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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

THE STANFORD DAILY PUBLISHING
CORPORATION, JANE DOE, and JOHN
DOE,

Plaintiffs,

v.

MARCO RUBIO, in his official capacity as
Secretary of State, and

KRISTI NOEM, in her official capacity as
Secretary of Homeland Security,

Defendants.

Case No. 5:25-cv-06618-NW

**STIPULATION PROPOSING
SCHEDULING ORDER**

1 Following the Court’s encouragement of the parties to “meet and confer regarding next steps
2 and a proposed case schedule,” Dkt. No. 75 at 19, the parties have come to an agreement on a
3 procedural proposal that they believe addresses concerns raised by the Court during the January 6,
4 2026, hearing and provides an expeditious path to a final resolution on the merits including the
5 resolution of any disputed issues of fact.

6 The parties propose to treat the pending cross-motions for summary judgment (re-noticed
7 motions at Dkt. Nos. 69, 70) as a trial on the papers. *See, e.g., S.F. Baykeeper v. U.S. Fish & Wildlife*
8 *Serv.*, No. 25-cv-01360, 2025 WL 2528687, at *1 (N.D. Cal. Sept. 3, 2025) (“The parties filed cross-
9 motions for summary judgment, which they subsequently stipulated to treat as a trial on the papers,
10 such that the case will be resolved on these motions even if the Court finds that a resolution would
11 require weighing evidence in a manner that would not allow for summary judgment.”); Hon. Morton
12 Denlow, *Trial on the Papers: An Alternative to Cross-Motions for Summary Judgment*, Fed. Law.,
13 Aug. 1999, at 31, 46-AUG FEDRLAW 31, <https://perma.cc/EP4R-DZPW> (“When the parties agree
14 that the papers contain all the necessary materials for a decision, and the court can draw inferences
15 from the papers, a trial on the papers results in a decision on the merits.”). In a bench trial on the
16 papers, rather than conduct a trial in which parties will elicit live witness testimony and introduce
17 exhibits, the court adjudicates factual disputes based on the existing evidentiary record of
18 declarations, exhibits, and other evidence submitted by the parties.

19 To facilitate resolution of the trial on the papers, and avoid document and deposition
20 discovery duplicative of discovery in other actions, the parties agree and propose that the record for
21 the trial on the papers be limited to the following:

- 22 1. Material already in the case’s record, including:
 - 23 a. The declarations and attached exhibits already submitted in support of the
24 parties’ motions, Dkt. Nos. 12–14, 23-1, 23-2, 33-1, 44-1, 48-1; and
 - 25 b. Verified allegations in the Verified Amended Complaint, Dkt. No. 65;
- 26 2. Material subject to judicial notice pursuant to Federal Rule of Evidence 201; and

1 3. The trial testimony and admitted trial exhibits from the bench trial in *American*
2 *Association of University Professors v. Rubio*, No. 25-10685 (D. Mass.).¹

3 The parties expressly represent they are willing to proceed to a trial on the papers on these
4 materials, waive the right to a full bench trial with live witness testimony and introduction of
5 additional exhibits, and request that, following the opportunity for oral argument, the Court enter
6 findings of fact and conclusions of law pursuant to Federal Rule of Civil Procedure 52(a)(1) and a
7 resulting final judgment. *See S.F. Baykeeper*, 2025 WL 2528687, at *1 (“In light of [the parties]
8 stipulation, this Order is structured as findings of fact and conclusions of law pursuant to Rule
9 52(a)(1).”). For avoidance of doubt, to the extent the Court believes there are disputed facts, the
10 parties expressly agree and request the Court resolve any such disputes on a preponderance of the
11 evidence standard based on the declarations, exhibits, and other evidence identified as the proposed
12 evidentiary record above.

13 The parties propose the following schedule:

- 14 • The parties will file the materials in Paragraph 3 within 14 days of the Court’s approval of
15 the accompanying stipulation. To the extent any such material was maintained under seal in
16 *AAUP*, the parties will jointly file a motion to file such material under seal in this matter.
- 17 • Each side will file a supplemental brief not to exceed 15 pages on or before April 9, 2026.
- 18 • Each side will file a response to the other’s supplemental brief not to exceed 10 pages on or
19 before April 23, 2026.
- 20 • The hearing on the parties’ cross-motions scheduled for May 6, 2026, is converted to a bench
21 trial on the papers, at which time the parties will present oral argument.

22 For these reasons, the parties respectfully request that the Court accept and adopt the above
23 proposal. If the Court has any questions or concerns, the parties respectfully request a Zoom status
24 conference as soon as the parties may be heard.

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27 ¹ Upon the Court’s approval of this proposed plan, the parties will jointly file this material on the
28 docket. To the extent any such material was maintained under seal in *AAUP*, the parties will jointly
file a motion to file such material under seal in this matter.

1 Dated: March 6, 2026

Respectfully Submitted,

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24 In accordance with Civil Local Rule 5-1(i)(3), the filer attests that all signatories have concurred in
25 the filing of this document.