

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

_____)	
THE UNITED STATES OF AMERICA,)	
)	CIVIL ACTION NO.:
Plaintiff,)	
)	07-cv-3261-JES-BGC
v.)	
)	
THE STATE OF ILLINOIS,)	
)	
Defendant.)	
_____)	

JOINT STIPULATION AND MOTION TO STAY PROCEEDINGS

The parties jointly move that the Court enter an order staying proceedings in this action for sixty days in order to provide the Illinois General Assembly an opportunity to consider legislation that may moot this action. In support of this motion, the parties jointly state as follows:

1. Section 12(a) of Illinois Public Act 95-138 (the "Illinois Act") becomes effective on January 1, 2008.
2. Plaintiff, the United States of America, filed suit in this Court to declare that Section 12(a) of the Illinois Act is invalid, null, and void on the grounds that it is preempted under the Supremacy Clause of the U.S. Constitution, and to permanently enjoin any enforcement of the challenged statute.
3. Legislation is currently pending in the Illinois General Assembly that could moot the issues in this case.
4. In addition, Plaintiff filed a motion for summary judgment on November 16, 2007. Defendant's opposition is currently due on December 12, 2007.

5. The parties seek to resolve the above-captioned litigation in an orderly fashion. Because the parties do not wish to burden the Court with issues that may become moot as a result of the pending legislation and also seek to the opportunity to fully brief the Court on the legal issues raised by the pleadings without having to request that the Court schedule and rule upon a motion for preliminary relief prior to the Illinois Act's effective date, the parties believe that an interim stay of proceedings for sixty days is in order.

6. Defendant, State of Illinois, without conceding the merits of Plaintiff's allegations or prejudicing its arguments as to the validity of Section 12(a) of the Illinois Act, agrees that during the pendency of this litigation it will refrain from enforcing Section 12(a) of the Illinois Act, including, but not limited to, taking or threatening to take any of the following enforcement actions: (a) prohibiting Illinois employers from enrolling in the E-Verify / Basic Pilot Program after the effective date of the Illinois Act; (b) prohibiting Illinois employers enrolled in the E-Verify / Basic Pilot Program prior to January 1, 2008 from continuing to participate in the program after the effective date of the Illinois Act; and (c) pursuing, any legal action, whether administrative, civil, or criminal, against any Illinois employer violating the prohibitions of Section 12(a) of the Illinois Act.

7. Plaintiff, United States of America, agrees that during the pendency of this litigation it will refrain from seeking a preliminary injunction and/or temporary restraining order to enjoin the enforcement of Section 12(a) of the Illinois Act.

8. Plaintiff's obligation in paragraph 7 and Defendant's obligation in paragraph 6 of this joint motion are reciprocal. If either party fails to satisfy its respective obligations under paragraphs 6 or 7, or if either paragraph or any portion thereof is deemed invalid or otherwise severed from this Stipulation, the parties shall be relieved from complying with any remaining

obligations under paragraphs 6 or 7.

9. Plaintiff further consents to stay any further briefing on the motion for summary judgment for the duration of the requested stay.

10. The parties request that a status hearing be scheduled in 60 days for the parties to report on pending legislation. Not later than ten days prior to the expiration of the requested sixty day stay, the parties agree to meet and confer to regarding the status of the legislation and the conduct of further proceedings.

11. The relief requested herein would promote judicial economy.

CONCLUSION

For good cause and in the interest of judicial economy, the parties ask that the foregoing be made an order of the Court. A proposed order is attached.

Dated: December 12, 2007

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Certificate of Service

I hereby certify that on December 12, 2007, I presented the foregoing Joint Stipulation and Motion to Stay to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following:

alexander.haas@usdoj.gov

and I hereby certify that on December 12, 2007, I have mailed by United States Postal Service, the document to the following non-registered participant:

None

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