

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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CHARLES GRESHAM, et al.,		)	
		)	
	Plaintiffs,	)	
		)	
v.		)	No. 1:18-cv-01900-JEB
		)	
ALEX M. AZAR, et al.		)	
		)	
	Defendants.	)	
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**NOTICE TO THE COURT OF RESTORATION OF APPROPRIATIONS**

On December 26, 2018, this Court granted Defendants’ motion for a stay of the deadline to file a reply brief in the above-captioned case commensurate with the duration of the lapse of appropriations for the Department of Justice. *See* Minute Order of December 26, 2018. As of January 25, 2019, funding was restored through February 15, 2019, for the Department of Justice, and the Department has now resumed its usual civil litigation functions.

Prior to the stay, Defendants’ reply was due on January 14, 2019. Pursuant to the Court’s stay order, that deadline should now be extended by thirty-five (35) days, the duration of the lapse in appropriations. Accordingly, Defendants intend to file their reply brief by February 19, 2019 (which accounts for the federal holiday on February 18, 2019).

Counsel for Defendants have conferred with counsel for Defendant-Intervenor Arkansas, and Arkansas consents to the February 19, 2019 filing deadline.

Counsel for Defendants also conferred with counsel for Plaintiffs, and Plaintiffs state the following: “Plaintiffs do not agree to Federal Defendants’ request for a three-week delay to February

19 to file their reply brief, given that the Defendants have had Plaintiffs' brief for more than five weeks. Plaintiffs ask the Court to set a due date for the reply brief that the Court deems most likely to allow for a decision by March 31, 2019."

Plaintiffs' position fails to recognize that, although Defendants received Plaintiffs' brief on December 21, 2018, that is the same day that appropriations lapsed for the Department of Justice. And once appropriations lapsed, Defendants' counsel were largely prohibited from working on "non-excepted" matters—a category that includes stayed civil litigation and that thus largely included the reply brief in this case—until January 25, 2019, when appropriations were restored. That general rule is why Defendants were required to seek a stay and is presumably why this Court granted the requested stay. And moreover, even if this Court's stay had not already stayed the briefing deadlines in this case while it was in effect, February 19, 2019, would be a reasonable deadline in any event given counsels' work in other cases, including their February 4, 2019, deadline to file a combined motion to dismiss or, in the alternative, motion for summary judgment and opposition to plaintiffs' motion for summary judgment in the related case *Stewart v. Azar*, No. 1:18-cv-152 (D.D.C.).

Dated: January 29, 2019

Respectfully submitted,

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