

EXHIBIT 1

IN THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT

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VENANTIUS NGWANYIA et al.,

Petitioners/Appellees,

v.

JOHN ASHCROFT,

Defendants/Appellants.

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PARTIES' JOINT MOTION FOR LIMITED REMAND  
AND TO HOLD APPEAL IN ABEYANCE

INTRODUCTION

The parties, by and through the undersigned, respectfully jointly move this Court to (1) order a limited remand to the District Court and (2) hold defendants/appellants' appeal in abeyance. The reasons are set forth below.

BACKGROUND

The United States District Court for the District of Minnesota issued a memorandum decision and order in the above-captioned matter on February 12, 2004. The decision is reported at 302 F. Supp.2d 1076 (2004). The District Court stayed enforcement of its order for 60 days after February 12, 2004, and directed the parties to negotiate a timely and expedient

schedule for the enforcement of the Court's order.

Defendants appealed the District Court's order to this Court, and this appeal triggered the District Court's stay of enforcement of its order pending appeal.

On January 31, 2005, the parties reached a stipulated settlement agreement (attached) in which they agreed to seek a limited remand to the District Court in order to jointly move the District Court to dismiss the case with prejudice, except as to those matters that the parties' stipulated will remain the subject of the District's Court's jurisdiction. The parties now seek this limited remand of the case to the District Court, with instructions that the District Court review the parties' stipulated settlement agreement, hold a fairness hearing pursuant to FRCP 23(e), and determine whether to approve the stipulated settlement agreement.


Per this Court's order dated January 18, 2005, defendants/appellants opening brief and appendix is due February 1, 2005. The parties jointly request that this Court also hold defendants/appellants' appeal in abeyance pending the District Court's decision whether to approve the stipulated settlement agreement.

As explained in paragraph 15 of the stipulated settlement agreement, the parties have agreed that should the District

Court approve the stipulated settlement agreement, the Defendants will withdraw this appeal within 30 days of the date of District Court's order. On the other hand, should the District Court not approve the stipulated settlement agreement, the Defendants will have the right to make an appropriate motion in this Court within 30 days of the decision by the District Court to not approve the stipulated settlement agreement.

Respectfully submitted this 31st date of January, 2005.

BY:

  
FOR PLAINTIFFS/APPELLEES

Nadine Wettstein

BY:

  
FOR DEFENDANTS/APPELLANTS


CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 2005, I caused a copy of the Joint Motion For Limited Remand to be served via first class mail delivery on Appellees, addressed to:

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