

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

ROBERT L. SCHULZ,

Plaintiff-Appellant,

-against-

**1:08-CV-991 (Lead)
(GLS-DRH)**

**UNITED STATES FEDERAL RESERVE SYSTEM,
BEN S. BERNANKE, Chairman of the United States
Federal Reserve System, UNITED STATES
DEPARTMENT OF THE TREASURY, HENRY M.
PAULSON, JR., Secretary of the United States
Department of the Treasury, and the UNITED STATES**

Defendants-Respondents

ROBERT L. SCHULZ,

Plaintiff-Appellant,

**1:08-CV-1011 (Member)
(GLS-DRH)**

-against-

**UNITED STATES EXECUTIVE DEPARTMENT,
GEORGE W. BUSH, President of the United States,
HENRY M. PAULSON, JR., Secretary of the Treasury;
UNITED STATES CONGRESS, NANCY PELOSI,
Speaker of the House of Representatives, HARRY
REID, Senate Majority Leader; UNITED STATES
FEDERAL RESERVE SYSTEM, BEN S. BERNANKE,
Chairman of the Board of the United States Federal
Reserve System,**

Defendants-Respondents

**APPELLANT'S SUPPLEMENTAL MEMORANDUM IN SUPPORT
OF EMERGENCY MOTION FOR INJUNCTIVE RELIEF**

Appellant Robert L. Schulz, states as follows:

PRELIMINARY STATEMENT

This Brief and the accompanying Declaration supplement the Brief and Declaration filed on Tuesday, September 30, 2008, further support Appellant's motion for temporary and preliminary relief following the signing into law last Friday, October 3, 2008 of the Emergency Economic Stabilization Act and the fact that \$61 Billion of the \$85 Billion has already been given to A.I.G.

ADDED URGENCY: AIG CASE

On Friday, October 3, 2008, A.I.G. said it had already drawn down \$61 billion of the \$85 billion bridge loan it received from the Federal Reserve and Treasury two weeks ago. See Exhibit A annexed to the accompanying Declaration.

ADDED URGENCY: \$700 BILLION BAILOUT CASE

On Friday, October 3, 2008, the Emergency Economic Stabilization Act was signed into law by President Bush. The Act passed the Senate on Wednesday, October 1 and by the House on October 3. See Exhibit B annexed to the accompanying Declaration.

As expected, the core feature of the final Act has not changed from that of the Emergency Economic Stabilization Act of 2008 ("EESA") voted down by the House on Monday, September 29, which did not change from that of the original three page bill delivered to Congress on September 20, 2008 – that is, the final Act has authorized the Executive Branch's Treasury Department to begin using \$700 Billion of public, taxpayer funds to purchase or insure any financial asset from any private entity, domestic or foreign (e.g., worthless and near worthless bad debts and investments).

A copy of the Act signed by President Bush is included in Exhibit C to the accompanying Declaration, pages 2-113.

Under the Act, **“The [Treasury] Secretary is authorized to establish the Troubled Asset Relief Program (or “TARP”) to purchase, and to make and fund commitments to purchase, troubled assets from any financial institution....”** Exhibit C, page 6.

There will be **no delay** in the commencement of the TARP. Exhibit C at 6-7.

“Upon request of a financial institution, the Secretary may guarantee the timely payment of principal of, and interest on, troubled assets in amounts not to exceed 100 percent of such payments.” Exhibit C at 10.

Effective upon the enactment of the Act (October 3, 2008), the Secretary is authorized to spend \$250 billion in public taxpayer funds to purchase the troubled assets of private financial institutions. If at any time the President submits to the Congress a written certification that the Secretary wants an additional \$100 billion, the Secretary’s authority to spend public, taxpayer funds to purchase the troubled assets of private financial institutions is increased to \$350 billion. The authorization is increased to **\$700 billion** if, after the President certified the Secretary wanted another \$100 billion the President then submits a report to the Congress requesting authority to spend another \$350 billion and Congress does not deny the request. See Declaration Exhibit C at 40-41.

JUDICIAL REVIEW

The Act recognizes the jurisdiction of the Court to grant injunctions and other forms of equitable relief “to remedy a violation of the Constitution.” Declaration Exhibit C at 59.

The Act directs Courts to grant or deny requests for TROs within 3 days of the request. Exhibit C at 59.

The Act directs Courts to expedite requests for Preliminary Injunctions. Exhibit C at 59.

The Act directs Courts to expedite requests for Permanent Injunctions and wherever possible to consolidate trial on the merits with any hearing on a request for a preliminary injunction. Exhibit C at 59-60.

The Act provides for an automatic stay of any injunction for 3 days. Exhibit C at 60.

RELIEF REQUESTED REMAINS THE SAME

With respect to the Lead Case (the “AIG” case), Appellant requests an Order:

- a) Temporarily enjoining and prohibiting Defendants, and anyone acting on their behalf, including but not limited to their employees, agents and contractors, from giving or lending any public money and public credit to the American International Group (“A.I.G.”), and anyone acting on its behalf, including but not limited to its employees, agents, subsidiaries, partners and affiliates until this matter can be heard by the Court’s motions panel, and
- b) Preliminarily enjoining, prohibiting and restraining Defendants, and anyone acting on their behalf, including but not limited to its employees, agents and contractors from giving or lending any public money and public credit to A.I.G., and anyone acting on its behalf, including but not limited to its employees, agents, subsidiaries, partners and affiliates pending a determination of the underlying constitutional challenge and any appeal there from, and
- c) Granting any further relief that to the Court may seem just and proper.

With respect to the Member Case (the “\$700 Billion Bailout” case), Appellant requests an Order:

- a) Temporarily enjoining, prohibiting and restraining Defendants, and anyone acting on their behalf, including but not limited to their employees, agents and contractors, from using public, taxpayer funds to purchase or insure any financial assets from any private entity under Defendants’ so-called \$700 Billion Bailout plan, until this matter can be heard by the Court’s motions panel, and
- b) Preliminarily enjoining, prohibiting and restraining Defendants, and anyone acting on their behalf, including but not limited to their employees, agents and contractors from using public, taxpayer funds to purchase or insure any financial assets from any private entity under Defendants’ so-called \$700 Billion bailout

plan, pending a determination of the underlying constitutional challenge and any appeal there from, and

c) Granting any further relief that to the Court may seem just and proper.

Respectfully submitted,

Dated: October 4, 2008

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