

Filing Summary

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Case Number: **2015 CA 002442 B**
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Filer Name: **William Pittard**
AttorneyOfRecord Name: **William Pittard**
Plaintiffs:
Plaintiffs Attorneys:
Defendants:
Defendants Attorneys: **William Pittard, Peter Maier**
Judges: **Judge Bartnoff, Judge Ross**
Court Reporters:
Others:
Total fees: **\$0.00**

**IN THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

| | | |
|--------------------------|---|---------------------------|
| MONTGOMERY BLAIR SIBLEY, |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| |) | |
| v. |) | Case No. 2015 CA 002442 B |
| |) | Hon. Maurice A. Ross |
| THE HONORABLE MITCH |) | |
| MCCONNELL et al., |) | |
| |) | |
| <i>Defendants.</i> |) | |
| |) | |

**OPPOSED MOTION TO STAY, IN PART, OF
DEFENDANT THE HONORABLE JOHN A. BOEHNER**

Pursuant to D.C. Superior Court Rule of Civil Procedure 7(b), Defendant the Honorable John A. Boehner, Speaker of the United States House of Representatives, by and through undersigned counsel, hereby moves to stay consideration of Plaintiff Montgomery Blair Sibley’s claims against him, for the reasons set forth in the accompanying Memorandum of Points and Authorities. Speaker Boehner requests that this Court impose the requested stay pending resolution of his appeal, to the United States Court of Appeals for the District of Columbia Circuit, of the decision of the United States District Court for the District of Columbia to remand to this Court the claims against him, which appeal remains pending.

Co-defendant the Honorable Mitch McConnell, Majority Leader of the United States Senate, does not oppose the relief requested herein, given that that relief would apply with regard to Speaker Boehner only. (The undersigned understands that Majority Leader McConnell does not intend to join Speaker Boehner’s appeal in federal court, but, instead, plans to seek dismissal in this Court). Plaintiff Montgomery Blair Sibley opposes this motion.

A proposed order is attached, and oral argument is not requested.

Respectfully submitted,

KERRY W. KIRCHER (D.C. Bar No. 386816)

General Counsel

/s/ William Pittard

WILLIAM PITTARD (D.C. Bar No. 482949)

Deputy General Counsel

SARAH CLOUSE (MA Bar No. 688187)

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*Counsel for Defendant the Honorable John A. Boehner,
Speaker of the United States House of Representatives*

October 27, 2015

¹ Attorneys in the Office of General Counsel for the U.S. House of Representatives are “entitled, for the purpose of performing the counsel’s functions, to enter an appearance in any proceeding before any court of the United States or of any State or political subdivision thereof without compliance with any requirements for admission to practice before such court.” ² U.S.C. § 5571(a)

CERTIFICATE OF SERVICE

I certify that on October 27, 2015, I electronically filed the foregoing Opposed Motion to Stay, in Part, of Defendant the Honorable John A. Boehner via the CaseFileXpress system of the Superior Court of the District of Columbia, which I understand caused service on all registered parties. I further certify that I served one copy by first-class mail (postage prepaid) and electronic mail, on:

Montgomery Blair Sibley, Esquire
402 King Farm Boulevard, Suite 125-145
Rockville, Maryland 20850
montybsibley@gmail.com
Plaintiff, pro se

Peter Maier, Special Assistant U.S. Attorney
555 Fourth Street, Northwest
Washington, D.C. 20530
Peter.Maier2@usdoj.gov
Counsel for Defendant the Honorable Mitch McConnell

/s/ William Pittard

William Pittard

**IN THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

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| MONTGOMERY BLAIR SIBLEY, |) | |
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| <i>Plaintiff,</i> |) | |
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| |) | Hon. Maurice A. Ross |
| THE HONORABLE MITCH |) | |
| MCCONNELL et al., |) | |
| |) | |
| <i>Defendants.</i> |) | |
| |) | |

[PROPOSED] ORDER

UPON CONSIDERATION OF the Opposed Motion to Stay, in Part, of Defendant the Honorable John A. Boehner (“Motion”), the memorandum of points and authorities in support thereof, the response(s) thereto, if any, and the entire record herein, it is by the Court this _____ day of _____, 2015 ORDERED

That the Motion is GRANTED for all the reasons set forth in the memorandum of points and authorities in support; it is further ORDERED

That the claims of Plaintiff Montgomery Blair Sibley, insofar as against Defendant the Honorable John A. Boehner, are stayed pending resolution of Speaker Boehner’s appeal, to the United States Court of Appeals for the District of Columbia Circuit, of the remand order of the United States District Court for the District of Columbia.

HONORABLE MAURICE A. ROSS
Associate Judge

Copies to:

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Sarah.Clouse@mail.house.gov
Counsel for Defendant the Honorable John A. Boehner

**IN THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

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| MONTGOMERY BLAIR SIBLEY, |) | |
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| THE HONORABLE MITCH |) | |
| MCCONNELL et al., |) | |
| |) | |
| <i>Defendants.</i> |) | |
| |) | |

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
OPPOSED MOTION TO STAY, IN PART, OF
DEFENDANT THE HONORABLE JOHN A. BOEHNER**

Plaintiff Montgomery Blair Sibley, a lawyer proceeding *pro se*,¹ demands that this Court order Defendants the Honorable Mitch McConnell, Majority Leader of the United States Senate, and the Honorable John A. Boehner, Speaker of the United States House of Representatives, to call a “Convention for proposing Amendments,” U.S. Const. art. V; *see* First Am. Compl. for Declaratory J. & Mandamus (Oct. 21, 2015) (“Amended Complaint”). Mr. Sibley further demands that this Court “promptly” certify a defendant class action of “one hundred (100) United States Senators and four hundred thirty five (435) Members of the House of Representatives.” Am. Compl. ¶¶ 7, 12. Mr. Sibley makes these extraordinary demands notwithstanding his confessed lack of standing. *See, e.g., id.* ¶ 13(B) (demanding relief

¹ Mr. Sibley “is a United States citizen with a propensity for filing unmeritorious lawsuits, often against members of state and federal government.” Mem. Op. at 2-3, *Sibley v. McConnell*, No. 1:15-cv-00730 (D.D.C. Oct. 13, 2015) (ECF No. 38) (“District Court Memorandum Opinion”) (further noting Mr. Sibley’s disbarment from U.S. Supreme Court); *see also, e.g., In re Sibley*, 990 A.2d 483, 496 (D.C. 2010) (suspending Mr. Sibley’s license to practice law in District of Columbia).

“notwithstanding the holding of *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992) and its noxious progeny which by judicial fiat declared that when government actors administer the government contrary to law that citizens do not have ‘standing’ to ‘require’ that the Government be administrated according to law” (emphasis in original).²

A stay is appropriate, insofar as Mr. Sibley seeks to proceed in this Court against Speaker Boehner, for the following reasons:

Majority Leader McConnell previously removed this case to federal court, including pursuant to 28 U.S.C. § 1442 (federal officer removal). *See* Notice of Removal (May 13, 2015) (ECF No. 1). There, the District Court determined that Mr. Sibley lacks standing (as he admits), but then remanded to this Court rather than (i) dismissing, or (ii) reaching Majority Leader McConnell or Speaker Boehner’s other threshold federal defenses (e.g., under the Speech or Debate Clause, U.S. Const. art. I, § 6, cl. 1). Order (Oct. 13, 2015) (ECF No. 37); Dist. Ct. Mem. Op. at 1-14. Speaker Boehner now has appealed the District Court decision. *See* Notice of Appeal (Oct. 26, 2015) (ECF No. 39); 28 U.S.C. § 1447(d) (“An order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise, *except that* an order remanding a case to the State court from which it was removed pursuant to section 1442 or 1443 of this title shall be reviewable by appeal or otherwise.” (emphasis added)); *see also, e.g.*, Mem. Op. at 8-9 (acknowledging circuit split, on which D.C. Circuit has not spoken, regarding whether removed proceedings should be remanded, or dismissed, where remand would be futile).

² What’s more, Mr. Sibley has served a demand for the November 16, 2015 depositions of Majority Leader McConnell and Speaker Boehner, along with various other discovery. *See, e.g.*, Pl.’s First Notice of Depositions (Oct. 15, 2015), attached as Ex. 1; Pl.’s First Request for Admissions & First Request to Produce to Def. the Hon. John A. Boehner (Oct. 18, 2015), attached as Ex. 2.

While Speaker Boehner’s appeal proceeds, this case, insofar as it is against him, remains in federal court, and this Court therefore should not proceed as to him.³ Indeed, were the Court to do so, it might impair Speaker Boehner’s effort to obtain, in the D.C. Circuit, reversal of the remand; might needlessly complicate future proceedings; and would constitute, if Speaker Boehner prevails in arguing that this case should not have been remanded, a waste of this Court’s resources in having proceeded on claims not properly remanded. *See, e.g., Landis v. North Am. Co.*, 299 U.S. 248, 255 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants. How this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance.”); *Batter v. Dixon*, 177 A.2d 893, 894 & n.1 (D.C. 1962) (affirming grant of stay of D.C. action, where trial court stayed that action pending resolution of federal court action, which then on appeal to federal circuit court); *Bressler v. Bressler*, 155 A.2d 255, 256 (D.C. 1955) (“The question of the stay [of a D.C. action, pending resolution of a federal court action] involved questions of practice and policy. . . . Such matters lie within the discretion of the trial court and will be interfered with only on a showing of manifest abuse of discretion.”); *see also, e.g.*, 56 A.L.R.2d 335 § 3 (“A state court has the power to stay proceedings therein until determination of an action pending in a federal court sitting in the same state.”). Nor would Mr. Sibley, or the

³ Because § 1447(d) only recently was amended to clarify that remand orders may be appealed in the § 1442 context, *see* Removal Clarification Act of 2011, Pub. L. No. 112-51, 125 Stat. 545 (2011), there are relatively few instances of such appeals. In one of the few such cases, however, the state court to which an action originally was remanded noted on its docket: “Case was originally remanded to Jackson County, but appeal to the 8th Circuit resulted in the case remaining in the [United States District Court for the] Western District [of Missouri].” Feb. 7, 2013 Docket Entry, *Jacks v. Meridian Resource Co. LLC*, No. 1016-cv-30509 (16th Judicial Cir. Ct., Jackson Cnty., Mo.); *see also id.* (docket reveals absence of any substantive activity during pendency of federal court appeal).

public, be harmed by a stay. *See, e.g.*, Am. Compl. ¶¶ 13(B), 14 & Ex. A (conceding lack of standing; also alleging that claim accrued more than one year prior to filing lawsuit, upon alleged February 2014 applications of Alaska and Georgia for Article V convention); Mem. Op. at 6 (noting Mr. Sibley’s concession that he “has not suffered an injury-in-fact which is concrete and particularized” (quoting Mr. Sibley’s federal court filing; emphasis in Mr. Sibley’s filing)).

* * *

Accordingly, this Court should stay Mr. Sibley’s claims, as against Speaker Boehner, pending resolution of Speaker Boehner’s appeal to the D.C. Circuit.

Respectfully submitted,

KERRY W. KIRCHER (D.C. Bar No. 386816)
General Counsel

/s/ William Pittard _____

WILLIAM PITTARD (D.C. Bar No. 482949)
Deputy General Counsel

SARAH CLOUSE (MA Bar No. 688187)
Senior Staff Attorney

OFFICE OF GENERAL COUNSEL
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219 Cannon House Office Building
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(202) 226-1360 (facsimile)
William.Pittard@mail.house.gov

*Counsel for Defendant the Honorable John A. Boehner,
Speaker of the United States House of Representatives*

October 27, 2015

CERTIFICATE OF SERVICE

I certify that on October 27, 2015, I electronically filed the foregoing Memorandum of Points and Authorities in Support of Opposed Motion to Stay, in Part, of Defendant the Honorable John A. Boehner via the CaseFileXpress system of the Superior Court of the District of Columbia, which I understand caused service on all registered parties. I further certify that I served one copy by first-class mail (postage prepaid) and electronic mail, on:

Montgomery Blair Sibley, Esquire
402 King Farm Boulevard, Suite 125-145
Rockville, Maryland 20850
montybsibley@gmail.com
Plaintiff, pro se

Peter Maier, Special Assistant U.S. Attorney
555 Fourth Street, Northwest
Washington, D.C. 20530
Peter.Maier2@usdoj.gov
Counsel for Defendant the Honorable Mitch McConnell

/s/ William Pittard

William Pittard

**IN THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

MONTGOMERY BLAIR SIBLEY,)
)
)
 Plaintiff,)
)
 v.) Case No. 2015 CA 002442 B
) Hon. Maurice A. Ross
)
 THE HONORABLE MITCH)
 MCCONNELL et al.,)
)
)
 Defendants.)

EXHIBIT 1

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

MONTGOMERY BLAIR SIBLEY,

Case. No.: 2015 CA 002442 B

PLAINTIFF,

**PLAINTIFF'S FIRST NOTICE OF
DEPOSITIONS**

VS.

THE HONORABLE MITCH MCCONNELL, AND
THE HONORABLE JOHN A. BOEHNER,

DEFENDANTS.

Please take notice that pursuant to Rules 30(b) and 34, Superior Court Rules of Civil Procedure, the undersigned will take the following previously noticed deposition made pursuant to served subpoenas upon oral examination of the following person at the following times and place:

The Honorable Mitch McConnell, at Neal R. Gross & Co., Inc., Court Reporters & Transcribers, 1323 Rhode Island Ave., NW, Washington, DC 20005-3701 on **Monday, November 16, 2015, at 1:00 p.m.**

The Honorable John A. Boehner at Neal R. Gross & Co., Inc., Court Reporters & Transcribers, 1323 Rhode Island Ave., NW, Washington, DC 20005-3701 on **Monday, November 16, 2015, at 2:00 p.m.**

The depositions: (i) testimony will be recorded by a Stenographer/ Notary Public in and for the District of Columbia, or some other officer duly authorized by law to take depositions, (ii) will also be taken by video/audio recording, and (iii) is being taken for the purpose of discovery, for use at trial, or both, and for such other purposes as are permitted under the Superior Court Rules of Civil Procedure.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. First class mail on (i) Peter R. Maier, Special Assistant United States Attorney, Counsel for Defendant, The Honorable Mitch McConnell, 555 4th St., N.W., Washington, D.C. 20530, Telephone: (202) 252-2578, (Peter.maier2@usdoj.gov) and (ii) William Pittard, Deputy General Counsel, Counsel for The Honorable John A. Boehner, Office of General Counsel, United States House of Representatives, 219 Cannon House Office Building, Washington, District of Columbia 20515, Telephone: (202) 225-9700, (William.Pittard@mail.house.gov) this October 15, 2015.

MONTGOMERY BLAIR SIBLEY

Plaintiff

402 King Farm Blvd, Suite 125-145

Rockville, Maryland, 20850

202-643-7232

montybsibley@gmail.com

By: _____


Montgomery Blair Sibley

**IN THE SUPERIOR COURT OF
THE DISTRICT OF COLUMBIA**

| | | |
|--------------------------|---|---------------------------|
| MONTGOMERY BLAIR SIBLEY, |) | |
| |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| |) | |
| v. |) | Case No. 2015 CA 002442 B |
| |) | Hon. Maurice A. Ross |
| THE HONORABLE MITCH |) | |
| MCCONNELL et al., |) | |
| |) | |
| <i>Defendants.</i> |) | |

EXHIBIT 2

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

MONTGOMERY BLAIR SIBLEY,

Case. No.: 2015 CA 002442 B

PLAINTIFF,

VS.

**PLAINTIFFS' FIRST REQUEST FOR
ADMISSIONS AND FIRST REQUEST TO
PRODUCE TO DEFENDANT THE HONORABLE
JOHN A. BOEHNER**

THE HONORABLE MITCH MCCONNELL, AND
THE HONORABLE JOHN A. BOEHNER,

DEFENDANTS.

Plaintiff, Montgomery Blair Sibley, pursuant to District of Columbia Superior Court Rules of Civil Procedure, Rule 36, hereby requests that Defendant The Honorable John A. Boehner, within the time provided by the aforementioned Rule, admit the truth of the following facts:

1. That Exhibit "B" attached to the Complaint in this matter is a genuine copies of the original.
2. The following statements of fact are true:
 - a. Defendant The Honorable John A. Boehner received on or about March 5, 2015, Exhibit "B" attached to the Complaint in this matter.
 - b. At least thirty-five (35) states have now made an "Application" to Congress pursuant to Article V of the United States Constitution for a "Convention for proposing Amendments".

Additionally, Plaintiff, Montgomery Blair Sibley, pursuant to District of Columbia Superior Court Rules of Civil Procedure, Rule 34, requests that Defendant The Honorable John A. Boehner produce and permit inspection and copying of the following described documents at a mutually agreeable place and within the time provided by the aforementioned Rule which are in the possession, custody or control of the Defendant The Honorable John A. Boehner.

DEFINITIONS

For the purposes of this Request for Production, the following definitions apply:

“Documents” shall mean any written or graphic manner or other means of preserving thought or expressions, and all tangible things from which information can be processed or transcribed, including, but not limited to, correspondence, memoranda, notes, messages, letters, telegrams, teletype messages, charts, ledgers, invoices, work sheets, computer printouts, schedules, affidavits, contracts, transcripts, surveys, graphic representations of any kinds, photographs, graphs, microfilm, videotapes, tape recordings, maps, motions pictures or other films.

“Related to” or “Relating to” shall mean directly or indirectly mentioning or describing, pertaining to, being connected with, or reflecting upon a stated subject matter.

If any documents called for are withheld on the basis of a claim of privilege, the identify of the documents and the nature of the claimed privileged shall be set forth as required by to District of Columbia Superior Court Rules of Civil Procedure, Rule 34(b).

In construing this Request:

- A. The singular shall include the plural and the plural shall include the singular.
- B. A masculine, feminine or neuter pronoun shall not exclude the other gender(s).
- C. Each request shall extend to all documents which are or have been in the possession or subject to the control of the Respondent’s agents, employees or attorneys at any time during the period of the time covered by this Request.

DOCUMENTS REQUESTED

1. All Documents relating to any and all “Applications” to Congress pursuant to Article V of the United States Constitution for a “Convention for proposing Amendments”.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. First class mail on (i) Peter R. Maier, Special Assistant United States Attorney, Counsel for Defendant, The Honorable Mitch McConnell, 555 4th St., N.W., Washington, D.C. 20530, Telephone: (202) 252-2578, (Peter.maier2@usdoj.gov) and (ii) William Pittard, Deputy General Counsel, Counsel for The Honorable John A. Boehner, Office of General Counsel, United States House of Representatives, 219 Cannon House Office Building, Washington, District of Columbia 20515, Telephone: (202) 225-9700, (William.Pittard@mail.house.gov) this October 18, 2015.

MONTGOMERY BLAIR SIBLEY

Plaintiff

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Rockville, Maryland, 20850

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montybsibley@gmail.com

By: _____


Montgomery Blair Sibley