

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, EGS, DST)
MICHAEL B. MUKASEY, Attorney General of	)	
the United States, <u>et al.</u> ,	)	
	)	
Defendants.	)	
_____	)	

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

Pursuant to Federal Rule of Civil Procedure 54, Local Rules 54.1 and 54.2, and this Court's Order of June 17, 2008, 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, Travis County, Texas, and Nathaniel Lesane (collectively "Defendant-Intervenors") jointly renew their request that this Court extend the deadlines for filing any petition for costs or attorneys' fees in this case, and also hold in abeyance all proceedings relating to any such 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 attorneys’ fees. 42 U.S.C. § 1973l(e) (2006). Under Rule 54(d)(2)(B) of the Federal Rules of Civil Procedure, a claim for attorneys’ 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, any petition for fees filed by Defendant-Intervenors would have been due on 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, any petition for costs filed by Defendant-Intervenors would have been 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 attorneys’ fees in abeyance pending any appeal that might be taken.

5. On June 13, 2008, Defendant-Intervenors moved (with the consent of Plaintiff) for an extension of the deadline to file a petition for attorneys’ fees and costs until after appellate proceedings in this case are completed. On June 17, 2008, this Court granted that motion,

directed Plaintiff to notify the Court by July 29, 2008, whether it intended to pursue an appeal in this case, and ordered that, if Plaintiff gave notice that it intended to pursue an appeal, Defendant-Intervenors could renew their motion to extend the deadline to file a petition for fees and costs by July 31, 2008.

6. 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). On July 7, 2008, Plaintiff notified this Court that it intended to appeal the Court's decision. [Dkt. 139]. On July 7, 2008, Plaintiff also served the other parties in this case with a notice of appeal. That notice of appeal was filed with the Court on July 8, 2008. [Dkt. No. 140]. Absent extension, Plaintiff's jurisdictional statement is due in the Supreme Court within 60 days after the filing of the notice of appeal. *See* Sup. Ct. R. 18.3.

7. 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. Because 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, the "interests of justice," *see* Local Rule 54(b), support granting the motion.

8. The Parties have conferred and Plaintiff agrees not to oppose 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 set the deadline to file any

petition for requested fees or costs to be 60 days after the case becomes final, *i.e.*, the later of 60 days after (a) the time for filing a jurisdictional statement with the Supreme Court has expired, but no jurisdictional statement has been filed, or (b) the Supreme Court takes final action on any appeal that might be filed.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 17th day of July, 2008, a copy of the foregoing was filed electronically with the Clerk of the Court. The electronic filing prompted automatic service of the filing to all counsel of record in this case who have obtained CM/ECF passwords.

/s/ Ariel B. Waldman  
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