

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

NATIONAL TREASURY EMPLOYEES UNION)	
1750 H Street, N.W.)	
Washington, D.C. 20006,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 19-50 (RJL)
)	
UNITED STATES OF AMERICA,)	
)	
and)	
)	
JOHN MICHAEL MULVANEY, in his)	
official capacity as Director of the Office of)	
Management and Budget)	
)	
Defendants.)	
_____)	

**PLAINTIFF NTEU'S MOTION TO SUPPLEMENT ITS
MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Plaintiff National Treasury Employees Union (NTEU) moves to supplement its Motion for a Temporary Restraining Order and Preliminary Injunction, which it filed January 13, 2019. NTEU files this motion pursuant to Local Rule 65.1(c) which permits supplemental affidavits with permission of the Court.

NTEU is moving to supplement its earlier-filed papers with two short declarations totaling four pages. One declaration is by Elizabeth Thigpen, a Customs and Border Protection Officer, who attests to the hardship she is incurring with the ongoing government shutdown. The second is by Terrance Hebron, an Internal Revenue Service Tax Examiner, who attests to his duties and to the

hardship he is incurring. NTEU believes these declarations will aid the court in its deliberations about the pending motions by NTEU and by other plaintiffs in related cases for emergency relief. A hearing on these motions is scheduled for January 15, 2019 at noon.

NTEU counsel has conferred with counsel for the defendants pursuant to Local Rule 7(m). Defendant's counsel asked that NTEU represent its position as follows:

Defendants oppose Plaintiffs' request to file additional declarations in support of their motion, given that Plaintiffs' request is contrary to this Court's Local Rules, *see* Local Civil Rule 65.1(c) ("The application shall be supported by all affidavits on which the plaintiff intends to rely."), and because Plaintiffs' belated filing will not provide the Government with adequate time to review those declarations prior to the scheduled hearing.

Respectfully submitted,

/s/ Gregory O'Duden

GREGORY O'DUDEN
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/s/ Larry J. Adkins

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/s/ Paras N. Shah

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/s/ Allison C. Giles

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January 15, 2019

Attorneys for Plaintiff NTEU

CERTIFICATE OF NOTICE PURSUANT TO LOCAL CIVIL RULE 65.1(a)

I hereby certify that prior to filing the foregoing motion to supplement, I provided advance notice of the filing to counsel for defendants, Daniel Schwei, via email. I further certify that copies of all pleadings and papers filed in the action to date, including this filing, have been served upon defendants by registered mail or hand delivery (in the case of the complaint and documents attached thereto) or through the Court's CM/ECF system.

/s/ Allison C. Giles

ALLISON C. GILES
Assistant Counsel

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January 15, 2019

Attorney for Plaintiff NTEU

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[PROPOSED] ORDER

For the reasons stated in Plaintiff National Treasury Employees Union's (NTEU) Motion to Supplement its Motion for a Temporary Restraining Order and Preliminary Injunction, it is hereby

ORDERED that the motion is granted and the supplemental declaration by NTEU may be filed.

SO ORDERED.

Date

Hon. Richard J. Leon
U.S. Senior District Judge
U.S. District Court for the
District of Columbia

EXHIBIT 3

DECLARATION OF ELIZABETH THIGPEN

1. My name is Elizabeth Thigpen. I am employed by U.S. Customs and Border Protection (CBP), in the Department of Homeland Security, as a CBP Officer, assigned to Hartsfield-Jackson Atlanta International Airport.
2. I am in the bargaining unit represented by the National Treasury Employees Union (NTEU) and a member of NTEU Chapter 177.
3. As a CBP Officer, my day-to-day duties involve processing travelers through interviews, document verification, and biometrics to prevent dangerous people, such as terrorists, contraband smugglers, and human traffickers, from harming the United States and those who live here.
4. Funding for CBP lapsed on December 22, 2018 at 12:01 a.m. As an "excepted" employee, however, I have been instructed that I must report to work, or else I will be charged as AWOL. AWOL constitutes misconduct for which disciplinary action, up to and including removal, can be imposed.
5. Since funding lapsed on December 22, 2018, I have continued to work my regularly scheduled shifts and overtime assignments, without pay.
6. Ordinarily, I receive my paycheck via electronic fund transfer every other Friday. I received my last paycheck on Friday, December 28, 2018. I did not receive my regularly scheduled paycheck on Friday, January 11, 2019.
7. I am a single mother of four, and working without pay has caused me great financial hardship. In addition to not receiving my paycheck, I am not receiving my normal child support payments from my children's other parent, who is also a federal employee affected by the shutdown.

Elizabeth Thigpen

8. Without my regular paycheck, I am not able to pay for daycare for my two-year-old twins. Because the daycare center that usually cares for them will not do so for free, I have been scrambling to find other childcare arrangements. If I cannot find other childcare arrangements, I don't know what I will do. My supervisor informed me that if I request annual leave, my request will not be approved.
9. To make ends meet, I am forced to borrow from my credit card, for which I will incur a fee. This is a cost that cannot be recouped even if Congress eventually appropriates funds to pay me retroactively for my work during the shutdown.
10. Because I am required to report to work, I am incurring costs that furloughed employees are not. For example, if I were furloughed, I would not need to pay for gas for my 40-minute drive to and from my post of duty at the airport. My financial stress would be alleviated significantly if I were not required to work during the shutdown.


Elizabeth D. Thigpen

Date: 01-14-2019

EXHIBIT 4

DECLARATION OF TERRANCE HEBRON

1. My name is Terrance Hebron. I am employed by the Internal Revenue Service (IRS) as a Tax Examiner in the Accounting Department at the Submission Processing Center in Fresno, California.
2. I am in the bargaining unit represented by the National Treasury Employees Union (NTEU) and a member of NTEU Chapter 97.
3. Funding for the IRS lapsed on December 22, 2018 at 12:01 a.m. As an "excepted" employee, however, I have been instructed that I must continue to report to work. If I do not report to work, I may be charged as AWOL, for which I could be subject to disciplinary action.
4. Since funding lapsed on December 22, 2018, I have continued to work without pay.
5. As a Tax Examiner, my duties include processing dishonored checks, notifying taxpayers of any penalty assessed for dishonored checks, and responding to related taxpayer inquiries.
6. I normally receive my paycheck via electronic fund transfer every other Friday. I received my last paycheck on Friday, December 28, 2018. I did not receive my regularly scheduled paycheck on Friday, January 11, 2019.
7. The government shutdown has caused me serious financial hardship. I am single, and my IRS paycheck is my only means of supporting myself. In addition to paying for food and other necessities, my financial obligations include paying my rent, utility bills, credit card bills, and outstanding loan payments. Without my regular paycheck, I am forced to make difficult choices about which of these bills to pay.

Terrance Hebron II
Terrance Hebron

Date: 01-14-2019