

22 exhibits (420 pages), and Defendants' brief in support (56 pages) and 51 exhibits (1,091 pages), total 1,580 pages.

4. In sum, over April 16-17, Defendants filed 150 pages of briefing and 3,191 pages of exhibits the United States must digest and respond to.

5. Defendants indicated that they intend to file yet another motion in the near future; the Motion to Vacate mentions an additional, as-yet unfiled "Motion for Extraordinary Equitable Relief pursuant to FRCP Rule 60(b)(6)," ECF No. 215 at 1, and Defendants' counsel informed United States' counsel to expect another filing, *see* Ex. 1, E-Mail from L. Kogan to L. Brown (Apr. 18, 2018).

6. Currently, the United States' Reply in Support of its Motion to Enforce is due on May 5, 2018. *See* ECF No. 205. Given the voluminous nature of Defendants' Response thereto and accompanying exhibits (a total of 1,761 pages), the United States respectfully requests an additional six weeks, until June 16, 2018, to submit its Reply. The additional time is necessary for the United States to properly review Defendants' Response—which includes many exhibits that are not Bates-stamped (and thus it is unclear whether they were produced in discovery), *see, e.g.*, Defs.' Resp., Ex. 4, 20-22, 67-68, and 74-75, and exhibits that appear to have been modified from their original form, *see, e.g.*, Defs.' Resp., Ex. 6, 8, and 72—and provide the Court with a reasonable, complete, and concise Reply in Support of the Motion to Enforce.

7. The Court has not yet set a deadline for the United States to respond to Defendants' Motion to Vacate the Consent Decree. Rather than setting a deadline for response at this time, the United States requests that the Court stay briefing on that motion—and any additional motions filed under Rule 60(b)—until the Court has ruled upon the United States' Motion to Enforce. The United States' Motion to Enforce was first-in-time (in fact, the United

States first motion to enforce was filed over a year ago in January 2017), and seeks to enforce the very Consent Decree that Defendants' now seek to vacate. It is well settled that a party must move for prospective relief under Rule 60(b) *before* it engages in "self-help" activities in violation of a consent decree, and that relief under Rule 60(b) therefore cannot constitute a defense to or excuse such violations. *See Halderman v. Pennhurst State Sch. & Hosp.*, 673 F.2d 628, 637-38 (3d Cir. 1982); *see also Hook v. State of Ariz., Dep't of Corr.*, 972 F.2d 1012, 1016-17 (9th Cir. 1992) (60(b) motion the proper avenue for seeking relief from consent decree, but violations thereof predating the motion cannot be excused even if party was entitled to relief under Rule 60); *Employers Ins. of Wausau v. First State Ins. Grp.*, 324 F. Supp.2d 333, 338 (D. Mass. 2004) (concluding that a *prospective* Rule 60(b) motion, and not self-help, the appropriate means of seeking relief from judgment). Accordingly, because Defendants' illegal conduct occurred well before the pending Motion to Vacate, this Court must address the allegations of violation regardless of whether the Court would *subsequently* consider vacating the Consent Decree on grounds not raised at the time Defendants engaged in impermissible "self-help."

8. In the alternative, if the Court declines to stay briefing of Defendants' Motion to Vacate pending the resolution of the Motion to Enforce, the United States requests that the Court give the United States until July 16, 2018 to file a Response to the Motion to Vacate (*i.e.*, thirty days after the United States' Reply in support of the Motion to Enforce would be due if the Court grants the extension requested above).

9. The United States conferred with Defendants regarding the relief requested. Defendants rejected the United States' request and oppose this Motion.

10. The United States respectfully requests an expedited hearing on this Motion so that the parties and the Court can further discuss the orderly adjudication of this case in light of the numerous voluminous and conflicting motions now pending before the Court.

WHEREFORE, the United States respectfully requests that the Court (1) extend the time for the United States to file its reply in support of its Motion to Enforce, ECF No. 206, to June 16, 2018; and (2) stay all briefing on the Defendants' Motion to Vacate Consent Decree and Deny Stipulated Penalties, ECF Nos. 215-216 pending the resolution of the United States Motion to Enforce (or alternatively, set the deadline for the United States' response to Defendants' Motion to Vacate Consent Decree and Deny Stipulated Penalties, ECF Nos. 215-216, for July 16, 2018).

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CERTIFICATE OF SERVICE

I hereby certify that on April 19, 2018, I served the Motion for Extension of Time and to Stay Briefing on the following counsel for Defendants via e-mail:

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