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21 *Counsel for Federal Defendants*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

STATE OF CALIFORNIA, *et al.*,  
Plaintiffs,  
v.  
ALEX M. AZAR, II, Secretary of  
Health and Human Services, *et al.*,  
Defendants,  
and,  
THE LITTLE SISTERS OF THE POOR,  
JEANNE JUGAN RESIDENCE, *et al.*,  
Defendant-Intervenors  
Case No.: 4:17-cv-5783-HSG  
DEFENDANTS' MOTION TO STAY  
ALL PROCEEDINGS DUE TO LAPSE  
IN APPROPRIATIONS OR IN THE  
ALTERNATIVE FOR EXTENSION OF  
ANSWER DEADLINE

1 The United States of America hereby moves for a stay of proceedings in the above-captioned case  
2 or in the alternative for an extension of the deadline to respond to the second amended complaint.  
3

4 1. At the end of the day on December 21, 2018, the appropriations act that had been funding the  
5 Department of Justice expired and appropriations to the Department lapsed. The Department does  
6 not know when funding will be restored by Congress.  
7

8 2. Absent an appropriation, Department of Justice attorneys are prohibited from working, even  
9 on a voluntary basis, except in very limited circumstances, including “emergencies involving the  
10 safety of human life or the protection of property.” 31 U.S.C. § 1342.  
11

12 3. Undersigned counsel for the Department of Justice therefore requests a stay of proceedings  
13 until Congress has restored appropriations to the Department.  
14

15 4. If this motion for a stay is granted, undersigned counsel will notify the Court as soon as  
16 Congress has appropriated funds for the Department. The Government requests that, at that point,  
17 all current deadlines for the parties be extended commensurate with the duration of the lapse in  
18 appropriations.  
19

20 5. Opposing counsel state that they oppose the motion to stay the case. Counsel for intervenors  
21 did not have an opportunity to provide their position on the stay in the short time afforded for  
22 Government counsel to prepare and file the motion in light of the lapse of appropriations.  
23

24 6. In the alternative, the Government seeks an extension of the deadline to answer or otherwise  
25 respond to the second amended complaint, from January 2, 2019 until February 28, 2019.  
26

27 7. An extension is appropriate to enable the Government to account for the Court’s resolution  
28 of the pending preliminary injunction motion, and to account for the undersigned’s other work  
obligations, which at this point include a trial in early February as well as three significant briefs due  
in the first half of February.  
29

30 8. Counsel for plaintiffs does not oppose the requested extension of the answer deadline.  
31 Counsel for the intervening defendants consent to the request.  
32

33 Therefore, although we greatly regret any disruption caused to the Court and the other  
34 litigants, the Government hereby moves for a stay of proceedings in this case until Department of  
35

1 Justice attorneys are permitted to resume their usual civil litigation functions. In the alternative, the  
2 Government seeks an extension of the deadline to answer or otherwise respond to the second  
3 amended complaint, from January 2, 2019 until February 28, 2019.  
4

5 Dated: December 26, 2018

Respectfully submitted,

6 JOSEPH H. HUNT  
7 Assistant Attorney General

8 ALEX G. TSE  
United States Attorney

9 MICHELLE R. BENNETT  
10 Assistant Branch Director

11 /s/ *Justin M. Sandberg*  
12 JUSTIN M. SANDBERG, IL Bar No. 6278377  
13 Senior Trial Counsel  
14 MICHAEL GERARDI  
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Defendants,  
and,  
THE LITTLE SISTERS OF THE POOR,  
JEANNE JUGAN RESIDENCE, *et al.*,  
Defendant-Intervenors  
Case No.: 4:17-cv-5783-HSG  
DECLARATION OF JUSTIN  
SANDBERG IN SUPPORT OF  
DEFENDANTS' MOTION TO STAY  
ALL PROCEEDINGS DUE TO LAPSE  
IN APPROPRIATIONS OR IN THE  
ALTERNATIVE FOR EXTENSION OF  
ANSWER DEADLINE

1 I, Justin Sandberg, declare as follows:

2 1. I am a Senior Trial Counsel with the United States Department of Justice. I am an attorney  
3 of record in the above-captioned matter.

4 2. I have personal knowledge of all facts stated in this declaration, and if called to  
5 testify, I could and would testify competently thereto.

6 3. I contacted counsel for plaintiffs and intervening defendants regarding this motion. Counsel  
7 for plaintiffs, Ms. Boergers, stated that plaintiffs opposed the motion to stay but not to extend the  
8 answer deadline. Counsel for intervening defendants, Ms. Verm and Mr. Connelly, did not have an  
9 opportunity to provide a position on the motion to stay, but consented to the extension of time to  
10 answer.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is  
12 true and correct and that this declaration was executed on December 26, 2018.

13 */s/ Justin M. Sandberg*  
14 JUSTIN M. SANDBERG, IL Bar No. 6278377  
15 Senior Trial Counsel  
16 United States Department of Justice  
17 Civil Division, Federal Programs Branch  
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v. )  
ALEX M. AZAR, II, Secretary of )  
Health and Human Services, *et al.*, )  
Defendants, )  
and, )  
THE LITTLE SISTERS OF THE POOR, )  
JEANNE JUGAN RESIDENCE, *et al.*, )  
Defendant-Intervenors )  
[PROPOSED] ORDER

The Court, having considered the Government's motion to stay proceedings in this case in

1 light of the lapse in appropriations, hereby GRANTS the motion and STAYS the case until  
2 appropriations have been restored to the U.S. Department of Justice.

3  
4 IT IS SO ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

5 Dated: \_\_\_\_\_  
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HON. HAYWOOD S. GILLIAM, JR.  
UNITED STATES DISTRICT JUDGE