cir.): On May 28, 2019, the state of Washington filed this suit challenging the HHS rule. The district court granted the state's motion for summary judgment and vacated the rule in its entirety on November 21, 2019. That decision was appealed to the Ninth Circuit on January 17, 2020. This appeal has been consolidated with the Defendants' appeal in the County's case. • **County is Monitoring:** *State of New York v. U.S. Department of Health & Human Services* (19-cv-4676, S.D.N.Y.; 20-41, 2d Cir.): Three sets of plaintiffs filed this suit challenging the HHS rule. The Court vacated the rule in its entirety on November 6, 2019. That decision was appealed in December 2019. The Defendants-Appellants filed their opening brief on April 27, 2020, and the Plaintiffs-Appellees response briefs are due August 25, 2020. • **County Submitted Comment to Regulatory Action:** On March 22, 2018, the County submitted a comment to the U.S. Department of Health and Human Services opposing the proposed rule. On May 2, 2019, HHS issued a final rule that largely tracks the proposed rule, and which was scheduled to take effect July 22, 2019. However, on July 8, 2019, the district court ordered the effective date of the rule moved to November 22, 2019 pursuant to a joint stipulated request by the parties.
Public Charge	• **County is a Party**: *City and County of San Francisco and County of Santa Clara v. USCIS* (19-4717, N.D. Cal.; 19-17213, 9th Cir.): On August 13, 2019 the County, alongside the City and County of San Francisco, filed the first suit in the nation challenging the Department of Homeland Security's "Public Charge" Rule, which threatens dire immigration consequences to certain immigrants if they take advantage of certain public benefit programs. The Counties argue that the rule violates the Administrative Procedure Act. On August 28, 2019 the County and San Francisco filed a motion for preliminary injunction, asking the court to enjoin the rule before it goes into effect on October 15,

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Public Charge (continued)	2019. A hearing on the motion was held October 2, 2019, and the motion was heard alongside *California* and *La Clinica* (see below). The Court granted a preliminary injunction barring DHS from enforcing the public charge rule against residents of the County, San Francisco, California and three other western states. The federal government appealed the injunction and moved to stay the injunction pending appeal in both the district court and the Ninth Circuit. The County filed an opposition in the district court on November 8, 2019 and an opposition in the Ninth Circuit on November 22, 2019. A motions panel in the Ninth Circuit stayed the injunction on December 5, 2019. The Ninth Circuit denied the County's petition for en banc review of the stay decision on February 18, 2020. Meanwhile, the County opposed DHS's appeal in the Ninth Circuit with merits briefing filed January 16, 2020. DHS filed its reply brief in the Ninth Circuit on February 6, 2020. On March 5, 2020, the County submitted to the Ninth Circuit a letter with supplemental authorities regarding the precedential effect of the motions panel's stay decision. The parties are currently waiting for the Ninth Circuit to schedule oral argument. • **County is Monitoring**: *California v. DHS* (19-4975, N.D. Cal)**:** California, alongside the District of Columbia, Pennsylvania, Oregon, and Maine, filed suit challenging the Public Charge Rule, arguing the rule had been issued in violation of the Administrative Procedure Act and the Constitution. The jurisdictions moved for a preliminary injunction. The case has been related to the County's action (above) and *La Clinica* (below), and oral argument on all the preliminary injunction motions will be heard together. The Court granted a preliminary injunction barring DHS from enforcing the public charge rule against residents of the County, San Francisco, California, and three other western states. Subsequent procedural developments mirror those in the County's case (above). • **County is Monitoring**: *La Clinica de la Raza v. Trump* (19-4980, N.D. Cal.): La Clinica de la Raza, alongside other immigrant services providers, filed suit challenging the Public Charge Rule, arguing the rule had been issued in violation of the Administrative Procedure

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Public Charge (continued)	Act and the Constitution. The services providers have moved for a preliminary injunction. The case has been related to the County's action (above) and *California* (above), and oral argument on all the preliminary injunction motions will be heard together. The Court granted a preliminary injunction barring DHS from enforcing the public charge rule against residents of the County, San Francisco, California and three other western states. However, the Court denied the preliminary injunction motion as to other organizational plaintiffs. • **County is Monitoring**: *State of New York v. DHS* (19-7777, S.D.N.Y.; 19-3591, 2d Cir.): The State of New York, alongside the City of New York, Connecticut, and Vermont, filed suit challenging the Public Charge Rule arguing the rule had been issued in violation of the Administrative Procedure Act and the Constitution. The jurisdictions moved for a preliminary injunction. Oral argument was heard on the preliminary injunction on October 7, 2019. The court granted a nationwide preliminary injunction and a stay postponing the effective date of the Rule pending a final ruling on the merits. The federal government appealed the injunction and moved to stay it pending the appeal. The Second Circuit declined to stay the injunction and a merits panel will consider the appeal. On January 27, 2020, the Supreme Court stayed the nationwide injunction in a 5-4 decision. This means that before the Second Circuit issues a ruling on the merits, the Trump administration can enforce the public charge rule. A concurring opinion by Justice Gorsuch criticized federal judges who issue nationwide injunctions on administration rules. The Second Circuit heard argument on the merits of the preliminary injunction on March 2, 2020. On April 13, 2020, New York filed a motion in the Supreme Court to temporarily lift or modify the stay of the nationwide injunction in light of the COVID-19 pandemic. The Supreme Court denied that motion, but indicated that New York could seek appropriate relief in the district court, on April 24, 2020. New York filed a motion for temporary restraining order or preliminary injunction in light of the COVID-19 pandemic with the district court on April 28, 2020. The district court heard argument on the new motion for a preliminary injunction on May 18, 2020.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Public Charge (continued)	• **County is Monitoring**: *Make the Road New York v. DHS* (19-7777, S.D.N.Y): Make the Road New York, alongside other immigrant services providers, filed suit challenging the Public Charge Rule, arguing the rule had been issued in violation of the Administrative Procedure Act and the Constitution. The service providers moved for a preliminary injunction. This case has been related to *New York* (above), and oral argument will be heard on both preliminary injunction motions on October 7, 2019. The court granted a nationwide preliminary injunction and a stay postponing the effective date of the Rule pending a final ruling on the merits. However, the Supreme Court has stayed the injunction (see above.) • **County is Monitoring**: *Washington v. DHS* (19-5210, E.D. Wash.): The State of Washington, alongside twelve other states, filed suit challenging the Public Charge Rule arguing the rule had been issued in violation of the Administrative Procedure Act and the Constitution. The states moved for a preliminary injunction. Oral argument was heard on the preliminary injunction on October 3, 2019. The court granted a nationwide preliminary injunction and postponed the effective date of the final rule pending a ruling on the merits. The federal government appealed the injunction and moved to stay it pending the appeal. The federal government also moved for an expedited hearing on their motion to stay, which the district court denied on November 8, 2019. As with the County's case, a motions panel on the Ninth Circuit stayed the injunction on December 5, 2019. (See above for additional case information.) • **County is Monitoring**: *Casa de Maryland v. Trump* (19-2715, D. Md): Casa de Maryland, alongside two individuals, filed suit challenging the Public Charge Rule, arguing the rule had been issued in violation of the Administrative Procedure Act and the Constitution. Plaintiffs moved for a preliminary injunction, which the court granted on October 18, 2019. The federal government appealed the injunction and moved to stay it pending the appeal. On December 9, 2019, the Fourth Circuit stayed the injunction pending appeal.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Public Charge (continued)	• **County is Monitoring**: *Cook County, Illinois v. Wolf* (19-6334, N.D. Ill.; 19-3169, 7th Cir.): Plaintiffs Cook County and the Illinois Coalition for Immigrant and Refugee Rights filed suit challenging the Public Charge Rule. The district court granted a preliminary injunction, limited to Illinois, enjoining the Final Rule from going into effect. The district court denied DHS's motion to stay proceedings pending appeal. DHS appealed the preliminary injunction order and also sought a stay of the order pending appeal. On December 23, 2019, the Seventh Circuit denied DHS's motion for a stay of the injunction pending appeal. But on February 21, 2020, the Supreme Court, over a dissent by Justice Sotomayor, also stayed the injunction applicable only in Illinois. This means that the public charge rule went into effect nationwide on February 24, 2020. The Seventh Circuit heard argument on the merits of the preliminary injunction on February 26, 2020. In the meantime, on May 19, 2020, the district court denied DHS's motion to dismiss and granted discovery regarding the plaintiffs' equal protection claims. • **County Submitted Comment to Regulatory Action**: On December 12, 2018, the County submitted a comment on the Department of Homeland Security's proposed rule changing how public charge determinations are made for the purposes of immigration decisions. Under the proposed rule, use of many public benefits—including Medicaid, SNAP, and Section 8—would be factors that weighed in favor of deeming someone likely to become a public charge, and thus ineligible for many immigration benefits. The County argued that the rule ran contrary to Congress's immigration scheme and that the rule violated the Administrative Procedure Act's prohibition on arbitrary or capricious rules. The County's comment highlighted that the proposed rule would chill immigrant's use of federal benefits and cause the costs of providing services to immigrants to be shifted away from federal programs and on to State and local programs.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Repeal of Net Neutrality Rules	• **County is a Party:** *County of Santa Clara v. FCC* (18-1088, D.C. Cir.): The County of Santa Clara, the Santa Clara County Central Fire Protection District ("County Fire"), the City and County of San Francisco, California Public Utilities Commission, 22 states (including California) and the District of Columbia, and several private and nonprofit entities are challenging the FCC's January 2018 Order repealing the Net Neutrality Rules that it had previously adopted in 2015 under the Obama Administration. Prior to filing suit, the County submitted two comments to the FCC urging it to preserve the net neutrality rules and highlighting the ways a repeal of the rules would harm the County's ability to provide government services. The County and CPUC originally filed petitions for review in the Ninth Circuit, while other petitioners filed in the DC Circuit. Because petitions were filed in more than one circuit, a lottery was held, and the Ninth Circuit was randomly selected as the forum. The parties in the DC Circuit filed an unopposed motion to transfer the petitions to the DC Circuit, and all the petitions were consolidated in the DC Circuit. The court permitted several telecommunications associations to intervene in the case. On August 20, 2018, the government petitioners (including the County) and non-government petitioners submitted their briefs. The government petitioners' brief appended a declaration from County Fire describing Verizon's throttling of its internet service during the largest wildfire in California history; the declaration has received significant media attention. Oral argument was held on February 1, 2019. On October 1, 2019, the Court largely upheld the FCC's authority to issue the 2018 Order. However, the Court accepted the County's argument that the FCC failed to adequately address public safety concerns associated with the repeal of net neutrality protections and remanded the Order to the FCC to properly examine its implications for public safety. The Court also rejected the FCC's argument for federal preemption, thus allowing states (like California) to implement their own net neutrality laws. The County filed a joint petition for rehearing en banc on December 13, 2019, which the D.C. Circuit denied on February 6, 2020. The D.C. Circuit issued its mandate on February 18, 2020. The next day, on February 19, the FCC issued a

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Repeal of Net Neutrality Rules (continued)	public notice seeking to "refresh the record" on the three issues remanded to the FCC by the D.C. Circuit, including issues of public safety. In a joint submission with the City of Los Angeles, the County responded to that public notice, the deadline for which was extended in light of the COVID-19 pandemic, on April 21, 2020. • **County is Monitoring**: *United States v. California* (18-2660; E.D. Cal): On September 30, 2018, DOJ filed a lawsuit against California seeking a declaratory judgment that California's recently passed net neutrality law violates the Constitution and is preempted by federal law. DOJ has requested a preliminary injunction. On October 26, 2018, California and DOJ agreed to stay the litigation and the enforcement of the California net neutrality law until the County's appeal to the D.C. Circuit has been finally resolved and the period for further review has expired.
Rescission of Deferred Action for Childhood Arrivals (DACA)	• **County is a Party:** *County of Santa Clara v. Trump* (17-5813, N.D. Cal.; 18-15072, 9th Cir.): On October 10, 2017, the County of Santa Clara and SEIU Local 521 filed suit on behalf of County employees, alleging violations of the Due Process Clause and Equal Protection Clause of the Fifth Amendment, Administrative Procedure Act, and a claim for equitable estoppel. On October 16, 2017, it was ordered related to the *Regents of University of California* case. Back at the district court, the plaintiffs filed a joint motion for preliminary injunction, and the federal government filed a motion to dismiss. On January 9, 2018, the district court rejected the governments' arguments that the rescission is unreviewable and **granted a nationwide preliminary injunction requiring the federal government to restore the DACA program to its status prior to the rescission, with certain exceptions**. The court subsequently dismissed a few of the plaintiffs' claims but allowed most to go forward. **Due to the preliminary injunction obtained by the County and other plaintiffs, the federal government resumed accepting applications for DACA renewals as of**

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Rescission of DACA (continued)	**January 13, 2018**. On November 8, 2018, the Ninth Circuit issued a decision affirming the district court's decision. DOJ has filed a petition for Supreme Court review. On June 28, 2019, the Supreme Court agreed to hear DACA-related cases (as noted below) and oral argument was held on November 12, 2019. According to reports of the hearing, the Justices seem split on how to rule and the final result, though difficult to predict, may end in a 5-4 vote. A decision is expected by the end of June 2020. • **County is an Amicus:** *New York v. Trump* (17-05228, E.D.N.Y.; 18-123, 2d Cir.; 18-1314, 2d Cir., 18-1988, 2d. Cir.): On September 6, 2017, New York, Massachusetts, Washington, Connecticut, Delaware, District of Columbia, Hawaii, Illinois, Iowa, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, and Virginia brought this lawsuit challenging DHS's decision to rescind DACA. The lawsuit alleges violations of the Equal Protection Clause and Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, and the Regulatory Flexibility Act (which requires federal agencies to analyze the impact of rules on small entities and publish those analyses for public comment). On February 13, 2018, the district court granted plaintiffs' motion for preliminary injunction enjoining the federal government from rescinding DACA to the same extent as ordered in the County's case below. The federal government has appealed that order. On March 29, 2018, the district court dismissed the states' procedural APA claim and Regulatory Flexibility Act claim, but allowed the other claims to proceed. The district court granted the federal government permission to seek an immediate appeal of this order. On July 5, 2018, the Second Circuit granted the petitions for leave to appeal and directed that all of the appeals will be heard together. The appeal is fully briefed and oral argument was heard on January 25, 2019. • **County is Monitoring:** *Regents of the Univ. of Cal. v U.S. Dep't of Homeland Security* (17-05211, N.D. Cal.; 17-72917, 9th Cir.; 18-15068, 9th Cir.; 18-80037, 9th Cir.): On September 8, 2017, the Regents of the University of California and Janet Napolitano

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Rescission of DACA (continued)	brought this lawsuit to challenge DHS's decision to rescind DACA, with specific focus on effects on the university system. On September 20, 2017, the district court ordered this case "related" to the *California*, *Garcia*, *San José* (see below), and *County of Santa Clara* cases (see above), so the five cases are proceeding in parallel before the same judge. • **County is Monitoring:** *California v. U.S. Dep't of Homeland Security* (17-05235, N.D. Cal.): On September 11, 2017, California, Maine, Maryland, and Minnesota brought this lawsuit challenging the rescission of DACA, alleging violations of the procedural and substantive requirements of the Administrative Procedure Act, Due Process Clause and Equal Protection Clause of the Fifth Amendment, and Regulatory Flexibility Act. • **County is Monitoring:** *San José v. Trump* (17-5329, N.D. Cal.): On September 14, 2017, San José brought this lawsuit to challenge the rescission of DACA, alleging violations of the Equal Protection Clause of the Fifth Amendment and Administrative Procedure Act. • **County is Monitoring:** *Garcia v. United States* (17-5380, N.D. Cal.): on September 18, 2017, 6 DACA recipients brought suit challenging the rescission of DACA, alleging violations of the Equal Protection Clause and Due Process Clause of the Fifth Amendment, Administrative Procedure Act, and Regulatory Flexibility Act, and a claim for equitable estoppel. • **County is Monitoring:** *Vidal v. Nielsen* (16-04756, E.D.N.Y.; 18-122, 2d Cir.; 18-1313, 2d Cir., 18-1986, 2d Cir.): on August 25, 2016, Martín Jonathan Batalla Vidal, a DACA recipient, brought this lawsuit to challenge DHS's revocation of his employment authorization under the *Texas v. United States* decision (which prohibited the Obama Administration from expanding DACA and implementing DAPA). After the rescission of DACA, plaintiffs amended their complaint to challenge the rescission on behalf of a class of DACA recipients. *New York v. Trump* (above) was ordered related to this case, and the two cases are proceeding in parallel before one judge. On March 29, 2018, the district court dismissed some of the plaintiffs' claims, but allowed the substantive APA claim,

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Rescission of DACA (continued)	equal protection claim, and some of the procedural due process claims to proceed. As in New York's case above, the Second Circuit has granted the petitions for leave to appeal. The appeals from the *Vidal* case and from New York's case are being heard together by the Second Circuit. On June 28, 2019, the Supreme Court agreed to hear this case and two other DACA-related cases and held a consolidated oral argument on November 12, 2019. According to reports of the hearing, the Justices seem split on how to rule and the final result, though difficult to predict, may end in a 5-4 vote. A decision is expected by the end of June 2020. • **County is Monitoring:** *Trustees of Princeton Univ. v. United States* (17-2325, D.D.C.; 18-5245 D.C. Circuit): filed on November 3, 2017, by Princeton, Microsoft, and a Princeton student, challenging the rescission of DACA and alleging violations of the Administrative Procedure Act and Due Process Clause of the Fifth Amendment. On November 22, 2017, the federal government moved to dismiss the case or for summary judgment. Plaintiffs moved for summary judgment and/or for a preliminary injunction to prevent DHS from sharing DACA beneficiaries' personal information with immigration enforcement authorities or otherwise using it for immigration enforcement purposes. On April 24, 2018, the court granted the plaintiffs' motion for partial summary judgment as to their substantive APA claim and held that the rescission of DACA was unlawful, vacated the federal government's decision to rescind the program, and gave DHS 90 days to better explain its view that DACA is unlawful. In response to the court's order, Secretary Nielsen issued a memorandum on June 22, 2018 providing further explanation for the rescission of DACA. On July 11, 2018 the federal government filed a motion to revise the court's order, arguing that Secretary Nielsen's memo demonstrates that DACA's rescission is neither judicially reviewable nor unlawful. On August 3, 2018, the court denied the motion to revise, allowing its prior order vacating the rescission to stand. The court then partially stayed that order and the case to preserve the status quo pending appeal. Under the stay, the federal government must continue processing DACA renewal applications but

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Rescission of DACA (continued)	need not process new DACA applications or applications for advance parole. The federal government appealed, and oral argument was held on February 22, 2019. • **County is Monitoring:** *NAACP v. Trump* (17-1907, D.D.C.): filed on September 18, 2017 in defense of people of color eligible for DACA. This case has been consolidated with the *Princeton* case. The lawsuit alleges violations of the Due Process Clause and Equal Protection Clause of the Fifth Amendment, Administrative Procedure Act, and Regulatory Flexibility Act. On June 28, 2019, the Supreme Court agreed to hear this case and two other DACA-related cases and held a consolidated oral argument on November 12, 2019. • **County is Monitoring:** *Casa de Maryland v. Dep't of Homeland Security* (17-2942, D. Md.; 18-1521, 4th Cir.): filed on October 5, 2017 in Maryland federal court by nonprofit organizations and DACA recipients to challenge the rescission of DACA. On March 5, 2018, the district court granted the government's motion to dismiss and motion for summary judgment as to most claims, but enjoined the government from using information obtained through the DACA program for enforcement purposes. Both sides appealed the order to the Fourth Circuit. On May 17, the Fourth Circuit issued an opinion holding that the government had not followed proper procedure in terminating the DACA program and reversing the district court's grant of summary judgment to the federal government on this point. The Fourth Circuit also reversed the district court's ruling that information obtained through the DACA program could not be used for enforcement proceedings. The government's petition for a writ of certiorari is pending in the Supreme Court, but this case has not yet been consolidated for the Supreme Court's November 12, 2019 oral argument. The defendants' motion to stay the mandate pending resolution of the writ was granted by the Fourth Circuit on June 11, 2019. • **County is Monitoring:** *Texas v. United States* (18-68, S.D. Tex.): filed on May 1, 2018, seven states are suing the federal government to end the DACA program. The lawsuit alleges claims under the Take Care Clause and Administrative Procedure Act. Twenty-two

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Rescission of DACA (continued)	DACA recipients intervened to defend DACA and filed a motion to dismiss the case. The State of New Jersey also intervened. On June 8, 2018, the federal government formally told the court that it agreed that DACA is unlawful. On August 31, 2018, the court denied the seven states' request for a preliminary injunction. The court concluded that DACA is likely unlawful, but that potential harms resulting from a preliminary injunction weigh in favor of keeping DACA in place while the litigation is pending. On September 12, 2018, the states indicated that they do not intend to appeal this decision and requested the court resolve the case quickly without further discovery. On February 4, 2019, the states moved for summary judgment. The defendant-intervenors have argued this motion is premature as discovery is not closed in the case and have requested that the court defer or deny the motion for summary judgment. The district court is set to hear oral argument on the motion on October 28, 2019. On August 28, 2019, New Jersey filed an opposed motion to stay, pending the outcome of the Supreme Court's review of the *Regents* case. The court granted the motion to stay on November 22, 2019. • **County is Monitoring:** *Inland Empire-Immigrant Youth Collective et al. v. U.S. Dep't of Homeland Security* (17-2048, C.D. Cal.; 18-55564, 9th Cir.): On October 5, 2017, DACA recipients filed a class action against DHS arguing that DHS was violating its own procedures by revoking DACA status without providing notice or an opportunity to be heard. On February 26, 2018, the district court granted class certification and issued a preliminary injunction against DHS's practice of revoking DACA status without notice and without opportunity to be heard. DHS has appealed that decision, and the appeal is set for argument on June 13, 2019. Meanwhile, the district has compelled the defendants to submit additional documents into the administrative record. On June 28, 2019, the Ninth Circuit stayed all proceedings pending the Supreme Court's decision in the other DACA-related cases.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Issues in Which the County is an Amicus	
Affordable Care Act (ACA)	• **County is an Amicus:** *Texas v. United States* (18-167, N.D. Tex.; 19-10011, 5th Cir.): After the ACA's individual mandate's tax penalty was repealed through the 2017 tax reform bill, on February 26, 2018, twenty states sued in Texas federal court to challenge the ACA as unconstitutional. The court permitted several states (including California) and the District of Columbia to intervene as defendants in the case, in support of the ACA. The plaintiffs have applied for a preliminary injunction. On June 7, 2018, the Trump Administration signaled that it will not defend the individual mandate, the guaranteed-issue, and community-rating provisions. On December 14, 2018, the district court ruled that the individual coverage mandate was unlawful and declared the ACA invalid in its entirety. This ruling is stayed pending appeal. On May 1, 2019, DOJ filed an appeal brief in the Fifth Circuit agreeing with the district court's decision that the entire ACA should be invalidated. Oral argument was heard in the Fifth Circuit on July 9, 2019. In a 2-1 decision issued on December 18, 2019, the Fifth Circuit held that the individual coverage mandate was unconstitutional and remanded the case to the district court to determine whether the rest of the ACA is severable from the individual mandate. On January 3, 2020, parties standing in for the United States (which has refused to defend the ACA) filed a writ of certiorari with the Supreme Court as well as a motion to expedite consideration of the case. On January 21, 2020, the Supreme Court declined to consider the case this term. In March 2020, however, the Supreme Court granted the petition for certiorari for the October 2020 Term. The County has filed, with 43 other local governments, an amicus brief in support of the petitioners defending the ACA.
ACA Insurance Subsidies	• **Case Concluded/County was an Amicus:** *California v. Trump* (17-5895, N.D. Cal.): filed by eighteen states, including California, and the District of Columbia on October 13, 2017 in California federal court. Challenges the federal administration's announcement on October 13, 2017 that the ACA's permanent appropriation did not apply to federal cost-

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
ACA Insurance Subsidies (continued)	sharing reduction subsidies (under which insurance companies pay upfront a portion of certain out-of-pocket costs and are reimbursed by the federal government), and that the federal government would discontinue such payments immediately. The lawsuit alleges claims under the Administrative Procedure Act and the Take Care Clause of the Constitution. On October 25, 2017, the court denied the States' motion for a preliminary injunction, in part because state regulators had taken action that effectively mitigated the potential harm and ensured continued health coverage for lower-income individuals, despite the discontinuation of payments. On July 16, 2018, the States filed a motion to stay the case, or alternatively to dismiss it without prejudice, on the grounds that their efforts to curb the harm caused by discontinuance had been largely successful, but threats by the Trump Administration to prohibit those efforts could necessitate continued litigation in the future. On July 18, 2018, the court dismissed the case without prejudice, meaning that the States may re-file the lawsuit in the future if necessary. • **Case Concluded/County was Monitoring:** *U.S. House of Representatives v. Price* (16-5202, D.C. Cir.): initially filed on November 21, 2014 in the D.C. District Court by the U.S. House of Representatives challenging the Obama Administration's payment of cost-sharing reduction subsidies to private insurers under the ACA. In May 2016, the district court held that Congress had not authorized payment of the subsidies and enjoined further payment, but stayed the injunction pending appeal. On appeal, the D.C. Circuit held the case in abeyance pending President Trump's inauguration and the federal administration's subsequent changes in policy. On August 1, 2017, the D.C. Circuit permitted California and 17 other states to intervene in defense of the subsidies. In May 2018, the parties effectuated a settlement of the litigation, pursuant to which the district court vacated its injunction of the subsidy payments and closed the case.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Conditions on the Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) Program and Community Oriented Policing Services (COPS) Program (conditions announced July 25, 2017)	• **County is an Amicus:** *City of Chicago v. Sessions* (17-5720, 18-6859 N.D. Ill.; 18-2649, 18-2885 7th Cir.): on August 7, 2017, the City of Chicago sued Attorney General Sessions over three conditions he imposed on the Edward Byrne Memorial Justice Assistance Grant (Byrne JAG) program. The three conditions require grant recipients to (1) certify compliance with 8 U.S.C. § 1373, which prohibits restrictions on sharing of immigration status information with ICE ("compliance condition"); (2) allow ICE access to local jails in order to interview inmates regarding their immigration status ("access condition"); and (3) comply with ICE requests to provide notice prior to releasing certain local inmates ("notice condition"). On September 15, 2017, the court granted a nationwide preliminary injunction prohibiting enforcement of the notice and access conditions, but declined to enjoin the compliance condition. A three-judge panel of the Seventh Circuit upheld the preliminary injunction, but the Seventh Circuit subsequently agreed to reconsider the geographic scope of the injunction en banc and stayed the nationwide scope of the preliminary injunction pending rehearing before the full Court of Appeals. However, the Seventh Circuit vacated its decision to rehear the issue en banc after the district court issued a permanent nationwide injunction setting aside all three Byrne JAG conditions (but staying the nationwide scope of the injunction pending further appeal). The federal government appealed that decision to the Seventh Circuit. The County filed an amicus brief supporting affirming the district court decision. On April 10, 2019, the appellate court heard argument. On September 19, 2019 the district judge issued a nationwide injunction as to the 2018 conditions and all future grant years, but stayed nationwide application pending appellate review of the prior injunction. On October 10, 2019, the district court entered final judgment in favor of the plaintiffs but continued its stay of nationwide relief until the Seventh Circuit issued a ruling. On April 30, 2020, the Seventh Circuit affirmed the district court decision enjoining the challenged conditions on a program-wide basis as to the 2017-2019 grant years and all future grant years and granting declaratory relief, and remanded to the district court to determine if any other relief was appropriate. The Seventh Circuit denied the Defendants' request to stay the application of injunctive relief.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Conditions on the Byrne JAG and COPS Programs (continued)	• **County is an Amicus:** *City of Philadelphia v. Sessions* (17-3894, E.D. Pa.; 18-2648, 3d Cir.): on August 30, 2017, the City of Philadelphia filed a similar lawsuit challenging the three conditions. On November 15, 2017, the court granted the City's preliminary injunction as to Philadelphia only, finding that the City could properly certify its substantial compliance with the Byrne JAG conditions, and enjoined the DOJ from rejecting Philadelphia's FY 2017 application for Byrne JAG funding. In June 2018, following a bench trial, the district court held that the three conditions violated the APA and were unconstitutional and permanently enjoined DOJ from enforcing the conditions in Philadelphia. DOJ is appealing the decision to the Third Circuit, and oral argument was held in the appeal on November 7, 2018. On February 15, 2019, the Third Circuit issued an opinion affirming the district court's ruling that DOJ lacked authority to impose the conditions, but vacating the injunction in part. The government filed a petition requesting the Third Circuit panel rehear the case, arguing that the court should vacate the district court's grant of declaratory judgment. Philadelphia opposed the petition. On June 24, 2019, the Third Circuit denied the defendants' petition for rehearing. • **County is an Amicus:** *State of New York v. Barr* (18-6471, S.D.N.Y.; 19-267, 2d Cir.; 19-275, 2d Cir.): On July 18, 2018, New York along with Connecticut, New Jersey, Rhode Island, Washington, Massachusetts, Virginia, and New York City, filed a similar lawsuit in New York federal court challenging the three conditions. On November 30, 2018, the district court granted New York's motion for summary judgment and denied the federal government's motion for summary judgment or dismissal. The district court granted a preliminary injunction only as to the plaintiff jurisdictions, rather than a nationwide injunction. The DOJ appealed the decision to the Second Circuit in January 2019, and oral argument was held in the appeal on June 18, 2019. The Second Circuit issued an opinion on February 26, 2020, upholding the conditions and disagreeing with virtually every other court to consider the issue. New York has petitioned for rehearing en banc, and the County has joined an amicus brief in support of rehearing en banc.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Conditions on the Byrne JAG and COPS Programs (continued)	• **County is an Amicus:** *City of Los Angeles v. Sessions* (17-7215, 18-7347 C.D. Cal.; 18-55599, 18-56292 9th Cir.): On September 29, 2017, the City of Los Angeles filed a lawsuit in California federal court challenging conditions placed on both the Byrne JAG and COPS program. Regarding the COPS program, Los Angeles challenged the scoring system DOJ imposed for the competitive grant program in 2017, which allows additional consideration points for grant applicants that give federal immigration authorities access to detention facilities and at least 48 hours' notice of certain detainees' expected release from custody. On April 11, 2018, the district court granted Los Angeles's motion for partial summary judgment on its COPS program claims and permanently enjoined DOJ from applying the challenged considerations nationwide in future COPS Hiring Program grant cycles. DOJ has appealed this ruling to the Ninth Circuit, and oral argument was heard in the appeal on August 30, 2018. The case was briefly stayed pending proceedings in Chicago's Byrne JAG case (above). After resuming litigation, on September 13, 2018, the district court granted Los Angeles's motion for a preliminary injunction and enjoined the Byrne JAG program's access and notice conditions. On September 17, 2018, the district court denied the DOJ's motion to dismiss. On February 15, 2019, the district court entered a nationwide injunction barring the enforcement of the FY 2018 conditions. DOJ appealed the preliminary injunction ruling to the Ninth Circuit, and argument was heard in that appeal on April 10, 2019. A portion of the preliminary injunction (relating to one specific grant) was vacated by the district court on July 1, 2019 upon a joint motion. On July 12, 2019, the Ninth Circuit reversed the district court's grant of summary judgment on the COPS program issues and held that DOJ's practice of giving applicants additional points for partnering with the federal government on immigration enforcement matters was not unlawful in this specific context, because the DOJ was encouraging rather than coercing jurisdictions. On October 31, 2019, the Ninth Circuit issued a decision affirming the district court's preliminary injunction. The district court entered a permanent injunction and final judgment on March 20, 2020. Defendants appealed this decision to the Ninth Circuit on May 18, 2020.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Conditions on the Byrne JAG and COPS Programs (continued)	• **County is an Amicus:** *City & County of San Francisco v. Sessions* (17-4642, 18-5146 N.D. Cal.; 18-17308, 19-15947, 9th Cir.): on August 11, 2017, San Francisco filed a lawsuit challenging the new notice and access conditions imposed upon Byrne JAG funds. On August 23, 2017, this case was related to San Francisco's case challenging the Executive Order on "Sanctuary Jurisdictions," meaning that it is before the same judge. The court denied DOJ's motion to dismiss on March 5, 2018. On October 5, 2018, the district court granted San Francisco's and California's motions for summary judgment. The district court entered a nationwide injunction as to the challenged conditions, but the district court stayed the nationwide application of the injunction pending Ninth Circuit review. DOJ has appealed to the Ninth Circuit. San Francisco has also filed a case challenging additional conditions imposed on 2018 Byrne JAG Grants. And the district court issued a nationwide injunction against imposing the FY 2018 conditions—again staying nationwide scope. DOJ has appealed and oral argument was heard on December 2, 2019. • **County is Monitoring:** *California v. Sessions* (17-4701, N.D. Cal.; 18-17311, 9th Cir.): on August 14, 2017, the State of California filed a similar lawsuit challenging the new notice and access conditions on Byrne JAG funds. This case was also ordered "related" to the above case and both cases were ruled upon in the same order.
Dep't of Veterans' Affairs Regulation Banning Transgender Surgical Care	• **Case Concluded / County was an Amicus:** *Fulcher v. Sec. of Veterans Affairs* (17-1460, Fed. Cir.): appeal filed in January 2017 in the Federal Circuit Court of Appeals by two veterans and the Transgender American Veterans Association, challenging the VA's regulation banning surgical care for transgender veterans. In 2016, the petitioners had submitted a petition for rulemaking to the VA, requesting that the VA repeal or amend the challenged regulation. Although the VA initially placed the requested rulemaking on its regulatory agenda, in November 2016 it indicated that no rulemaking was imminent. Petitioners argue that this constituted an unlawful denial of their rulemaking petition. The Federal Circuit held oral argument on May 3, 2018, and on May 7, 2018, it requested

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Dep't of Veterans' Affairs Regulation Banning Transgender Surgical Care (continued)	additional briefing and evidence regarding the status of the rulemaking petition, including whether and on what schedule the VA is considering the petition. On July 9, 2018, the VA issued a notice inviting public comment on whether to amend the medical benefits package to include gender alteration surgery. The VA has argued that this notice obviates the need for supplemental briefing. On July 27, 2018, plaintiffs voluntarily dismissed the case.
Executive Order on Regulations (Executive Order issued on January 30, 2017 requiring repeal of two federal regulations for every new regulation issued)	• **Case Concluded/County was an Amicus:** *Public Citizen v. Trump* (17-253, D.D.C.): lawsuit filed on February 8, 2017 in DC federal court by government watchdog group Public Citizen on behalf of itself, Natural Resources Defense Council, and Communication Workers of America, alleging that the Executive Order usurps congressional power and violates the Constitution's Take Care Clause, which requires the President to take care to ensure that laws are faithfully executed. On February 26, 2018, the court granted the federal government's motion to dismiss and denied the plaintiffs' motion for summary judgment, finding that the plaintiffs lacked standing to sue. On April 20, 2018, the plaintiffs filed a second amended complaint, and on May 14, 2018, the federal government moved to dismiss the amended complaint. On June 4, 2018, the plaintiffs moved for partial summary judgment, and the states of California and Oregon moved to intervene as plaintiffs. These motions are all pending before the court. On February 9, 2019, the district court denied the defendants' motion to dismiss and denied the plaintiffs' motion for partial summary judgment. The court held that while Plaintiffs had sufficiently alleged standing, they had not produced sufficient evidence to show that there could be no factual dispute as to whether they had standing. The court also denied California's and Oregon's motion to intervene. Discovery is ongoing. On June 17, 2019, plaintiffs filed a motion for partial summary judgment on the issue of standing and renewed their request for summary judgment on the merits. And on July 15, 2019 defendants filed a cross motion for summary judgment. On December 20, 2019, the court denied plaintiffs' motion for partial summary judgment (holding that plaintiffs did not have standing to challenge the

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Executive Order on Regulations (continued)	Executive Order) and granted defendants' motion for summary judgment. The court dismissed the case. • **County Submitted Comment to Regulatory Action:** On February 10, 2017, the County submitted a comment to the Office of Information and Regulatory Affairs opposing the Executive Order. The County urged OIRA to emphasize that agencies must continue to achieve their regulatory objectives, clarify that the Order applies only to "economically significant" rules, and specify that judicially vacated regulatory actions are included in regulatory cost offsetting calculations.
Family Separation	• **County is an Amicus**: *Flores v. Meese* (85-4544; C.D. Cal.; 18-56596 9th Cir.): On June 21, 2018, DOJ asked a California district court to alter provisions of the so-called *Flores* agreement, a court-approved settlement agreement that placed a 20-day limit on family detention and required that children be held in state-licensed day care centers. On July 9, 2018, the judge denied the federal government's request. As a result, the federal government is barred from detaining migrants long-term. On July 30, 2018, the court granted in part and denied in part the plaintiffs' motion to enforce the settlement agreement—while the court agreed with Plaintiffs that the Defendants had breached the agreement, it determined that the Plaintiffs were asking for remedies that went beyond the scope of the settlement agreement. Both sides initially appealed that ruling, but then requested their appeals be dismissed. On October 5, 2018, the district court appointed a Special Master/Independent Monitor to monitor compliance with the court's orders and to facilitate discovery. Defendants appealed the order. The Ninth Circuit dismissed the appeal upon the appellants' unopposed motion on May 22, 2019. On November 2, the plaintiffs filed a motion to enforce the settlement agreement challenging proposed regulations that plaintiffs contend breach the settlement. On November 21, the district court deferred ruling on the motion to enforce the settlement agreement until the Defendants issued final regulations. On June 26, 2019, the named plaintiff filed an ex parte motion for a temporary restraining order. The plaintiff also filed a request for an

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Family Separation (continued)	order to show cause as to why a preliminary injunction and contempt order should not be issued given the conditions in migrant detainment centers. On September 18, 2019, the court issued an order holding in abeyance the Plaintiffs' motion to enforce the settlement and ordering the parties to attend a mediation session. On September 27, 2019, the court issued a permanent injunction ordering that the *Flores* agreement remains in effect and enjoining the government from applying, implementing, or enforcing new regulations that are inconsistent with the *Flores* agreement. • **County is Monitoring:** *Ms. L. v. U.S. Immigration and Customs Enforcement* (18-428, S.D. Cal.; 18-56151, 9th Cir.): On February 26, 2018, a refugee from the Democratic Republic of Congo filed this lawsuit challenging the federal government's forcible separation of families. It was later modified into a class action. **On June 26, 2018, the court issued a nationwide preliminary injunction, which prohibited DHS from detaining immigrant parents separately from their minor children,** unless the parent was determined to be unfit or present a danger to the child. Among other provisions, the injunction also set out a timeline for family reunification. The federal government appealed the decision to the Ninth Circuit, but voluntarily dismissed the appeal on March 9, 2020. On July 16, 2018, the court granted an emergency temporary restraining order staying the removal of parents until further proceedings. Extensive efforts to find and locate parents outside the United States and facilitate reunification are underway. As of September 13, 2018, the federal government reported having discharged over 2,200 children (e.g., by being reunified with parents in ICE custody or discharged to a sponsor), over 200 children remaining in the care of the Office of Refugee Resettlement who are proceeding toward reunification or another appropriate discharge, and over 200 children in ORR custody who are not in a reunification process for various reasons.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Family Separation (continued)	On November 15, 2018, the district court granted final approval of the settlement. The settlement agreement provides various procedures to enable the plaintiff parents and children to seek asylum and/or other protection from removal. On February 8, 2019, the court issued an order clarifying certain provisions of the settlement agreement. On April 25, 2019, the district court approved the government's plan to identify substantially all class members within six months. Appellate proceedings have been stayed until July 29, 2019. On July 30, 2019, the Plaintiffs filed a motion to enforce the preliminary injunction requesting that the court enjoin the government from separating families without evidence the parent is unfit. On September 4, 2019, the district court issued an order allowing eleven parents to return to the United States to be reunited with their children, but denying as to seven parents whom the Court determined had not shown they had been wrongfully removed. On the government's motion, the appeal to the Ninth Circuit is being held in abeyance until January 27, 2020. In the district court, the parties are briefing a motion for preliminary injunction regarding Defendants' separation protocols. On January 13, 2020, the court granted in part a motion to enforce its June 26, 2018 injunction. While Plaintiffs argued that the Administration had "returned to 'systematic' separation of families," the court held that the Administration is generally exercising its discretion consistent with the court's orders, with a few exceptions regarding DNA testing and family residential center standards that are detailed in the opinion. • **County is Monitoring:** *State of Washington v. U.S.* (18-939, W.D. Wash.): lawsuit filed on June 26, 2018 in Washington federal court by 17 states, including California. The states are challenging the Trump Administration's family separation policy as a "cruel and unlawful" violation of the Due Process and Equal Protection Clauses. The federal government moved to dismiss the case on July 11, 2018. On August 8, 2018, the case was transferred to the Southern District of California to be considered with the *Ms. L.* case (above).

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Family Separation (continued)	• Several migrant parents and children have also filed lawsuits challenging the Trump Administration's practice of separating families.
Federal Lawsuits Against States and Local Governments Over Immigration Policies[†]	• **County is an Amicus:** *United States v. California* (18-490, E.D. Cal.; 18-16496, 9th Cir.): On March 6, 2018, the Department of Justice filed a lawsuit against the State of California over three recently enacted state laws that the Department argues violate the Supremacy Clause and federal immigration law: (1) SB 54 (California Values Act), which limits state and local involvement in federal immigration enforcement; (2) AB 450 (Immigrant Worker Protection Act), which limits private employers' ability to participate in immigration enforcement; and (3) AB 103, which requires the California Attorney General to review facilities where people are detained during immigration proceedings. The federal government also sought a preliminary injunction to prevent the three California laws from taking effect. On July 5, 2018, the court dismissed the claims relating to SB 54, AB 103, and parts of AB 450. It also largely denied the federal government's request for a preliminary injunction, but did issue a narrow injunction preventing California from enforcing AB 450 to the extent it prohibits private employers from cooperating with immigration enforcement or from reverifying employees' employment eligibility. On April 18, 2019, the Ninth Circuit issued a decision mostly favorable to California and largely affirmed the district court's decision to deny the federal government's request for a preliminary injunction, including with respect to SB 54 in its entirety. The Ninth Circuit, however, did reverse with respect to one subsection of AB 103 (regarding inspection of state and local detention facilities) and directed the district court to reexamine that provision's impact on the federal government. The Ninth Circuit rejected a petition for rehearing en banc on June 26, 2019. The Ninth Circuit's judgment took effect on July 5, 2019. On July 22, 2019, the district court stayed proceedings pending the deadline to file a

[†] This litigation is brought by, rather than against, the federal government, and is included in this table because of its relevance to the County's litigation - *County of Santa Clara v. Trump* (17-574, N.D. Cal.; 17-17480, 9th Cir.).

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Federal Lawsuits Against States and Local Governments Over Immigration Policies (continued)	cert petition with the Supreme Court. On October 22, 2019, the federal government filed a cert petition with the Supreme Court. • **County is Monitoring:** *United States v. Newsom* (20-154, S.D. Cal.): On January 24, 2020, the federal government filed a lawsuit against California and the governor. The federal government argues that a state assembly bill which bans the operation of private detention facilities in California, including for use by the federal government to detain immigrants, is preempted by federal law and violates intergovernmental immunity. The federal government moved for a preliminary injunction on February 5, 2020. On March 5, 2020, California opposed that motion and also moved for judgment on the pleadings. The district court will hold a hearing on the summary judgment motion and motion for judgment on the pleadings on July 16, 2020. The district court has requested supplemental briefing on whether the federal government has standing to challenge the state law as applied to federal Bureau of Prisons facilities in California. • **County is Monitoring:** *United States v. King County, Washington* (20-203, W.D. Wash.): On February 10, 2020, the federal government filed a lawsuit against King County, Washington, challenging a King County Executive Order which prohibits ICE contractors from using the County international airport as a terminal to remove individuals from the U.S. or to transport immigration detainees within the country. King County answered the complaint on March 5, 2020. The federal government filed a motion for judgment on the pleadings on April 16, 2020. The district court will hear argument on that motion on May 22, 2020. • **County is Monitoring:** *United States v. New Jersey* (20-1364, D.N.J): On February 10, 2020, the federal government also filed a lawsuit against the state of New Jersey, challenging the state's 2019 directive limiting cooperation of state and local authorities with federal immigration authorities as being preempted by federal law and in violation of the Supremacy Clause. New Jersey has not yet responded to the complaint.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
"Muslim Travel Ban" (1) Executive Order originally issued January 27, 2017 (2) After injunction ordered in *Washington* case, new Executive Order issued March 6, 2017 (3) Proclamation issued on September 24, 2017	Major challenges: • **County is an Amicus:** *Int'l Refugee Assistance Project v. Trump* (17-361, D. Md.; 17-2231, 4th Cir.): challenge to the **second** travel ban in Maryland district court by a refugee advocacy organization. Main argument is that the travel ban unconstitutionally discriminates against Muslims. Nationwide preliminary injunction upheld by the Fourth Circuit Court of Appeals, sitting en banc, on May 25, 2017. As in *Hawaii*, the U.S. Supreme Court stayed the injunction "with respect to foreign nationals who lack any bona fide relationship with a person or entity in the United States" and later instructed the Fourth Circuit to dismiss the case as moot in light of the third ban (see *Hawaii* below). Thereafter, plaintiffs filed an amended complaint and moved for a preliminary injunction with respect to the **third** ban. On October 17, 2017, the district court issued a preliminary injunction blocking the ban, except with respect to Venezuelan and North Korean nationals as well as people who lack "a credible claim of a bona fide relationship with a person or entity in the United States." Both sides appealed the order to the Fourth Circuit, and the case was combined with the *Iranian Alliances* and *Zakzok* cases described below for purposes of the appeal. The Supreme Court's December 4, 2017 order staying the preliminary injunction applies to these cases as well. On February 28, 2018, the Fourth Circuit affirmed the district court's grant of a preliminary injunction, but stayed its decision pending the Supreme Court's decision in *Hawaii v. Trump* below. The federal government sought review by the Supreme Court. On June 28, 2018, the Supreme Court vacated the Fourth Circuit's decision and sent the case back to the Fourth Circuit for further consideration in light of the *Hawaii* decision. On October 2, 2018, the Fourth Circuit remanded the case to the district court. On October 12, 2018, the plaintiffs filed a motion to amend their complaint. The federal government has moved to dismiss the case. The court heard oral argument on the motion to dismiss on February 12, 2019. On May 2, 2019, the district court granted the motion to dismiss as to the statutory claims but denied it as to the

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
"Muslim Travel Ban" (continued)	constitutional claims. On August 19, 2019, the district court certified its ruling on the motion to dismiss for interlocutory appeal. • **County is Monitoring:** *Iranian Alliances Across Borders v. Trump* (17-2921, D. Md.; 17-02232, 4th Cir.): challenge to the **third** travel ban in Maryland federal court by U.S. citizens and lawful permanent residents of Iranian origin with "bona fide relationships" with current or potential visa applicants from countries affected by the Proclamation, as well as an advocacy organization. The lawsuit alleges that the Proclamation violated the Immigration and Nationality Act, Establishment Clause, Free Speech Clause, Equal Protection Clause, and Due Process Clause. On October 2, 2018, the Fourth Circuit remanded the case to the district court. On October 12, 2018 the plaintiffs filed a motion to amend their complaint. The federal government has moved to dismiss the case. The court heard oral argument on the motion to dismiss on February 12, 2019. On May 2, 2019, the district court granted the motion to dismiss as to the statutory claims but denied it as to the constitutional claims. On August 19, 2019, the district court certified its ruling on the motion to dismiss for interlocutory appeal. • **County is Monitoring:** *Zakzok v. Trump* (17-2969, D. Md.; 17-02232, 4th Cir.): challenge to the **third** travel ban in Maryland federal court by six Muslim American citizens and lawful permanent residents from Somalia, Syria, and Yemen, seeking to have close relatives enter the U.S. The lawsuit alleges violations of the Establishment Clause, Immigration and Nationality Act, and Administrative Procedure Act. On October 2, 2018, the Fourth Circuit remanded the case to the district court. On October 12, 2018 the plaintiffs filed a motion to amend their complaint. The federal government has moved to dismiss the case. The court heard oral argument on the motion to dismiss on February 12, 2019. On May 2, 2019, the district court granted the motion to dismiss as to the statutory claims but denied it as to the constitutional claims. On August 19, 2019, the district court certified its ruling on the motion to dismiss for interlocutory appeal.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
"Muslim Travel Ban" (continued)	• **County is Monitoring:** *Emami v. Nielsen* (18-01587, N.D. Cal.): class action challenge to the federal government's **implementation** of the travel ban since the Supreme Court's decision to uphold the ban, brought on behalf of all individuals whose visa applications have been denied or stalled during the case-by-case waiver process. On September 12, 2018, the federal government filed a motion to dismiss the case. On February 4, 2019, the district court denied the motion to dismiss as to the plaintiffs' Administrative Procedure Act claims and granted the plaintiffs leave to amend their Fifth Amendment claims. The plaintiffs filed an amended complaint on February 23, 2019. The defendants filed motions to dismiss and for summary judgment on June 13, 2019. Discovery is ongoing and defendants continue to update the court about how they are administering the waiver process. • **Case Concluded/County was an Amicus:** *States of Washington & Minnesota v. Trump* (17-141, W.D. Wash.): challenge in Washington federal court to **original** travel ban based on impact to state universities whose students and employees were affected by the ban. Nationwide temporary injunction against enforcement of the original ban was affirmed by the Ninth Circuit Court of Appeals. On October 12, 2017, the district court allowed plaintiffs to file a third amended complaint in light of the **third** travel ban. Plaintiffs sought a temporary restraining order to block the third travel ban while the litigation proceeds. On October 27, 2017, the court decided that it would postpone its consideration of a temporary restraining order as long as the preliminary injunction in the *Hawaii* case below remains in place. At the plaintiff's request, the case was dismissed. • **Case Concluded/County was an Amicus:** *Hawaii v. Trump* (17-50, D. Haw.): challenge in Hawaii district court to **second** travel ban based on injury to Hawaii residents, employers, and universities. Main constitutional argument is that the travel ban violates the Establishment Clause. Nationwide preliminary injunction against enforcement of the revised order was largely affirmed by the Ninth Circuit. The U.S. Supreme Court stayed

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
"Muslim Travel Ban" (continued)	the injunction, allowing application of the ban, "with respect to foreign nationals who lack any bona fide relationship with a person or entity in the United States." After the federal government published guidance defining "bona fide relationship" as *excluding* relatives like grandparents and grandchildren, as well as refugees with a "formal assurance" of assistance from a U.S. resettlement agency, the district court issued an injunction requiring the government to admit grandparents and other close relatives, as well as refugees with formal assurances of support. The Ninth Circuit upheld the district court's order, but the U.S. Supreme Court stayed the portion of the lower courts' ruling requiring the government to admit refugees with formal assurances of support. Then, on September 24, 2017, President Trump issued a Proclamation that indefinitely restricts travel to the United States for nationals of eight countries (a.k.a. the **third** travel ban). As a result, the Supreme Court vacated the Ninth Circuit's judgment (meaning the Ninth Circuit's opinion is not binding precedent) and instructed the Ninth Circuit to dismiss the case as moot. Meanwhile, at the district court, plaintiffs sought a temporary restraining order against the third ban. On October 17, 2017, the district court issued a preliminary injunction preventing the third ban from taking effect nationwide (except with respect to North Korean or Venezuelan nationals). On December 4, 2017, the Supreme Court stayed the preliminary injunction and allowed the travel ban to go into effect pending appeal. On December 22, 2017, the Ninth Circuit upheld the preliminary injunction, but limited its scope to "foreign nationals who have a bona fide relationship with a person or entity in the United States." On January 19, 2018, the Supreme Court granted review of the case and stayed the Ninth Circuit's injunction (meaning the travel ban remained in full effect). **In a 5-4 decision issued on June 26, 2018, the Supreme Court upheld the travel ban as within the President's powers over immigration.** The majority held that the Immigration and Nationality Act gives the President broad authority to suspend the entry of non-citizens and that the third travel ban did not violate the Establishment Clause. The

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
"Muslim Travel Ban" (continued)	case was remanded to the district court and, on August 13, 2018, plaintiffs dismissed the case. • **Case Concluded/County was Monitoring:** *Darweesh v. Trump* (17-480, E.D.N.Y.): filed in New York federal court the day after the **original** travel ban was issued by two Iraqis who were detained at JFK airport. Federal judge granted an immediate nationwide stay of all removals (deportations) under the travel ban. On September 1, 2017, the parties reached a settlement, which provides that travelers who were barred from the country under the ban and have not since returned to the United States will be informed of their right to reapply for a visa and provided with a list of free legal services organizations that can assist them. • **Case Concluded/County was Monitoring:** *Jewish Family Service of Seattle v. Trump* (17-01707, W.D. Wash.): class action challenge to the **third** travel ban in Washington federal court on behalf of refugees and refugee resettlement groups. The parties settled the case and the court dismissed it on November 13, 2019. <u>Many other challenges, including:</u> • *Ali v. Trump*: nationwide class action lawsuit by immigrant groups • *Al-Mowafak v. Trump*: lawsuit by California university students • *Arab-American Civil Rights League v. Trump*: lawsuit by foreign-born Detroit residents • *Doe v. Trump*: lawsuit by Iranian-American stranded in Iran after traveling there to care for his mother • *Hagig v. Trump*: lawsuit by college student from Libya who was prevented from traveling to see his family in Libya • *Mohammed v. United States*: lawsuit by travelers from the banned countries

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
"Muslim Travel Ban" (continued)	• *Pars Equality Center v. Trump*: lawsuit by Iranian nationals • *Sarsour v. Trump*: lawsuit by Muslim-American civil rights activists alleging the order unconstitutionally targets Muslims • *Wagafe v. USCIS*: lawsuit by Muslims seeking to become U.S. citizens and permanent residents
Religious and Moral Exemptions to ACA Contraception Mandate (Two interim final rules issued October 6, 2017)	• **County is an Amicus:** *California v. HHS* (17-5783, N.D. Cal.; 18-15255, 19-15072, 9th Cir.; 18-1192, USSC): filed on October 6, 2017 in California federal court by the State of California challenging two interim final rules that (1) expand the scope of religious exemptions to the ACA's contraceptive coverage mandate, and (2) provide a moral exemption to the contraceptive mandate. The lawsuit brings claims under the Administrative Procedure Act and the Constitution's Establishment Clause and Equal Protection Clause. On November 1, 2017, plaintiffs filed an amended complaint, with the States of Delaware, Maryland, New York, and Virginia as additional plaintiffs. On November 6, 2017, the court ordered this case "related" to the *ACLU* case below, so the two cases are before the same judge. On December 21, 2017, the court granted a nationwide preliminary injunction preventing the rules from taking effect while the litigation is pending. The federal government appealed to the Ninth Circuit. Oral argument was heard on October 19, 2018. On December 13, 2018, the Ninth Circuit issued a ruling largely upholding the district court injunction, but vacating the nationwide scope of the injunction, finding that the record did not sufficiently document the likely harms to other states. Oregon joined the multi-state coalition in January 2019 and its motion for preliminary injunction was granted in July 2019, expanding the injunction's scope. The Supreme Court denied the federal government's cert petition on June 17, 2019. HHS has filed motions to dismiss and for summary judgment. On October 22, 2019, the Ninth Circuit affirmed the district court's expanded preliminary injunction barring enforcement

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Religious and Moral Exemptions to ACA Contraception Mandate (continued)	of the final rules in California and several states. The Supreme Court denied HHS's petition for certiorari. • **County is an Amicus:** *Commonwealth of Massachusetts v. U.S. Dep't of Health & Human Services* (17-11930, D. Mass.; 18-1514, 1st Cir.): filed on October 6, 2017 in Massachusetts federal court also challenging the two rules with similar claims. On March 12, 2018, the district court denied Massachusetts's motion for summary judgment and granted the federal government's motion for summary judgment on the ground that Massachusetts failed to show that it would likely suffer future injury from the rules and therefore lacked standing. Massachusetts has appealed the decision to the First Circuit. And the case was argued on April 3, 2019. On May 2, 2019, the First Circuit vacated the district court decision and held that Massachusetts did have standing, and remanded for further proceedings. Plaintiff filed an amended complaint on July 8, 2019 and filed a motion for summary judgment on July 31, 2019. HHS moved to dismiss on August 20, 2019 and briefing is complete. On February 5, 2020, the parties jointly moved to stay the proceedings in light of the ongoing litigation in California federal court. The parties were instructed to inform the district court when the Supreme Court rules on the petition for certiorari in case number 18-1192, arising out of the Ninth Circuit. Their next status report is due August 31, 2020. • **County is an Amicus:** *Pennsylvania v. Trump* (17-4540, E.D. Pa.; 17-3752, 19-1129 Third Cir.; 19-431, U.S.S.C.): filed on October 11, 2017 in Pennsylvania federal court with similar claims, and also claims under Title VII and the Pregnancy Discrimination Act. On December 15, 2017, the district court issued a preliminary injunction prohibiting implementation of the rules while the litigation is pending. Little Sisters of the Poor, a Roman Catholic women's order, appealed the denial of its motion to intervene, and the Third Circuit reversed, allowing them to intervene for purposes of defending portions of the religious exemption that apply to religious nonprofits. Both the federal government and Little Sisters have appealed the preliminary injunction order. After the publication of

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Religious and Moral Exemptions to ACA Contraception Mandate (continued)	the final rules, Pennsylvania obtained a nationwide injunction of those rules from the trial court. Defendants appealed and the Third Circuit affirmed the district court's nationwide injunction. Defendants filed a cert petition with the Supreme Court, which was granted January 17, 2020. The Supreme Court heard oral argument on May 6, 2020. • **County Submitted Comment to Regulatory Action:** On December 5, 2017, the County submitted a comment to the U.S. Department of the Treasury, U.S. Department of Labor, and U.S. Department of Health and Human Services opposing the interim final rules. The County argued that the rules violate the Affordable Care Act, Administrative Procedure Act, Establishment Clause of the First Amendment, and Equal Protection Clause of the Fifth Amendment. The County also highlighted how the rules would significantly burden the County as a safety-net healthcare provider and threaten the public health of County residents. • **Case Concluded/County Was Monitoring:** *State of Washington v. Trump* (17-1510, W.D. Wash.): filed on October 9, 2017 in Washington federal court, alleging violations of the Equal Protection Clause, the Establishment Clause, the Affordable Care Act, the Civil Rights Act, the Administrative Procedure Act, and the Pregnancy Disability Act. On January 19, 2018, the court stayed the case pending appeals in the *California*, *Pennsylvania*, and *Hargan* litigation. Washington dismissed the action without prejudice on December 18, 2018. • **Case Concluded/County was Monitoring:** *ACLU v. Wright* (17-5772, N.D. Cal.): filed on October 6, 2017 in California federal court by the ACLU and SEIU-UHW, also challenging the two rules with similar claims. The case was ordered "related to" the California case above, and is before the same judge. The case has been stayed pending resolution of the preliminary injunction appeal in the California case. On November 5, 2018, the ACLU voluntarily dismissed the case without prejudice.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Termination of Temporary Protected Status (TPS) for Certain Nationals	• **County is an Amicus:** *NAACP v. DHS* (18-239, D. Md.): filed on January 24, 2018 in Maryland federal court to challenge the termination of Temporary Protected Status (TPS) for Haitian immigrants. On March 12, 2019, the district court granted in part and denied in part the government's motion to dismiss, holding that plaintiffs had properly plead Fifth Amendment claims, but dismissing the plaintiffs' claims for mandamus and declaratory relief. The government has filed a motion to stay pending the outcome of the *Ramos* litigation (discussed below); plaintiffs have opposed this motion. On March 23, 2020, the district court granted the stay until June 1, 2020 or further order of the court, whichever occurs first. • **County is an Amicus:** *Ramos v. Nielsen* (18-01554, N.D. Cal.; 18-16981, 9th Cir.): On March 12, 2018, in California federal court, the ACLU of Southern California and the National Day Laborer Organizing Network challenged the termination of TPS for immigrants from El Salvador, Nicaragua, Haiti, and Sudan. On October 3, 2018 the district court granted the plaintiff's motion for a preliminary injunction barring the federal government from terminating TPS for immigrants from El Salvador, Nicaragua, Haiti, and Sudan. Defendants are appealing the preliminary injunction ruling to the Ninth Circuit. The district court case has been stayed pending appellate review of the preliminary injunction. The case is fully briefed to the appellate court. Oral argument was held on August 14, 2019. On August 21, 2019, the Ninth Circuit ordered further briefing about discovery issues related to the administrative record. That briefing is now complete. • **County is Monitoring:** *Centro Presente v. Trump* (18-10340, D. Mass.): On February 22, 2018, in Massachusetts federal court, two immigration advocacy nonprofits and several individual TPS beneficiaries challenged the termination of TPS for immigrants from El Salvador, Haiti, and Honduras. Plaintiffs filed an amended complaint, and the federal government filed a motion to dismiss. On July 23, 2018, the district court largely denied the motion to dismiss (but dismissed the plaintiffs' claim for mandamus relief). Discovery

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Termination of TPS (continued)	is ongoing, and the parties agree that the future of the case depends on the status of the *Ramos* injunction (discussed above). • **County is Monitoring:** *CASA de Maryland v. Trump* (18-845, D. Md.): On March 23, 2018, in Maryland federal court, CASA de Maryland, a nonprofit immigrant rights organization, as well as several TPS beneficiaries challenged the termination of TPS for immigrants from El Salvador. The defendants filed a motion to dismiss. The district court largely denied the motion to dismiss and allowed the plaintiffs' claims premised on the theory that the revocation of their TPS was motivated by discriminatory intent to go forward. The court will schedule deadlines for summary judgment briefing after ruling on any motions to compel filed during discovery. • **County is Monitoring:** *Saget v. Trump* (18-1599, E.D.N.Y.; 19-1685, 2nd Cir.): On March 15, 2018, in New York federal court, a Haitian newspaper, Haitian immigrant advocacy organization, and several TPS beneficiaries challenged the termination of TPS for immigrants from Haiti. The federal government has filed a motion to dismiss. The district court denied a motion from the government to stay this case pending the outcome of the appeal in the Ninth Circuit. The court conducted a bench trial in the matter that concluded on January 10, 2019. On April 11, 2019, the Court issued a preliminary injunction barring the government from terminating TPS status for Haiti. Defendants have filed an appeal and it has been briefed. • **County is Monitoring:** *Moreno v. Nielsen* (18-1135, E.D.N.Y.): On February 22, 2018, in New York federal court, several TPS recipients challenged the federal government's denial of their applications for lawful permanent resident status. Plaintiffs have amended their complaint and are seeking to certify the case as a class action. The federal government moved to dismiss the case on June 12, 2018. On July 20, 2018, plaintiffs filed a motion for summary judgment and on November 16, 2018, plaintiffs filed a motion for preliminary injunction which is now fully briefed. On February 15, 2019, the court denied the

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Termination of TPS (continued)	plaintiffs' motion for a temporary restraining order and ordered the parties to further brief the issue of standing. The district court denied the motion for preliminary injunction on May 18, 2020, reasoning that the plaintiffs failed to make the requisite showing of irreparable harm.
Texas SB 4 (signed into law May 7, 2017)	• **Case Concluded/County was an Amicus:** *City of El Cenizo v. Texas* (17-404, W.D. Tex.; 17-50762, 5th Cir.): in May and June 2017, a number of Texas cities and counties, in partnership with the ACLU and MALDEF, filed suit against the State of Texas in federal court, arguing that SB 4 is unconstitutional. On August 30, 2017, the court granted plaintiffs' motion for preliminary injunction and enjoined the state from enforcing most of SB 4's provisions. On September 25, 2017, the Fifth Circuit granted a stay and permitted some provisions to go into effect while the appeal of the preliminary injunction proceeded. On March 13, 2018, the Fifth Circuit vacated the injunction, with the sole exception of the section of SB 4 that prohibits individual elected officials from "endorsing" local policies limiting involvement in federal immigration enforcement. The Fifth Circuit held that this provision violates local officials' First Amendment rights. The Fifth Circuit denied the petitions for rehearing and rehearing en banc. Now, the remainder of SB 4 will go into full effect pending further proceedings in the trial court. On September 16, 2019, the trial court granted Plaintiffs' motion to dismiss their claims. • **Case Concluded/County was Monitoring:** *Texas v. Travis County* (17-425, W.D. Tex.; 17-50763, 5th Cir.): on May 7, 2017, the day SB 4 was signed into law, the Texas Attorney General sued several counties, cities, individual officials, and advocacy organizations in Texas federal court, seeking a declaration that SB 4—which bars local governments from adopting or endorsing policies limiting their participation with ICE enforcement, mandates compliance with ICE detainer requests, and imposes civil penalties and removal from office on local officials who disobey the law—is lawful and constitutional. Texas later dismissed the Mexican American Legal Defense and Education Fund (MALDEF) as a

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Texas SB 4 (signed into law May 7, 2017)	defendant in the case. On August 17, 2017, the district court granted a motion by the remaining defendants to dismiss the case. On December 12, 2018, the Fifth Circuit issued an opinion affirming the district court's dismissal.
Issues That the County is Monitoring	
Asylum Seekers	• **County is Monitoring**: *East Bay Sanctuary Covenant v. Trump* (18-6810, N.D. Cal.; 18-17436, 9th Cir.): Several nonprofit groups challenged an interim final rule from DHS and a Presidential Proclamation, both issued in November 2018, that bar people from obtaining asylum if they enter the U.S somewhere along the southern border other than a "designated port of arrival." On December 12, 2018, the district court granted a preliminary injunction. Defendants have appealed that ruling. The Ninth Circuit stayed the nationwide application of the injunction. On September 9, 2019 the district court reinstated the injunction nationwide, holding that it could do so now that a more fulsome record had been developed on the need for that relief. On September 11, 2019, the Supreme Court issued a stay of the injunction pending the outcome of the appeal before the Ninth Circuit, which held oral argument on October 1, 2019. On February 28, 2020, the Ninth Circuit affirmed the district court's grant of a temporary restraining order and then preliminary injunction. The panel also held that it was not bound by the motions panel's decision which stayed the nationwide injunction. The court granted the Defendants' unopposed motion for an extension of time to seek rehearing en banc until May 28, 2020. Defendants have requested an additional extension until July 27, 2020. • **County is Monitoring:** *Innovation Law Lab v. Nielsen* (19-807, N.D. Cal.; 19-15716, 9th Circuit): On February 14, 2019, several non-profits and individuals filed suit against the Trump Administration, challenging the Administration's policy of "returning" to Mexico asylum seekers arriving in the U.S. from Mexico. The lawsuit alleges that DHS lacked the authority to institute this policy and violated its legal obligation to ensure sufficient safeguards to prevent asylum seekers' "life or freedom" from being endangered by the

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Asylum Seekers (continued)	policy. On April 8, 2019, the district court issued a nationwide preliminary injunction against the policy. The government immediately appealed the ruling. On April 12, 2019, the Ninth Circuit issued an order temporarily staying the injunction pending expedited briefing. On May 7, 2019, the Ninth Circuit granted the defendant's motion to stay the preliminary injunction pending appeal. Plaintiff's motion for reconsideration of the stay was denied. Oral argument was held October 1, 2019. In an opinion issued the same day as the opinion in *East Bay Sanctuary Covenant*, the Ninth Circuit affirmed the district court's grant of a preliminary injunction. And on March 11, 2020, the Supreme Court stayed the Ninth Circuit's preliminary injunction pending review of the government's petition for certiorari. Justice Sotomayor dissented from this order. • **County is Monitoring:** *County of San Diego v. Nielsen* (19-631, S.D. Cal.): On April 3, 2019, the County of San Diego filed suit against the Trump Administration over its decision to end the "Safe Release" program, through which the federal government had sought to connect asylum seekers with family, friends, or non-profits that would help support them in the U.S. while they waited for their asylum cases to be adjudicated. Because the federal government will no longer help asylum seekers reach their destinations, the County of San Diego has expended more than a million dollars to provide medical screenings and care, as well as shelter to asylum seekers. San Diego seeks a ruling that the Administration's change in policy was procedurally improper. In July 2019, the federal government filed a motion to dismiss and briefing is complete. • **County is Monitoring:** *Damus v. Nielsen* (18-578, D.D.C.): class action lawsuit filed on March 15, 2018 challenging the Department of Homeland Security's policy of detaining asylum seekers as a deterrent to other migrants. It alleges violations of the Immigration and Naturalization Act, the Administrative Procedure Act, and the Fifth Amendment Due Process Clause. On March 30, 2018, the plaintiffs sought a preliminary injunction, and on April 24, 2018, the federal government moved to dismiss. On July 2, 2018, the court

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Asylum Seekers (continued)	preliminarily enjoined the defendants from denying parole (release from detention pending a final asylum determination) to class members absent an individualized determination that the class member is either a flight risk or a danger to the community. On October 22, 2018, the court granted the plaintiffs' motion for limited discovery into whether the government was complying with the injunction. On April 11, 2019, the plaintiffs moved to hold the defendants in contempt, arguing that the Los Angeles Field Office has failed to comply with terms of the injunction. On July 19, 2019, Plaintiffs moved for summary judgment. On September 20, 2019, Defendants cross-filed for summary judgment. Briefing is ongoing, including supplemental briefing on a motion to compel certain discovery. On February 7, 2020, the district court denied the motion for contempt but did impose further injunctive relief to ensure that the Los Angeles Field Office complies with the terms of the 2018 injunction.
Ban on Transgender Service Members	• **County is Monitoring:** *Doe v. Trump* (17-1597, D.D.C.; 18-5257, D.C. Cir.): lawsuit filed by 5 transgender service members in D.C. federal court on August 9, 2017 challenging the prohibition on military service by transgender individuals. At issue are (1) the Accession Directive, which prohibits transgender people from entering the military; (2) the Retention Directive, which requires the military to discharge transgender service members by March 23, 2018; and (3) the Sex Reassignment Surgery Directive, which prohibits the use of military resources to fund sex reassignment procedures. The lawsuit raises claims under the Constitution's Due Process Clause and Equal Protection Clause. On October 30, 2017, the court granted a preliminary injunction prohibiting the Accession and Retention Directives from taking effect, but dismissed the plaintiffs' challenge to the Sex Reassignment Surgery Directive because no plaintiff was likely be impacted by the directive. The federal government appealed, and on December 22, 2017, the D.C. Circuit denied the government's request to stay the preliminary injunction pending appeal. The stay order strongly suggested that the D.C. Circuit would uphold the preliminary

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Ban on Transgender Service Members (continued)	injunction. On December 29, 2018, the government voluntarily dismissed the preliminary injunction appeal, and on January 1, 2018, the military began allowing transgender individuals to enlist. On March 23, 2018, the President issued a new memorandum revoking the original 2017 service ban memorandum and allowing the Defense Department to implement a new policy that falls short of a categorical ban on transgender servicemembers but generally bans individuals with "a history or diagnosis of gender dysphoria" or who "require or have undergone gender transition." The federal government then moved to dissolve the preliminary injunction, arguing that the plaintiffs' case is now moot. On April 6, 2018, plaintiffs filed an amended complaint challenging the new policy. On August 6, 2018, the court granted the federal government's partial motion for judgment on the pleadings, dismissed President Trump as a party, and dissolved the preliminary injunction to the extent it applied to the President but otherwise kept the preliminary injunction in place. The court also denied the federal government's motions to dismiss and for summary judgment. The federal government has appealed the decision to the D.C. Circuit. The government has taken the unusual step of filing a petition for review in the Supreme Court before the D.C. Circuit hears the case. On January 4, 2019, the D.C. Circuit vacated the preliminary injunction without prejudice, ruling that the district court had failed to take account of changes in factual circumstances when it decided to keep the injunction in place. On January 22, 2019, the Supreme Court allowed the government to begin enforcing the ban as litigation proceeds. Discovery is ongoing in the district court. • **County is Monitoring:** *Karnoski v. Trump* (17-1297, W.D. Wash.; 18-35347, 9th Cir.; 18-72159, 9th Cir.): a lawsuit challenging the ban filed on August 28, 2017, by two transgender individuals who wish to serve in the military, one transgender service member, the Human Rights Campaign, and the Gender Justice League, and later joined by the State of Washington. The lawsuit raises challenges under the Constitution's Equal Protection

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Ban on Transgender Service Members (continued)	Clause, Due Process Clause, and the First Amendment. On December 11, 2017, the court issued a preliminary injunction. As in *Doe* above, the federal government moved to dissolve the preliminary injunction after the President issued the March 23, 2018 memorandum. On April 13, 2018, the district court issued an order maintaining the preliminary injuncting and ruling on both sides' summary judgment motions. The court concluded that transgender people are a protected class, which means that the federal government's attempt to exclude them from the military will be subject to strict scrutiny. The court ruled that no injunction can issue against President Trump but permitted the claim for declaratory relief against President Trump to proceed. The court also allowed the equal protection, substantive due process, and the First Amendment claims to proceed. The federal government appealed this order to the Ninth Circuit. The federal government also asked the Ninth Circuit to review a discovery order requiring the government to turn over thousands of documents withheld pursuant to the deliberative process privilege and to justify its withholding of other materials under the presidential communications privilege. On June 14, 2019, the Ninth Circuit vacated the district court's order striking the defendants' motion to dissolve the 2017 injunction and stayed the injunction through the district court's consideration of the motion. The Ninth Circuit also vacated the district court's discovery order and directed the district court to reconsider discovery with "careful consideration" of the Executive Branch's privileges. Discovery is proceeding before the district court. • **County is Monitoring:** *Stone v. Trump* (17-2459, D. Md.): lawsuit filed by 6 transgender service members and the ACLU of Maryland on August 28, 2017, also challenging the ban. The lawsuit raises challenges under the Constitution's Equal Protection Clause and Due Process Clause. On November 21, 2017, the court issued a preliminary injunction. On appeal of the preliminary injunction, the Fourth Circuit denied the government's request for a stay, and the federal government voluntarily dismissed the appeal. As in *Doe*, after the President issued the March 23, 2018 memorandum, the federal government moved

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Ban on Transgender Service Members (continued)	to dissolve the preliminary injunction. On April 27, 2018, plaintiffs filed an amended complaint. On May 11, 2018, the federal government moved to dismiss and for summary judgment, and on May 25, 2018, the plaintiffs filed a cross-motion for summary judgment. Discovery is ongoing. The district court has stayed an order from the magistrate judge requiring the federal government to turn over documents withheld pursuant to the deliberative process privilege pending the resolution of a similar issue in *Karnoski* (above). On June 27, 2019, defendants filed a motion for reconsideration following the decision in *Karnoski*. The district court granted that motion in part and remanded the privilege issue to the magistrate judge for further consideration. On August 20, 2019, the Court dissolved the preliminary injunction, denied plaintiffs' motion for summary judgment, and granted in part the federal government's motion to dismiss. On November 6, 2019, plaintiffs filed a third amended complaint, which defendants have answered. Discovery is proceeding before the district court. • **County is Monitoring:** *Stockman v. Trump* (17-1799, C.D. Cal.; 18-56539, 9th Cir.): filed on September 5, 2017 by Equality California and individual plaintiffs, also challenging the ban. The lawsuit alleges violations of the Equal Protection Clause and Due Process Clause of the Fifth Amendment, right to privacy under the Fifth Amendment, and First Amendment (retaliation for speech and expression). On October 2, 2017, plaintiffs moved for a preliminary injunction. The court has permitted the State of California to intervene as a plaintiff. On December 22, 2017, the court denied the federal government's motion to dismiss and granted a preliminary injunction. On September 18, 2018, the district court denied the federal government's motion to dissolve the preliminary injunction. The federal government filed an appeal, and the Ninth Circuit has ordered the district court case held in abeyance pending the outcome of the appeal. The federal government filed a request for the Supreme Court to hear this case before judgment in the appellate court. The Supreme Court denied that request. On August 16, 2019, the parties filed a stipulation asking the Ninth Circuit to stay the preliminary injunction and remand the case to the district for

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Ban on Transgender Service Members (continued)	further proceedings in line with *Karnoski*, and the court granted that stipulation. The district court dissolved the preliminary injunction in October 2019 and the parties have been litigating an amended complaint. On March 3, 2020, the district court granted the parties' joint stipulation to suspend the case schedule and partially stay the case pending the resolution of discovery issues in the related Western District of Washington case (see above).
Border Wall (Executive Order issued January 25, 2017)	• **County is Monitoring:** *Center for Biological Diversity v. Kelly* (17-163, D. Ariz.): filed on April 12, 2017 in Arizona federal court by the Center for Biological Diversity and Congressman Raul Grijalva, alleging that the border wall fails to comply with federal environmental impact review requirements. On November 2, 2018, the district court largely denied the defendants' motion to dismiss. Defendants have been ordered to submit the administrative record. Plaintiffs are now contending that the administrative record is incomplete and, on May 10, 2019, filed a motion to complete the administrative record and to supplement the record. On March 17, 2020, the district court partially granted that motion. Defendants are required to supplement the administrative record by June 16, 2020. Summary judgment briefing is expected to begin July 2020. • **Case Concluded/County was Monitoring:** *In re Border Infrastructure Environmental Litigation* (17-1215, S.D. Cal.; 18-55474, 9th Cir.): Three cases have been filed in the Southern District of California challenging the Department of Homeland Security's failure to comply with environmental laws in planning, design, and construction activities related to the border wall. *Center for Biological Diversity v. DHS* (17-1215, S.D. Cal.) was filed on June 15, 2017 by the Center for Biological Diversity; *Defenders of Wildlife v. Duke* (17-1873, S.D. Cal.) was filed on September 14, 2017 by Defenders of Wildlife, Animal Legal Defense Fund, and Sierra Club; and *People of the State of California v. United States* (17-1911, S.D. Cal.) was filed on September 20, 2017 by the State of California. On October 24, 2017, the three cases were consolidated into a single proceeding before a single judge.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Border Wall (continued)	On February 27, 2018, the court denied the plaintiffs' motion for summary judgment and granted the defendants' motions for summary judgment. The Ninth Circuit heard oral argument on the plaintiffs' expedited appeal on August 7, 2018. On February 11, 2019, the panel issued an opinion affirming the district court's decision.
Department of Education Sexual Assault Policy	• **County is Monitoring:** *SurvJustice Inc. v. DeVos* (18-535, N.D. Cal.; 19-17555, 9th Cir.): filed in California federal court on January 25, 2018 by three nonprofits, challenging the Department of Education's reversal of an Obama-era policy regarding how colleges and universities should address campus sexual assault under Title IX of the Education Amendments of 1972. The lawsuit claims that victims are less likely to receive fair treatment under the new policy, the Department failed to justify its reversal in position, and the Department failed to take into account serious reliance interests. The lawsuit alleges an ultra vires action, as well as violations of the Administrative Procedure Act and Equal Protection Clause, and seeks declaratory relief and an injunction ordering the Department to vacate its new policy. On October 1, 2018, the court granted the Defendants motion to dismiss. Plaintiffs have filed an amended complaint. On December 14, 2018, defendants moved to dismiss the amended complaint. On March 29, 2019 the district court granted in part and denied in part the defendants' motion to dismiss. A briefing schedule has been set on the motions for summary judgment, was heard on October 17, 2019. On November 1, 2019, the court granted defendants' motion for summary judgment on the ground that the agency action was not "final" for purposes of judicial review under the APA. Plaintiffs appealed the decision on December 20, 2019. The Plaintiffs' opening brief in the Ninth Circuit is currently due June 29, 2020.
Department of Energy Standards	• **County is Monitoring:** *NRDC v. Perry* (17-3404, N.D. Cal.); *People of the State of California v. Perry* (17-3406, N.D. Cal.; 18-15475, 9th Cir.): consolidated cases filed on June 13, 2017 in California federal court – one by NRDC, Sierra Club, and Consumer Federation of America; and the other by the States of California, New York, Connecticut,

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Department of Energy Standards (continued)	Illinois, Maine, Massachusetts, Pennsylvania, Vermont, Washington, Maryland, and the City of New York – challenging DOE's failure to publish energy efficiency standards for home appliances and industrial equipment. The federal government filed a motion to dismiss on September 22, 2017. On February 15, 2018, the court denied DOE's motion to dismiss and granted plaintiffs' motion for summary judgment. DOE then appealed to the Ninth Circuit. On April 11, 2018, the Ninth Circuit stayed the district court's order. Oral argument was heard on November 14, 2018. On October 10, 2019, the Ninth Circuit affirmed the district's court order directing DOE to publish four energy-conversation standards in the Federal Register. The parties are now litigating attorneys' fees. • **Case Concluded/County was Monitoring:** *Natural Resources Defense Council v. Perry* (17-916, 2d. Cir.); *New York v. Perry* (17-918, 2d. Cir.); *Cal. State Energy Res. Conservation & Dev. Comm'n v. Perry* (17-1798, 2d. Cir.): consolidated petitions filed on March 31, 2017 in the Second Circuit Court of Appeals by the NRDC, Sierra Club, Texas Ratepayers' Organization to Save Energy, and Consumer Federation of America; ten states, including California; and the California Energy Commission seeking reconsideration of DOE's decision to delay energy conservation standards for ceiling fans. In June 2017, the parties filed a joint stipulation to withdraw the appeal.
Department of Interior Actions	• **County is Monitoring:** *California v. U.S. Dep't of the Interior* (17-42, D. Mont.): filed on May 9, 2017 in Montana federal court by the states of California, New Mexico, New York, and Washington, alleging that the DOI restarted the federal coal leasing program without complying with federal environmental impact review requirements. Wyoming later intervened in support of DOI. On June 2, 2017, the case was consolidated with a parallel action filed by Montana advocacy group Citizens for Clean Energy. The parties filed cross-motions for summary judgment, which were granted in part and denied in part on April 19, 2019. The court found that plaintiffs had standing and their claims were ripe and that the federal government had to conduct an environmental review before lifting coal

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Department of Interior Actions (continued)	leasing restrictions. The court is awaiting the completion of this review before adjudicating several of the plaintiffs' other claims. • **County is Monitoring:** *Environmental Defense Center v. Bureau of Ocean Energy Mgmt.* (16-8418, C.D. Cal.; 19-55526, 9th Cir.): three consolidated cases challenging DOI's issuance of an environmental assessment finding no significant environmental impact from 23 offshore fracking sites in Southern California. The court denied DOI's motion to dismiss. On November 9, 2018, the district court granted in part and denied in part several motions for summary judgment, holding that the federal government had generally prepared an adequate environmental assessment but had failed to fulfill its consultation obligations under the Endangered Species Act. Intervenor-Defendant American Petroleum Institute has appealed the decision to the Ninth Circuit. Briefing is ongoing. • **County is Monitoring:** *California v. U.S. Bureau of Land Management* (18-521, N.D. Cal.): filed on January 24, 2018 to challenge the federal government's repeal of regulations governing hydraulic fracking of oil and gas wells on federal and tribal lands. The lawsuit seeks to compel the federal government to reinstate the regulations. The court permitted the State of Wyoming, Independent Petroleum Association of America, Western Energy Alliance, and American Petroleum Institute to intervene in the case, and it denied BLM's motion to transfer the case to the District of Wyoming. On April 2, 2019, the district court granted in part and denied in part the plaintiffs' motions to supplement the administrative record. California filed a motion for summary judgment on June 3, 2019. The federal government filed a cross-motion for summary judgment on August 2, 2019. The court held a hearing on the summary judgment motions on January 22, 2020, and granted the government's motion for summary judgment on March 27, 2020. The court entered judgment on April 14, 2020. • **County is Monitoring:** *California v. U.S. Dep't of Interior* (19-6013, N.D. Cal.): In September 2019, California, along with 16 other states, challenged new rules that weaken

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Department of Interior Actions (continued)	enforcement of the Endangered Species Act. The rules would allow the government to consider economic impacts to landowners when deciding whether to protect a species and its habitat, make it easier to remove a species from the protected list, and prohibit the consideration of global warming as a factor that could impact a species' habitat. On December 6, 2019, the federal government moved to dismiss the case for lack of jurisdiction, arguing that plaintiffs do not have standing and that their claims are not ripe. That motion is briefed. The court held a telephonic hearing on the motion to dismiss on February 26, 2020. The district court denied the motion to dismiss for lack of jurisdiction on May 18, 2020. • **Case Concluded/County was Monitoring:** *Center for Biological Diversity v. Zinke* (17-91, D. Alaska; 18-35629, 9th Cir.): filed on April 20, 2017 in Alaska federal court by the Center for Biological Diversity challenging the repeal of a rule protecting endangered wildlife. On September 1, 2017, the plaintiffs amended their complaint to add new constitutional challenges to the DOI's actions. On May 9, 2018, the court granted motions to dismiss filed by DOI and defendant-intervenors National Rifle Association, Safari Club International, Pacific Legal Foundation, Alaska Outdoor Council, Big Game Forever, and the State of Alaska. The Center appealed the decision to the Ninth Circuit. Oral argument was heard on August 5, 2019. On December 30, 2019, the Ninth Circuit issued a decision affirming the district court's dismissal of plaintiff's complaint, holding that Congress validly deprived courts of jurisdiction to consider these types of claims. • **Case Concluded/County was Monitoring:** *California v. DOI* (17-2376, N.D. Cal.): filed on April 26, 2017 in California federal court by the State of California, challenging the DOI's delay in implementing a rule enacted to ensure fair distribution to taxpayers of royalties obtained from companies extracting oil, gas, and coal on federal lands. On August 30, 2017, the court ruled in favor of California, declaring the delay unlawful and ordering DOI to reinstate the rule.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Department of Interior Actions (continued)	• **Case Concluded/County was Monitoring:** *Center for Biological Diversity v. Zinke* (17-44, D. Mont.): filed on April 4, 2017 in Montana federal court by conservation and animal advocacy groups, alleging that DOI failed to consult with the EPA regarding the effects of two poisons used to kill coyotes, foxes, and feral dogs on a number of predator species protected under the Endangered Species Act. The parties reached a settlement, under which the U.S. Fish & Wildlife Service will complete the EPA's requested consultation on the two poisons.
Emissions Standards	• **County is Monitoring**: *California v. Chao* (19-2826, D.D.C): On September 20, 2019, California, alongside a coalition of states, cities, and the District of Columbia, filed suit against the administration challenging a National Highway Traffic Safety Administration regulation that would revoke California's authority to set vehicle emissions standards higher than those set by the Clean Air Act, which many other states have then adopted. The motion to dismiss is fully briefed and there was a hearing scheduled for April 16, 2020. The district court has stayed the case in light of related litigation before the D.C. Circuit in case number 19-1230, another case petitioning for review of the same NHTSA regulations. • **County is Monitoring**: *United States v. California* (19-2142, E.D. Ca.): On October 23, 2019, the federal government filed suit against California for entering into a cap and trade agreement with the Canadian Province of Quebec, arguing that the power to enter into such agreements is reserved for the federal government. On December 11, 2019, defendants filed a motion for summary judgment and on January 6, 2020, they filed a motion to dismiss for lack of jurisdiction. Briefing is ongoing for those motions. On January 15, 2020, the court granted two motions to intervene by the Environmental Defense Fund and the Natural Resources Defense Council. The district court denied the federal government's motion for summary judgment and granted California's motion for summary judgment on two of its claims on March 12, 2020. The federal government filed a second motion for

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Emissions Standards (continued)	summary judgment on April 21, 2020. California has likewise filed a second motion for summary judgment. Briefing on these motions is ongoing.
Environmental Protection Agency Standards	• **County Submitted Comment to Regulatory Action:** On May 17, 2017, the County submitted a comment to the EPA, urging it to (1) consider regulations' beneficial effect on the renewable energy industry, (2) allocate costs in municipality and municipal solid waste settlements on the basis of toxicity (rather than volume or weight of waste), (3) consider all costs associated with the release of carbon into the environment and benefits associated with reducing carbon emissions, (4) maintain light-duty vehicle greenhouse gas emissions standards for model years 2022-2025, (5) continue to rely on data and information conclusively establishing the reality of climate change, and (6) refrain from allowing politics to play a role in determining which regulations should be maintained. • **County is Monitoring:** *Murray Energy Corp. v. EPA* (15-1385, D.C. Cir.): filed on October 26, 2015 in the D.C. Court of Appeals by the coal industry seeking reconsideration of the EPA's 2015 smog standards. Many states have intervened in defense of the smog standards, including the California Air Resources Board. The court held the case in abeyance on April 11, 2017 pending further EPA review of the smog standards. On May 18, 2018, the states moved to lift the abeyance. The court has lifted the abeyance effective August 1, 2018. Oral argument was heard December 18, 2018. On August 23, 2019, the court issued an order denying in part and granting in part the petition for review and remanding to the agency for reconsideration. • **Case Concluded/County was Monitoring:** *Clean Water Action v. Pruitt* (17-817, D.D.C.; 18-5149, D.C. Cir.; 18-60079; 18-60619 5th Cir.): filed on May 3, 2017 in D.C. federal court by eight environmental groups challenging the EPA's indefinite delay of a rule tackling water pollution caused by electric power generation. On September 13, 2017, the EPA provided notice of a final rule that withdraws the EPA action at issue in this lawsuit.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Environmental Protection Agency Standards (continued)	The government subsequently moved to dismiss the lawsuit on the ground that there is no longer a live controversy to be adjudicated, and plaintiffs moved to amend their complaint to challenge the new rule. Defendants also argued that the lawsuit should have been filed with the Fifth Circuit and that therefore the D.C. District court lacked jurisdiction. Plaintiffs filed petitions with the Fifth Circuit as a protective measure. On April 18, the district court denied the plaintiffs' motion for leave to amend their complaint and granted the federal government's motion to dismiss, finding that it lacked jurisdiction. Plaintiffs appealed to the D.C. Circuit. On September 19, 2018, the D.C. Circuit Court ordered the appeal be held in abeyance until the Fifth Circuit issued a decision in one of the cases the environmental groups had filed before the Fifth Circuit. On October 18, 2018, the Fifth Circuit dismissed one of the appeals (18-60619) as moot, because the challenged action had been withdrawn. On November 20, 2018 the D.C. Circuit ordered its case would continue being held in abeyance pending the outcome of the other Fifth Circuit Appeal (18-60079). Oral argument was heard in that case on May 1, 2019. On August 28, 2019, the Fifth Circuit denied the petition for review in the other pending appeal (18-60079). In September 2019, the plaintiffs voluntarily dismissed the D.C. Circuit case. • **Case Concluded/County was Monitoring:** *California v. U.S. EPA* (18-1114, D.C. Cir.): On May 1, 2018, the State of California, 16 other states, and the District of Columbia filed a petition for review challenging the EPA's rollback of fuel economy standards. On July 10, 2018, the EPA moved to dismiss the case. The parties have been ordered to fully brief the case before the court decides the motion to dismiss. Oral argument was held on September 6, 2019. On October 25, 2019, the Court issued an opinion dismissing the petition for lack of jurisdiction because the EPA had not engaged in "final action." • **Case Concluded/County was Monitoring:** *West Virginia v. EPA* (15-1363, D.C. Cir.): filed on October 23, 2015 in the D.C. Court of Appeals by various states challenging the EPA's Clean Power Plan. Many states have intervened in defense of the Clean Power

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Environmental Protection Agency Standards (continued)	Plan, including California. The court is holding the case in abeyance pending further EPA review. On May 9, 2018, the states and intervening public health and environmental organizations submitted oppositions to the EPA's request for additional abeyance. On June 26, 2018, the court ordered that the case remain in abeyance for 60 more days. The EPA and West Virginia have sought a further abeyance, which the states and intervening public health and environmental organizations have opposed. The court granted the abeyance, and the case will remain in abeyance until February 20, 2019. On April 5, 2019, the court granted a further 60 day abeyance—over the opposition of the intervenors. EPA issued a final rulemaking repealing the Clean Power Plan and the court, on September 17, 2019, dismissed the case as moot. • **Case Concluded/County is Monitoring:** *A Community Voice v. EPA* (16-72816, 9th Cir.): On December 27, 2017, the Ninth Circuit ordered the EPA to take action on dust-lead hazard and lead-paint standards. In 2009, the EPA granted a petition requesting that it promulgate a rule regarding these standards, but then never initiated a rulemaking. The court ordered the EPA to issue a proposed rule within 90 days of the court's order, and a final rule within one year after that. On March 26, 2018, the court clarified that the EPA is directed to issue a proposed rule within 90 days. The EPA issued a proposed rule on July 2, 2018.
Ethical Issues	• **County is Monitoring:** *Citizens for Responsibility and Ethics in Washington v. Trump* (17-458, S.D.N.Y.; 18-474, 2d Cir.): filed on January 23, 2017 in New York federal court by ethics watchdog group CREW, alleging that President Trump's business interests violate the Constitution's Foreign Emoluments Clause, which prohibits the receipt of gifts from foreign governments. On December 21, 2017, the court dismissed the case on the ground that the plaintiffs lacked standing to sue. Plaintiffs appealed to the Second Circuit. And on September 13, 2019, the Second Circuit issued an opinion vacating the district court opinion and remanding for further proceedings.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Ethical Issues (continued)	• **County is Monitoring:** *District of Columbia v. Trump* (17-1596, D. Md.; 18-2488, 4th Cir.; 18-2486, 4th Cir.): filed on June 12, 2017 in Maryland federal court by D.C. and the State of Maryland, alleging that President Trump's business interests in his hotels, restaurants, and other properties violate the Foreign Emoluments Clause and the Domestic Emoluments Clause, which prohibits the President from receiving financial benefits other than his or her salary from the U.S. or any State. Maryland and D.C. argue that these violations harm their own financial interests in properties that compete with the President's properties. President Trump filed a motion to dismiss on September 29, 2017. On March 28, 2018, the district court issued a limited order holding that the plaintiffs have standing to challenge the President's actions with respect to the Trump International Hotel in DC and Trump Organization operations with respect to that hotel, but that the plaintiffs do not have standing with respect to Trump Organization activities outside DC. Separately, on May 1, 2018, President Trump moved to dismiss the case against him in his individual capacity. After further oral argument, on July 25, 2018, the court denied the motion to dismiss filed by the President in his official capacity and deferred ruling on the motion to dismiss the President in his individual capacity. On November 2, 2018, the district court denied the President's motion for leave to file an interlocutory appeal. On December 19, 2018 Plaintiffs voluntarily dismissed their claims against President Trump in his individual capacity. Defendants appealed the order on the motion to dismiss to the Fourth Circuit; and the Fourth Circuit stayed the district court proceedings pending the outcome of the appeal. On July 10, 2019, the Fourth Circuit found that the plaintiffs lacked standing to pursue their claims against President Trump, both in his official and individual capacities. The Fourth Circuit therefore reversed the district court's orders and remanded with instructions to dismiss the complaint with prejudice. Plaintiffs filed a petition for rehearing and/or rehearing en banc. The Court granted the petition and heard oral argument en banc on December 12, 2019. On May 14, 2020, the Fourth Circuit issued an opinion reviving

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Ethical Issues (continued)	the lawsuit and denying President Trump's emergency request for a writ of mandate requiring the district court to dismiss the claims. • **County is Monitoring:** *Blumenthal v. Trump* (17-1154, D.D.C.; 19-8005, D.C. Circuit): Members of the U.S. Senate and U.S. House of Representatives sued the President for alleged violations of the Foreign Emoluments Clause, arguing that the President has received improper benefits from foreign governments through his continued financial interest in worldwide business holdings. The district court determined the plaintiffs have standing to proceed. On April 30, 2019, the district court denied President Trump's motion to dismiss and allowed the case to case to proceed. An amended complaint was filed on June 26, 2019. On August 28, 2019, the district court certified its order on the motion to dismiss for interlocutory appeal and stayed district court proceedings pending the outcome of that appeal. On February 7, 2020, the D.C. Circuit reversed the district court's determination that the members have standing and instructed the court to dismiss the case. The mandate issued on March 31, 2020. • **Case Concluded/County was Monitoring:** *Citizens for Responsibility and Ethics in Washington v. General Servs. Admin.* (17-1336, D.D.C.): CREW also sued the General Services Administration on July 6, 2017 in D.C. federal court based on the GSA's failure to provide documents in response to a Freedom of Information Act (FOIA) request seeking records relating to President Trump's lease on his Washington, D.C. hotel in the Old Post Office. GSA eventually provided records, and there was a dispute over whether the produced records were sufficient, but on October 10, 2017, the case settled.
Executive Order on Emergency at the U.S.-Mexico Border	• **County is Monitoring:** *California v. Trump* (19-872, N.D. Cal.; 19-16299, 9th Cir.; 19-16336, 9th Cir.; 19-17502, 9th Cir.; 120-15044, 9th Cir): On February 18, 2019, California and 15 other states sued challenging President Trump's executive order declaring a national emergency at the border in order to secure funding to build or reinforce barriers along the border. The states argue that the order violates separation of powers principles,

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Executive Order on Emergency at the U.S.-Mexico Border (continued)	violates the appropriations clause, was issued in the absence of authority to do so, and is in violation of statute. On March 6, 2019, this case was ordered related to a lawsuit challenging the same executive order filed by the Sierra Club and the Southern Border Communities Coalition (*Sierra Club v. Trump*, 19-892, N.D. Cal.; 19-16102, 9th Cir.; 19-16300, 9th Cir.). On April 8, 2019, the states moved for a preliminary injunction. Oral argument was heard on the motion for preliminary injunction on May 17, 2019 and a preliminary injunction was issued on May 24, 2019, in an opinion holding that plaintiffs established the likelihood that the Executive lacked statutory authority to shift funds for a border wall in light of Congress's refusal to appropriate such funds. Several other similar lawsuits have been filed, including by El Paso County focusing on the Texas border (*El Paso County v. Trump* (19-066, W.D. Tex.), by Citizens for Responsibility and Ethics in Washington (CREW) in Washington, D.C. (*CREW v. Department of Justice*, 19-398, D.D.C.) seeking documents from DOJ related to the national emergency declaration, and by the U.S. House of Representatives focusing on separation of powers under the Constitution (*U.S. House of Reps. v. Mnuchin*, 19-969). On June 28, the district court entered final judgment in favor of the plaintiffs and denied the defendants' request to stay the injunction pending appeal. On July 3, 2019, the Ninth Circuit denied the defendants' motion to stay the preliminary injunction. On July 12, 2019, the federal government filed an emergency motion to stay the injunction in the Supreme Court, and on July 19, plaintiffs filed an opposition. On July 26, 2019, the Supreme Court agreed to fully stay the district court's injunction, thus effectively allowing the Administration to divert funds to build or reinforce barriers along the border while the lawsuit is pending. On December 11, 2019, the district court granted in part and denied in part plaintiffs' motions for summary judgment and denied defendant's motion for summary judgment. The court issued a permanent injunction that prohibits the federal government from using military construction funds to build a border wall in particular areas. That decision has been cross-

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Executive Order on Emergency at the U.S.-Mexico Border (continued)	appealed. After briefing was complete, the Ninth Circuit held oral argument on March 10, 2020.
Executive Order on Offshore Drilling (Executive Order issued April 28, 2017)	• **County is Monitoring:** *League of Conservation Voters v. Trump* (17-101, D. Alaska; 19-35460, 9th Cir.; 19-35461, 9th Cir.; 19-35462, 9th Cir.): filed on May 3, 2017 in Alaska federal court by various environmental groups challenging President Trump's Executive Order reversing prior ban on oil and gas leasing in portions of the Arctic and Atlantic Oceans. The court permitted the American Petroleum Institute and the State of Alaska to intervene. On March 19, 2018, the court denied motions to dismiss brought by the federal government and intervenors. Both parties moved for summary judgment. On March 29, 2019, the district court granted the plaintiffs' motion for summary judgment. Defendants have appealed the decision. Briefing in the appeal is complete and oral argument is scheduled for June 5, 2020 via telephone.
Executive Order on Religious Freedom (Executive Order issued May 4, 2017)	• **Case Concluded/County was Monitoring:** *Freedom from Religion Foundation v. Trump* (17-330, W.D. Wis.): filed on May 4, 2017 in Wisconsin federal court to challenge President Trump's Executive Order Promoting Free Speech and Religious Liberty, which directs the IRS not to enforce the Tax Code's ban on political endorsements by nonprofit churches and religious organizations, while permitting the ban to be enforced against secular nonprofits. On December 13, 2017, plaintiffs voluntarily dismissed the case.
Freedom of Information Act (FOIA)	• **County is Monitoring:** *Knight First Amendment Ins. at Columbia Univ. v. U.S. Dep't of Homeland Security* (17-7572, S.D.N.Y.): filed on October 4, 2017 in New York federal court, seeking the release of documents about the federal government's claimed authority to engage in "extreme vetting" of immigrants and exclude or remove non-citizens from the country based on speech, beliefs, and associations. On March 14, 2018, the plaintiff filed an amended complaint to add ICE as a defendant in the case. The federal government has

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Freedom of Information Act (FOIA) (continued)	produced responsive documents. On September 23, 2019, the district court issued a summary judgment ruling, holding that ICE had not conducted an adequate search of its records and that the Department of State had improperly withheld documents, but granting judgment to defendants on the plaintiffs' other claims. The federal government has moved for reconsideration. While that motion is pending, the parties continue to file monthly joint status reports regarding DHS's compliance with the district court's order that it conduct an adequate search and produce any additional responsive documents. • Hundreds of other FOIA lawsuits have been filed since President Trump's inauguration. These lawsuits seek records related to President Trump's executive orders, surveillance warrant applications, EPA Administrator Scott Pruitt, U.S.-China relations, the CIA's Twitter account, DHS border searches, the U.S. missile attack on Syria, the U.S. raid in Yemen, the Trusted Traveler program, the Affordable Care Act, and federal coal leasing, among other areas.
Gun Control	• **Case Concluded/County was Monitoring:** *City of New York v. U.S. Dep't of Defense* (17-1464, E.D. Va.; 18-1699, 4th Cir.): On December 22, 2017 in Virginia federal court, San Francisco, New York, and Philadelphia filed a lawsuit alleging that the Department of Defense failed to comply with its obligations to report to the FBI's national criminal background check system for gun licensing and sales. The lawsuit seeks an injunction and judicial oversight to ensure that the Department complies with its obligations. Plaintiffs sought a preliminary injunction and DOD moved to dismiss the lawsuit. On April 24, 2018, the court granted DOD's motion to dismiss and denied the plaintiffs' motion for a preliminary injunction. The plaintiffs appealed. On January 16, 2019, the Fourth Circuit affirmed the district court's ruling.
H-1B Visas	• **County is Monitoring:** *ITServe Alliance v. USCIS* (18-2350, D.D.C.; 20-5132, D.C. Cir.): ITServe Alliance, a non-profit trade association with more than 1,000 members, has sued USCIS arguing that USCIS is violating its own regulations by issuing H-1B visas with

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
H-1B Visas (continued)	durations of less than 3 years and that USCIS lacks authority to demand itineraries from H-1B visa applicants. The defendants filed a motion to dismiss. On February 11, 2019, the district court stayed the briefing on the motion to dismiss and the parties subsequently submitted summary judgment motions. On March 10, 2020, the district court denied the motion to dismiss as moot and granted in part and denied in part both parties' summary judgment motions. The district court remanded to the agency the visa applications for reconsideration in no more than 60 days. The government has appealed to the D.C. Circuit.
High-Speed Rail	• **County is Monitoring**: *California v. Department of Transportation* (19-2754, N.D. Cal.): On May 21, 2019, California sued challenging the federal government's decision to terminate nearly $1 billion in grant funding that had been designated for California's high-speed rail project. California argues that the department failed to follow the proper procedures before terminating the grants. The parties had a settlement conference on March 5, 2020.
Immigrant Legal Representation	• **County is Monitoring:** *Northwest Immigrant Rights Project v. Sessions* (17-716, W.D. Wash.): filed on May 8, 2017 in Washington federal court by NWIRP challenging a DOJ cease-and-desist letter asking NWIRP to stop providing limited representation to immigrants in deportation proceedings. On May 17, 2017, the court issued a temporary restraining order barring DOJ from enforcing its cease-and-desist letter. On July 27, 2017, the court granted NWIRP's motion converting the temporary restraining order into a nationwide preliminary injunction that will remain in place until final resolution of the case. The federal government filed a motion to dismiss the case. On December 19, 2017, the district court dismissed the plaintiffs' Tenth Amendment claims but allowed the plaintiffs' First Amendment claims to proceed. A settlement conference was held on September 18, 2018. On November 29, 2018, the district court stayed the action pending further settlement negotiations. On February 1, 2019, the district court extended the stay

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Immigrant Legal Representation (continued)	until March 28, 2019. On April 11, 2019, the court extended the stay until April 17, 2019. And on April 18, 2019, the district court stayed the action until March 2, 2020 while DOJ undertakes a rulemaking process to finalize a settlement agreement between the parties. On March 1, 2020, the district court stayed the action through June 1, 2020.
New York Lawsuit Regarding "Global Entry" Program	• **County is Monitoring:** *New York v. Wolf* (20-1127, S.D.N.Y.): On February 10, 2020, the state of New York filed suit against the federal government, challenging the DHS's decision to prohibit New York residents from enrolling or re-enrolling in the Trusted Traveler Program (i.e. "Global Entry") as what New York says is retribution for the state's immigration policies. New York alleges that the decision violates the 10th Amendment, Due Process, and the Administrative Procedure Act, and also constitutes coercion. The federal government moved to dismiss New York's constitutional claims on April 15, 2020. While that motion is being litigated, New York has also moved to compel the government to complete the administrative record.
Presidential Advisory Commission on Election Integrity	• **County is Monitoring:** *Dunlap v. Presidential Advisory Comm'n on Election Integrity* (17-2361, D.D.C.; 18-5266, 19-5051 D.C. Cir.): filed on November 9, 2017 in D.C. federal court by Matthew Dunlap, Secretary of State of Maine and one of the members of the Commission, alleging that the Commission did not provide him with documents and communications that were provided to other Commissioners, and that the Commission violated the Federal Advisory Committee Act's mandate that its members reflect a diversity of viewpoints. On December 22, 2017, the court issued a partial preliminary injunction and held that the Commission must provide better access to Dunlap. After the Commission was terminated, the federal government sought reconsideration of this order. On January 9, 2018, Dunlap sought a temporary restraining order to compel the Commission to, among other things, comply with the December 22 order, preserve all documents and communication relating to the Commission, and order the Commission to permit Dunlap to fully participate in all remaining Commission activities. On June 27,

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Presidential Advisory Commission on Election Integrity (continued)	2018, the court denied the plaintiffs' request for a temporary restraining order and denied the defendants' motion to reconsider the December 22 order. The federal government appealed the order to the D.C. Circuit. Per the district court's order, the defendants identified each category of commission documents withheld from the plaintiff, and the plaintiff indicated which documents he seeks. The appeal is being held in abeyance while the parties seek to narrow the scope of their disputes. On January 28, 2018, the district court ruled that the government had failed to fully comply with the district court's order requiring production. The government has appealed that ruling and is seeking a stay in the district court while the two consolidated appeals are heard. On June 21, 2019, the district court granted the defendants' motion to stay their obligation to produce emails that discuss Commission members pending the resolution of the appeal. Oral argument was set for November 18, 2019. In a per curiam decision issued on December 20, 2019, the D.C. Circuit denied the governments' consolidated appeals. • **Case Concluded/County Was Monitoring:** *Electronic Privacy Information Center v. Presidential Advisory Comm'n on Election Integrity* (17-1320, D.D.C.; 17-5171, D.C. Cir.)*:* filed on July 3, 2017 in D.C. federal court by privacy and civil liberties advocacy group against the Presidential Advisory Commission on Election Integrity, which was tasked by President Trump with studying registration and voting processes nationwide. The plaintiff sought an injunction halting the Commission's requests for personally identifiable voter data from all 50 states (which many states refused to provide), alleging federal due process and privacy violations. On July 24, 2017, the district court denied the plaintiff's motion for a preliminary injunction. On December 26, 2017, the D.C. Circuit upheld the denial of a preliminary injunction, concluding that the plaintiff did not have standing. On January 3, 2018, President Trump terminated the commission. The plaintiff sought rehearing en banc by the D.C. Circuit, or, in the alternative, asked the court to vacate the December 2017 Court of Appeals decision, dismiss the appeal as moot, and remand the case in light of the commission's termination. The court denied this request on

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Presidential Advisory Commission on Election Integrity (continued)	April 2, 2018. On July 19, 2018, the court denied the defendants' motion to dismiss and denied plaintiffs' motion for leave to file another amended complaint, concluding that no further adjudication in the case is necessary once the defendants complete the deletion of the state voter data collected by the commission.
Refugee Resettlement Executive Order 13888	• **County is Monitoring:** *HIAS, Inc. v. Trump* (19-3346, D. Md.; 20-1160, 4th Cir.): Several resettlement agencies challenged the Trump administration's executive order giving states and localities discretion to deny refugee resettlement in their respective jurisdictions. On January 15, 2020, the court granted a preliminary injunction blocking the executive order from taking effect. The government filed an interlocutory appeal on February 12, 2020, and the district court stayed proceedings pending resolution of that appeal.
Russian Influence in Election	• **Case Concluded/County was Monitoring:** *Democratic National Committee v. Russian Federation* (18-3501, S.D.N.Y.): filed in New York federal court on April 20, 2018 by the Democratic National Committee against the Russian government, the Trump campaign and associates, and WikiLeaks, alleging a conspiracy to influence the election. Plaintiffs filed an amended complaint on January 18, 2019. On March 4, 2019, defendants moved to dismiss. On July 30, 2019, the district court granted the motion to dismiss.
Supplemental Nutrition Assistance Program ("SNAP") Eligibility	• **County Submitted Comment to Regulatory Action**: On September 23, 2019, the County submitted a comment opposing the Department of Agriculture's proposed rule change that would vastly limit SNAP eligibility and result in reduced access to nutrition and more food insecurity in the County and across the nation. The County's comment detailed why the proposed rule is illegal, would irreparably harm the most vulnerable populations of children and families, and would impose massive costs and consequences on the County, other local and states governments, school districts, among others.

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Trump Foundation	• **County is Monitoring:** *New York v. Trump* (451130-2018, N.Y. Sup. Ct.): On June 14, 2018, the New York Attorney General filed a lawsuit against the Trump Foundation, alleging violations of campaign finance laws, self-dealing, and illegal coordination with Trump's presidential campaign. The lawsuit aims to dissolve the Trump Foundation. Defendants have moved to dismiss the case. The district court largely denied a motion to dismiss, dismissing only New York's request for injunctive relief on the basis that efforts were already being made to dissolve the foundation, rendering injunctive relief redundant. Defendants have appealed the ruling on the motion to dismiss. Defendants filed an answer on February 8, 2019. New York has moved for summary judgment and the motion is briefed and pending. The parties settled the case in November 2019. Under the terms of the settlement, the Trump Foundation was dissolved and the Foundation's remaining liquid assets will be distributed to other non-profit organizations.
Twitter Account	• **County is Monitoring:** *Knight First Amendment Institute v. Trump* (17-5205, S.D.N.Y.; 18-1691, 2d Cir.): lawsuit filed on July 11, 2017 in New York federal court, challenging President Trump's practice of "blocking" Twitter users who criticize him or his policies as viewpoint-based discrimination that violates the First Amendment. The parties filed cross-motions for summary judgment. On May 23, 2018, the court held that users may not be blocked by the @POTUS, @WhiteHouse, or @RealDonaldTrump accounts in response to their expressed political views. The court declined to order President Trump or White House Social Media Director Daniel Scavino to unblock the blocked users, while recognizing its ability to, at minimum, issue injunctive relief against Scavino. Instead, on the basis that government officials are presumed to follow the law once the judiciary says what the law is, the court issued only declaratory relief and noted that it "must assume" that the President and Scavino will remedy the unconstitutional blocking. The defendants appealed to the Second Circuit. On July 9, 2019, the Second Circuit affirmed the district

Current Litigation Challenging Federal Actions

Issue/Federal Action Challenged	Cases and Outcomes
Twitter Account (continued)	court's decision. On August 23, 2019, the defendants filed a petition for rehearing or rehearing en banc, which was denied March 23, 2020.

2218504

County of Santa Clara
Federal Affairs Advocacy Task Force

Supervisor S. Joseph Simitian, Chairperson. Supervisor Dave Cortese, Vice Chairperson.

By Virtual Teleconference Only

DATE: May 6, 2020, Regular Meeting
TIME: 10:00 AM
PLACE: By Virtual Teleconference Only

MINUTES

Opening

1. Call to Order.

Chairperson Simitian called the meeting to order at 10:06 a.m. A quorum was present via teleconference, pursuant to the provisions of Executive Order N-29-20 issued on March 17, 2020 by the Governor of the State of California.

Attendee Name	Title	Status	Arrived
Dave Cortese	Vice Chairperson	Remote	
S. Joseph Simitian	Chairperson	Remote	

2. Public Comment. (ID# 101308)

No public comments were received.

3. Approve Consent Calendar and changes to the Task Force's agenda. (ID# 101309)

3 RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

Regular Agenda - Items for Discussion

4. Receive verbal reports from Chairperson and Vice Chairperson relating to items of interest to the Task Force.

Chairperson Simitian and Vice Chairperson Cortese advised of ongoing informal communication with congressional representatives.

4 RESULT:	**RECEIVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

5. Receive verbal report from the Office of the County Executive relating to items of interest to the Task Force.

Jeffrey V. Smith, County Executive, provided a brief report noting concerns relating to federal funding.

5 RESULT:	**RECEIVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

6. Receive report from the Office of the County Counsel relating to items of interest to the Task Force. (ID# 101242)

Kavita Narayan, Deputy County Counsel, advised of litigation relating to United States Citizenship and Immigration Services-issued guidance that the Public Charge Rule does not apply to individuals with immigration status concerns who seek publicly-funded testing and medical treatment for COVID-19, while the rule does apply for those who seek publicly-funded medical benefits unrelated to COVID-19.

Ms. Narayan further advised of litigation relating to public safety concerns regarding Net Neutrality Rules, and noted that Administration intends to submit comments when feasible.

6 RESULT:	**RECEIVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

7. Receive report from the Office of the County Executive relating to Federal legislative action in response to COVID-19. (ID# 101294)

Danielle Christian, Legislative Manager, Office of the County Executive, provided a summary of four federally-approved relief packages in response to the coronavirus outbreak.

Elizabeth Hart Thompson, Managing Director, Marty Paone, Senior Advisor, and Rich Meade, Vice Chairperson, Prime Policy Group, advised of federal negotiations relating to a possible fifth federal relief package.

7 RESULT:	**RECEIVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

8. Receive verbal report from the Office of the County Executive relating to gaps in Federal health and human services and programs due to COVID-19, including healthcare financing policies and food insecurity.

Considered concurrently with Item No. 9.

Rene Santiago, Director, Santa Clara Valley Health and Hospital System, advised of hospital system reimbursement opportunities through the renewal of the Section 1115 Medicaid Waiver and the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Burt Margolin, President, Margolin Group, provided an overview of impacts relating to the health insurance market due to COVID-19.

Vice Chairperson Cortese requested that Administration include visual aids within the preliminary budget overview relating to Medicaid and associated funding allocations.

Robert Menicocci, Director, Social Services Agency, provided an overview of food assistance available through the Supplemental Nutrition Assistance Program (SNAP).

Chairperson Simitian requested that Administration provide an off-agenda report to the Task Force on date uncertain relating to food insecurity on college campuses including student eligibility and enrollment into SNAP.

On motion of Vice Chairperson Cortese, seconded by Chairperson Simitian, the Task Force voted unanimously to receive the reports for Item Nos. 8 and 9.

Vice Chairperson Cortese left his seat at 11:36 a.m. and quorum was lost. Chairperson Simitian stayed to hear reports and public comment but took no action on behalf of the Task Force.

8 RESULT:	**RECEIVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

9. Receive verbal report from the Office of the County Executive relating to financial challenges for local jurisdictions due to COVID-19, including Federal distribution formulas and revenue losses.

Considered concurrently with Item No. 8.

Mr. Meade provided an overview of mortgage forbearance as described in the CARES Act. In response, Chairperson Simitian requested that Supervisorial District Five staff contact Prime Policy Group to gather additional information relating to the eviction moratorium provision in the CARES Act.

9 RESULT:	**RECEIVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

Consent Calendar

10. Approve minutes of the February 5, 2020 Regular Meeting.

10 RESULT:	**APPROVED [UNANIMOUS]**
MOVER:	Dave Cortese, Vice Chairperson
SECONDER:	S. Joseph Simitian, Chairperson
AYES:	Cortese, Simitian

Adjourn

11. Adjourn to the next regular meeting on Wednesday, June 3, 2020 at 10:00 a.m. in the Board of Supervisors' Chambers, County Government Center, 70 West Hedding Street, San Jose.

Chairperson Simitian concluded hearing reports and public comments at 12:09 p.m.

Respectfully submitted,

Colin Kutch

Deputy Clerk of the Board