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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

NOVEDADES Y SERVICIOS, INC. and
ESPERANZA GOMEZ ESCOBAR,
Plaintiffs,
v.
FINANCIAL CRIMES ENFORCEMENT
NETWORK, et al.,
Defendants.

Case No.: 25-CV-886 JLS (DDL)
**ORDER GRANTING DEFENDANTS’
MOTION TO STAY DISTRICT
COURT PROCEEDINGS PENDING
APPEAL**
(ECF No. 62)

Presently before the Court is Defendants’ Motion to Stay District Court Proceedings Pending Appeal (“Mot.,” ECF No. 62), which was filed *ex parte* on July 22, 2025. Plaintiffs filed an Opposition to Defendants’ Motion to Stay (“Opp’n,” ECF No. 63) the next day, and on July 25, 2025, Defendants filed a Reply (“Reply,” ECF No. 64). Having considered the Parties’ arguments and the law, the Court **GRANTS** Defendants’ Motion.

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BACKGROUND

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2 The factual background is well known to the Parties and the Court; accordingly, the
3 Court does not repeat it here but rather incorporates by reference the factual background as
4 detailed in the Court’s May 21, 2025 Order. *See* ECF No. 47 (“Order”) at 3–12.

5 On May 21, 2025, the Court issued an Order articulating the reasoning supporting
6 its bench ruling—issued on May 15, 2025, ECF No. 45—granting Plaintiffs’ request for a
7 preliminary injunction. In the Order, the Court found that Plaintiffs were likely to succeed
8 on the merits of several of their claims under the Administrative Procedure Act and that
9 the balance of the *Winter* factors weighed in favor of granting preliminary injunctive relief.
10 Order at 2. Recognizing that there were two companion cases proceeding in parallel in the
11 Western District of Texas, the Order covered a statewide scope that was limited to all
12 regulated entities located in the Southern District of California. *Id.* at 51.

13 On July 8, 2025, on a joint request by all Parties, the Court entered a briefing
14 schedule setting deadlines for the Parties to file cross-motions for summary judgment
15 running through the end of this calendar year. ECF No. 57. Specifically, Plaintiffs’
16 summary judgment motion was set to be due by July 30, 2025, Defendants’ cross-motion
17 and opposition by September 29, 2025, the Parties’ respective reply and response briefs by
18 November 13, 2025, and Defendants’ reply by December 4, 2025. *Id.*

19 That same day, Defendants noticed an interlocutory appeal of the Order to the Ninth
20 Circuit Court of Appeals. ECF No. 56. Moving expeditiously, the Ninth Circuit set an
21 accelerated briefing schedule, with opening and answering briefs due August 6, 2025, and
22 September 3, 2025, respectively. *Novedades y Servicios, Inc. v. Fin. Crimes Enf’t Network*,
23 No. 25-4238 (9th Cir. July 9, 2025), Dkt. No. 2. An argument date for that appeal is yet to
24 be scheduled.

25 Defendants, over one week later and acting *ex parte*, requested a stay of district court
26 proceedings pending appeal in light of the anticipated overlap between the legal issues
27 presented on appeal and those expected on summary judgment. ECF No. 60. The Court
28 denied that request on procedural grounds, noting that Defendants, for the third time in just

1 over one month, had violated the Civil Local Rule governing *ex parte* procedures. ECF
2 No. 61 at 2. The Court went on to suggest that *ex parte* relief was likely unnecessary in
3 this situation based on the absence of any immediately pressing deadlines lying in wait for
4 Defendants in this Court. *Id.* at 3 (“And the Government is advised to reconsider whether
5 *ex parte* relief is necessary in this situation, or whether the usual briefing schedule for a
6 noticed motion is the more appropriate course.”). Nevertheless, after almost another week
7 elapsed, Defendants filed another *ex parte* request to stay these proceedings pending
8 appeal. Mot. Plaintiffs opposed the request the following morning. Opp’n.

9 LEGAL STANDARD

10 Ordinarily, district courts are directed “to proceed to trial and otherwise move
11 towards a final judgment” when a preliminary injunction is challenged on interlocutory
12 appeal. *Melendres v. Arpaio*, 695 F.3d 990, 1103 (9th Cir. 2012). But it is well established
13 that the “power to stay proceedings is incidental to the power inherent in every court to
14 control the disposition of the causes on its docket with economy of time and effort for itself,
15 for counsel, and for litigants.” *Landis v. N. Am. Co.* 299 U.S. 248, 254 (1936). Such
16 discretion is routinely exercised “in the interests of efficiency and fairness when a ‘pending
17 resolution of independent proceedings bears upon the case.’” *Flores v. Bennett*,
18 675 F. Supp. 3d 1052, 1060 (E.D. Cal. 2023) (citation modified) (quoting *Leyva v.*
19 *Certified Grocers of Cal. Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979)).

20 Courts in the Ninth Circuit are apparently split as to the proper standard to apply
21 when assessing the appropriateness of staying proceedings pending appeal. On one hand,
22 some courts apply the four-part test derived from *Nken v. Holder*, 556 U.S. 418 (2009),
23 which governs a request to stay an injunction pending appeal. *See Kuang v. U.S. Dep’t of*
24 *Def.*, No. 18-cv-03698-JST, 2019 WL 1597495, at *2 (N.D. Cal. Apr. 15, 2019). Other
25 courts, by contrast, employ *Landis*, which “applies to stays of proceedings pending the
26 resolution of a related action in another court.” *Flores*, 675 F. Supp. 3d at 1056. The Ninth
27 Circuit has not addressed the split, but district courts “have overwhelmingly concluded that
28 the *Landis* test or something similar governs.” *Kuang*, 2019 WL 1597495, at *2.

1 The Court elects to adopt the *Landis* test along with most of its peers. Under *Landis*,
2 the relevant factors are “[1] the possible damages which may result from the granting of a
3 stay, [2] the hardship or inequity which a party may suffer in being required to go forward,
4 and [3] the orderly course of justice measured in terms of the simplifying or complicating
5 of issues, proof, and questions of law which could be expected to result from a stay.”
6 *Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (quoting *Landis*, 299 U.S.
7 at 268). Weighing these factors, the Court “may order a stay of the action pursuant to its
8 power to control its docket and calendar” when justice so demands. *Leyva*, 593 F.2d
9 at 864.

10 ANALYSIS

11 Defendants seek a stay of all proceedings in this Court pending appeal of the
12 preliminary injunction largely based on the overlap between the legal issues presented here
13 and those presented on appeal. Mot. at 2. The Ninth Circuit’s resolution of those issues,
14 Defendants argue, “could control the outcome of this case.” *Id.* And a stay, in Defendants’
15 view, “will promote efficiency, conserve judicial and party resources, and avoid
16 inconsistent rulings.” *Id.*

17 Plaintiffs resist primarily on the ground that there is a possibility that the Ninth
18 Circuit would not reach the ultimate merits of the legal issues in dispute, potentially
19 limiting its review to certain threshold issues like the scope of relief. Opp’n at 4. And if
20 that is the eventual outcome on appeal, Plaintiffs argue that they could be harmed “by
21 deferring final resolution of the litigation.” *Id.* at 5. That harm would arise, Plaintiffs say,
22 in the event the injunction is dissolved in whole or in part at this preliminary stage and the
23 merits end up in their favor at the final stage. *Id.* In that case, there would be “an
24 unnecessary gap where at least some California businesses once again are forced to comply
25 with an unlawful agency action before this Court can enter final judgment.” *Id.* at 6.

26 In their Motion, Defendants adopt the *Nken* factors as establishing the correct
27 analytical framework for resolving the instant Motion, but Plaintiffs opt for the *Landis*
28 approach. Either way, the factors closely track one another, so the Court finds that it can

1 resolve this issue on Defendants’ own terms even though it will do so under the *Landis*
2 factors.¹ As explained below, those factors weigh in favor of granting a stay.

3 **A. Balance of Hardships**

4 “Under the first two *Landis* factors, ‘the Court must balance the hardships of the
5 parties if the action is stayed or if the litigation proceeds.’” *Flores*, 675 F. Supp. 3d at 1060
6 (quoting *Manriquez v. DeVos*, No. 17-CV-07210-SK, 2018 WL 5316174, at *2 (N.D. Cal.
7 Aug. 30, 2018)). Defendants argue that, absent a stay, “the Government will be required
8 to expend substantial effort and public resources to develop legal strategy and draft legal
9 arguments” that “may be rendered moot by the outcome of proceedings before the Court
10 of Appeals, and which may then have to be duplicated in later briefings in this Court.”
11 Mot. at 5. Plaintiffs, meanwhile, argue that if this case is stayed, they could face the
12 prospect of having the preliminary injunction vacated on appeal, in whole or in part, even
13 though it remains possible for the challenged governmental action to be held unlawful on
14 the ultimate merits. Opp’n at 6. Such circumstances, they say, would “lead[] to an
15 unnecessary gap where at least some California businesses once again are forced to comply
16 with an unlawful agency action before this Court can enter final judgment.” *Id.*

17 The Parties’ arguments on the balance of hardships cancel each other out. With
18 respect to the prejudice to Defendants in the absence of a stay, such prejudice is minimal.
19 As the Parties have already agreed, this case presents purely legal issues that can be
20 adjudicated without the need for any discovery before briefing summary judgment. *See*
21 ECF No. 55 at 2 (“[T]he parties believe that discovery is not necessary . . .”). Thus, there
22 is little more for Defendants to undertake in this action at the district court level other than
23 another round of briefing on the merits that is likely to mirror the briefing on the merits
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26 ¹ The only *Nken* factor not arguably subsumed by the *Landis* factors is likelihood of success on the merits.
27 To the extent it is necessary for the Court to expressly consider that factor, it agrees with Defendants that
28 they have shown “a ‘minimum quantum of likely success necessary to justify a stay.’” *United States v.*
Real Prop. & Improvements Located at 2366 San Pable Ave., No. 13-cv-02027-JST, 2015 WL 525711,
at *1 (N.D. Cal. Feb. 6, 2015); *see also City of Oakland v. Holder*, 961 F. Supp. 2d 1005, 1012 (N.D. Cal.
2013) (noting that the movant must only show “a substantial case for relief on the merits”).

1 that already took place twice before at the temporary restraining order and preliminary
2 injunction stages. This matter is, contrary to Defendants’ suggestion, not at all like *Becker*
3 *v. Martel*, where the court found a stay justified when the state faced the onerous burden
4 of locating witnesses and exhibits for a seven-year-old crime. No. 10cv1209-W (AJB),
5 2011 WL 2181361, at *2 (S.D. Cal. June 3, 2011). Nevertheless, “forcing a party to
6 conduct . . . pretrial motions practice on matters that could be mooted by a pending appeal
7 may amount to hardship or inequity sufficient to justify a stay.” *Finder v. Leprino Foods*
8 *Co.*, 2017 WL 1355104, at *4 (E.D. Cal. Jan. 20, 2017) (citing *Pena v. Taylor Farms Pac.*,
9 *Inc.*, No. 2:13-cv-01282-KJM-AC, 2015 WL 5103157, at *4 (E.D. Cal. Aug. 31, 2015)).
10 So while the burden on Defendants of briefing cross-motions for summary judgment is
11 slight, it remains an important consideration weighing in favor of granting a stay.

12 Similarly, the potential prejudice to Plaintiffs following the issuance of a stay is
13 minimal. Plaintiffs point to the hypothetical possibility that the preliminary injunction
14 could be vacated in whole or in part even though they might still prevail on the ultimate
15 merits, thus “leading to an unnecessary gap where at least some California businesses once
16 again are forced to comply with an unlawful agency action before this Court can enter final
17 judgment.” Opp’n at 6. But as Defendants point out, any potential delay would be
18 short-lived. As just discussed, nothing remains in the way of discovery to prevent the
19 Parties from returning immediately to briefing their cross-motions for summary judgment
20 as soon as this case returns from the Ninth Circuit. True, Plaintiffs have signaled their
21 intent to renew their request to supplement the administrative record, Opp’n at 4, but such
22 a request can be dealt with in one fell swoop alongside their summary judgment motion.
23 So while the Court recognizes the theoretical possibility of prejudice to Plaintiffs, such
24 prejudice can be mitigated by the reinstatement of a swift briefing schedule on the final
25 merits immediately upon the Ninth Circuit’s disposition of the appeal. Accordingly, the
26 first two *Landis* factors are neutral.

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1 **B. Orderly Course of Justice**

2 “The third *Landis* factor considers the ‘orderly course of justice measured in terms
3 of the simplifying or complicating of issues, proof, and questions of law which could be
4 expected to result from a stay.’” *Flores*, 675 F. Supp. 3d at 1063 (quoting *CMAX, Inc. v.*
5 *Hall*, 300 F.2d 265, 268 (9th Cir. 1962)). As to this factor, Defendants argue that,
6 compared to the appeal, the Parties will essentially be briefing “the same issues in the
7 district court, on the same record,” and the Ninth Circuit’s resolution of those issues is
8 “likely to clarify significantly the issues remaining for judicial resolution, and could have
9 controlling effect.” Mot. at 5. Plaintiffs disagree that such a result is “likely,” speculating
10 that Defendants “will appeal on multiple grounds” such that “[t]here is no guarantee that a
11 decision on appeal will control at final judgment.” Opp’n at 4.

12 Defendants have the better of the arguments. District courts properly exercise their
13 discretion to stay proceedings pending the appeal of a preliminary injunction when it is
14 “likely that the Ninth Circuit’s opinion will significantly guide this Court’s future analysis
15 on these legal questions.” *Flores*, 675 F. Supp. 3d at 1063. Although Plaintiffs are correct
16 that the scope of the preliminary injunction may very well be one of the issues presented
17 on appeal, the Court finds it much more likely that the underlying merits of Plaintiffs’
18 Administrative Procedure Act claims will take center stage in the Ninth Circuit. Staying
19 proceedings pending appeal generally serves judicial economy where, as here, “[m]any of
20 the issues and legal theories being argued on appeal are identical to those raised in the case
21 as a whole.” *Babaria v. Blinken*, No. 22-cv-055212-SI, 2023 WL 187497, at *2 (N.D. Cal.
22 Jan. 13, 2023).

23 Plaintiffs posit that their efforts to supplement the administrative record might make
24 the factual record before the Court look different on final judgment than it did at a
25 preliminary stage. The Court appreciates that, in certain situations, “the fully developed
26 factual record may be materially different from that initially before the district court” at a
27 preliminary stage. *Sports Form, Inc. v. United Press Int’l, Inc.*, 686 F.2d 750, 753 (9th Cir.
28 1982). This case, however, does not present circumstances where the Ninth Circuit’s

1 disposition “may provide little guidance as to the appropriate disposition on the merits.”
2 *California v. Azar*, 911 F.3d 558, 583 (9th Cir. 2018). Whatever marginal impact
3 Plaintiffs’ proposed supplement to the administrative record may or may not have is not of
4 a sufficient magnitude to overcome the substantial overlap between the legal issues
5 presented here and those presented on appeal. “[I]t is hard to imagine that the decision on
6 appeal would not guide this court robustly.” *Oregon v. Azar*, No. 6:19-cv-00317-MC,
7 2019 WL 9045195, at *2 (D. Or. Sept. 17, 2019).

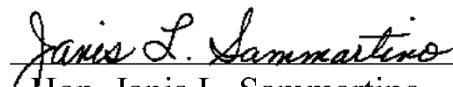
8 In any event, the Court expects the Ninth Circuit to resolve the appeal in advance of
9 when this Court would otherwise resolve the final merits. Briefing in the Ninth Circuit is
10 set to conclude on September 3, 2025, which is three months before the conclusion of
11 summary judgment briefing is expected in this Court. Though there is no guarantee that
12 the Ninth Circuit will issue an opinion within any set timeframe, the Court expects
13 appellate guidance to be promulgated forthwith. Standing by for forceful adversarial
14 briefing by the Parties that reflects the Ninth Circuit’s guidance will aid this Court in its
15 mission of “secur[ing] the just, speedy, and inexpensive determination of [this]
16 proceeding.” Fed. R. Civ. P. 1. Accordingly, this third *Landis* factor weighs strongly in
17 favor of staying these proceedings.

18 **CONCLUSION**

19 For the foregoing reasons, the Court **GRANTS** Defendants’ Motion to Stay District
20 Court Proceedings Pending Appeal (ECF No. 62). This matter is **STAYED** pending
21 resolution of the pending appeal. The Parties **SHALL** file a joint status report, to include
22 a joint proposed schedule, no later than twenty (20) days after the Ninth Circuit’s mandate
23 issues.

24 **IT IS SO ORDERED.**

25 Dated: July 28, 2025

26 
27 Hon. Janis L. Sammartino
28 United States District Judge