

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CAUSE OF ACTION INSTITUTE,

Plaintiff,

v.

UNITED STATES OFFICE OF
MANAGEMENT AND BUDGET,

Defendant.

Civil Action No. 19-2784 (RBW)

CONSENT MOTION TO STAY

Defendant, the U.S. Office of Management and Budget (“OMB”), respectfully moves to vacate the current briefing schedule and stay proceedings in this case because the underlying dispute may be resolved without the need for further litigation. A stay is warranted to prevent unneeded effort by the parties and the Court. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”). Counsel for Defendant has conferred with counsel for Cause of Action, and Cause of Action consents to this request.

Plaintiff Cause of Action Institute brought this action challenging OMB’s denial of its petition for rulemaking, which sought in relevant part for OMB to issue updated guidance to other government agencies on how to make fee determinations under the Freedom of Information Act. OMB has informed Plaintiff that, pursuant to 5 U.S.C. § 552(a)(4)(A)(i), OMB plans to publish a notice in the Federal Register by April 30, 2020, proposing an update to the existing FOIA fee guidance. The Federal Register notice will propose changes to the fee guidance to address each of three issues raised by Cause of Action in its petition and complaint: the guidance’s definitions of “representative of the news media” and “educational institution,” and the guidance’s lack of a

clarifying reference to the public interest fee waiver. The Federal Register notice will also call for public comments on the proposed changes to the guidance and provide at least 30 days for the public to submit comments. After receiving public comments, OMB intends to issue a final FOIA fee guidance.

To ensure that this timeline is met, OMB proposes that there be a status report due on May 4, 2020, after the proposal is published in the Federal Register, and another status report due 60 days after that when OMB has had time to review the public comments and begin composing its final fee guidance. This schedule is reflected in the proposed order filed with this motion.

Dated: February 28, 2020

Respectfully submitted,

TIMOTHY J. SHEA, D.C. Bar #437437
United States Attorney

DANIEL F. VAN HORN, D.C. Bar #924092
Chief, Civil Division

By: /s/ Johnny Walker
JOHNNY H. WALKER, D.C. Bar #991325
Assistant United States Attorney
555 4th Street, N.W.
Washington, District of Columbia 20530
Telephone: 202 252 2575
Email: johnny.walker@usdoj.gov

Counsel for Defendant

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PROPOSED ORDER

Upon consideration of Defendant's consent motion to stay, it is hereby **ORDERED** that the motion is GRANTED.

It is further **ORDERED** that this case is STAYED.

It is further **ORDERED** that the briefing schedule set forth in the Court's order dated December 17, 2019, ECF No. 14, is hereby VACATED.

It is further **ORDERED** that, notwithstanding the stay, the parties shall file joint status reports on May 4, 2020, and July 3, 2020, updating the Court on the status of their efforts to resolve the dispute.

It is so **ORDERED**.

Dated: _____

The Honorable Reggie B. Walton
United States District Judge