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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

STATE OF CALIFORNIA, by and through Attorney General Xavier Becerra; COUNTY OF LOS ANGELES; CITY OF LOS ANGELES; CITY OF FREMONT; CITY OF LONG BEACH; CITY OF OAKLAND; CITY OF STOCKTON, Plaintiffs, **v.** **WILBUR L. ROSS, JR., in his official capacity as Secretary of the U.S. Department of Commerce; U.S. DEPARTMENT OF COMMERCE; RON JARMIN, in his official capacity as Acting Director of the U.S. Census Bureau; U.S. CENSUS BUREAU; DOES 1-100,** Defendants.	3:18-cv-01865 **DECLARATION OF R. MATTHEW WISE IN SUPPORT OF PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** Date: December 7, 2018 Time: 10:00 a.m. Dept: 3 Judge: The Honorable Richard G. Seeborg Trial Date: January 7, 2019 Action Filed: March 26, 2018

DECLARATION OF R. MATTHEW WISE

I, R. Matthew Wise, declare as follows:

1. I am a Deputy Attorney General with the California Department of Justice, duly licensed to practice law in the State of California. I am counsel of record in this action for the State of California. I make this declaration in support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment. I have personal knowledge of the facts stated herein and, if called upon to do so, could and would testify competently thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of an email I received from Defendants' counsel on November 14, 2018. In this email, Defendants' counsel confirmed that they will take the same position on the final scope of the administrative record as they ultimately take in the New York action. At this time, the scope of the administrative record includes documents produced by Defendants bearing Bates label numbers 000001 through 0013024 and documents stipulated to in the Joint Stipulation Regarding Scope of Administrative Record, *State of N.Y. v. U.S. Dept. of Commerce*, No. 1:18-cv-2921 (S.D.N.Y.), ECF No. 523, and the Second Joint Stipulation Regarding Scope of Administrative Record, ECF No. 524. ECF Nos. 523 and 524 are attached as **Exhibit 2** and **Exhibit 3**, respectively.

3. Attached hereto as **Exhibit 4** is a true and correct copy of an excerpt of selected documents from the administrative record. The excerpted documents are those cited in Plaintiffs' Opposition to Defendants' Motion for Summary Judgment. The excerpted documents are listed individually in the table of contents attached to this declaration.

4. Attached hereto as **Exhibit 5** is a true and correct copy of U.S. Census Bureau, *U.S. Census Bureau Statistical Quality Standards* (July 2013), Exhibit 3 to the Deposition of Hermann Habermann, which was held on October 12, 2018.

5. Attached hereto as **Exhibit 6** is a true and correct copy of the 1950 Census Questionnaire, Exhibit 3 to the Deposition of John Abowd, held on August 29, 2018.

6. Attached hereto as **Exhibit 7** is a true and correct copy of a draft letter to Representative Carolyn Maloney, Exhibit 25 to the Deposition of John Gore, held on October 16, 2018.

8. Attached hereto as **Exhibit 8** is a true and correct copy of Brown, J. David et al., *Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census* (Aug. 6, 2018), Bates labeled COM_DIS00009833-COM_DIS00009909.

9. Attached hereto at **Exhibit 9** are true and correct copies of excerpts from the following deposition transcripts:

- Deposition Transcript of John Abowd, Washington, D.C., August 15, 2018;
- Deposition Transcript of the Census Bureau's 30(b)(6) Witness, John Abowd, Washington, D.C., August 29, 2018;
- Deposition Transcript of the Census Bureau's 30(b)(6) Witness, John Abowd, Washington, D.C., October 5, 2018;
- Deposition Transcript of the Census Bureau's Expert Witness, John Abowd, Washington, D.C., October 12, 2018;
- Deposition Transcript of Earl Comstock, Washington D.C., August 30, 2018;
- Deposition Transcript of John Gore, Washington D.C., October 16, 2018;
- Deposition Transcript of the Census Bureau's Expert Witness, Stuart Gurrea, San Francisco, California, October 24, 2018;
- Deposition Transcript of Hermann Habermann, Washington D.C., October 12, 2018;
- Deposition Transcript of Karen Dunn Kelley, Washington D.C., August 28, 2018;
- Deposition Transcript of David Langdon, Washington D.C., October 26, 2018;
- Deposition Transcript of Colm O'Muircheartaigh, Chicago, Illinois, October 19, 2018; and
- Deposition Transcript of Sahra Park-Su, Washington D.C., October 25, 2018.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 16, 2018 at Sacramento, California.

/s/ *R. Matthew Wise*
R. Matthew Wise

DECLARATION OF R. MATTHEW WISE

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Exhibit	Document Description	Bates or Excerpt Pages
Administrative Record		
1	Email dated November 14, 2018, from Defendants' counsel confirming the scope of the administrative record	None
2	Joint Stipulation Regarding Scope of Administrative Record, *State of N.Y. v. U.S. Dept. of Commerce*, No 1:18-cv-2921 (S.D.N.Y.), ECF No. 523	None
3	Second Joint Stipulation Regarding Scope of Administrative Record, *State of N.Y. v. U.S. Dept. of Commerce*, No 1:18-cv-2921 (S.D.N.Y.), ECF No. 524	None
4	U.S. Census Bureau, *Subjects Planned for the 2020 Census and American Community Survey* (March 2017)	AR 194-270
4	Letter from A. Gary to J. Thompson Re: "Legal Authority for American Community Survey Questions" (Oct. 4, 2016)	AR 311-316
4	Letter from A. Gary to R. Jarmin, Re: "Request to Reinstate Citizenship Question on 2020 Census Questionnaire" (Dec. 12, 2017)	AR 663-665
4	Email from K. Kobach to W. Teramoto, Subject: "Follow up on our phone call" (July 24, 2017)	AR 763-764
4	Letter from Former Census Bureau Directors to Secretary Ross Re: Citizenship Question Addition Without Pretesting (Jan. 26, 2018)	AR 1057-1058
4	Memorandum from J. Abowd to W. Ross, Subject: "Preliminary analysis of Alternative D (Combined Alternatives B and C)" (March 1, 2018)	AR 1277-1285
4	Questions on the Jan 19 Draft Census Memo on the DoJ Citizenship Question Reinstatement Request (No Date)	AR 1286-1297
4	Memorandum from J. Abowd to W. Ross, Subject: "Preliminary analysis of Alternative D (Combined Alternatives B and C)" (March 1, 2018)	AR 1308-1312
4	Memorandum from Secretary Ross to Karen Dunn Kelley Re: "Reinstatement of Citizenship Question on	AR 1313-1320

Exhibit	Document Description	Bates or Excerpt Pages
	the 2020 Decennial Census Questionnaire" (March 26, 2018)	
4	Supplemental Memorandum by Secretary Ross Regarding the Administrative Record in Census Litigation (June 21, 2018)	AR 1321
4	Email from E. Comstock to W. Teramoto, Subject: "Calls with DoJ" (Sept. 16, 2017)	AR 2458
4	Email from E. Comstock to [REDACTED], Subject: "Call today to discuss DoC Issues" (May 4, 2017)	AR 2462
4	Email from E. Comstock to Secretary Ross, Subject: "Your Question on the Census" (Mar. 10, 2017)	AR 2521-2523
4	Email from B. Alexander to H. Ross, Subject: "tonight" (Apr. 5, 2017)	AR 2561
4	Emails between W. Teramoto, D. Cutrona, J. Gore, Subject: "Re: Call" (Sept. 18, 2017)	AR 2636
4	Email from D. Cutrona to W. Teramoto, Subject: "Re: Call" (Sept. 18, 2017)	AR 2651-2652
4	Email from D. Cutrona to W. Teramoto, Subject: "Re: Call" (Sept. 17, 2017)	AR 2653-2654
4	Email from J. Abowd to R. Jarmin, Subject: "Re: DOJ Letter" (Dec. 15, 2017)	AR 3354-3355
4	Email from R. Jarmin to K. Kelley, Subject: "DOJ" (Feb. 6, 2018)	AR 3460
4	Email from B. Alexander to E. Comstock and W. Teramoto, Re: "we must get our issue resolved" (Apr. 20, 2017)	AR 3694
4	Email from E. Comstock to E. Branstad, Subject: "Re: DOJ contact" (May 4, 2017)	AR 3701
4	Calendar Invite from J. Uthmeier to E. Comstock, Subject: "Accepted: HOLD: Meet with James re Census and Citizenship" (June 27, 2017)	AR 3705
4	Email between E. Comstock and Secretary Ross, Subject: "Re: Census" (May 2, 2017)	AR 3710
4	Talking Points Memorandum (No Date)	AR 3890-3891
4	Email from E. Comstock to W. Ross, Subject: "Re: [REDACTED]" (Aug. 8, 2017)	AR 4004

Exhibit	Document Description	Bates or Excerpt Pages
4	PowerPoint Presentation titled, "Submission of the 2020 Census and American Community Survey Questions to Congress" (Feb. 2018)	AR 4773-4797
4	Email from R. Jarmin to K. Kelley and E. Lamas, Subject: "Fw: Question" (Feb. 13, 2018)	AR 4853-4856
4	Email from R. Jarmin to A. Gary, Subject: "Re: Request to Reinstate Citizenship Question on 2020 Census Questionnaire" (Jan. 3, 2018)	AR 5489-5491
4	2020 Census: Adding Content to the Questionnaire (No Date)	AR 9865
4	Memorandum from Center for Survey Measurement (CSM) to the Associate Directorate for Research and Methodology, Subject: "Respondent Confidentiality Concerns" (Sept. 20, 2017)	AR 10386DRB-10393DRB
4	Memorandum from M. Berning, et al., to J. Abowd, Re: Alternative Sources of Citizenship Data for the 2020 Census (Dec. 22, 2017)	AR 11634-11645
4	Email between W. Ross and E. Comstock, Subject: "Re: Census Matter" (Aug. 10, 2017)	AR 12476
4	Memorandum from E. Comstock to W. Ross, Subject: "Census Discussions with DoJ" (Sept. 8, 2017)	AR 12756
4	2020 CBAMS Focus Groups – Audience Summary Report	AR 13025-13055
Discovery		
5	U.S. Census Bureau, *U.S. Census Bureau Statistical Quality Standards* (July 2013) (Habermann Dep., Ex. 3)	None
6	1950 Census Questionnaire (Abowd Dep. [Aug. 29, 2018], Ex. 3)	None
7	Draft Letter to Representative Carolyn Maloney (Gore Dep., Ex. 25)	None
8	Brown, J. David et al., *Understanding the Quality of Alternative Citizenship Data Sources for the 2020 Census* (Aug. 6, 2018)	COM_DIS00009833-COM_DIS00009909
9	Excerpts of the Deposition Transcript of John Abowd, Washington, D.C., August 15, 2018	1, 9, 12-13, 59-60, 83-84, 169, 338

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9	Excerpts of the Deposition Transcript of Census Bureau's 30(b)(6) Witness, John Abowd; Washington, D.C., October 5, 2018	340, 349, 358, 426-430, 465
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9	Excerpts of the Deposition Transcript of John Gore, Washington D.C., October 16, 2018	1, 8-11, 226-228, 267-268, 271-272, 298-300, 422, 450
9	Excerpts of the Deposition Transcript of Census Bureau's Expert Witness, Stuart Gurrea, October 24, 2018	1, 7-8, 32, 103-104, 121-122, 233
9	Excerpts of the Deposition Transcript of Hermann Habermann, Washington D.C., October 12, 2018	1, 6, 32-34, 56
9	Excerpts of the Deposition Transcript of Karen Dunn Kelley, Washington D.C., August 28, 2018	1, 8-9, 99-101, 172-179, 209-213, 252-258, 363
9	Excerpts of the Deposition Transcript of David Langdon, Washington D.C., October 26, 2018;	1, 11, 121-123, 301
9	Excerpts of the Deposition Transcript of Colm O'Muircheartaigh, Chicago, Illinois, October 19, 2018	1-2, 6, 68-73, 78-82, 181-182
9	Excerpts of the Deposition Transcript of Sahra Park-Su, Washington D.C., October 25, 2018	1, 14, 127, 188, 190-191, 209