

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

AMERICAN CLINICAL LABORATORY
ASSOCIATION,

Plaintiff-Appellant,

v.

ALEX MICHAEL AZAR, II, in his official
capacity as Secretary of Health and Human
Services,

Defendant-Appellee.

No. 18-5312

**MOTION FOR A STAY OF DEADLINE FOR GOVERNMENT'S
APPELLEE BRIEF IN LIGHT OF LAPSE OF APPROPRIATIONS**

The United States of America hereby moves for a stay of the deadline for filing an appellee brief 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 Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys 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 deadline for filing an appellee brief until Congress has restored appropriations to the Department.

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, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

5. Counsel for plaintiff does not oppose 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 its deadline to file an appellee brief in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted,

s/ Dennis Fan

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CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2019, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Dennis Fan

DENNIS FAN

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify that this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond font, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A), because it contains 290 words, according to the count of Microsoft Word.

s/ Dennis Fan

DENNIS FAN