

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

LARRY KLAYMAN, <i>et al.</i> , Plaintiffs, v. BARACK OBAMA, President of the United States, <i>et al.</i> , Defendants.))))))))))	Civil Action No. 1:13-cv-0851(RJL)
--	--	---------------------------------------

**GOVERNMENT DEFENDANTS' MOTION FOR A STAY OF DEADLINE TO
RESPOND TO THE COMPLAINT IN LIGHT OF LAPSE IN APPROPRIATIONS**

Defendants Barack Obama, President of the United States, Eric Holder, Attorney General of the United States, and General Keith B. Alexander, Director of the National Security Agency (NSA), insofar as they are sued in their official capacities, together with defendants NSA and the United States Department of Justice (collectively, the “Government Defendants”), hereby move, pursuant to Federal Rule of Civil Procedure 6(b), for a stay of the deadline for the Government Defendants to respond to Plaintiffs’ Class Action Amended Complaint (Dkt. No. 4) (the “Complaint”) in light of the recent lapse in Government appropriations.

1. At the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for most Executive agencies. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, attorneys and employees at the Department of Justice 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. Accordingly, in the present circumstances, the undersigned Department of Justice attorneys are obligated to file the instant motion for a stay.

3. Undersigned counsel for the Government Defendants therefore request a stay, until Congress has restored appropriations to the Department of Justice, of the upcoming December 2, 2013, deadline¹ for the Government Defendants to respond to the Complaint.

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 Defendants request that, at that point, the current deadline for their response to the Complaint be extended commensurate with the duration of the lapse in appropriations.

5. Pursuant to Local Civil Rule 7(m), undersigned counsel attempted to contact counsel for Plaintiffs by telephone and electronic mail in an effort to determine whether Plaintiffs agree to or oppose the relief sought herein. Counsel was unable to make contact with Plaintiffs’ counsel in advance of filing this motion. Counsel for defendant Verizon Communications have advised that Verizon Communications consents to this motion.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government Defendants hereby move for a stay of their deadline to respond to the Complaint, until attorneys and employees at the Department of Justice are permitted to resume their usual functions.

¹ The Complaint was served on the Office of the United States Attorney for the District of Columbia on October 2, 2013. Under Federal Rules of Civil Procedure 6(a)(1) and 12(a)(2), the Government Defendants’ response to the Complaint is therefore due to be filed on December 2, 2013.

Dated: October 11, 2013

Respectfully Submitted,

STUART F. DELERY
Assistant Attorney General

JOSEPH H. HUNT
Director, Federal Programs Branch

ANTHONY J. COPPOLINO
Deputy Branch Director

/s/ James J. Gilligan
JAMES J. GILLIGAN
Special Litigation Counsel
james.gilligan@usdoj.gov
MARCIA BERMAN
Senior Trial Counsel
BRYAN DEARINGER
RODNEY PATTON
Trial Attorneys
U.S Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W., Room 6102
Washington, D.C. 20001
Phone: (202) 514-3358
Fax: (202) 616-8470

Counsel for the Government Defendants