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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

A.I.I.L., et al.,

Plaintiffs,

v.

Jefferson Beauregard Sessions, III, et al.,

Defendants.

No. CV-19-00481-TUC-JCH
ORDER

This matter has been stayed since June 1, 2021.¹ (*See* Doc. 66.) Pending before the Court is Plaintiffs’ Third Motion to Hold Action in Abeyance (“Motion”) (Doc. 70). Plaintiffs seek an additional sixty-day stay in furtherance of global settlement efforts. (Doc. 70.) A third stay would hold in abeyance two pending matters which became ripe for consideration on February 5, 2021.² The United States Defendant consents to the Motion. (Doc. 70.) The Individual Defendants oppose the Motion (Doc. 71). The Court will grant Plaintiffs’ Motion and set the matter for a status conference.

Plaintiffs and the United States Defendant continue to engage in settlement discussions on the FTCA claims in this case and in at least sixteen other “...district court

¹ After applying the factors laid out in *Lockyer v. Mirant Corp.* this Court granted Plaintiffs’ Motion to Hold Action in Abeyance (Doc. 63) on June 1, 2021 (Doc. 66). 398 F.3d 1098, 1110 (9th Cir. 2005). Subsequently, the Court granted Plaintiffs’ Second Motion to Hold Action in Abeyance (Doc. 67) on August 16, 2021 (Doc. 69).

² Specifically, the two pending matters which are fully briefed and awaiting resolution include: (1) the Individual Defendants’ Motion to Dismiss for Lack of Jurisdiction/Failure to State a Claim filed pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6) (*See* Doc. 52); and (2) the United States Defendant’s Motion to Dismiss for Lack of Jurisdiction and for Improper Venue filed pursuant to Federal Rules of Civil Procedure 12(b)(1) (*See* Doc. 53).

1 cases and pending administrative tort claims arising from family separations at the
2 U.S./Mexico border that occurred during the prior administration.” (Doc. 70 at 2.) A global
3 settlement, according to Plaintiffs, could result in the resolution of claims against the
4 Individual Defendants, “[i]n particular, Plaintiffs expect that the United States would insist
5 that any settlement involve dismissal of the claims against the Individual Defendants, as
6 has been the Justice Department’s normal course in cases involving both FTCA and *Bivens*
7 claims against individual defendants.” (Doc. 70 at 3.) Pursuant to the factors in *Lockyer v.*
8 *Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005), the Individual Defendants make several
9 arguments in objection to a third stay. (Doc. 71.)

10 In reviewing the Motion, the Court is concerned with the interminable nature of
11 Plaintiffs’ most recent request. This Court has previously indicated that it “will view any
12 future stay requests with skepticism absent, for example, a showing that Plaintiffs and the
13 United States Defendants are making meaningful progress towards settlement.” (Doc. 66
14 at 4). The Motion indicates the occurrence of eight meetings since August 13, 2021 (Doc.
15 70 at 2.) In comparison, Plaintiffs’ Second Motion to Hold Action in Abeyance noted that
16 parties “...have met at least 12 times to further settlement efforts.” (Doc. 67 at 2.) Although
17 the parties may be making meaningful progress towards settlement, the instant Motion does
18 not indicate that a settlement is imminent. *See Leyva v. Certified Grocers of Ca., Ltd.*, 593
19 F.2d 857, 864 (9th Cir. 1979) (“A stay should not be granted unless it appears likely the
20 other proceedings will be concluded within a reasonable time...”).

21 The Court will grant Plaintiffs’ Motion and set a status conference in early January
22 to discuss the status of the case and settlement negotiations.

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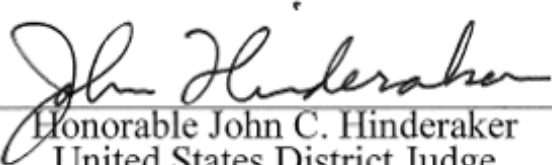
Accordingly,

IT IS ORDERED GRANTING Plaintiffs’ Motion to Hold Action in Abeyance (Doc. 70).

IT IS FURTHER ORDERED STAYING this matter, including all remaining deadlines and hearings, for a period of **SIXTY (60) DAYS** from the date of this order.

IT IS FURTHER ORDERED SETTING a Status Conference on **Tuesday, January 11, 2022 at 11:30 a.m. (MST)**. The conference will be held telephonically. Conference call-in information will be emailed to Counsel. Counsel should be prepared to update the Court at that time on the status of the settlement negotiations and state whether the parties will request that the Court continue to hold the action in abeyance.

Dated this 18th day of November, 2021.



Honorable John C. Hinderaker
United States District Judge