

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	:	
	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	Civil Action No. 19-0519
	:	
SAFEHOUSE, a Pennsylvania nonprofit corporation;	:	
	:	
JOSE BENITEZ, as President and Treasurer of Safehouse,	:	
	:	
<i>Defendants.</i>	:	
<hr/>		
	:	
SAFEHOUSE, a Pennsylvania nonprofit corporation,	:	
	:	
<i>Counterclaim Plaintiff,</i>	:	
	:	
v.	:	
	:	
UNITED STATES OF AMERICA,	:	
	:	
<i>Counterclaim Defendant,</i>	:	
	:	
and	:	
	:	
U.S. DEPARTMENT OF JUSTICE; WILLIAM P. BARR, in his official capacity as Attorney General of the United States; and WILLIAM M. McSWAIN, in his official capacity as U.S. Attorney for the Eastern District of Pennsylvania,	:	
	:	
<i>Third-Party Defendants.</i>	:	

NOTICE OF APPEAL

The United States of America, U.S. Department of Justice, United States Attorney General William P. Barr, and United States Attorney for the Eastern District of Pennsylvania

William M. McSwain (collectively, “the United States”), hereby appeal to the United States Court of Appeals for the Third Circuit from the Court’s Memorandum and Order entered on February 25, 2020 (ECF Nos. 141 and 142, which incorporates by reference the district court’s previous Memorandum at ECF No. 133), granting Safehouse and Jose Benitez’s Motion for Final Declaratory Judgment (ECF No. 137) and denying the United States’ Motion for Summary Judgment (ECF No. 139).¹

JOSEPH H. HUNT
Assistant Attorney General
Civil Division

GUSTAV W. EYLER
Branch Director
Consumer Protection Branch

ALEXANDER K. HAAS
Director
Federal Programs Branch

ANDREW E. CLARK
Assistant Director
Consumer Protection Branch

JACQUELINE COLEMAN SNEAD
Assistant Director
Federal Programs Branch

DANIEL K. CRANE-HIRSCH
Trial Attorney
Consumer Protection Branch
Co-Counsel for the United States

Respectfully submitted,

WILLIAM M. McSWAIN
United States Attorney

/s/Gregory B. David
GREGORY B. DAVID
JOHN T. CRUTCHLOW
BRYAN C. HUGHES
ERIN E. LINDGREN
Assistant United States Attorneys
Eastern District of Pennsylvania
615 Chestnut Street, Suite 1250
Philadelphia, PA 19106-4476

Attorneys for the United States

¹ As the United States previously communicated to the Chambers of the Hon. Gerald McHugh, it will move in district court to stay the Declaratory Judgment by no later than this Friday, February 28, 2020. Although the United States’ Notice of Appeal divests this Court of jurisdiction over those aspects of the case involved in the appeal, the Court retains the ability to rule on a motion for a stay. *See Venen v. Sweet*, 758 F.2d 117, 120-121 & n.2 (3d Cir. 1985); *Rakovich v. Wade*, 834 F.2d 673, 674 (7th Cir. 1987) (“[A] notice of appeal does not deprive the district court of jurisdiction over a motion for stay of its judgment.”). This is consistent with the rule requiring that the United States first move in the district court for a stay before seeking identical relief from the Court of Appeals. Fed. R. App. P. 8(a)(1). *See In re Miranne*, 852 F.2d 805, 806 (5th Cir. 1988).

CERTIFICATE OF SERVICE

I hereby certify that, on this date, I caused a true and correct copy of The United States' Notice of Appeal, which was filed electronically and is available for viewing and download from the court's CM/ECF system, to be served upon all counsel of record.

/s/Gregory B. David
GREGORY B. DAVID
Assistant United States Attorney
Chief, Civil Division

Dated: February 26, 2020