



THE CITY OF NEW YORK  
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**VIA ECF**

Honorable Jesse M. Furman, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

Re: Anika Edrei, et al. v. City of New York, et al.,  
16 Civ. 1652 (JMF) (BCM)

Your Honor:

I am an Assistant Corporation Counsel in the office of Zachary W. Carter, Corporation Counsel of the City of New York, attorney for defendants in the above referenced matter. Defendants write to respectfully request that the Court stay this action pending the resolution of defendants' pending interlocutory appeal. Although Plaintiffs' counsel disagree with, dispute, and do not join in Defendants' legal arguments regarding their application for a stay, primarily for the reasons set forth in Plaintiffs' July 12, 2017 letter (Dkt. No. 64), Plaintiffs' counsel recognize that the Court can grant a discretionary stay, and consent to Defendants' application for a stay at this time.

By way of brief background, plaintiffs brought this action claiming that defendants used a long-range acoustic device ("LRAD") while they were engaged in protests on December 4-5, 2014 in the vicinity of 57th Street, between Madison Avenue and Park Avenue, in New York County. Plaintiffs claim that the use of the LRAD violated, *inter alia*, their Fourteenth Amendment rights.

In response to plaintiffs' First Amended Complaint, defendants moved to dismiss the complaint in its entirety. *See*, Dkt. No. 35. That motion to dismiss was granted in part and denied in part. *See*, Dkt. No. 53. Defendants then filed an interlocutory appeal to the Second Circuit Court of Appeals, in response to which Judge Sweet stayed the present action. *See*, Dkt. Nos. 57 (notice of interlocutory appeal) & 66 (staying the present action pending resolution of defendants appeal). The Second Circuit affirmed the District Court's denial of their motion to dismiss, and rejected defendants' arguments for qualified immunity. *See, Edrei v. Maguire*, 892 F.3d 525, 529

