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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BANK OF NEW YORK MELLON,
formerly known as BANK OF NEW
YORK, AS TRUSTEE FOR THE
BENEFIT OF THE CERTIFICATE
HOLDERS OF THE CWABS INC.,
ASSET-BACKED CERTIFICATES,
SERIES 2006-SD3,

Plaintiff,

v.

BRENDA L. DAVIDSON, an individual;
UNITED STATES OF AMERICA; CITY
OF PORTERVILLE; and DOES 1 through
50, inclusive,

Defendants.

No. 1:17-cv-01335-DAD-EPG

ORDER GRANTING IN PART DEFENDANT
UNITED STATES OF AMERICA'S MOTION
FOR A STAY OF THE DISPOSITIVE PRE-
TRIAL MOTION DEADLINE

(Doc. No. 19)

This matter is before the court on defendant United States of America's *ex parte* motion for a stay of the dispositive motion filing deadline. (Doc. No. 19.)

Pursuant to the assigned magistrate judge's scheduling order, the deadline on which to file dispositive motions in this case is presently set for January 15, 2019. (Doc. No. 11.) On December 21, 2018, congressional appropriations for the U.S. Department of Justice lapsed. As a result, counsel for the United States is currently furloughed from employment because Department of Justice attorneys are prohibited from working on a voluntary basis except in

1 limited circumstances. *See* 31 U.S.C. § 1342. Counsel accordingly requests a stay of the
2 dispositive motion filing deadline until after government funding is restored. (Doc. No. 19 at
3 ¶ 3.) Counsel also informs the court that plaintiff has no objection to issuance of a stay. (*Id.* at
4 ¶ 5.)

5 The court observes that the subject matter of this case does not fall into that narrow
6 category of cases that would permit government attorneys to continue working on a volunteer
7 basis because this action does not “involv[e] the safety of human life or the protection of
8 property.” 31 U.S.C. § 1342. Moreover, plaintiff’s non-objection to the stay obviates the
9 potential for prejudice. These factors weigh in favor of granting the motion. On the other hand,
10 because the timing of any future appropriation to the Department of Justice is inherently uncertain
11 particularly under present circumstances, the motion is tantamount to a request for an open-ended
12 stay. The pre-trial conference in this case is currently set for May 13, 2019, with trial scheduled
13 to begin on July 16, 2019. (Doc. No. 11.) A substantial extension of the dispositive motion
14 deadline would necessarily require a continuance of both of those dates, delaying the final
15 disposition of this case.

16 Accordingly, the United States’ motion is granted in part. The court hereby modifies the
17 scheduling order and extends the deadline for the filing of dispositive motions to March 1, 2019.
18 If counsel determines that they still cannot comply with this new deadline in light of a continuing
19 lapse in appropriations, the United States may file a motion requesting a further stay.
20 Alternatively, if funding to the Department of Justice is restored within that time, counsel is
21 directed to promptly notify the court and propose a rescheduling of the time in which to respond.
22 All other deadlines in this case remain in effect.

23 IT IS SO ORDERED.

24 Dated: January 9, 2019

25 
26 _____
27 UNITED STATES DISTRICT JUDGE
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