

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

NORTHWEST AUSTIN MUNICIPAL UTILITY DISTRICT NUMBER ONE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:06-CV-01384
	)	(PLF)
MICHAEL B. MUKASEY, Attorney General of the United States, <u>et al.</u> ,	)	
	)	
Defendants.	)	
	)	

**DEFENDANT-INTERVENORS’ JOINT CONSENT MOTION TO EXTEND THE  
DEADLINE FOR FILING ANY PETITION FOR ATTORNEY’S FEES AND COSTS  
AND TO HOLD IN ABEYANCE ALL PROCEEDINGS ON ANY SUCH PETITION**

Pursuant to Federal Rule of Civil Procedure 54 and Local Rules 54.1 and 54.2, Defendant-Intervenors Texas State Conference of NAACP Branches, Austin Branch of the NAACP, Rodney Louis, Nicole Louis, Winthrop Graham, Yvonne Graham, Wendy Richardson, Jamal Richardson, Marisa Richardson, Lisa Diaz, David Diaz and Gabriel Diaz, People For the American Way, and Nathaniel Lesane (collectively “Defendant-Intervenors”) jointly request that this Court extend the deadlines for filing any petition for costs or attorney’s fees in this case, and also hold in abeyance all proceedings relating to such a petition. The grounds for this motion are as follows:

1. On May 30, 2008, this Court issued an order denying summary judgment for the Plaintiff and granting summary judgment for the Defendant and Defendant-Intervenors [Dkt. No. 134]. The accompanying opinion held that because the Plaintiff did not qualify as a “political subdivision,” it could not “bail out” of the Section 5 preclearance requirement under the criteria

set forth in Section 4 of the Voting Rights Act and that the 2006 legislative reauthorization of Section 5 was not an unconstitutional extension of Congress's enforcement powers. [Dkt. No. 133].

2. A prevailing party in a suit involving the enforcement of voting guarantees may be able to recover attorney's fees. 42 U.S.C. § 1973l(e) (2006). Under Rule 54(d)(2)(B) of the Federal Rules of Civil Procedure, a claim for attorney's fees must ordinarily be made by motion no later than 14 days after the entry of judgment absent a court order providing otherwise. Without an extension from this Court, Defendant-Intervenors' petition for fees, should they decide to file one, would be due by June 13, 2008.

3. Under Federal Rule of Civil Procedure 54(d)(1), prevailing parties may recover costs. Pursuant to Local Rule 54.1(a), a "bill of costs must be filed within 20 days after entry of judgment terminating the case as to the party seeking costs, unless the time is extended by the court." Thus, without an extension from this Court, Defendant-Intervenors' petition for costs, should they choose to file one, would be due by June 19, 2008.

4. This Court's Local Rules recognize, however, that there may be circumstances where the immediate filing of a petition for fees and costs would be premature and inefficient. Thus, Local Rule 54(b) specifically authorizes the Court to hold all matters relating to attorney's fees in abeyance pending any appeal that might be taken.

5. The Plaintiff in this case has the right to appeal from this Court's decision directly to the United States Supreme Court. 42 U.S.C. § 1973b(a)(5). Counsel for the Plaintiff has indicated publicly that the Plaintiff is currently deciding whether to appeal. Any notice of appeal would have to be filed within 60 days of the Court's final judgment, 28 U.S.C. § 2101(b),

that is, by July 29, 2008. A jurisdictional statement would be due in the Supreme Court 60 days after the filing of any notice of appeal. *See* Sup. Ct. R. 18.3.

6. Should Plaintiff appeal to the Supreme Court, the Supreme Court's disposition of the case may have a significant effect on the fees and costs that Defendant-Intervenors might seek. Requiring the Defendant-Intervenors to file a fee petition and bill of costs within the ordinary 14-day and 20-day deadlines respectively as set by the Federal Rules of Civil Procedure and Local Rules would thus be premature. Granting an extension for the filing of a fee request and bill of costs until after any appeal is resolved will promote the efficient disposition of any requests to recover fees and costs. *Accord* Local Rule 54(b) ("After a decision has been made that there will be an appeal, the court shall make a specific determination as to whether, in the interests of justice the fee issues, in whole or part, should be considered to be held in abeyance pending the outcome of the appeal.").

7. The Parties have conferred and Plaintiff agrees not to oppose to this motion, subject to the understanding that this agreement does not constitute consent as to the availability or amount of any fees or costs that any party in this case may seek to recover and that Plaintiff's position is that there is no basis for any fee or cost award.

WHEREFORE, Defendant-Intervenors request that the Court extend the deadline to file any petition for requested fees or costs until 60 days after the case becomes final, *i.e.*, the later of 60 days after (a) the time for filing a notice of appeal to the Supreme Court has expired, but no notice has been filed; (b) the time for filing a jurisdictional statement with the Supreme Court has expired, but no jurisdictional statement has been filed, or (c) the Supreme Court takes final action on any appeal that might be filed.

Respectfully submitted,

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