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District of Arizona

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*Attorneys for the United States of America*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Alice Kabinto,  
Plaintiff,

vs.

Office of Navajo and Hopi Indian  
Relocation an administrative agency of the  
United States,  
Defendant.

**Case No.: 17-cv-08158-JJT**

**MOTION FOR STAY OF CASE DUE TO  
FEDERAL GOVERNMENT  
SHUTDOWN**

Comes now the Defendant, Office of Navajo and Hopi Indian Relocation, (hereinafter the “ONHIR” or the “Defendant”), by counsel and, pursuant to LRCiv 7.2, respectfully requests a stay of all obligations imposed upon it by court rule, by court order, or by stipulation of the parties on the grounds that undersigned counsel will be prohibited from working and therefore unable to meet counsel’s ethical duties due to the Federal Government’s shutdown. In support of which, the United States provides the following:

1. As of this date, the Federal Government has not enacted a budget funding the United States Department of Justice, among other federal agencies. The undersigned Assistant United States Attorney is precluded from working during a furlough period. An

1 officer or employee of the United States who violates 31 U.S.C. § 1341(a) (obligate/expend  
2 in excess or advance of appropriation), section 1342 (voluntary services prohibition), or  
3 section 1517(a) (obligate/expend in excess of an apportionment or administrative  
4 subdivision as specified in an agency’s regulations) “*shall* be subject to appropriate  
5 administrative discipline including, when circumstances warrant, suspension from duty  
6 without pay or removal from office.” 31 U.S.C. §§ 1349(a), 1518. (Emphasis added). In  
7 addition, an officer or employee who “knowingly and willfully” violates any of the  
8 provisions cited above “*shall* be fined not more than \$5,000, imprisoned for not more than  
9 2 years, or both.” 31 U.S.C. §§ 1350, 1519. (Emphasis added).

10 2. Undersigned counsel is therefore unable to meet the ethical obligations owed  
11 to the client, including the duty to act with reasonable diligence and promptness in  
12 representing the client (ER 1.3); the duty to keep the client reasonably informed about the  
13 representation (ER 1.4); the duty to expedite litigation (ER 3.2); and the duty to take  
14 reasonable steps to protect the interests of the client.

15 3. Counsel for the United States is unable to meet these ethical obligations  
16 because of the consequences which flow from the lack of a federal budget. Without a budget,  
17 many of the Government’s agencies and employees will not be open and operating, or at  
18 work and will therefore be unable to participate in or make any decisions related to this case.

19 4. Additionally, federal employees who hold or have access to information  
20 needed for this case will be prohibited from working. Counsel will not have support staff  
21 (legal secretaries, legal assistants, clerks) or funding to pay for legal experts, depositions,  
22 travel, telephone charges, copy charges, mediators fees, or other basic litigation costs  
23 necessary to represent the client in this litigation.

24 5. Upon cessation of the Government shutdown, counsel for the United States  
25 will file a Notice of Resumed Government Activity with the Court and, if necessary, given  
26 the circumstances of this case, confer with opposing counsel and submit a joint proposed  
27 schedule for the remainder of litigation.

28 **WHEREFORE**, the United States, by counsel, respectfully requests that this Court

1 GRANT its Motion for Stay of Case Proceedings.

2 Respectfully submitted this 26th day of December, 2018.

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ELIZABETH A. STRANGE  
First Assistant United States Attorney  
District of Arizona

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s/Peter M. Lantka  
PETER M. LANTKA  
Assistant United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on December 26, 2018, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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Navajo-Hopi Legal Services Program  
P.O. Box 2990  
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s/Mary C. Finlon  
U.S. Attorney’s Office