



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007


October 20, 2020

MEMO ENDORSED**By ECF**

The Honorable Edgardo Ramos
United States District Judge
40 Foley Square
New York, NY 10007

Defendant's request to extend the deadline to comply with the Court's September 29, 2020 Order until December 4, 2020 is granted.

It is SO ORDERED.


Edgardo Ramos, U.S.D.J.
Dated: 10/20/2020
New York, New York

Re: *ACLU v. DOD*, 17 Civ. 9972 (ER)
New York Times Co. v. DOD, 20 Civ. 43 (ER)

Dear Judge Ramos:

On behalf of defendants (the “government”) in the above-captioned actions brought under the Freedom of Information Act (“FOIA”), we write respectfully to request an adjournment, from November 1, 2020, to December 4, 2020, of the deadline to submit a schedule for the government’s compliance with the Court’s September 29, 2020 Order and the further disposition of these cases.

In the September 29 Order and a Memorandum Opinion filed on October 5, 2020, the Court denied the government’s motion for summary judgment, granted plaintiffs’ cross-motions, and directed the government to confirm or deny whether it has records responsive to plaintiffs’ FOIA requests. The Court further directed the parties to file, by November 1, a schedule for the government’s compliance with the September 29 Order and the further disposition of these cases.

The government respectfully requests an adjournment of the November 1 deadline to permit the Acting Solicitor General of the United States to consider whether to authorize appeal of the Court’s September 29 Order.¹ The government is unable to propose a schedule for compliance with the September 29 Order and further disposition of these cases until it is determined whether or not the government will appeal the September 29 Order. Under 28 U.S.C. § 2107(b) and Federal Rule of Appellate Procedure 4(a)(1)(B), the government has sixty days, or until November 30, 2020 (November 28 and 29 falling on a weekend), to file a notice of appeal. An adjournment of the November 1 deadline to December 4, 2020 would allow the government to consider appeal and, if no notice of appeal is filed by November 30, to confer with plaintiffs regarding an appropriate schedule.

¹ Only the Acting Solicitor General can authorize an appeal by the government. See 28 C.F.R. § 0.20(b). The government’s process for consideration of appeal involves consultation both within the Department of Justice and with all relevant government entities, including the National Security Council.

This is the government's first request for an adjournment of the November 1 deadline. Plaintiffs take no position on the government's request.

We thank the Court for its consideration of this request.

Respectfully submitted,

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cc: Counsel of Record (via ECF)