

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

GHASSAN ALASAAD, NADIA)
ALASAAD, SUHAIB ALLABABIDI, SIDD)
BIKKANNAVAR, JÉRÉMIE DUPIN,)
AARON GACH, ISMAIL ABDEL-RASOUL)
AKA ISMA'IL KUSHKUSH, DIANE)
MAYE, ZAINAB MERCHANT,)
MOHAMMED AKRAM SHIBLY, AND)
MATTHEW WRIGHT,)

Plaintiffs,)

v.)

KIRSTJEN NIELSEN, SECRETARY OF)
THE U.S. DEPARTMENT OF HOMELAND)
SECURITY, IN HER OFFICIAL)
CAPACITY; KEVIN MCALEENAN,)
COMMISSIONER OF U.S. CUSTOMS)
AND BORDER PROTECTION, IN HIS)
OFFICIAL CAPACITY; AND RONALD)
VITIELLO, ACTING DIRECTOR OF U.S.)
IMMIGRATION AND CUSTOMS)
ENFORCEMENT, IN HIS OFFICIAL)
CAPACITY,)

Defendants.)

Civil Action No. 17-cv-11730-DJC

Hon. Denise J. Casper

**MOTION FOR A STAY OF DISCOVERY
IN LIGHT OF LAPSE OF APPROPRIATIONS**

The United States of America hereby moves for a stay of discovery in the above-captioned case.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the federal Defendants. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, 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 discovery in this case until Congress has restored appropriations to the Department. At present, the federal Defendants owe discovery responses to Plaintiffs on January 8, 2019, and the parties had planned to conduct depositions during the week of January 14, 2019. The federal Defendants have been unable to work on these matters since December 21, 2018.

4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department. The Government requests that, at that point, the parties meet and confer concerning appropriate discovery deadlines in light of the stay and report back to the Court with a revised schedule.

5. Opposing counsel has authorized counsel for the Government to state that Plaintiffs take no position on this motion, and Plaintiffs reserve the right to move to lift any stay that is granted.

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

Dated: January 2, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

JOHN R. GRIFFITHS
Director, Federal Programs Branch

DIANE KELLEHER
Assistant Director, Federal Programs Branch

/s/ Michael Drezner
MICHAEL DREZNER
Trial Attorney (Virginia Bar No. 83836)
United States Department of Justice
Civil Division, Federal Programs Branch
Tel.: (202) 514-4505
Fax: (202) 616-8470
Email: Michael.L.Drezner@usdoj.gov

L.R. 7.1 Certification

I certify that I conferred with Plaintiffs' counsel and that on January 2, 2019, Plaintiffs' counsel took no position on the instant motion.

/s/ Michael Drezner
Michael Drezner

Certificate of Service

I certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

/s/ Michael Drezner
Michael Drezner