

No. 18-36082

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

KELSEY CASCADIA ROSE JULIANA, et al.,
Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, et al.,
Defendants-Appellants.

On Appeal from the United States District Court
for the District of Oregon (No. 6:15-cv-01517-AA)

**DEFENDANTS-APPELLANTS' REQUEST TO
POSTPONE THEIR OBLIGATION TO RESPOND TO
PLAINTIFFS-APPELLEES' MOTION TO EXPEDITE APPEAL**

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Plaintiffs-Appellees (Plaintiffs) have filed a motion to expedite this appeal pursuant to Circuit Rule 27-12. The motion consists of more than 4,000 words and 71 pages of supporting materials. For the following reasons, Defendants-Appellants United States of America, et al. (the government) respectfully request that their obligation to respond to Plaintiffs' motion be postponed.

As the Court is doubtless aware — and as undersigned counsel informed Plaintiffs' counsel on December 31, 2018 — at the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice expired, and appropriations to the Department lapsed. The same is true for several other Executive Branch agencies that are parties to this appeal. The Department does not know when funding will be restored by Congress. Absent an appropriation, Justice Department attorneys like those representing the government in this matter (as well as employees of various defendant agencies) 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.

The government respectfully submits that Plaintiffs' pending motion does not constitute one of those very limited circumstances. Accordingly, the government respectfully requests that its obligation to respond to the motion be postponed until 10 days after Congress has restored appropriations to the Department of Justice. *Cf.* Fed. R. App. P. 27(a)(3)(A) (“The response [to a motion] must be filed within 10

days after service of the motion unless the court shortens or extends the time.”). Hoping to minimize any disruption to the Court or to Plaintiffs, the government does not at this time seek postponement of any additional filing obligations, including its Mediation Questionnaire (due today) or its opening brief (due April 5, 2019).

If this request is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department of Justice.

Dated: January 3, 2019.

Respectfully submitted,

s/ Eric Grant

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