

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

INTERNATIONAL REFUGEE
ASSISTANCE PROJECT, et al.

Plaintiffs-Appellees,

v.

17-2231 (L)

DONALD J. TRUMP, in his official
capacity as President of the United States,
et al.

Defendants-Appellants.

IRANIAN ALLIANCES ACROSS
BORDERS, et al.

Plaintiffs-Appellees,

v.

17-2232

DONALD J. TRUMP, in his official
capacity as President of the United States,
et al.

Defendants-Appellants.

EBLAL ZAKZOK, et al.

Plaintiffs-Appellees,

v.

17-2233

DONALD J. TRUMP, in his official
capacity as President of the United States,
et al.

Defendants-Appellants.

**IAAB AND ZAKZOK PLAINTIFFS' OPPOSITION TO
MOTION TO ESTABLISH BRIEFING SCHEDULE
REGARDING MOTION FOR STAY PENDING APPEAL**

In moving to expedite briefing on its motion for a stay pending appeal, the Government proposes a briefing schedule that gives Plaintiffs two business days to respond to a 25-page stay motion. The Government has offered no good reason for providing Plaintiffs so little time to respond.

On March 22, 2017, the Government filed a motion to expedite its appeal of the district court's order enjoining enforcement of the President's second travel ban (Executive Order No. 13,780). *See* Case No. 17-1351, Dkt. No. 14. In addition to requesting an expedited briefing schedule for the appeal, the Government also requested an expedited briefing schedule for its forthcoming motion for a stay pending appeal. In response to that motion, the Court entered an expedited briefing schedule under which Plaintiffs had 7 days to file an opposition, and the government had 5 days for a reply. *Id.* Dkt. No. 25.

Plaintiffs have proposed that the parties proceed on a similar schedule for briefing the motion for a stay pending appeal of the district court's order enjoining enforcement of the President's third travel ban (82 Fed. Reg. 45,161 (Sept. 27, 2017)). Under that schedule, Plaintiffs' opposition would be due on October 27, 2017, and the Government's reply would be due on October 30, 2017. This sched-

ule would result in the motion being fully briefed in the 10 days that Plaintiffs would ordinarily have to file their opposition.

The Government objects to following the schedule previously set by the Court, arguing that it fails to account for the gravity of the issues presented and the national security concerns. *See* Case No. 2232, ECF No. 6, at 3. But the Government has not even attempted to show why there is more urgency now than there was in March. The Government's actions prove that, if anything, there is less urgency now. The Government took more than six months to produce the reports on which the Proclamation was based. After receiving the final report on September 15, 2017, the President waited 9 days to issue the Proclamation on September 24, 2017. *See* 82 Fed. Reg. 45,161, 45,163. By its terms, the Proclamation would not take effect until October 18—24 days after it was issued. *Id.* at 45,171. And after the district court entered a preliminary injunction, the Government waited more than two days to file a simple notice of appeal.

Given the President's decision to delay implementation of the Proclamation by nearly a month, the Government cannot credibly argue that allowing Plaintiffs an extra three days to file an opposition would pose a national security risk.

Plaintiffs respectfully request that the Court enter the following scheduling order:

Plaintiffs' Opposition: Due October 27, 2017

Government's Reply: Due October 30, 2017

Dated: October 21, 2017

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CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-face requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A). This motion contains 469 words, excluding the parts of the motion excluded by Federal Rules of Appellate Procedure 27(d)(2) and 32(f).

s/ Mark W. Mosier
Mark W. Mosier

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October, 2017, I filed the foregoing motion by use of the Fourth Circuit's CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

s/ Mark W. Mosier

Mark W. Mosier