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17 UNITED STATES DISTRICT COURT

18 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

20 U.S. WECHAT USERS ALLIANCE,
CHIHUO INC., BRENT COULTER,
21 FANGYI DUAN, JINNENG BAO, ELAINE
PENG, and XIAO ZHANG,

22 Plaintiffs,

23 v.

24 DONALD J. TRUMP, in his official capacity
as President of the United States, and
25 WILBUR ROSS, in his official capacity as
Secretary of Commerce,

26 Defendants.
27

Case No. 3:20-cv-05910-LB

DECLARATION OF MICHAEL W. BIEN

Filed Concurrently with Opposition to Motion
to Shorten Time

Judge: Hon. Laurel Beeler

Trial Date: None Set

28 I, Michael W. Bien, declare:

1 1. I am an attorney duly admitted to practice before this Court. I am a partner
2 in the law firm of Rosen Bien Galvan & Grunfeld LLP, counsel of record for Plaintiffs. I
3 have personal knowledge of the facts set forth herein, and if called as a witness, I could
4 competently so testify. I make this declaration based in support of Opposition to
5 Defendants' Motion to Shorten Time.

6 2. On September 24, 2020, I received an email from Serena Orloff, counsel for
7 Defendants in this matter, asking if Plaintiffs would stipulate to shortened time for a stay
8 motion, with a ruling to be requested from this Court seven days after the government files
9 its motion. *See* Dkt. 69-1 at ECF page 6.

10 3. Because I was in a multi-hour court hearing when Ms. Orloff's email arrived
11 I was not able to call her back until the afternoon of September 24. I emailed her during
12 the hearing to so inform her and told her I would be available to speak with her at 2 p.m.
13 She agreed that we could conduct the meet and confer required by the Local Rules at 2
14 p.m.

15 4. When I reached her, I informed Ms. Orloff that three attorneys working on
16 this matter including myself are currently on vacation, and that I personally was already
17 working on an emergency brief due on September 25, 2020 in *Coleman v. Newsom*, No.
18 90-520 KJM (E.D. Cal.). I also reminded Ms. Orloff that Monday is Yom Kippur.
19 Despite all of these factors I offered to compromise on the briefing schedule, so that
20 instead of the 14 days set out in the Local Rules, we would respond to the stay motion
21 within 7 days after they file it.

22 5. I asked Ms. Orloff if the government intended to present new evidence with
23 their stay motion, and she responded that they did. I informed her that this was another
24 reason we would not be able to respond without a reasonable period of time to review their
25 new evidence.

26 6. During our conversation Ms. Orloff did not mention any emergency that
27 would justify shortening time beyond what I had offered to stipulate to. Ms. Orloff
28 informed me that the government had not yet made the decision to appeal the preliminary

1 injunction in that “higher ups” had not given their approval.

2 7. After the conversation, I memorialized it in an email which is set forth in
3 Dkt. 69-1 at ECF pages 3-4. I wrote in my email that I had understood Ms. Orloff to say
4 that the reason for the emergency briefing was to keep “all options open” for defendants.
5 Ms. Orloff wrote back to say that she disputed saying anything about keeping all options
6 open. *See* Dkt. 69-1 at ECF page 3. I stand corrected. I did surmise from my
7 conversation with Ms. Orloff, since Defendants had not yet even obtained permission to
8 appeal, that filing a motion to stay at this time was protective in nature to preserve the
9 Government’s litigation options.

10

11 I declare under penalty of perjury under the laws of the United States of America
12 that the foregoing is true and correct, and that this declaration is executed at San Francisco,
13 California this 25th day of September, 2020.

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/s/ Michael W. Bien
Michael W. Bien

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