

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

SUSAN WEBBER, et al.,

Plaintiffs-Appellants,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Defendants-Appellees.

No. 25-2717

**MOTION FOR A STAY OF BRIEFING SCHEDULE
IN LIGHT OF LAPSE OF APPROPRIATIONS**

The United States of America hereby moves for a stay of the briefing schedule in the above-captioned case.

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 appellees. 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 appellees 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 deadline for simultaneous supplemental briefs addressing the Court's appellate subject matter jurisdiction to review a § 1631 transfer order, presently due on October 8, until Congress has restored appropriations to the Department.

4. The Government respectfully requests that, when appropriations are restored, the current deadlines for the supplemental briefs be extended for the number of days commensurate with the duration of the lapse in appropriations, plus an additional 14 days. Thus, for example, if the lapse lasts 14 days, all parties' deadlines would be extended by $14 + 14 = 28$ days. The Government will need this additional time following the end of the lapse to restart regular government operations and finalize the brief for filing.

5. In addition, granting an extension calculated in the manner proposed above will avoid having all briefs that would otherwise have been due during the period of a lapse of appropriations from having the same due date following the restoration of appropriations, which would not be practicable for the Government or the Court. It also preserves the original chronological order of filing in government cases for fairness to all parties.

6. Opposing counsel has authorized counsel for the Government to state that they oppose this motion.

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

Respectfully submitted,

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Assistant Attorney General

/s/ Sarah Welch
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