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11 *of America and Secretary of Defense*

12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**  
**EASTERN DIVISION**

14 LOG CABIN REPUBLICANS,

15 Plaintiff,

16 v.

17 UNITED STATES OF AMERICA AND  
ROBERT M. GATES, Secretary of Defense,

18 Defendants.  
19  
20  
21

No. CV04-8425 VAP (Ex)

DEFENDANTS'

(1) *EX PARTE* APPLICATION  
FOR THE ENTRY OF AN  
EMERGENCY STAY;

(2) MEMORANDUM OF POINTS  
AND AUTHORITIES IN  
SUPPORT OF *EX PARTE*  
APPLICATION;

(3) DECLARATION OF  
CLIFFORD L. STANLEY

(4) DECLARATION OF PAUL G.  
FREEBORNE; AND

(5) PROPOSED ORDER

BEFORE: Judge Phillips

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 Pursuant to Local Rule 7-19, Defendants the United States of America and  
 3 Robert M. Gates, Secretary of Defense, hereby apply *ex parte* for an order staying  
 4 the application of the Court's entry of a permanent injunction in this case pending  
 5 appeal. In the alternative, defendants request that the Court grant an immediate  
 6 stay of its injunction while the Court considers defendants' application for a stay  
 7 pending appeal. At a minimum, should the Court decline to enter a stay pending  
 8 appeal or an immediate stay to permit it to consider defendants' request for a stay  
 9 pending appeal, defendants request that the Court enter an immediate stay to permit  
 10 the Court of Appeals an opportunity to consider entry of a stay. Defendants submit  
 11 that cause exists to grant the relief requested herein because, at a minimum, this  
 12 case raises serious legal questions, and without the entry of an order immediately  
 13 staying the application of this Court's judgment, defendants will be irreparably  
 14 harmed before they can appeal this Court's decision to the Ninth Circuit.  
 15 Accordingly, Defendants submit this *ex parte* application seeking immediate relief  
 16 from this Court.

17 Pursuant to Local Rule 7-19.1, defendants have provided notice of this *ex*  
 18 *parte* application to counsel for Plaintiff Log Cabin Republicans and inquired as to  
 19 whether Plaintiff would oppose this motion. Plaintiff's counsel has stated that  
 20 Plaintiff opposes defendants' application. Plaintiff's counsel's name, address,  
 21 telephone number and email address are as follows:

22 DAN WOODS  
 23 633 W. Fifth Street, Suite 1900  
 24 Los Angeles, CA 90071-2007  
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 Facsimile: (213) 452-2329  
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25 This application is based upon this notice of *ex parte* application, the  
 26 accompanying memorandum of points and authorities, and the accompanying  
 27  
 28

1 Declarations of Clifford L. Stanley and Paul G. Freeborne. A proposed order is  
2 hereby lodged.

3 Dated: October 14, 2010  
4

5 Respectfully submitted,

6 TONY WEST  
7 Assistant Attorney General

8 ANDRÉ BIROTTE, JR  
9 United States Attorney

10 JOSEPH H. HUNT  
11 Director

12 VINCENT M. GARVEY  
13 Deputy Branch Director

14 /s/ Paul G. Freeborne  
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