

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. CV 16-8697 MWF (SSx)

Date: October 11, 2018

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Title: United States of America ex rel. Benjamin Poehling v. UnitedHealth Group, Inc., et al.

DOCKET ENTRY: **ORDER: (1) GRANTING A TEMPORARY STAY OF PROCEEDINGS ON DEFENDANTS’ ANTICIPATED MOTION TO COMPEL DISCOVERY; AND (2) SETTING REPLY BRIEF DEADLINE AND EXPEDITED HEARING DATE ON THE GOVERNMENT’S EX PARTE APPLICATION FOR A STAY (Dkt. No. 294)**

PRESENT:

HONORABLE SUZANNE H. SEGAL, UNITED STATES MAGISTRATE JUDGE

Marlene Ramirez
Deputy Clerk

None
Court Reporter/Recorder

None
Tape No.

ATTORNEYS PRESENT FOR PLAINTIFF:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

PROCEEDINGS: (IN CHAMBERS)

On October 3, 2018, the United States filed an Ex Parte Application for an order temporarily staying briefing on Defendants’ anticipated “Motion to Compel the United States to Produce Documents” (the “Motion to Compel”). (“Application,” Dkt. No. 294). On October 5, 2018, Defendants filed an Opposition, (“Opp.,” Dkt. No. 297), including the declaration of Abid R. Qureshi. (“Qureshi Decl.,” Dkt. No. 298).

The government states that it received Defendants’ portion of a Joint Stipulation relating to the Motion to Compel on September 28, 2018, with an October 12 deadline for the return of the government’s portion. The proposed Motion to Compel seeks an order requiring the production of documents that the government contends are protected from

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disclosure pursuant to the deliberative process privilege. The government seeks to stay proceedings related to the Motion to Compel until the District Judge has ruled on several pending motions, i.e., Dkt. Nos. 234, 235, 236 and 261, that the government maintains may have a significant impact on the scope of permissible discovery.

Defendants argue that there is no emergency or threat of irreparable harm that would warrant ex parte relief. Defendants further contend that the government would not be unduly burdened by providing its portion of the Joint Stipulation, and that the evidence sought by the Motion to Compel is directly relevant to critical issues in this case.

As noted by Defendants, ex parte applications are solely for extraordinary relief and should be used with discretion. See Mission Power Eng'g Co. v. Cont'l Cas. Co., 883 F. Supp. 488 (C.D. Cal. 1995). Evidence must show that the moving party's cause "will be irreparably prejudiced if the underlying motion is heard according to regular noticed motion procedures." Id. at 492. Moreover, the moving party must establish that it is "without fault in creating the crisis that requires ex parte relief, or that the crisis occurred as a result of excusable neglect." Id.

The Court concludes that further briefing and oral argument will assist in the resolution of this dispute, particularly on the question of whether the government is entitled to ex parte relief under the applicable standards. Accordingly, the Court ORDERS that proceedings related to Defendants' anticipated Motion to Compel are **temporarily** STAYED pending an expedited hearing on the government's Ex Parte Application. The government may file a Reply in support of its Application by October 17, 2018. The hearing on the Application will be held on Tuesday, October 23, 2018 at 11:00 a.m. in Courtroom 590, Roybal Federal Building and Courthouse. If the Parties prefer that the hearing be held telephonically, they shall file a Stipulation and Proposed Order re Telephonic Hearing no later than October 17, 2018. IT IS SO ORDERED.