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The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

Brian P. Carr,

Plaintiff,

v.

Sam Reed, in his official capacity as Secretary of the State of Washington, Wanda Briggs in her official capacity as Chair of the State of Washington Commission of Judicial Conduct, and Rob McKenna, in his official capacity as Attorney General of the State of Washington and, separately, as private individuals the Honorable Robert L. Harris, John F. Nichols, Barbara D. Johnson, Kenneth Eisland, Rich Melnick, John Hagensen, Kelli E. Osler, Joel Penoyar, (J.)C.C. Bridgewater, J. Robin Hunt, Gerry L. Alexander, Barbara Madsen, Mary E. Fairhurst, Susan Owens and James M. Johnson as well as other currently unnamed parties as determined by the Court,

Defendants.

NO. C07-5260RJB

STATE DEFENDANTS' MOTION TO APPLY COURT'S STAY ORDER TO DEFENDANT WANDA BRIGGS, TO EXTEND STAY AND TO STAY MOTION PRACTICE RE: DISCOVERY

**HEARING DATE:
October 12, 2007**

On August 29, 2007, the Court stayed the start of discovery in this case to October 26, 2007, to allow the defendants to move for summary judgment on immunity grounds. The

1 Court Order also set a new deadline (October 15) for Initial Disclosures and a Joint Status
2 Report.

3 Pursuant to that Order, Motions for Summary Judgment were filed on August 30 and
4 31, 2007. Since those Motions were brought, plaintiff formally added the Washington
5 Commission on Judicial Conduct as a defendant, through its current Chair, Wanda Briggs.
6 She answered on September 17, raising an absolute immunity defense analogous to judicial
7 immunity. She has moved for summary judgment today and the hearing date is October 19.
8 The summary judgment motion was brought as promptly as possible, given plaintiff's late
9 joinder of the claim against her and given the needs of counsel and client to confer about the
10 defense.

11 Today, plaintiff filed a Motion to Speed Discovery Process, even though the Court's
12 August 29 Order stayed the start of discovery until October 26, 2007. Through this Motion,
13 plaintiff wants to shorten the time period for responses and objections that the discovery rules
14 provide by 16 days. He also expresses the unrealistic expectation that, by using the Court's
15 electronic filing system, the defense and the Court can be at his beck and call for discussions
16 about discovery disputes. This would allow plaintiff to circumvent the Rules 26, 33, 34 and
17 37 processes for resolving such disputes. He also wants defendants ordered to respond to his
18 outstanding, but stayed, discovery on an impossibly short schedule. No showing of need or
19 cause is made by plaintiff for adopting such draconian rulings.

20 As the current stay may expire before all dispositive motions are decided, including
21 that of new defendant Briggs, the Court should extend the stay so that discovery may not
22 commence before November 16. The Court also should stay all discovery motion practice
23 (and deny plaintiffs recently-filed Motion to Speed Discovery) until November 16. Finally,
24 defendant Briggs should not have to provide Initial Disclosures and participate in a Joint
25 Status Report until after the Court grants or denies her summary judgment motion. The
26 current deadline is October 15.

1 This relief is necessary for the reasons discussed in the Court's August 29 Order.

2 DATED this 27th day of September, 2007.

3 ROB MCKENNA
4 Attorney General

5
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of September, 2007, I electronically filed the foregoing **State Defendants' Motion to Apply Court's Stay Order to Defendant Wanda Briggs, to Extend Stay and to Stay Motion Practice Re: Discovery** with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participants:

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