

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

DEFY VENTURES, INC., *et al.*,

Plaintiffs,

v.

**U.S. SMALL BUSINESS
ADMINISTRATION, *et al.*,**

Defendants.

CASE NO.: 20-cv-1838

**UPDATE IN RESPONSE TO COURT'S REQUEST FOR CLARIFICATION
AT JUNE 29, 2020 CONFERENCE CALL**

In response to the Court's request at today's conference call, Plaintiffs submit the attached proposed order governing the scope of relief as to a stay of the CARES Act's June 30, 2020, deadline for application to and approval for funding under the Paycheck Protection Program ("PPP").¹

Plaintiffs respectfully request that the Court's order apply only in the locations that Individual Plaintiffs and Plaintiffs Defy Ventures, Inc., operate: Maryland, New York, Connecticut, California, Illinois, Colorado, and Washington. The U.S. Court of Appeals for the Seventh Circuit affirmed just this month two important principles that justify this narrowed relief: (1) an organization such as Defy Ventures may suffer "cognizable injuries" due to harm to its organizational mission and diversion of resources by operation of a federal rule sufficient to establish standing; and (2) relief in such cases is appropriate *at least* covering the states or jurisdictions in which plaintiffs operate. *See Cook Cty., Ill. v. Wolf*, No. 19-3169, 2020 WL 3072046, at *3, 5, 17 (7th Cir. June 10, 2020). This relief is available and justified under traditional equitable principles. The court should tailor preliminary relief to afford "complete relief to Plaintiffs." *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979). As a result, a stay of the statutory PPP deadline is required in the jurisdictions where *all* plaintiffs reside.

A proposed order is attached.

¹ Plaintiffs continue to believe that the relief requested in their moving papers is justified and that this Court is authorized to award it for the reasons given therein. Plaintiffs respond only to the Court's question of the appropriate narrowing of relief assuming the June 24 Interim Final Rule is valid.

Dated: June 29, 2020

Respectfully submitted,

/s/ Kali N. Bracey

ReNika C. Moore (Admitted PHV)
Alejandro A. Ortiz (Admitted PHV)
Jennesa Calvo-Friedman (Admitted PHV)

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

125 Broad St., 18th Floor
New York, NY 10004

Tel: (212) 549-2500

Fax: (212) 549-2654

RMoore@ACLU.org

OrtizA@ACLU.org

JCalvo-Friedman@ACLU.org

Joanna K. Wasik (Federal Bar No.
21063)

Hannah E. M. Lieberman (Federal Bar
No. 05456)

WASHINGTON LAWYERS' COMMITTEE FOR
CIVIL RIGHTS AND URBAN AFFAIRS

700 14th St. NW, Ste 400

Washington, DC 20005

Tel.: (202) 319-1000

Fax: (202) 319-1010

Joanna_Wasik@washlaw.org

Hannah_Lieberman@washlaw.org

Claudia De Palma (Admitted PHV)

PUBLIC INTEREST LAW CENTER

1500 JFK Blvd., Suite 802

Philadelphia, PA 19102

Tel: (215) 627-7100

cdepalma@pubintl.org

Kali N. Bracey (Federal Bar No. 20752)

Elizabeth B. Deutsch (Admitted PHV)

JENNER & BLOCK LLP

1099 New York Avenue NW, Suite 900

Washington, DC 20001

Tel.: (202) 639-6000

Fax: (202) 639-6066

KBracey@Jenner.com

EDeutsch@Jenner.com

Jacob D. Alderdice (Admitted PHV)

JENNER & BLOCK LLP

919 Third Avenue

New York, NY 10022

Tel.: (212) 891-1625

Fax: (212) 891-1699

JAlderdice@Jenner.com

Zachary D. Tripp (Admitted PHV)

Lauren E. Morris (Admitted PHV)

WEIL, GOTSHAL & MANGES LLP

2001 M Street, NW, Suite 600

Washington, DC 20036

Tel.: (202) 682-7000

Zack.Tripp@Weil.com

Lauren.Morris@Weil.com

Robert B. Niles-Weed (Admitted PHV)

WEIL, GOTSHAL & MANGES LLP

767 Fifth Avenue

New York, NY 10153

Tel.: (212) 310-8000

Robert.Niles-Weed@Weil.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 29th day of June 2020, Plaintiffs' Response (with attached Proposed Order) was served via the Court's CM/ECF system on all counsel of record in accordance with the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Maryland.

/s/ Kali Bracey
Kali Bracey (Bar No. 20752)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DEFY VENTURES, INC., *et al.*,

Plaintiffs,

v.

**U.S. SMALL BUSINESS
ADMINISTRATION, *et al.*,**

Defendants.

CASE NO.: 20-cv-1838

[PROPOSED] ORDER

Upon consideration of Plaintiffs' Motion for Preliminary Injunction, and upon consideration of the record herein, it is, by this Court, on this ____ day of _____, 2020, ORDERED that said Motion is GRANTED in PART and DENIED in PART; and it is further

ORDERED that the Paycheck Protection Program ("PPP") application and approval deadline shall hereby be extended 21 days, to July 21, 2020, for applicants ineligible under Defendants' now withdrawn criminal-record exclusions of the June 12 Interim Final Rule. To afford Plaintiffs complete relief, the PPP deadline shall be stayed and extended only in the states in which the Individual Plaintiffs are located or where Plaintiff Defy Ventures has chapters and affiliates: Maryland, California, Colorado, Connecticut, Illinois, New York, and Washington.

Judge Catherine C. Blake
United States District Judge