

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:17-cv-289-RBJ

ZAKARIA HAGIG,

Plaintiff,

v.

DONALD J. TRUMP, *et al.*

Defendants.

**UNOPPOSED MOTION FOR STAY PENDING
SUPREME COURT PROCEEDINGS**

Defendants, by and through undersigned counsel, hereby submit this unopposed motion seeking a stay of proceedings in this case pending the Supreme Court’s potential consideration of the Fourth and Ninth Circuits’ decisions in cases challenging Executive Order No. 13780, titled “Protecting the Nation from Foreign Terrorist Entry into the United States” (the “New EO”). *See Int’l Refugee Assistance Proj. v. Trump*, No. 17-1351, --- F.3d ---, 2017 WL 2273306 (4th Cir. May 25, 2017) (“*IRAP*”); *Hawaii v. Trump*, No. 17-15589, --- F.3d ---, 2017 WL 2529640 (9th Cir. June 12, 2017) (“*Hawaii*”). In support of their motion, Defendants state as follows:

1. Under D.C. COLO. L Civ. R. 7.1A, Defendants’ counsel certifies that they have conferred with Plaintiff’s counsel who do not oppose the stay of proceedings.

2. Plaintiff filed his Amended Class Action Complaint on February 10, 2017. ECF 13.

3. Defendants filed a Stipulated Extension of Time to Respond to Amended Class Action Complaint on April 3, 2017. ECF 25. On April 21, 2017, Defendants filed an

Unopposed Motion for Extension of Time to Respond to Amended Class Action Complaint.

ECF No. 28. This motion was granted on June 13, 2017. ECF 29.

4. Defendants' answer or other responsive pleading to the Amended Class Action Complaint is currently due on June 23, 2017.

5. On March 6, 2017, the President signed the New EO, which revokes Executive Order No. 13,769, titled "Protecting the Nation from Foreign Terrorist Entry into the United States" (the "Old EO"). See Notice to Court [ECF 21], and Amended Notice [ECF 22].

6. The New EO is the subject of several other lawsuits across the country, including cases in the Fourth and Ninth Circuits. See *Int'l Refugee Assistance Proj. v. Trump*, No. 17-1351, --- F.3d ---, 2017 WL 2273306 (4th Cir. May 25, 2017); *Hawaii v. Trump*, No. 17-15589, --- F.3d ---, 2017 WL 2529640 (9th Cir. June 12, 2017). On Thursday, May 25, 2017, the Fourth Circuit, in an *en banc* decision, upheld the District of Maryland's preliminary injunction of the New EO based on a finding of likelihood of success on plaintiffs' Establishment Clause Claim. See *Int'l Refugee Assistance Proj.*, 857 F.3d 554 (4th Cir. 2017). On June 12, 2017, the Ninth Circuit affirmed in part the injunction of the New EO issued by the District of Hawaii. See *Hawaii v. Trump*, No. 17-15589, --- F.3d ---, 2017 WL 2529640 (9th Cir. June 12, 2017).

7. On June 1, 2017, the Government filed a petition for writ of certiorari seeking review of the Fourth Circuit's decision in the Supreme Court. See *Int'l Refugee Assistance Proj. v. Trump*, No. 17-1351, --- F.3d ---, 2017 WL 2273306 (4th Cir. May 25, 2017), *petition for cert. filed*, --- U.S. ---, (U.S. June 1, 2017) (No. 16-1436). The same day, the Government also filed an application seeking a stay of a separate injunction issued by the District of Hawaii pending

appeal in the Ninth Circuit; on June 12, while the Government's stay application was pending, the Ninth Circuit issued its decision affirming that injunction in part and vacating it in part, and the Government requested that the Supreme Court construe its stay application as a petition for a writ of certiorari to review the Ninth Circuit's decision. *Hawaii v. Trump*, No. 17-15589, --- F.3d ---, 2017 WL 2529640 (9th Cir. June 12, 2017), *petition for cert. filed*, --- U.S. ---, (U.S. June 1, 2017) (No. 16A1191).

8. Further review by the Supreme Court would provide substantial guidance to this Court and the parties in resolving this dispute. *See Landis v. North American Co.*, 299 U.S. 248, 253 (1936) (holding that a stay may be warranted where the resolution of other litigation will likely "narrow the issues in the pending cases and assist in the determination of the questions of law involved"). Proceeding in the absence of such guidance would be inefficient, waste the resources of the Court and the parties, and potentially result in an inconsistent ruling that would need to be corrected in light of any decision by the Supreme Court.

9. Good cause therefore exists, for reasons of judicial efficiency and economy, to stay these proceedings.

10. The requested stay of proceedings is reasonable and will not prejudice Plaintiff. Plaintiff does not oppose the stay. The requested relief will simplify and streamline the proceedings.

11. For the reasons stated above, Defendants respectfully request that the Court stay this case pending disposition of the petitions for writs of certiorari in *IRAP* and *Hawaii*, and, if

certiorari is granted in either or both cases, pending a final decision by the Supreme Court on the merits, to be lifted two weeks after such final action by the Supreme Court.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General
Civil Division

WILLIAM PEACHEY
Director
Civil Division, Office of Immigration
Litigation

GISELA A. WESTWATER
Assistant Director

STACEY YOUNG
Senior Litigation Counsel

/s/ Adrian M. Pandev
ADRIAN M. PANDEV
Trial Attorney
U.S. Department of Justice
Civil Division
Office of Immigration Litigation
District Court Section
P.O. Box 868, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 598-2648
Fax: (202) 305-7000
Email: adrian.m.pandev@usdoj.gov

DATE: June 22, 2017

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2017, I electronically filed the foregoing Motion using the Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record. I also hereby certify that on June 22, 2017, I caused the foregoing document to be served via email upon an agency representative for Defendants.

Dated: June 22, 2017

/s/ Adrian M. Pandev
ADRIAN M. PANDEV
Trial Attorney