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General Order No. 688

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

<p>IN THE MATTER OF THE FEDERAL LAPSE IN APPROPRIATIONS</p>	}	<p>Case No.: 18-mc-01938-BTM TEMPORARY GENERAL ORDER STAYING CIVIL MATTERS INVOLVING THE UNITED STATES AS A DEFENDANT</p>
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Before the Court is the *Ex Parte* Application of the United States for a Temporary General Order Staying Civil Matters Involving the United States as a Party arising from a lapse in appropriations currently impacting the Department of Justice and the United States Attorney’s Office for the Southern District of California. Having considered the *Ex Parte* Application of the United States, and for good cause shown, the Court enters this General Order.

1. At midnight on December 21, 2018, funding for the Department of Justice expired and appropriations to the Department lapsed. Many other Executive agencies are also experiencing a lapse in appropriations.

2. Absent funding, Assistant U.S. Attorneys and support staff assigned to the Civil Division of the U.S. Attorney’s Office who are funded by direct

1 appropriations may not lawfully provide uncompensated services on behalf of the
2 Government.

3 An officer or employee of the United States Government . . . may
4 not accept voluntary services . . . exceeding that authorized by law
5 except for emergencies involving the safety of human life or the
6 protection of property. . . [T]he term “emergencies involving the
7 safety of human life or the protection of property” does not include
8 ongoing, regular functions of government the suspension of which
9 would not imminently threaten the safety of human life or the
10 protection of property.

11 31 U.S.C. § 1342. As a result, on December 22, 2018, non-supervisory Assistant
12 U.S. Attorneys and support staff assigned to the Civil Division of the U.S. Attorney’s
13 Office, funded by direct appropriations, went into furlough status. Furlough means
14 the placing of an employee in a temporary status without duties because of lack of
15 work or funds or other nondisciplinary reasons. 5 U.S.C. § 7511(a)(5). If the
16 funding situation does not change, some Assistant U.S. Attorneys may be called
17 back from furlough status, but only on a critical need basis to protect life or property.

18 3. The United States Attorney’s Office has sought a stay of all civil cases
19 within the Southern District of California wherein the United States or an agency,
20 corporation, officer or employee of the United States is a party until Congress
21 restores appropriations to the Department of Justice. This includes those cases
22 involving federally funded facilities (and their officers, employees, and contractors)
23 that the U.S. Department of Health and Human Services Secretary has deemed to be
24 employees of the U.S. Public Health Service pursuant to the Federally Supported
25 Health Centers Assistance Act (“FSHCAA”), 42 U.S.C. § 233(g)-(n), as amended
26 by the Federally Supported Health Centers Assistance Act of 1995, Pub. L. No. 104-
27 73, 109 Stat. 777 (1995). These entities are shielded under the Federal Tort Claims
28 Act (“FTCA”), 28 U.S.C. §§ 1346(b), 2671-2680 from liability while acting within
the scope of their duties, with the United States assuming liability for any negligent

1 acts they may commit. 42 U.S.C. § 233(g)(l). Further, the United States Attorney's
2 Office has requested that the Court extend all current deadlines commensurate with
3 the duration of the lapse in appropriations. This includes but is not limited to the
4 electronic filing of all Social Security Administration Transcripts and the delivery
5 of courtesy copies of the transcripts to the Court.

6 4. Based on the number of cases involved, consulting all parties to all
7 litigation in which the United States, or an agency, corporation, officer or employee
8 of the United States is a defendant, is impracticable. Likewise, requesting individual
9 extensions of time or stays in such cases, at a time when U.S. Attorney's Office
10 personnel may not lawfully work, is impracticable.

11 5. To preserve the status quo until restoration of funding, all civil cases
12 within the Southern District of California wherein the United States or an agency,
13 corporation, officer or employee, deemed or otherwise, of the United States is a
14 defendant are stayed unless otherwise ordered by the assigned district judge. All
15 deadlines, due dates or cut-off dates in such cases are extended for a period of time
16 commensurate with the duration of the lapse in appropriations.

17 6. Civil hearings involving the United States or an agency, corporation,
18 officer or employee, deemed or otherwise, of the United States as a defendant will
19 be reset at a time after the lapse in appropriations.


20 7. This Order does not alter, vacate or stay any obligation of individuals
21 to pay amounts previously lawfully determined to be owed to the United States or to
22 an agency or office of the United States.

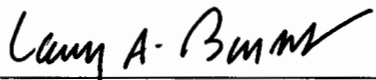
23 8. This Order does not prohibit, in any manner, the ability of parties to file
24 claims or commence actions against the United States. However, the cases or
25 matters commenced while there is a lapse in appropriations will be immediately
26 stayed, pending restoration of appropriations. All deadlines, response dates, due
27 dates or cut-off dates in such cases will be extended for a period of time
28 commensurate with the duration of the lapse in appropriations.

1 9. The United States Attorney's Office shall notify the Court when
2 Congress restores appropriations to the Department of Justice, and the Court will
3 enter additional instructions and guidance at that time.

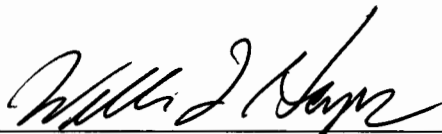
4 **IT IS SO ORDERED.**


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6 DATED: January 9, 2019

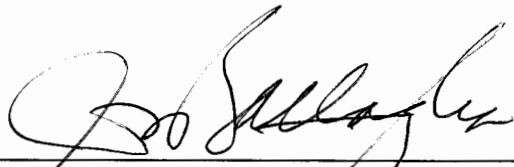
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11 BARRY TED MOSKOWITZ,
12 Chief Judge
13 United States District Court

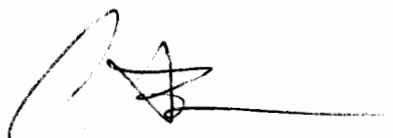
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11 LARRY A. BURNS, Judge
12 United States District Court

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16 see attached
17 DANA M. SABRAW, Judge
18 United States District Court

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17 WILLIAM Q. HAYES, Judge
18 United States District Court

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22 JANIS L. SAMMARTINO, Judge
23 United States District Court

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21 ANTHONY J. BATTAGLIA, Judge
22 United States District Court

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26 CATHY ANN BENCIVENGO, Judge
27 United States District Court

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26 GONZALO P. CURIEL, Judge
27 United States District Court

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Cynthia Bashant

CYNTHIA BASHANT, Judge
United States District Court

see attached

WILLIAM B. ENRIGHT, Judge
United States District Court

Marilyn L. Huff

MARILYN L. HUFF, Judge
United States District Court

see attached

JEFFREY T. MILLER, Judge
United States District Court

Thomas J. Whelan

THOMAS J. WHELAN, Judge
United States District Court

see attached

M. JAMES LORENZ, Judge
United States District Court

John A. Houston

JOHN A. HOUSTON, Judge
United States District Court

see attached

ROGER T. BENITEZ, Judge
United States District Court

Michael M. Anello

MICHAEL M. ANELLO, Judge
United States District Court


1 9. The United States Attorney's Office shall notify the Court when
2 Congress restores appropriations to the Department of Justice, and the Court will
3 enter additional instructions and guidance at that time.

4 **IT IS SO ORDERED.**

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6 DATED: _____
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11 _____
12 BARRY TED MOSKOWITZ,
13 Chief Judge
14 United States District Court

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16 LARRY A. BURNS, Judge
17 United States District Court

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27 United States District Court

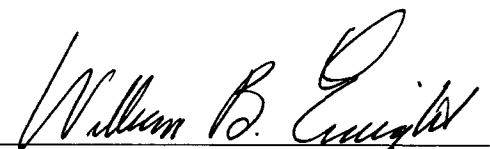
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29 ANTHONY J. BATTAGLIA, Judge
30 United States District Court

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32 CATHY ANN BENCIVENGO, Judge
33 United States District Court

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35 GONZALO P. CURIEL, Judge
36 United States District Court

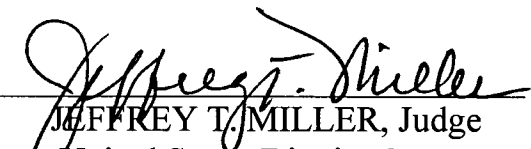
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CYNTHIA BASHANT, Judge
United States District Court



WILLIAM B. ENRIGHT, Judge
United States District Court

MARILYN L. HUFF, Judge
United States District Court



JEFFREY T. MILLER, Judge
United States District Court

THOMAS J. WHELAN, Judge
United States District Court

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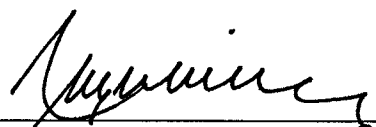
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