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from taking effect. ECF No. 3. By consent of the parties, the motion was converted to one for preliminary injunction, which the Court granted on July 24, 2019. ECF No. 42. The injunction preventnt

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Northern District of California

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*Sw. Marine Inc.*, 242 F.3d

at 1166 (citation omitted).

appeal was filed, i.e., the nationwide injunction originally issued by the Court. *Mayweathers v. Newland*, 258 F.3d 930 (9th Cir. 2001) is instructive. In that case, a prison appealed a preliminary injunction forbidding it from disciplining inmates for missing work to attend religious services. *Id.* at 933. Because the injunction expired under the terms of the Prison Litigation Reform Act, the district court entered a second, identical injunction while the appeal was pending. *Id.* at 934. The Ninth Circuit held that the district court had jurisdiction to issue the second injunction under Rule 62(d)<sup>5</sup> he status quo *at the time of the first appeal* nor materially altered the status of the appeal. *Id.* at 935 (emphasis added); *see also Sw. Marine*, 242 F.3d at

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*Id.*



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*Id.* at 584. Because a narrower injunction  
abused  
its discretion by enjoining the rules nationwide. *Id. See also City & Cty. of San Francisco*, 897  
F.3d at 1244 (remanding to the district court for reexamination of the nationwide scope of a  
evidence [wa]s limited to the effect of

The circumstances here are much more like those in *Bresgal* than those in *Azar*. Some of  
the plaintiff Organizations serve clients within and outside of the Ninth Circuit. In addition to  
representing individuals seeking asylum, three of the organizations serve individuals who are not  
retained clients by, for example, offering asylum law training for pro bono lawyers and pro se  
asylum workshops for immigrants. ECF No. 67 at 8-9, 11

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*Id.*; see also ECF No. 67 at 11.<sup>7</sup>

Defendants do not dispute this evidence or engage with the applicable law. Instead, they devote much of their argument to focusing on the lack of harm to identified asylum seekers. *See, e.g.,* single, bona fide client who suffers injury as a result of the rule, or explain how an injunction limited to such aliens would not cure their alleged injuries while this litigation proceeds . But this is a strawman the harm to the Organizations, not their potential clients, was the focus of the

*See East Bay IV*, 385 F. Supp. 3d at 957

established a sufficient likelihood of irreparable harm through diversion of resources and the non-omitted). And, rather than dispute that harm, Defendants disagree with Ninth Circuit law on organizational standing, *see* ECF No. 28 at 16 n.1; *East Bay IV*, 385 F. Supp. 3d at 937, and repeat their contention from earlier phases of this litigation that the organizational harms Plaintiffs allege are speculative, *see* ECF No. 65 at 23; ECF 28 at 32.<sup>8</sup> These issues have already been decided.

The Organizations have presented sufficient evidence that they will suffer organizational and diversion of resources harms unless the Rule is enjoined outside of, as well as within, the Ninth Circuit.<sup>9</sup> A nationwide necessary to give prevailing parties the relief to

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**B. Additional Factors Supporting a Nationwide Injunction**

The need to provide complete relief to the Plaintiffs, standing alone, is sufficient reason for the re-issuance of the nationwide injunction. In addition to that factor, however, three other factors support such relief.

First, a nationwide injunction is supported by the need to maintain uniform immigration policy. *See East Bay II*, 932 F.3d at 779 matters, we have consistently recognized the authority of district courts to enjoin unlawful policies ; *Regents of the Univ. of Cal.*, 908 F.3d at 511 (affirming nationwide

(DACA) program based in part on While this factor may not, by itself, support the issuance of a nationwide injunction, it weighs in its favor.

Second, nationwide relief is supported by the text of the Administrative Procedure Act (APA) ,

5 U.S.C. § 706.

The Ninth Circuit has cited this language in upholding a nationwide injunction of regulations that conflicted with the governing statute. *Earth Island Inst. v. Ruthenbeck*, 490 F.3d 687, 699 (9th Cir. 2007), *aff'd in part, rev'd in part on other grounds sub nom. Summers v. Earth Island Inst.*, 555 U.S. 488 (2009); *see also Regents of the Univ. of Cal.*, 908 F.3d at 511 (

result is that the rules are vacated not that their application to the individual petitioners is ) (quoting *Nat'l Min. Ass'n v. U.S. Army Corps of Eng'rs*, 145 F.3d 1399, 1409 (D.C. Cir. 1998)).<sup>10</sup>

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<sup>10</sup> Although Defendants attempt to address the propriety of vacatur, ECF No. 65 at 27, that issue is not before the Court. Defendants also misstate the law. They cite *California Communities Against Toxics v. U.S. E.P.A.*

