



April 28, 2011

***Filed Via ECF***

Hon. Nina Gershon  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: *ACORN v. USA*, 09-CV-4888 (NG)**

Dear Judge Gershon:

As counsel for the parties in the above-entitled action, we write jointly to update the Court on the current status of the case.

As Your Honor is aware, Defendants appealed the Court's March 10, 2010 decision granting Plaintiffs a declaratory judgment and permanent injunction on their Bill of Attainder claim to the United States Court of Appeals for the Second Circuit. On August 13, 2010, a three-judge panel of the Second Circuit vacated the declaratory judgment and permanent injunction and remanded the case to this Court to resolve Plaintiffs' First Amendment and due process claims. *See ACORN v. United States*, 618 F.3d 125 (2d Cir. 2010). Thereafter, Plaintiffs petitioned the Second Circuit for an *en banc* rehearing, and on November 23, 2010 the Second Circuit issued an order denying the petition. *See Exhibit A*.

On February 22, 2011, Plaintiffs timely filed a petition for a writ of certiorari with the United States Supreme Court. On March 24, 2011, the United States Solicitor General's Office was granted a 30-day extension of time to file an opposition to Plaintiffs' certiorari petition, and earlier today it requested an additional extension to May 20, 2011. Even if this additional extension request is granted, Plaintiffs anticipate that the Supreme Court will rule on Plaintiffs' certiorari petition before it begins its summer recess in June 2011.

Accordingly, Plaintiffs respectfully request that this Court stay any further proceedings in this case until after the Supreme Court has ruled on Plaintiffs' certiorari petition. After that ruling, the parties will confer and advise the Court about how they wish to proceed. Defendants do not oppose Plaintiffs' request.

Thank you for your time and consideration.

Respectfully submitted,

\s\

Darius Charney  
Center for Constitutional Rights  
*Counsel for Plaintiffs*

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Peter Leary  
United States Department of Justice  
Civil Division, Federal Programs Branch  
*Counsel for Defendants*

Encl.

Cc: All Counsel (*via ECF*)

*Application granted.  
As Ordered.  
A. C. 11 " "  
USDJ  
5-2-11*