

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

CITIZENS FOR RESPONSIBILITY AND )  
ETHICS IN WASHINGTON, )

Plaintiff )

v. )

U.S. DEPARTMENT OF JUSTICE, )

Defendant. )

No. 1:08-cv-01468 (EGS)  
Hon. Emmet G. Sullivan

**UNITED STATES DEPARTMENT OF JUSTICE’S UNOPPOSED  
EMERGENCY MOTION FOR A THIRTY DAY STAY TO PERMIT  
THE SOLICITOR GENERAL TO MAKE AN APPEAL DETERMINATION**

The United States Department of Justice (“DOJ”) hereby files this unopposed emergency motion for a thirty-day stay of the Court’s October 1, 2009 Order, in order to allow the Solicitor General sufficient time in which to exercise her statutory authority to determine whether DOJ will file an appeal in this action.

On October 1, 2009, this Court entered an Order granting in part and denying in part DOJ’s Motion for Summary Judgment, and ordering DOJ to produce redacted documents by October 9, 2009. DOJ respectfully requests that the Court stay its Order until 30 days from its date of entry, until October 31, 2009, to preserve the status quo pending a determination by the Solicitor General as to whether an appeal should be taken. This case involves an important issue that will require consultations at high levels of Government, making it extraordinarily difficult for the Solicitor General to make her appeal decision by October 9. *Cf. U.S. ex rel. Eisenstein v. City of New York*, 540 F.3d 94, 99 (2d Cir. 2008) (noting that Fed. R. Civ. P. 4(a)(1)(B)) provides the

United States 60 days from the date an order is issued to file a notice of appeal “to account for the slow machinery of government when the United States is a party responsible for prosecuting the action”), *aff’d*, 129 S.Ct. 2230 (2009). A stay of the Court’s October 1 Order is necessary to avoid the irreparable harm that would result if the Government is forced to disclose its documents to the public before it has the opportunity to consider whether to pursue its appellate rights.

Counsel for DOJ has conferred with counsel for Plaintiff who advised that, while Plaintiff disagrees that irreparable harm would occur absent a stay, Plaintiff consents to the relief sought herein.

October 5, 2009

Respectfully submitted,

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Deputy Branch Director

/s/ Jeffrey M. Smith  
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