

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

SKYWORKS, LTD, et al.,
Appellees/Cross-Appellants,
v.
CENTERS FOR DISEASE CONTROL
AND PREVENTION, et al.,
Appellants/Cross-Appellees.

Nos. 21-3443, 21-3563

**APPELLEES/CROSS-APPELLANTS' OPPOSITION
TO THE GOVERNMENT'S MOTION FOR A
30-DAY EXTENSION TO FILE OPENING BRIEF**

Appellees/Cross-Appellants are typically open to reasonable requests for extensions of time to file briefs to accommodate opposing counsel's schedules. However, the Government's motion for a 30-day extension (Dkt# 22) seems primarily designed to accommodate its litigation strategy. Accordingly, Appellees/Cross-Appellants oppose the motion and offer this brief explanation for their opposition.

1. The CDC's August 3 Order renewing the eviction moratorium at issue in this case differs from the previous Orders only minimally, by narrowing the scope of the moratorium to counties with substantial or

high rates of community transmission of Covid-19. Otherwise, the moratorium is identical to the previous versions of the moratorium, and, importantly, it relies on the same statutory authority. *See Alabama Ass'n of Realtors v. United States Dep't of Health & Hum. Servs.*, No. 20-CV-3377 (DLF), 2021 WL 3577367, at *2 (D.D.C. Aug. 13, 2021) (observing that the CDC's August 3 Order is "virtually identical" to the previous orders).

2. This case is therefore controlled by this Court's recent decision in *Tiger Lily, LLC v. United States Dep't of Hous. & Urb. Dev.*, No. 21-5256, 2021 WL 3121373 (6th Cir. July 23, 2021), which held that the CDC exceeded its statutory authority in adopting the moratorium. *Id.* at *4. Simply put, the Government is going to lose its appeal on the merits.

3. Understandably, the Government would therefore prefer to wait until late September to file its opening brief, when it will know whether the CDC plans to renew the moratorium yet again or allow it to expire, as the current Order is scheduled to do on October 3.

4. The Government's motion thus appears in substance to be a motion to hold the case in abeyance pending the CDC's decision

whether to renew the moratorium, rather than a motion to extend a briefing deadline. In any event, that is the effect the Government's motion would have if this Court were to grant it.

5. If the Government wishes to make such a motion, it may do so. Appellees/Cross-Appellants would oppose such a motion, but if the Court is going to consider whether to hold this case in abeyance while the CDC decides what to do next, it should address that issue directly, rather than via a motion for extension of time.

Respectfully submitted:

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CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing document complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because the document contains 375 words. The document complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5)-(6) because it has been prepared using Microsoft Word 2016 in Century Schoolbook 14-point font, a proportionally spaced typeface.

/s/ Steven M. Simpson
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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2021, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system.

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/s/ Steven M. Simpson
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