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 11 *of America and Secretary of Defense*

12 **UNITED STATES DISTRICT COURT**  
 13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
**EASTERN DIVISION**

14 LOG CABIN REPUBLICANS,  
 15 Plaintiff,  
 16 v.  
 17 UNITED STATES OF AMERICA AND  
 ROBERT M. GATES, Secretary of Defense,  
 18 Defendants.  
 19  
 20  
 21

No. CV04-8425 VAP (Ex)  
 DEFENDANTS’  
 (1) *EX PARTE* APPLICATION  
 FOR THE ENTRY OF AN  
 EMERGENCY STAY;  
 (2) MEMORANDUM OF POINTS  
 AND AUTHORITIES IN  
 SUPPORT OF *EX PARTE*  
 APPLICATION;  
 (3) DECLARATION OF  
 CLIFFORD L. STANLEY  
 (4) DECLARATION OF PAUL G.  
 FREEBORNE; AND  
 (5) PROPOSED ORDER  
 BEFORE: Judge Phillips

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Pursuant to Local Rule 7-19, Defendants the United States of America and  
3 Robert M. Gates, Secretary of Defense, hereby apply *ex parte* for an order staying  
4 the application of the Court's entry of a permanent injunction in this case pending  
5 appeal. In the alternative, defendants request that the Court grant an immediate  
6 stay of its injunction while the Court considers defendants' application for a stay  
7 pending appeal. At a minimum, should the Court decline to enter a stay pending  
8 appeal or an immediate stay to permit it to consider defendants' request for a stay  
9 pending appeal, defendants request that the Court enter an immediate stay to permit  
10 the Court of Appeals an opportunity to consider entry of a stay. Defendants submit  
11 that cause exists to grant the relief requested herein because, at a minimum, this  
12 case raises serious legal questions, and without the entry of an order immediately  
13 staying the application of this Court's judgment, defendants will be irreparably  
14 harmed before they can appeal this Court's decision to the Ninth Circuit.  
15 Accordingly, Defendants submit this *ex parte* application seeking immediate relief  
16 from this Court.

17 Pursuant to Local Rule 7-19.1, defendants have provided notice of this *ex*  
18 *parte* application to counsel for Plaintiff Log Cabin Republicans and inquired as to  
19 whether Plaintiff would oppose this motion. Plaintiff's counsel has stated that  
20 Plaintiff opposes defendants' application. Plaintiff's counsel's name, address,  
21 telephone number and email address are as follows:

22 DAN WOODS  
23 633 W. Fifth Street, Suite 1900  
24 Los Angeles, CA 90071-2007  
25 Telephone: (213) 620-7700  
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28 This application is based upon this notice of *ex parte* application, the  
accompanying memorandum of points and authorities, and the accompanying

1 Declarations of Clifford L. Stanley and Paul G. Freeborne. A proposed order is  
2 hereby lodged.

3 Dated: October 14, 2010  
4

5 Respectfully submitted,

6 TONY WEST  
7 Assistant Attorney General

8 ANDRÉ BIROTTE, JR  
9 United States Attorney

10 JOSEPH H. HUNT  
11 Director

12 VINCENT M. GARVEY  
13 Deputy Branch Director

14 /s/ Paul G. Freeborne  
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