

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

WILEY GILL; et al.,

Plaintiffs-Appellants,

v.

DEPARTMENT OF JUSTICE; et al.,

Defendants-Appellees,

No. 17-16107

**CONSENT MOTION FOR A STAY OF BRIEFING
IN LIGHT OF LAPSE OF APPROPRIATIONS**

The Department of Justice and the other federal defendants-appellees move for a stay of briefing in this case.

1. At midnight on January 19, 2018, the continuing resolution that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for most Executive agencies, including some of the federal defendants. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation or continuing resolution, Department of Justice attorneys and employees of the federal defendants are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. Undersigned counsel for the Department of Justice therefore requests a stay of the briefing schedule (including the due dates for the answering brief and the reply brief) until Congress has restored appropriations to the Department.

4. If this motion for a stay is granted, undersigned counsel will notify the Court when Congress has appropriated funds for the Department or enacted another continuing resolution. The Government requests that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations (*e.g.*, if the total duration of the lapse in appropriations is X days, we request that the current deadlines for the answering and reply briefs be extended X days).

5. Counsel for the plaintiffs-appellants has authorized us to state that they consent to this motion.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of briefing in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted,

/s/ Daniel Aguilar

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JANUARY 2018

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared in 14-point Garamond, a proportionally spaced font. I further certify that this motion complies with the page limitations of Circuit Rule 27-1(1)(d) because it is less than 20 pages.

/s/ Daniel Aguilar

Daniel Aguilar

CERTIFICATE OF SERVICE

I certify that on January 22, 2018, I caused the foregoing motion to be electronically filed with the United States Court of Appeals for the Ninth Circuit via the CM/ECF system, which will serve counsel for all parties.

/s/ Daniel Aguilar
Daniel Aguilar