

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

ASSOCIATION FOR COMMUNITY)	
AFFILIATED PLANS, <i>et al.</i> ,)	
)	
Plaintiffs,)	Civil Action No. 18-2133 (RJL)
)	
v.)	
)	
UNITED STATES DEPARTMENT OF)	
TREASURY, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**DEFENDANTS’ MOTION TO STAY PROCEEDINGS
IN LIGHT OF LAPSE OF APPROPRIATIONS**

Defendants hereby move for a stay of this case in light of the lapse in appropriations funding the undersigned attorneys. In support of the motion, Defendants state as follows:

1. Plaintiffs filed this case on September 14, 2018 seeking judicial review of a final agency rule that restored the permissible term of short-term, limited duration insurance policies from less than ninety days (first instituted in 2016) to any period of less than one year. On September 28, 2018, Plaintiffs moved for a preliminary injunction, ECF No. 10, which they subsequently withdrew on November 7, 2018. ECF Nos. 28 & 31.

2. On December 19, 2018, Defendants served a certified copy of the rulemaking record on counsel for Plaintiffs. *See* ECF No. 34.

3. The parties’ cross motions for summary judgment are presently due on January 11, 2019, and briefing on those motions is to be completed by February 1, 2019. *See* Minute Order dated November 12, 2018.

4. In order to meet these deadlines, counsel for Defendants must work on their opening summary judgment brief today and until the filing deadline of January 11.

5. However, 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.

6. 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.

7. Undersigned counsel for the Department of Justice therefore requests a stay of the case until Congress has restored appropriations to the Department.

8. 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.

9. The undersigned counsel has conferred with counsel for the Plaintiffs, who have authorized the undersigned to state that the Plaintiffs do not consent to this motion for the same reasons that prompted them to seek expedited treatment of the case.

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

Dated: December 31, 2018

Respectfully submitted,

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Assistant Attorney General

JEAN LIN
Acting Deputy Director

/s/ Serena Orloff

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[PROPOSED] ORDER

UPON CONSIDERATION of Defendants' Motion to Stay Proceedings in Light of Lapse of Appropriations, and the entire record herein, it is hereby **ORDERED** that Defendants' Motion is GRANTED. Accordingly, it is further **ORDERED** that

1. The deadlines for the parties to file their summary judgment briefs are hereby STAYED until Congress has restored appropriations to the Department of Justice; and
2. Once appropriations for the Department of Justice are restored, counsel for Defendants shall file a notice with the Court and all pending deadlines shall be extended commensurate with the duration of the lapse in appropriations.

Dated: _____

Richard J. Leon
United States District Court Judge