

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS

_____	)	
EAST TEXAS BAPTIST UNIVERSITY,	)	
<i>et al.</i> ,	)	
Plaintiffs,	)	
v.	)	Case No. 4:12-cv-03009
	)	
KATHLEEN SEBELIUS, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**DEFENDANTS’ MOTION FOR A STAY OF LITIGATION SCHEDULE  
IN LIGHT OF LAPSE OF APPROPRIATIONS**

The Government hereby moves for a stay of the litigation schedule in the above-captioned case.

1. At the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for most 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 litigation schedule, including all briefing deadlines and the hearing currently scheduled for October 25, 2013, 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 and the October 25 hearing date be extended commensurate with the duration of the lapse in appropriations.

5. Undersigned counsel has conferred with counsel for plaintiffs East Texas Baptist University (ETBU) and Houston Baptist University (HBU). Plaintiffs ETBU and HBU have represented to undersigned counsel that they consent to a stay that ends automatically once the shutdown ends, along with a corresponding tolling of all briefing deadlines. However, Plaintiffs ETBU and HBU oppose tolling of the October 25 hearing date. Undersigned counsel was unable to reach counsel for plaintiff-intervenor Westminster Theological Seminary.

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

Respectfully submitted this 1st day of October, 2013,

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*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 1, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which sent notice of such filing to all parties.

/s/ Jacek Pruski  
JACEK PRUSKI

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_____	)	

**[PROPOSED] ORDER**

Upon consideration of the Government’s Motion for a Stay of Litigation Schedule in Light of Lapse of Appropriations, it is hereby

**ORDERED** that the motion is **GRANTED**; and it is

**FURTHER ORDERED** that the litigation schedule in this case is **STAYED**; and it is **FURTHER ORDERED** that, upon the restoration of appropriations, all current deadlines for the parties and hearing dates shall be extended commensurate with the duration of the lapse in appropriations.

**SO ORDERED.**

Date: \_\_\_\_\_

\_\_\_\_\_  
LEE H. ROSENTHAL  
UNITED STATES DISTRICT JUDGE