

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CLIMATE UNITED FUND,

Plaintiff,

v.

CITIBANK, N.A., *et al.*

Defendants.

Civil Action No. 25-cv-698 (TSC)
Civil Action No. 25-cv-735 (TSC)
Civil Action No. 25-cv-762 (TSC)
Civil Action No. 25-cv-820(TSC)
Civil Action No. 25-cv-938 (TSC)
Civil Action No. 25-cv-948 (TSC)
(Consolidated Cases)

**FEDERAL DEFENDANTS’ OBJECTION TO
GRANTEE PLAINTIFFS’ MOTION TO CLARIFY
ORDER GRANTING PRELIMINARY INJUNCTION**

Federal Defendants object to motion, ECF No. 91, by Plaintiffs Climate United Fund (“Climate United”), Coalition for Green Capital (“CGC”), and Power Forward Communities, Inc. (“PFC”) (collectively, the “Grantees”) requesting the Court clarify its April 15, 2025 Order granting a preliminary injunction (the “PI Order”), ECF No. 80, with respect to the obligations imposed on Defendant Citibank, N.A. (“Citibank”). As we demonstrate below, Grantees have moved for relief this Court lacks authority to grant.

Grantees seek alteration of the PI Order, which requires Citibank to “disburse any funds properly incurred **before** the mid-February suspension of Plaintiffs’ funds.” PI Order at 2 (emphasis added), which they maintain unduly limits the relief to which they claim they are entitled. The appeal currently pending before the Court of Appeals for the District of Columbia Circuit precludes the requested relief.

An appeal “divests the district court of control over those aspects of the case on appeal.” *Princz v. Fed. Republic of Germany*, 998 F.2d 1, 1 (D.C. Cir. 1993). “The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals

and divests the district court of its control over those aspects of the case involved in the appeal.” *Id.* (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (*per curiam*)). Federal Defendants noticed an appeal of the PI Order on April 16, 2025, ECF No. 81, and moved for immediate administrative stay and for stay pending appeal in the United States Court of Appeals for the District of Columbia Circuit. *See Climate United Fund v. Citibank, N.A. et al.*, Case No. 25-5122, Doc. No. 2111408, (D.C. Cir. Apr. 16, 2025).¹ The Court of Appeals granted an administrative stay, in part, and has set a briefing schedule to address the government’s stay motion. Because the scope of injunctive relief is the very question before the Court of Appeals, this Court currently lacks authority to act upon Grantee’s motion.

Grantees assert that the Court “retains jurisdiction to clarify its Order.” *See* Motion at 1, (citing *Wash. Metro. Area Transit Comm’n v. Reliable Limousine Serv., LLC*, 985 F. Supp. 2d 23, 29 (D.D.C. 2013)). But the rationale of the cited authority concerns the trial court’s ability to preserve the status quo pending appeal. *Id.* Here, Grantees are not asking to preserve the status quo, which is already being preserved by the Court of Appeals’ administrative stay.

In requesting that the Court “clarify” the PI Order, Grantees fail to explain to this Court that the Court of Appeals has stayed that order “insofar as it ... enables or requires Citibank to release, disburse, transfer, or otherwise move, or allow access to funds” and further ordered “that no party takes any action, directly or indirectly, with regard to the disputed contracts, grants, awards or funds.” *Climate United Fund v. Citibank, N.A. et al.*, Case No. 25-5122, Doc. No. 2111459, (D.C. Cir. Apr. 16, 2025). This Court lacks authority to act at variance with the appellate order.

¹ Citibank also noticed an appeal of the PI Order to the D.C. Circuit. *See* ECF No. 86.

For these reasons, Federal Defendants respectfully request that the Court deny Grantees' motion to clarify.

Dated: April 18, 2025

Respectfully Submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General

KIRK T. MANHARDT
Director

/s/ Marc S. Sacks
MARC S. SACKS (Ga. Bar No. 621931)
Deputy Director
KEVIN P. VANLANDINGHAM (NY Reg No. 4741799)
Assistant Director
U.S. Department of Justice
Civil Division
Corporate/Financial Section
P.O. Box 875
Ben Franklin Stations
Washington D.C. 20044-0875
Tel: (202) 307-1134
Email: kevin.p.vanlandingham@usdoj.gov

Attorneys for the United States
Environmental Protection Agency