

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

CITY OF OAKLAND,

Plaintiff-Appellant,

v.

ERIC H. HOLDER, Jr., Attorney General of the
United States; MELINDA HAAG, United States
Attorney for the Northern District of California,

Defendants-Appellees.

No. 13-15391

**REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION
OF MOTION TO EXPEDITE APPEAL**

Defendants-appellees, the Attorney General and the United States Attorney for the Northern District of California, respectfully reply to Oakland's opposition to our request that the Court reconsider its denial of our motion for expedition.

There is plainly "good cause" (9th Cir. R. 27-12) to expedite scheduling oral argument in Oakland's appeal. After dismissing Oakland's suit as an impermissible collateral attack on another ongoing civil action, the district court entered an unprecedented order that effectively enjoins the parties to two different cases from continuing their litigation pending the outcome of Oakland's appeal here.

Oakland concedes that it will suffer no prejudice if this Court hears Oakland's appeal at an early date. *See* Opp. 3. There is thus *no* reason why the Court should not

expedite argument, and strong reasons to conclude that expedition is appropriate. After taking no position on our motion to expedite, Oakland's only suggestion that there is not "good cause" for expedition is its observation that the United States might have instituted forfeiture proceedings against the property used by the Harborside Health Center at an earlier time. *See* Opp. 3-5. This argument restates Oakland's merits contention that the forfeiture should be enjoined altogether because proceedings were not initiated earlier. That argument is beside the point; it offers no basis for enjoining the forfeiture action and certainly presents no basis for declining to hear argument on an expedited basis. Two pending forfeiture actions—one of which Oakland does not discuss at all—have been halted until this Court decides Oakland's appeal. That is good cause to hear this appeal on an expedited basis.

Oakland is on no firmer ground in asserting that United States has not spelled out with sufficient particularity an error of law or fact in the one-sentence denial of the motion to expedite. Opp. 2-3. The order, which was entered before the government filed its reply, does not indicate the basis of the denial. It is therefore not possible to identify specific errors of law or fact with particularity. Because expedition will result in no prejudice to Oakland, and because two forfeiture proceedings have been effectively enjoined pending appeal, and erroneously so, the government respectfully submits that the order denying the motion for expedited scheduling of argument must "ha[ve] overlooked or misunderstood a point of law or fact." Advisory Comm. Note to Rule 27-10.

CONCLUSION

For the foregoing reasons, the Court should reconsider its denial of the government's motion for expedition.

Respectfully submitted,

MARK B. STERN

s/ Adam Jed

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SEPTEMBER 2013

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2013, I electronically filed the foregoing document with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Adam Jed

Adam C. Jed