

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STATE OF WASHINGTON et al.
Plaintiffs,
v.

FEDERAL EMERGENCY MANAGEMENT
AGENCY; DAVID RICHARDSON, in his
official capacity as the Duties of the
Administrator of the Federal Emergency
Management Agency; UNITED STATES
DEPARTMENT OF HOMELAND SECURITY;
KRISTI NOEM, in her official capacity as the
Secretary of the Department of Homeland
Security; and the UNITED STATES OF
AMERICA,
Defendants.

Civil Action No. 1:25-cv-12006-RGS

DEFENDANTS' MOTION TO STAY SUMMARY JUDGMENT BRIEFING DUE TO LAPSE IN APPROPRIATIONS

Defendants respectfully move for a stay of the summary judgment briefing schedule in this matter.

In support of this Motion, Defendants submit the following:

1. At the end of the day on September 30, 2025, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the federal Defendants. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees of the federal Defendants 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 summary judgment briefing schedule 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 – i.e., each deadline would be extended by the total number of days of the lapse in appropriations.

5. Undersigned counsel conferred this matter with counsel for Plaintiffs, who indicated that Plaintiffs oppose this Motion. Plaintiffs indicated they would file an opposition to this Motion within one business day.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of the summary judgment briefing schedule in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted,

LEAH B. FOLEY
United States Attorney

/s/ Nicole M. O'Connor
NICOLE M. O'CONNOR
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Date: October 10, 2025

7.1 CERTIFICATION

I, Nicole M. O'Connor, hereby certify that I conferred with counsel for Plaintiffs prior to filing this motion. Plaintiffs oppose the relief requested herein and intend to file an opposition to this Motion within one business day.

Date: October 10, 2025

/s/ Nicole M. O'Connor
Nicole M. O'Connor
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I, Nicole M. O'Connor, hereby certify that I served a true copy of the above document upon all parties of record via this court's electronic filing system on October 10, 2025. Paper copies will be sent to any non-registered participants on October 10, 2025.

Date: October 10, 2025

/s/ Nicole M. O'Connor
NICOLE M. O'CONNOR
Assistant United States Attorney