

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

STATE OF TEXAS,  
STATE OF KANSAS,  
STATE OF LOUISIANA,  
STATE OF INDIANA,  
STATE OF WISCONSIN, and  
STATE OF NEBRASKA

Plaintiffs,

v.

UNITED STATES OF AMERICA,  
UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,  
ALEX M. AZAR II, in his official capacity  
as SECRETARY OF HEALTH AND  
HUMAN SERVICES, UNITED STATES  
INTERNAL REVENUE SERVICE, and  
CHARLES P. RETTIG, in his official  
capacity as COMMISSIONER OF  
INTERNAL REVENUE SERVICE

Defendants.

Civ. No. 7:15-cv-00151-O

**DEFENDANTS' CONSENT MOTION FOR A STAY OF  
THE COURT'S ORDER TO FILE A JOINT STATUS REPORT  
IN LIGHT OF LAPSE OF APPROPRIATIONS**

The United States of America hereby moves for a stay of the Court's Order, ECF No. 134, directing the parties to file a joint status report by January 9, 2019 in the above-captioned case.

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the U.S. Department of Justice (Department) expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the U.S.

Internal Revenue Service (IRS). The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees of the IRS 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 Court’s Order directing the parties to file a joint status report by January 9, 2019, 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 defendants conferred with counsel for plaintiffs who represented that plaintiffs consent to the instant motion. Additionally, plaintiffs advised defendants that they intend to voluntarily and unilaterally file status reports during the lapse in appropriations to update the Court on their progress in providing information to defendants regarding any disgorgement.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of the Court’s Order directing the parties to file a joint status report by January 9, 2019 in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Dated: January 8, 2019

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

ERIN NEALY COX  
United States Attorney

JENNIFER D. RICKETTS  
Director, Federal Programs Branch

MICHELLE R. BENNETT  
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Assistant Branch Director

/s/ Julie Straus Harris  
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*Counsel for Defendants*

### **CERTIFICATE OF SERVICE**

I hereby certify that on January 8, 2019, I filed the foregoing document with the Clerk of Court via the CM/ECF system, causing it to be electronically served on Plaintiffs' counsel of record.

/s/ Julie Straus Harris  
JULIE STRAUS HARRIS

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Defendants.

Civ. No. 7:15-cv-00151-O

**[PROPOSED] ORDER**

Upon consideration of Defendants' Consent Motion for a Stay of the Court's Order to File a Joint Status Report in Light of Lapse of Appropriations, it is hereby ORDERED that Defendants' motion is granted; and it is further ORDERED that:

1. The parties' obligation to file a joint status report is stayed until Congress has restored appropriations to the U.S. Department of Justice; and
2. Counsel for the United States shall notify the Court as soon as Congress has appropriated funds for the U.S. Department of Justice, at which point all current deadlines for the parties will be extended commensurate with the duration of the lapse in appropriations.

**SO ORDERED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
**REED O'CONNOR**  
**UNITED STATES DISTRICT JUDGE**  
**NORTHERN DISTRICT OF TEXAS**