

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA  
CIVIL DIVISION**

<b>TERRIS, PRAVLIK &amp; MILLIAN, LLP,</b>	:	<b>Case No. 2020 CA 003087 B</b>
<i>Plaintiff,</i>	:	
	:	
<b>v.</b>	:	<b>Judge Heidi M. Pasichow</b>
	:	
	:	
<b>THE DISTRICT OF COLUMBIA,</b>	:	
<i>Defendant.</i>	:	

**ORDER (1) DENYING IN PART AND GRANTING IN PART DEFENDANTS’ PARTIAL  
CONSENT MOTION FOR ADMINISTRATIVE STAY AND STAY OF EXECUTION OF  
JUDGMENT PENDING APPEAL; (2) CLARIFYING THE REMEDY PROVISIONS OF  
THE COURT’S JULY 23, 2021 ORDER; (3) DENYING PLAINTIFF’S CONSENT  
MOTION FOR AN EXTENSION OF TIME TO MOVE FOR ATTORNEY’S FEES AND  
EXPENSES**

This matter is before the Court based upon (1) Plaintiff’s Consent Motion for an Extension of Time to Move for Attorney’s Fees and Expenses (“Consent Motion for Extension”), filed on August 2, 2021; (2) Defendant’s Partial Consent Motion for Administrative Stay and Stay of Execution of Judgment Pending Appeal (“Consent Motion to Stay”), filed on August 3, 2021, (3) Plaintiff’s Response to the Defendant’s Motion for Administrative Stay and Stay of Execution of Judgment Pending Appeal (“Plaintiff’s Response”) and Consent Motion for Clarification of the Remedy Provision of the Court’s July 23, 2021 Order (“Motion for Clarification”), filed on August 4, 2021; All parties are represented by counsel.

On July 23, 2021, the Court issued an Order ruling on the parties cross Motions for Summary Judgment. Notably, the Court’s July 23, 2021 Order denied Defendant’s Opposed Motion for Summary Judgment and granted Plaintiff’s Motion for Summary Judgment ordering the Defendant to respond to the Plaintiff’s FOIA requests and publish the documents required under D.C. § 2-536 on or before August 5, 2021. The Defendant District of Columbia (“District”) states that it will “face irreparable harm” if the stay is not put into place, because

once the documents are produced “it can no longer invoke any privilege to protect the documents from disclosure even if the District is successful on appeal.” On August 5, 2021, District filed a Notice of Appeal of the Court’s July 23, 2021 Order pursuant to Super. Ct. Civ. R. 62(d). Def’s Mot. at 1.

On August 4, 2021, Plaintiff Terris, Pravlik & Millian, LLP filed Plaintiff’s Response to the District’s Motion for Stay stating that it consents to the Defendant’s Motion to Stay “since the injunctive obligations flow directly from the legal issues that will be addressed by the Court of Appeals if the District appeals” Plt’s Resp. at 4. The Court agrees with the District that once the documents are produced and published as ordered, it will be difficult to protect its privilege even if the appeal is successful. Although the Plaintiff states that it has not fully consented to the Motion to Stay because the District had not decided whether or not it would appeal at the time of the filing of the Plaintiff’s Response, at this juncture, since the District has filed its Notice of Appeal, we will grant the District’s Motion to Stay the July 23, 2021 Order and the Stay of Execution of Judgment Pending Appeal. Plt.’s Mem. at 4.

The Court also addresses the Consent Motion for Clarification filed by the Plaintiff. The Court specifically stated:

As the Court grants TPM’s Motion for Summary Judgment in its entirety but denies the District’s Motion for Summary Judgment, the District has fourteen (14) days from the instant Order, on or before **August 5, 2021**, to produce the documents requested TPM’s FOIA request and to comply with D.C. Code § 2-536(a)(6A). Consequently, the Court will vacate the parties’ July 23, 2021, Initial Scheduling Conference and close the case.

For the aforementioned reasons, it is this 20<sup>th</sup> day of August 2021, hereby,

**ORDERED** that the TPM’s Opposed Motion for Summary Judgment is **GRANTED**; it is,

**FURTHER ORDERED** that District’s Opposed Motion for Summary Judgment is **DENIED**; it is,

**FURTHER ORDERED** that the Initial Scheduling Conference set for July 23, 2021 is hereby **VACATED**; it is,

**FURTHER ORDERED** that Defendant **SHALL RESPOND** to TPM’S FOIA request **on or before August 5, 2021**; it is,

**FURTHER ORDERED** that the Defendant **SHALL PUBLISH** the required documents pursuant to D.C. § 2-536 **on or before August 5, 2021**; and it is,

**FURTHER ORDERED** that this case shall be **CLOSED**.

July 23, 2021 Order at 15-16.

The Plaintiff’s state that it interpreted the order – specifically the section “the Defendant **SHALL PUBLISH** the required documents pursuant to D.C. Code § 2-536 **on or before August 5, 2021**” – “to require the District to comply with D.C. Code § 2-536 and publish all documents required to [be] published pursuant to that provision by August 5, 2021. Plt.’s Resp. at 2. Whereas the District, according to the Plaintiff, interpreted it to state that it was only required to produce and publish the requested 2019 documents by August 5, 2019. Plt.’s Resp. at 3.

The provision that is in question, which states that “the Defendant **SHALL PUBLISH** the required documents pursuant to D.C. Code § 2-536”, means exactly as it is written. D.C. Code § 2-536 specifically enumerates certain documents that the D.C. Council required the government to publish not just the 2019 documents that the Plaintiff’s requested. Thus, the Court grants the District’s Motion to Stay and clarifies the July 23, 2021 Order in that the District was required to

publish the documents pursuant to § 2-536 which necessarily encompasses the documents requested by the Plaintiff.

Finally, regarding Plaintiff's Consent Motion for Extension, Plaintiff asks pursuant to Super. Ct. Civ. Rule 54(d)(2)(B)(i), for an extension of time to move for attorney's fees as allowed by D.C. Code § 2-537(c). At this time, since the case has gone up on appeal, the Court denies the Consent Motion for Extension without prejudice as it is moot.

For any further questions as to the court's resources, please access Chief Judge Morin's August 13, 2020 Amended Order at <https://www.dccourts.gov/sites/default/files/matters-docs/General%20Order%20pdf/Amended-Order-8-13-20-FINAL.pdf>. Additionally, please see attached the Court's preliminary instructions for remotely attending Hearings. For updates on DC Superior Court's available resources and protocol in handling the ongoing coronavirus please continue to check: <https://www.dccourts.gov/coronavirus>.

For the forgoing reasons, it is this 20<sup>th</sup> day of August 2021,

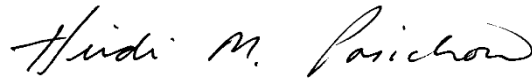
**ORDERED** that Defendants' PARTIAL CONSENT MOTION FOR ADMINISTRATIVE STAY is **DENIED as MOOT**; it is,

**FURTHER ORDERED** that the Defendants' STAY OF EXECUTION OF JUDGMENT PENDING APPEAL is **GRANTED**; it is,

**FURTHER ORDERED** that the Court's July 23, 2021 Order is **STAYED** pending the resolution of Plaintiff's appeal associated with Case No. 20-CAB-3087; it is,

**FURTHER CLARIFIES** the July 23, 2021 Order in that the District was required to publish the documents pursuant to § 2-536 which necessarily encompasses the documents requested by the Plaintiff; it is,

**FURTHER ORDERED** that PLAINTIFF'S CONSENT MOTION FOR AN EXTENSION OF TIME TO MOVE FOR ATTORNEY'S FEES AND EXPENSES is **DENIED** as **MOOT**.



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**Heidi M. Pasichow**  
**Associate Judge**

**Copies e-served to:**

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