

KAUFMAN DOLOWICH, LLP
AIMEE G. HAMOY (SBN 221228)
180 Grand Avenue, Suite 995
Oakland, California 94612
Telephone: (510) 634-7640
Facsimile: (415) 926-7601
E-mail: ahamoy@kaufmandolowich.com

Attorneys for Defendant
SAFEGRAPH, INC.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

CALVARY CHAPEL SAN JOSE, et al.,	)	Case No.: 23CV04277 VC
)	
Plaintiffs,	)	DEFENDANT SAFEGRAPH INC.’S REPLY
	)	TO PLAINTIFFS’ RESPONSE TO
v.	)	MOTION FOR RELIEF FROM ORDER
	)	FOR STAY PURSUANT TO FEDERAL
SANTA CLARA COUNTY, et al.,	)	RULE OF CIVIL PROCEDURE 60(b)
)	
	)	Date: June 20, 2024
Defendants.	)	Time: 10:00 AM
	)	Judge: Hon. Vince Chhabria
	)	Courtroom: Courtroom 4-17 th Floor
)	
)	

Defendant, SAFEGRAPH, INC. (“SafeGraph”) submits this Reply to Plaintiffs’ Response to SafeGraph’s Federal Rule of Civil Procedure 60(b) Motion For Relief From Order For Stay.

I. RELEVANT PROCEDURAL HISTORY

On December 18, 2023, SafeGraph filed a Motion to Dismiss (“MTD”) Plaintiffs’ First Amended Complaint and supporting Request for Judicial Notice. The MTD argues, in relevant part, that Plaintiffs lack Article III standing as to SafeGraph and, therefore, failed to establish this Court’s subject matter jurisdiction over Plaintiffs’ claims against SafeGraph. (Dkt. 34). On January 16, 2024, Plaintiffs filed their opposition to the MTD. (Dkt. 36). SafeGraph replied in support of its MTD on February 5, 2024, and the jurisdictional issue was ripe for adjudication. On February 14, 2024, the

1 Court conducted a hearing on the MTD, as well as co-Defendant Santa Clara County’s (“SCC”)
2 simultaneously pending motion to dismiss (“MTD Hearing”).

3 At the MTD Hearing, the Court’s colloquy focused on the years’ long dispute between
4 Plaintiffs and SCC and the morass of ongoing state and federal litigation it has spawned. In particular,
5 the Court queried counsel for Plaintiffs and SCC as to the propriety of consolidating this case with
6 Plaintiffs’ earlier-filed suit against SCC in *Calvary Chapel San Jose v. Cody*, No. 20-cv-3794-BLF
7 (N.D. Cal.) (“Freeman Action”) and whether to stay the instant case pending resolution of Plaintiffs’
8 appeal of that court’s dismissal and abstention order in the Freeman Action (“Cody Appeal”). Despite
9 the Court’s indication that it was inclined to stay the instant case for future consideration or
10 consolidation after resolution of the Cody Appeal, SafeGraph was not heard on the proposed stay and
11 did not specifically request a ruling on subject matter jurisdiction at the MTD Hearing and all parties
12 to the MTD Hearing failed to direct the Court’s attention to the jurisdictional challenge raised in the
13 MTD. On February 15, 2024, this Court issued its Order Staying Case pending the Cody Appeal (“Stay
14 Order”). (Dkt. 57).

15 The open jurisdictional challenge was not addressed at the MTD Hearing or in the Court’s
16 subsequent Stay Order. On April 16, 2024, the Ninth Circuit affirmed the lower court’s dismissal and
17 abstention order in the Freeman Action (“Cody Order”), and has since declined *en banc* review of the
18 Cody Order. On May 6, 2024, in light of the Cody Order, SafeGraph filed its Motion for Relief from
19 the Stay Order under Rule 60(b), which requests the Court’s limited reconsideration of its Stay Order
20 only to adjudicate Plaintiffs’ lack of Article III standing as to SafeGraph. (Dkt. 60).

21 II. LEGAL ARGUMENT

22 A. Rule 60(b) is the Proper Vehicle for Relief.

23 Federal Rule of Civil Procedure 60(b) provides several grounds for relief from judgments and
24 orders, including relief due to “mistake, inadvertence, . . . or excusable neglect”, FRCP 60(b)(1), and
25 any other grounds justifying relief, FRCP 60(b)(6). Here, entry of a stay without first resolving the
26 jurisdictional challenge, in the absence of an applicable exception to the “jurisdiction first” principle,
27 and the parties’ failure at the MTD Hearing to direct the Court’s attention to Plaintiffs’ lack of standing
28 against SafeGraph constitute grounds for the limited requested relief under Rule 60(b)(1). *Kemp v.*

1 *United States*, 596 U.S. 528, 536-39 (2022) (holding that legal and factual errors, by the court or the
2 parties, are within the meaning of “mistake” under Rule 60(b)(1) and grounds for relief); *Lenaghan v.*
3 *Pepsico, Inc.*, 961 F.2d 1250, 1254-55 (6th Cir. 1992) (finding that “excusable neglect” may involve
4 legal error); *Larson v. Heritage Sq. Assoc.*, 952 F.2d 1533, 1536 (8th Cir. 1992) (finding that “judicial
5 inadvertence” may involve legal error). In the alternative, SafeGraph seeks relief from the Stay Order
6 under Rule 60(b)(6), which affords relief for any other reason not addressed by Rule 60(b)(1)-(5),
7 because resolving this Court’s subject matter jurisdiction over Plaintiffs’ claims against SafeGraph
8 would promote judicial economy, avoid prejudice to the parties, and prevent further undue injury to
9 SafeGraph.

10 **B. Failure to Adhere to the “Jurisdiction First” Rule, in the Absence of Carefully**
11 **Circumscribed Grounds for Deviation, Justifies Relief under Rule 60(b)(1).**

12 Notwithstanding a court’s broad powers to control its docket, the nearly-unfailing, ordinary
13 course is for a court to first adjudicate the threshold question of subject matter jurisdiction over a party
14 or a case before taking any other action with respect to the matter—including entry of a stay and
15 consideration of other threshold matters. *Steel Co. v. Citizens for a Better Env’t*, 523 U.S. 83, 101
16 (1998); *Potter v. Hughes*, 546 F.3d 1051, 1056 n.2 (9th Cir. 2008) (confirming that “the general rule
17 [is] that federal courts normally must resolve questions of subject matter jurisdiction *before* reaching
18 other threshold issues.”) (emphasis added) (internal quotation marks omitted); *Camacho v.*
19 *Hydroponics*, No. EDCV 20-980 JGB (KKx), 2021 WL 940318, *2 (C.D. Cal. Mar. 10, 2021);
20 *Goldstein v. Astrue*, No. 22-CV-898-PSG, 2012 WL 10545, *2 (N.D. Cal. Jan. 3, 2012).

21 The Supreme Court has long “emphasized the constitutional importance of the ‘jurisdiction
22 first’ principle.” *Meyers v. Bayer AG*, 143 F. Supp. 2d 1044, 1048 (E.D. Wis. May 18, 2001) (citing
23 *Steel Co.*, 523 U.S. at 101); *Steel Co.*, 523 U.S. at 94 (“Without jurisdiction the court cannot proceed
24 *at all* in any cause[.]”) (emphasis added). Conclusively establishing jurisdiction, especially in the face
25 a direct challenge to Plaintiffs’ Article III standing, implicates far more than “legal niceties” because
26 “[t]he statutory and (especially) constitutional elements of jurisdiction are an essential ingredient of
27 separation and equilibration of powers[.]” *Steel Co.*, 523 U.S. at 101. This imperative is enshrined in
28 both the federal rules, *see* F.R.C.P. 12(h)(3), and the overwhelming weight of authority, including that

1 cited by Plaintiffs. *See, e.g. Meyers*, 143 F. Supp. 2d at 1048 (finding “that a court’s first step should
2 be to make a preliminary assessment of the jurisdictional issue. Although *Landis* might be read to
3 empower me to stay the case without making any effort to verify jurisdiction, I am, nevertheless,
4 reluctant to do so.”); *see also Potter*, 546 F.3d at 1056.

5 The “jurisdiction first” rule yields only in narrow, “carefully circumscribed” circumstances,
6 none of which are implicated in the pending motions to dismiss or were identified at the MTD Hearing.
7 *Snoqualmie Indian Tribe v. Washington*, 8 F.4th 853, 863 (9th Cir. 2021). Importantly, each prescribed
8 threshold alternative to verifying jurisdiction has the same effect as dismissing for want of jurisdiction;
9 that is, “denying [an] audience to a case” *ab initio*. *Sinochem Intern. Co. Ltd. v. Malaysia Intern.*
10 *Shipping Corp.*, 549 U.S. 422, 431 (2007). For example, courts need not first determine pendent
11 jurisdiction over state-law claims where the court uses its discretion to decline adjudication of those
12 claims. *Moor v. Cnty. of Alameda*, 411 U.S. 693, 715-716 (1973). And courts may abstain under
13 *Younger v Harris*, 401 U.S. 37 (1971), or dismiss under *Totten v. United States*, 92 U.S. 105 (1876),
14 without first deciding whether a case or controversy has been presented. *Sinochem*, 549 U.S. at 431
15 (compiling cases). The reason these alternative grounds for dismissal *may* precede the jurisdictional
16 analysis is that they still ensure that a court “will not proceed at all” without jurisdiction. *Id.*

17 Similarly, in *Snoqualmie Indian Tribe*, the Ninth Circuit affirmed the district court’s dismissal
18 with prejudice of the plaintiffs’ complaint on issue preclusion grounds because the issue preclusion
19 analysis provided a “less burdensome course” than jurisdiction for threshold dismissal. 8 F.4th at 862.
20 Plaintiffs suggest that *Snoqualmie* obviates the need for jurisdictional verification prior to entering a
21 stay for any reason. (Dkt. 69 at 5). But the clear holding of *Snoqualmie* endorses the “jurisdiction first”
22 rule and merely acknowledges the “leeway” articulated by the Supreme Court for courts to “choos[e]
23 among threshold non-merits grounds *for dismissal* [as an] ‘exception to the general rule that federal
24 courts normally must resolve questions of subject matter jurisdiction before reaching other threshold
25 issues.’” *Snoqualmie*, 8 F.4th at 863 (quoting *Potter*, 546 F.3d at 1056 n.2) (emphasis added). Unless
26 other, and less burdensome, threshold grounds for dismissal exist, the law requires adherence to the
27 jurisdiction first rule in this case.

28

1 To be sure, courts occasionally use their inherent power to control their dockets to further the
2 jurisdiction first rule by staying matters to allow for precedential development that bears directly upon
3 the question of jurisdiction. The Central District of California recently stayed a case over which subject
4 matter jurisdiction was in doubt *solely* because the Ninth Circuit was poised to answer in a separate
5 appeal a question of first impression whose resolution was “dispositive” to verifying whether or not
6 jurisdiction existed in the *Camacho* case. 2021 WL 940318, *2. The *Camacho* court thus found it
7 prudent to await the Ninth Circuit’s answer to the jurisdictional question it confronted rather than risk
8 needless litigation. *Id.*

9 However, the paucity of relevant case law suggests that parallel proceedings that bear directly
10 upon a sister court’s jurisdiction, like the circumstances in *Camacho*, rarely occur. And, here, Plaintiffs
11 and SafeGraph agree that neither the Freeman Action nor the Cody Appeal present any questions of
12 fact or law whose resolution would affect, let alone be dispositive to, this Court’s adjudication of
13 Plaintiffs’ failure to establish subject matter jurisdiction over SafeGraph. *See* (Dkt. 60 at 2; Dkt. 69 at
14 4). Accordingly, entry of a stay pending the Cody Appeal before adjudicating Plaintiffs’ failure to
15 establish jurisdiction is in error and this Court should grant SafeGraph’s Motion under Rule 60(b)(1).

16 **1. Plaintiffs’ Authority Supports Adherence to the Jurisdiction First Rule in this Case.**

17 Plaintiffs fail to cite any relevant case that supports the issuance of the Stay Order before the
18 Court made a determination on subject matter jurisdiction. (Dkt. 69 at 5-6). To the contrary, each point
19 of controlling authority cited by Plaintiffs directs adherence to the jurisdiction first rule in this case for
20 the reasons discussed in Section B, above. *E.g.*, *Sincochem*, 549 U.S. at 431; *Snoqualmie*, 84 F.4th at
21 862-63; *Foster v. Chapman*, 578, U.S. 488, 486 (2006); *Ruhrgas AG v. Marathon Oil Co.*, 526 U.S.
22 574 585 (1999). Plaintiffs’ non-binding authority supports the same result.

23 For example, Plaintiffs cite the Eastern District of Wisconsin case *Meyers v. Bayer AG* for the
24 proposition “that granting a stay is not adjudicating the merits of a case and that it can be considered
25 before verifying subject matter jurisdiction.” (Dkt. 69 at 6). But the *Meyers* court did no such thing,
26 despite additional considerations supporting the propriety of a stay that are unique to Multidistrict
27 Litigation (“MDL”) and not salient to this case. 143 F.Supp.2d at 1045-46.

1 Rather, the Wisconsin court actually *did* evaluate and made findings as to its subject matter
2 jurisdiction before considering whether a stay under the MDL statutory scheme was appropriate. *Id.*
3 at 1049-51. The *Meyers* court explained:

4 My view is that a court’s first step should be to make a preliminary assessment of the
5 jurisdictional issue. Although *Landis* might be read to empower me to stay the case
6 without making any effort to verify jurisdiction, I am, nevertheless, reluctant to do so.
7 First, *Steel Co.* emphasized the constitutional importance of the “jurisdiction first”
8 principle. Second, 28 U.S.C. § 1447(c) directs that “[i]f at any time before judgment it
9 appears that the district court lacks subject matter jurisdiction, the case *shall* be
10 remanded.” This section dictates that a judge should give at least some consideration to
11 a remand motion. (emphasis added). . . . The third reason is judicial economy. “If the
12 limited review reveals that the case is a sure loser in the court that has jurisdiction (in the
13 conventional sense) over it, then the [transferor] court ... should dismiss the case rather
14 than waste the time of another court.” *Phillips v. Seiter*, 173 F.3d 609, 611 (7th Cir. 1999)

15 *Id.* at 1047. (emphasis in original). While the court ultimately entered a stay pending a potential MDL
16 transfer to another district, it did so only (1) *after* examining whether it had subject matter jurisdiction
17 and (2) pursuant to statutory mechanisms unique to the MDL structure. *Id.* at 1047, 1053.

18 Plaintiffs similarly misapprehend the ruling in *Hulley Enterprises Ltd. v. Russian Federation*.
19 211 F. Supp. 3d 269 (D.D.C. 2016). In that case, shareholders of a Russian oil company commenced
20 an international arbitration proceeding against the Russian Federation under the Energy Charter Treaty
21 before a three-arbiter panel seated in The Hague. *Id.* at 273. The panel awarded the shareholders more
22 than \$50 billion, and the shareholders brought enforcement actions in numerous countries, including
23 the United States. *Id.* at 274. In parallel, the Russian Federation submitted requests to set aside the
24 panel’s award in the District Court of the Hague and, separately, moved to dismiss the United States
25 enforcement suit for lack of subject matter jurisdiction. *Id.* While the Russian Federation’s motion to
26 dismiss was pending with the District Court for the District of Columbia, the District Court of The
27 Hague ruled to set aside the arbitration award. *Id.* at 275. The shareholders appealed The Hague’s set
28 aside order in the Netherlands, and moved to stay their enforcement action in the D.D.C. *Id.*

 On these facts, the *Hulley* court elected to stay the shareholders’ enforcement action before
adjudicating the Russian Federation’s jurisdiction challenge because it found that “depending on the
outcome of the [pending set aside appeal in The Hague], the [s]hareholders may have no cause of

1 action” before the D.D.C. 211 F. Supp. 3d. at 282 (internal quotations omitted). The *Hulley* court
2 further found that case presented “a paradigm example of a case warranting a stay where the legal
3 viability of claims may rest on determinations in another legal proceeding.” *Id.* In other words, *Hulley*
4 reflects the same rationale as *Camacho*; courts may stay a case in which jurisdiction is uncertain if the
5 resolution of issues in a separate proceeding would be dispositive to verifying whether or not
6 jurisdiction exists in the case before the court. *Cf. id.* at 281-83. Again, the parties to this case agree
7 that the Cody Appeal and Freeman Action do not bear upon this Court’s subject matter jurisdiction as
8 to SafeGraph. Thus, the reasoning of *Hulley*, like *Camacho*, is distinguishable from, and inapposite
9 to, this case. *Hulley* and *Camacho* are simply permutations of the jurisdiction first rule, and do nothing
10 to undermine its application here.

11 Plaintiffs’ remaining “authority” is a scattershot of cherry-picked clauses from cases that either
12 reflect the carefully circumscribed exceptions to the jurisdiction first rule, are no longer good law, in
13 which subject matter jurisdiction was not at issue, in which no stay issued, or all or some of the
14 foregoing. (Dkt. 69, 2:4-6). Even cursory review of the cases cited by Plaintiffs makes clear that
15 Plaintiffs’ misleading contentions are wholly unsupported and irrelevant to the issue before this Court.
16 *E.g., Twitter, Inc. v. Paxton*, 26 F.4th 1119, 1124 (9th Cir. 2022), *amended and superseded on denial*
17 *of rehearing en banc by Twitter, Inc. v. Paxton*, 56 F.4th 1170 (9th Cir. 2022) (affirming dismissal on
18 prudential ripeness grounds); *Sanchez v. Green Messengers, Inc.*, 666 F. Supp. 3d 1047, 1052-53 (N.D.
19 Cal. 2023) (jurisdiction not in question).

20 Finally, SafeGraph observes that many other out-of-jurisdiction cases have found that courts
21 have an affirmative obligation to determine subject matter jurisdiction before entering a stay, either
22 on motion of a party or *sua sponte*. *Farkas v. Bridgestone/Firestone, Inc.*, 113 F. Supp.2d 1107, 1115
23 n.8 (W.D.Ky. 2000) (holding that “the jurisdictional issue *must* be resolved before deciding whether
24 to stay or transfer the case to the MDL panel”) (emphasis added), *Lloyd v. Cabell Huntington Hosp.,*
25 *Inc.*, 58 F. Supp.2d 694, 696 (S.D. W.Va. 1999) (“This Court cannot, however, stay proceedings in an
26 action over which it lacks jurisdiction”), and *Stern v. Mut. Life Ins. Co. of N.Y.*, 968 F.Supp. 637, 639
27 (N.D. Ala. 1997) (“It is incumbent upon a court whose subject matter jurisdiction is questioned to
28 make a *determination* as to whether it has, or does not have, jurisdiction over the action. This

1 determination involves no issues that the putative transferee court in the multi-district action would be
2 uniquely qualified to address.”) (emphasis added). That said, SafeGraph respectfully submits that
3 consideration of persuasive authorities is unnecessary because controlling precedent establishes that
4 it is improper for courts to stay proceedings before ruling on jurisdiction in the absence of limited
5 prescribed circumstances not present in this case. This Court should grant relief under Rule 60(b)(1).

6 **C. Relief Under Rule 60(b)(6) Would Serve Judicial Economy, Further the Interests of All**
7 **Litigants, and Prevent Additional Prejudice to SafeGraph.**

8 Three other reasons justify SafeGraph’s requested relief that this Court lift its stay for a *limited*
9 judicial review of Plaintiffs’ failure to establish subject matter jurisdiction for its claims against
10 SafeGraph: (1) judicial economy; (2) minimizing prejudice to the parties; and (3) avoiding further
11 undue injury to SafeGraph.

12 First, judicial economy favors granting SafeGraph’s Motion to conduct a limited review only
13 of the jurisdictional challenge because this Court is uniquely situated to decide, now, whether it has
14 jurisdiction over Plaintiffs’ claims against SafeGraph. Plaintiffs’ jurisdictional deficiencies were fully
15 briefed at the time of the MTD Hearing and may be decided on the papers before the Court. (Dkts. 27,
16 34, 34-1, 36, 36-1, 50). Neither the Freeman Action nor the Cody Appeal involve any issues that will
17 affect the jurisdictional analysis in this case.

18 When this Court first raised the possibility of a stay pending the conclusion of the Cody
19 Appeal, it specifically contemplated whether this case should be transferred and consolidated with the
20 Freeman Action. But neither extending the Stay Order nor consolidating this case with the Freeman
21 Action will advance the determination of jurisdiction. The parties would likely need to re-brief their
22 arguments whenever the Freeman Action resumes. The Freeman court would also need to familiarize
23 itself with Plaintiffs’ new and different facts and theories in this case, before ultimately confronting
24 the same or similar challenges to jurisdiction. *See Meyers*, 143 F. Supp. 2d at 1048 (“If the limited
25 review reveals that the case is a sure loser in [the transferee court], then the transferror court . . . should
26 dismiss the case rather than waste the time of another court.”). Because Plaintiffs failed to establish
27 jurisdiction as to SafeGraph, forcing the court in the Freeman Action to address issues or a party over
28 which it has no jurisdiction would simply “waste the time” of that court. *Id.*

1 Second, a limited jurisdictional review would serve the interests of the litigants because,
2 regardless of how the Court ultimately decides the question of jurisdiction, that determination will
3 narrow the scope of issues in later proceedings. If the Court concludes that Plaintiffs failed to establish
4 jurisdiction, then SafeGraph is removed from the case and the remaining dispute between Plaintiffs
5 and SCC would be more amenable to consolidation with the Freeman Action (to which SafeGraph is
6 not a party). If the Court finds jurisdiction exists, then the remaining grounds for dismissal under Rule
7 12(b)(6) asserted by SafeGraph and SCC, and Plaintiffs' opposition thereto, will be more readily
8 adjudicated together at a later time.

9 Third, only a denial of relief under Rule 60(b) to resolve the jurisdiction question presents any
10 risk of prejudice to the parties. Plaintiffs cannot credibly claim that they would be harmed by final
11 resolution of an issue that has already been fully briefed and is ripe for decision. If the Court finds
12 jurisdiction exists, SafeGraph will remain a party to this case while it is stayed or be part of a
13 consolidation with the Freeman Action; the same result obtains if the Court declines relief under Rule
14 60(b). But if no jurisdiction exists and SafeGraph is forced to remain a party to an indefinitely stayed
15 case or consolidated with the Freeman Action to await final decisions in the state court proceedings
16 between Plaintiffs and SCC underlying the Freeman court's abstention decision (which could take
17 months or years), SafeGraph will continue to suffer material, irrevocable, and needless harm. At
18 bottom, no party to this case would be in a materially worse position if the Court's grants Rule 60(b)
19 relief and resolves the jurisdiction issue than it would be in the absence of relief under Rule 60(b).

20 SafeGraph is a small company. Since Plaintiffs filed their first complaint nearly one year ago,
21 SafeGraph has incurred significant costs in time and resources to defend Plaintiffs' fanciful theories
22 and to comply with its corresponding administrative and document preservation obligations. Denying
23 relief will require it to absorb prohibitive legal fees and costs, disruptions to its normal operations, and
24 further reputational harm because of baseless litigation to which it should not even be a party. This
25 potential for undue injury can be avoided only through the Court's grant of relief under Rule 60(b).

26 **D. Plaintiffs' Piecemeal Litigation Argument Has No Merit.**

27 Plaintiffs argue that the stay should either be lifted in its entirety or it should be left in place as
28 to all defendants to avoid "piecemeal litigation." (Dkt. 69 at 5:1-3). Plaintiffs' further contend, without

1 explanation, that conducting a limited review of the fully-briefed jurisdictional challenge in
2 SafeGraph's MTD would waste time and result in duplicated efforts. (*Id.* at 4-5).

3 The jurisdiction issue before this Court is unique to SafeGraph and to this case. Piecemeal
4 litigation generally refers to different tribunals deciding the same issue and potentially reaching
5 conflicting decisions. *R.R. St. & Co. Inc. v. Transp. Ins. Co.*, 656 F.3d 966, 979 (9th Cir. 2011). As
6 Plaintiffs' admit, neither the Freeman Action nor any of the other ongoing cases between Plaintiffs
7 and SCC has any bearing upon Plaintiffs' lack of standing against SafeGraph. Even SCC's pending
8 motion to dismiss in this case does not contest Plaintiffs' standing as to SCC. As explained in Section
9 C, above, resolution of this Court's subject matter jurisdiction over Plaintiffs' claims against
10 SafeGraph will serve only to narrow the scope of future proceedings.

11 It should also be noted that Plaintiffs' purported concerns of piecemeal litigation come with no
12 small dose of irony. After all, Plaintiffs concocted their new and wildly speculative theories in this
13 case only after every other court to consider Plaintiffs' claims rejected them entirely. As this Court
14 implicitly recognized at the MTD Hearing, it is Plaintiffs' recalcitrant refusal to abide by the decisions
15 of those courts and their desperate attempt to revive their failed dispute against SCC that has created
16 a needlessly convoluted web of related litigation simulatenously pending in different fora.

17 In sum, lifting the stay as to SafeGraph alone for the sole purpose of resolving the limited
18 question of whether subject matter jurisdiction exists does not risk piecemeal litigation, and Plaintiffs'
19 proposed "all or nothing" course is ridiculous.

20 II. CONCLUSION

21 Defendant SafeGraph respectfully requests this Court grant its Motion for Relief From Stay
22 Order Pursuant to Federal Rule of Civil Procedure 60(b).

23
24 Dated: June 10, 2024

KAUFMAN DOLOWICH, LLP

25 /s/ Aimee G. Hamoy

26 AIMEE G. HAMOY
27 Attorneys for Defendant
28 SAFEGRAPH, INC.