IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MICHAEL ABRAMOWITZ, *et al.,* *Plaintiffs,* –v.– KARI LAKE, *et al.*, *Defendants.*	**Case No. 1:25-cv-887-RCL**
PATSY WIDAKUSWARA, *et al.,* *Plaintiffs,* –v.– KARI LAKE, *et al.*, *Defendants.*	**Case No. 1:25-cv-1015-RCL**

PLAINTIFFS' SURREPLY IN SUPPORT OF MOTION TO PAUSE REDUCTIONS IN FORCE AND OPPOSITION TO DEFENDANTS' MOTION TO DISSOLVE OR MODIFY PRONG (3) OF THE PRELIMINARY INJUNCTION

INTRODUCTION

Upon finding Defendants had likely violated the APA in multiple respects when they hastily and without reason began the process of dismantling the U.S. Agency for Global Media (USAGM), including Voice of America (VOA), this Court entered a three-part preliminary injunction, ordering Defendants to:

> 1) take all necessary steps to return USAGM employees and contractors to their status prior to the March 14, 2025 Executive Order 14238, "Continuing the Reduction of the Federal Bureaucracy," including by restoring all USAGM employees and personal service contractors, who were placed on leave or terminated, to their status prior to March 14, 2025;
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> 2) restore the FY 2025 grants with USAGM Networks Radio Free Asia and Middle East Broadcasting Networks such that international USAGM outlets can "provide news which is consistently reliable and authoritative, accurate, objective, and comprehensive," 22 U.S.C. § 6202(a), (b), and, to that end, provide monthly status reports on the first day of each month apprising the Court of the status of the defendants' compliance with this Order, including documentation sufficient to show the disbursement to RFA and MBN of the funds Congress appropriated; and
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> 3) restore VOA programming such that USAGM fulfills its statutory mandate that VOA "serve as a consistently reliable and authoritative source of news," 22 U.S.C. § 6202(c).

Widakuswara v. Lake, 779 F. Supp. 3d 10, 40 (D.D.C. 2025). The Court's comprehensive order was intended to restore the status quo while the parties litigated the case to final judgment, as is appropriate for a preliminary injunction. *See Sherley v. Sebelius*, 689 F.3d 776, 781-82 (D.C. Cir. 2012). The order was premised on broad harms from the Defendants' dismantling of the Agency, including the impact of silencing VOA's many broadcasts, which the Court found to have caused Plaintiffs RSF and TNG-CWA irreparable harm. *See Widakuswara*, 779 F. Supp. 3d at 38.

Unhappy with the Court's decision, Defendants asked this Court and, simultaneously, the D.C. Circuit, to stay prongs (1) and (2) of the preliminary injunction. In denying that request, this Court further clarified that the preliminary injunction required "defendants to reverse their illegal actions and return to the status quo before the illegal actions took place." Order Denying Stay

Pending Appeal, ECF No. 104 at 5;[1] *see also id*. at 5 ("When USAGM returns to pre-March 14 functioning, as is required by the PI . . . ."); *and see United States v. Facebook, Inc.*, 136 F.4th 1129, 1134 (D.C. Cir. 2025) ("[I]njunctions should be read with all the connotations that are infused into their terms by the opinions of the issuing court.").

Defendants proceeded with their appeal of prongs (1) and (2), securing a stay on those prongs. In doing so, however, Defendants relied on the continued vitality of prong (3) as an argument in favor of staying prongs (1) and (2). *See, e.g.*, *Widakuswara v. Lake*, No. 25-5144, Doc. 2117869, at *3 (May 28, 2025) (Srinivasan, J.) ("In arguing against en banc reconsideration of the panel's stay of provision (1) . . . the government relies on the continued operation of provision (3)[.]"); Response to Emergency Petition for Rehearing En Banc at 12, Nos. 25-5144, 25-5145 (arguing no irreparable harm because "the district court's order requiring restoration of Voice of America programming is still in effect"); *Widakuswara v. Lake*, No. 25-5144, 2025 WL 1288817, at *7 (D.C. Cir. May 3, 2025) (Pillard, J., dissenting) ("The government touts that it did not challenge part (3) of the injunction compelling its compliance with that statutory directive."). Accepting the government's invitation, the stay panel relied on the government's decision not to appeal prong (3) in declining to "consider any potential harm from shuttering VOA" arising from a stay of prongs (1) and (2). *Widakuswara*, 2025 WL 1288817, at *5. The government continued to advance this argument before the merits panel as recently as oral argument on September 22. *See* Recording of Oral Argument at 30:00, No. 25-5144, available at media.cadc.uscourts.gov/recordings/docs/2025/09/25-5144-and-25-5145-and-25-5150-and-25-5151.mp3; *see also* Appellant Reply Br. at 17, No. 25-5144 ("As noted, to the extent there are

[1] Unless otherwise noted, references to the docket are to *Widakuswara v. Lake*, 1:25-cv-1015-RCL.

concerns about the Agency's actual substantive actions, they are governed by the portion of the injunction relating to the exercise of statutory functions that is not challenged here."). And before this Court, Defendants have touted prong (3)'s continued force and effect as a reason to stay the case. *See* ECF No. 171 at 7-8 (arguing no harm to Plaintiffs from a stay because "Plaintiffs currently benefit from prong (3)"); ECF No. 170 at 6 (same).[2]

But over the course of the last eight months, it has become clear that Defendants' decision not to appeal prong (3) did not amount to an intention to comply with that part of the preliminary injunction. Instead, Defendants have propped up minimal programming, nearly always in response to prodding from Plaintiffs and orders from this Court. Throughout months of enforcement proceedings, Plaintiffs and this Court have shown great deference to Defendants' discretion in *how* the Agency fulfills its statutory duties, asking merely that Defendants submit to the Court a *plan* to comply with the preliminary injunction. But time and again, Defendants have "disregard[ed]" these "orders to produce information." Order, ECF No. 164 at 18. Defendants' Surreply to Plaintiffs' Joint Motion to Pause Reductions in Force in Service of Enforcing Prong (3) of the Preliminary Injunction (ECF No. 174) advances that strategy by again failing to provide the information and plan this Court has repeatedly ordered Defendants to submit. Defendants' intransigence has led the Court to conclude that their plan was to "run[] out the clock on the fiscal year while remaining in violation of even the most meager reading of USAGM and Voice of America's statutory obligations." *Id*. at 8; *see also* Order to Show Cause, ECF No. 62 at 6 ("Without more explanation, the Court is left to conclude that the defendants are simply trying to run out the clock on the fiscal year[.]").

[2] Remarkably, Defendants renewed that argument the day after filing a motion to vacate prong (3). *See* ECF No. 176 at 3.

Now that Congress has passed another continuing resolution that funds USAGM at levels and under conditions unchanged from 2024 and 2025,[3] Defendants ask to be excused from any obligation to further comply with the preliminary injunction. At the same time, Defendants sought to delay their response to Plaintiffs' motions for partial summary judgment for at least sixty days—after the current continuing resolution expires.[4] Of course, resolving Plaintiffs' motion for partial summary judgment on the APA claims would advance the claims underlying the preliminary injunction to final judgment. Defendants could have simply cross-moved for summary judgment on those claims and the resolution of those cross motions would have vacated the preliminary injunction regardless of outcome.

Defendants' request to relitigate the preliminary injunction while simultaneously refusing to confront the merits of the claims underlying the preliminary injunction is entirely inappropriate and should not be countenanced. Now that the Court has set briefing deadlines on the pending motions for summary judgment, Plaintiffs respectfully urge this Court to defer ruling on Defendants' motion to dissolve the preliminary injunction, or Plaintiffs' motion to pause RIFs in service of enforcing that injunction, until after it has resolved Plaintiffs' partial motion for summary judgment on the APA claims, as well as the *Widakuswara* Plaintiffs' motion for partial summary judgment on the Appointments Clause and Federal Vacancies Reform Act (FVRA) claims.[5] In the event the Court wishes to first resolve the motions before it related to the

[3] The Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and Extensions Act of 2026, Pub. L. No. 119-37, 139 Stat. 495 § 101.
[4] *Id*. § 106 (Continuing Resolution expires, at the latest, on January 30). Defendant Lake represented in a December 21, 2025 post on X that she "got a message from a REPUBLICAN US Senator telling [her] that like-it-or-not [Congress] will" continue funding USAGM. *See* https://x.com/karilake/status/2002918156843520387?s=46&t=uDjvntm5jxMp5kq-bq7r0A.
[5] The *Widakuswara* and *Abramowitz* Plaintiffs are filing this submission jointly. Because the Appointments Clause and FVRA claims are not at issue in the *Abramowitz* case, any argument regarding those claims is made solely on behalf of the *Widakuswara* Plaintiffs.

preliminary injunction, however, Plaintiffs' motion to pause the reduction in force should be granted and Defendants' motion to dissolve or modify the preliminary injunction should be denied.

ARGUMENT

A preliminary injunction is by definition temporary, meant to preserve the status quo as the parties work toward final judgment. After months of enforcement efforts that have generated substantial paper but little movement toward compliance from Defendants, Plaintiffs opted to move for partial summary judgment on the claims underlying the preliminary injunction. Final judgment would resolve the relevant claims once and for all and, if decided in Plaintiffs' favor, would result in an order for permanent relief.

Defendants have resisted Plaintiffs' efforts to advance this case, opting instead to re-litigate the propriety of the preliminary injunction. The Court should not accept Defendants' request to re-tread that ground but instead should press ahead and decide the pending motions that would move this case toward final resolution. Should the Court entertain the merits of Defendants' motion to dissolve or modify the preliminary injunction, it should deny that request because Defendants have not met the standard for such relief. And because Defendants' latest submission shows they still view themselves as unbound by the preliminary injunction and have no real plan for compliance, the Court should maintain the pause on RIFs that it entered provisionally in September, either by deferring a ruling on Plaintiffs' pending motion to pause those RIFs (and instead ruling on summary judgment), or by granting it.

I. The Court Should Decide Plaintiffs' Summary Judgment Motions Before Acting on the Motion to Dissolve or Modify Prong (3).

A preliminary injunction "is a stopgap measure, generally limited as to time, and intended to maintain a status quo or to preserve the relative positions of the parties until a trial on the

merits can be held." *Sherley v. Sebelius*, 689 F.3d at 781-82 (quotation marks omitted). The preliminary injunction entered in this case is no different: this Court entered it in the face of blatantly unlawful agency action and in recognition of the significant irreparable harm Plaintiffs faced absent interim relief. *See Widakuswara*, 779 F. Supp. 3d at 32-37.

Given the significant difficulties Plaintiffs and the Court have encountered enforcing the injunction, and in recognition of the fact that it is a temporary measure only, Plaintiffs have attempted to move the claims underlying the preliminary injunction to final judgment by filing a motion for partial summary judgment on their APA claims. Defendants responded by asking to indefinitely stay the proceedings, or, in the alternative, for a two-month extension to respond to the summary judgment motion from the date the Court denies their stay motion, which would have deferred any ruling on those motions until after the current Congressional budget expires.

Rather than re-litigate the validity of the preliminary injunction, the Court should decide whether to issue a new, final remedial order by ruling on Plaintiffs' motions for partial summary judgment. If the Court grants Plaintiffs' motions, this will moot all issues related to the preliminary injunction. Should Defendants wish to definitively vacate the preliminary injunction, they should file a cross-motion for summary judgment on the APA claims. Notably, Defendants' motion to dissolve or modify the injunction addresses many issues overlapping with the APA summary judgment motion, including standing, jurisdiction, and whether the Plaintiffs have challenged final agency action.[6]

This Court should also decide the pending motion for summary judgment on the *Widakuswara* Plaintiffs' Appointments Clause and FVRA claims before considering relieving

[6] These issues are addressed in Plaintiffs' motion for partial summary judgment, ECF No. 166-1 at 18-23, 36-42, and to the extent relevant, Plaintiffs incorporate those arguments here.

Defendants of the preliminary injunction. That motion presents a strong argument that the Agency is without a lawful leader under, among other things, a theory recently adopted in full by the Third Circuit. *See United States v. Giraud*, --- F.4th ----, 2025 WL 3439752, at *7 (3d Cir. Dec. 1, 2025) ("Habba is not eligible to serve as Acting U.S. Attorney under the FVRA's first-assistant provision, 5 U.S.C. § 3345(a)(1), because she was not the First Assistant U.S. Attorney at the time the vacancy arose."). In light of the fact that the preliminary injunction was necessary to forestall the dismantlement of the Agency pending final resolution of the APA claims, and Defendants' subsequent actions, which have made clear that the Agency's current leadership does not intend to meet the Agency's statutory obligations, the Court has every reason to rule now on the question of whether its leader is acting *ultra vires*, and should do so contemporaneously with its ruling on the APA summary judgment motion. That order of operations will provide judicial clarity about the legality of current Agency leadership charged with bringing the Agency in line with the law.

II. Defendants Have Not Met the Standards for Modifying or Dissolving an Injunction.

Should the Court decide this motion while the preliminary injunction is still in place, the Court should deny Plaintiffs' request for relief.

As Defendants acknowledge, to justify a request to modify or dissolve an injunction, they must demonstrate a "significant change either in factual conditions or in law" that "renders continued enforcement detrimental to the public interest." *Horne v. Flores*, 557 U.S. 433, 447 (2009) (quotation marks omitted). They have not met that standard.

Defendants begin by arguing that they have fully satisfied prong (3) by resuming minimal broadcast operations. ECF No. 175 at 10-14. They construe prong (3) to require only that "Defendants . . . bring VOA back online," *id*. at 14, and declare that any more onerous

requirement would "become a vehicle for ongoing judicial superintendence of an executive agency," *id*. at 13. That argument is misguided for a host of reasons.

First, Defendants' warning that prong (3) risks becoming "a vehicle for ongoing judicial superintendence of an executive agency," relies only on cases dealing with final relief, not preliminary injunctions that are by their very nature temporary. *See* ECF No. 175 at 13 (citing *Lewis v. Casey*, 518 U.S. 343, 347 (1996) (permanent injunction entered after bench trial and Special Master investigation); *Salazar by Salazar v. D.C.*, 896 F.3d 489, 491 (D.C. Cir. 2018) (modifications to consent decree invalidated); *Winpisinger v. Watson*, 628 F.2d 133, 135 (D.C. Cir. 1980) (appeal from dismissal of complaint); *Fed. Election Comm'n v. Rose*, 806 F.2d 1081, 1082 (D.C. Cir. 1986) (addressing dispute over costs and fees)). Once again, the appropriate mechanism for Defendants to relieve themselves of prong (3) would be to engage with Plaintiffs' efforts to take this case to final judgment.

Defendants' judicial supervision warning is also remarkable in the face of this Court's deference to the Agency to run its own affairs while enforcing its preliminary injunction. Recognizing that Defendants have discretion in how to fulfill the Agency's statutory mandates, the Court's enforcement efforts have largely been geared toward "get[ting] a clear picture of how VOA is operating or how the agency plans to operate VOA moving forward." ECF No. 126 at 2; *see also* OSC Order, ECF No. 62 (ordering Defendants to produce information because the Court had "no clear understanding of how defendants intend to fulfill VOA's statutory mandates"); Order, ECF No. 72 at 2 ("[D]efendants' response fails to provide the information ordered . . . let alone explain how they are in compliance with the Court's preliminary injunction, even on their preferred interpretation of VOA's statutory mandate."). Despite these repeated orders requiring Defendants to furnish specific information, Defendants have refused to come forward with their

comprehensive plan for complying with the injunction. It is *that* failure upon which the Court has threatened contempt. *See* Order, ECF No. 164 at 18 ("It is the Court's view that the defendants' disregard for its earlier orders to produce information would more than support a trial on civil contempt.").

Next, Defendants are wrong about the scope of the preliminary injunction. This Court entered the injunction to restore the status quo and remediate irreparable harm, including that of RSF's member listeners. *See Widakuswara*, 779 F. Supp. 3d at 38; *see also id*. at 39 (Defendants likely violated EO "by reducing USAGM's activities to levels far below the constitutional and statutory minimums"). The Court again defined the contours of the preliminary injunction—and articulated its goal of restoring the status quo—when it denied Defendants' motion for a stay pending appeal. *See* Order Denying Stay Pending Appeal, ECF No. 104 at 5 (disclaiming pre-March 14 as a "benchmark for statutory compliance," but nonetheless clarifying the preliminary injunction is meant to "reverse [Defendants'] illegal action and return to the status quo before the illegal actions took place."). Defendants' successful stay of prongs (1) and (2) does not change the intended effect of the preliminary injunction but merely alters how the Agency must go about complying. And as the updated RSF declaration submitted with Plaintiffs' motion for partial summary judgment on the APA claims shows, Defendants' minimal broadcasting has not staunched the irreparable harm underlying the order. *See generally* ECF No. 166-3 (Declaration of Thibaut Bruttin).

Moreover, Defendants are emphatically wrong that the IBA is merely hortatory and does not impose statutory duties enforceable through the APA. 22 U.S.C. § 6202, for instance, repeatedly uses the term "shall," a "mandatory" directive "impervious to . . . discretion." *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998). The case law

Defendants cite to establish the contrary is unhelpful to them, as those cases focus on whether statutes create a private cause of action for enforcement, a question not at issue here. *See, e.g.*, *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1 (1981) (holding federal spending legislation did not create a private cause of action against the states). Plaintiffs sue under, among other things, the APA, which contains an express cause of action and incorporates a capacious standing standard. *See Nat'l Credit Union Admin. v. First Nat. Bank & Tr. Co.*, 522 U.S. 479, 492 (1998).

Edwards v. District of Columbia, 821 F.2d 651 (D.C. Cir. 1987), is particularly illustrative and unhelpful to Defendants. That case dealt with a federal grant-in-aid program to local public housing agencies. Under that statute, the demolition of public housing could permissibly occur only after the local public housing agencies met certain prerequisites. But the only mandatory prerequisite language was a restraint on the Secretary of Housing and Urban Development, barring him from approving a demolition application absent these prerequisites. *See id*. at 658. The D.C. Circuit held that the prerequisite provisions created no private right of action against the local agencies. Importantly, however, the court noted that the statute could be enforced against the Secretary of HUD via the APA. *Id*.; *see also Barry Farm Tenants v. D.C. Hous. Auth.*, 311 F. Supp. 3d 57, 76 (D.D.C. 2018) (analyzing the same argument under an amended version of the statute at issue in *Edwards*); *Ute Indian Tribe of Uintah & Ouray Rsrv. v. U.S. Dep't of Interior*, 560 F. Supp. 3d 247, 260 (D.D.C. 2021) (assessing whether statutes created fiduciary trust duties between the federal government and Ute Indian Tribe).

Of course, there is room for discretion in carrying out USAGM's mandatory duties. But "that discretion is neither boundless nor shielded from judicial review and remediation." No. 25-5144, Doc. 2117869 at 8 (Pillard, J.) (citing *In re Aiken County*, 725 F.3d 255, 259 (D.C. Cir.

2013) (Kavanaugh, J.)). Instead of demonstrating good faith efforts to comply, Defendants have "thumb[ed] their noses at Congress's commands," admitting under oath that they are *not* broadcasting to places that plainly fall within the statutory directives. *See* Order, ECF No. 164 at 10. In enacting the IBA, which governs USAGM's existence, Congress did not give the executive the discretion to simply walk away from mandatory agency functions.

The balance of Defendants' motion objects that the preliminary injunction is fatally nonspecific regarding its terms for compliance. Defendants' objections to prong (3) amount to nothing more than an attack on the propriety of entering the preliminary injunction in the first place. But a motion to modify or dissolve an injunction "cannot be used simply to revisit the initial injunction decision or resurrect an expired time for appeal." Wright & Miller, 16 Fed. Prac. & Proc. Juris. § 3924.2 (3d ed.). Defendants opted not to appeal prong (3) and their deadline to do so has passed; they cannot use this motion as a vehicle to collaterally attack the order.

Finally, to the extent the Court agrees there is ambiguity in prong (3), the appropriate remedy is to clarify the injunction, not dissolve or modify it. Defendants' argument in this regard should be taken with a grain of salt—in their briefing before moving to dissolve the preliminary injunction, as through the show-cause proceedings, Defendants never argued that the preliminary injunction is non-specific, but instead that they have been complying all along. They marshal the same argument in the instant briefing. In any event, clarifying the injunction is appropriate to "supervise compliance," "add certainty to an implicated party's effort to comply with the order[,] and provide fair warning as to what future conduct may be found contemptuous." *Wash. Metro. Area Transit Comm'n v. Reliable Limousine Serv., LLC*, 985 F. Supp. 2d 23, 29 (D.D.C. 2013)

(first quotation); *N.A. Sales Co., Inc. v. Chapman Indus. Corp.*, 736 F.2d 854, 858 (2d Cir. 1984) (second quotation). Any ambiguity can be addressed through clarification.

III. Defendants' Sur-Reply Once Again Fails to Set Forth Their True Plan for Compliance.

Finally, Defendants' sur-reply in opposition to Plaintiffs' motion to pause reduction in force only further highlight Defendants' failure to comply with prong (3), and belies their repeated insistence that they have complied in good faith.

In response to this Court's order that they "set forth a plan for compliance with prong (3) of the preliminary injunction, Defendants submit a four-page declaration touting their decision to resume limited programming in Korean and Kurdish and highlighting certain "facility improvement projects" that Defendants insist are "not specifically required by statute," but the Agency is undertaking voluntarily. ECF No. 174-1. The document is a status report, not a plan for compliance, and it repeats Defendants' pattern of disclosing only favorable information to the Court and withholding information that undermines their promise to comply.

This Court ordered Defendants to submit "a plan for compliance with prong (3)." Mem. Order, ECF No. 164 at 18. But the Wuco declaration merely sets forth what the Agency is currently doing. It does not include any evaluation of what the Agency believes to be its duties under the preliminary injunction or any other source of law, let alone set forth a plan to meet those duties. For instance, it omits any explanation of an intent to resume programming in Azerbaijan, Turkey, Sudan, or the Democratic Republic of Congo, all of which VOA Director of Programming Leili Soltani testified were countries where censorship or repression inhibits free exchange, as contemplated by 22 U.S.C. § 6202(b)(7). Nor does it address the gap in VOA programming to South America, a "significant region of the world" in the Acting CEO's view. *See* Mem. Order, ECF No. 164 at 10-11; *see also* 22 U.S.C. § 6202(b)(6).

Defendants' facility improvement projects are notably entirely focused on foreign transmitting stations, aside from the OCB facility in Marathon, Florida. What Defendants fail to disclose to the Court is that they plan to vacate the Cohen building imminently and move to the NASA building, which currently has no studios available for VOA use. *See* Ex. 1, Supplemental Declaration of John Dryden ¶¶ 6-8. "Almost all production of VOA live radio programming happens at the Cohen Building," which housed nineteen radio studios, two radio on television studios, and twelve television studios. *See* Supplemental Decl. of John Dryden, ECF No. 112-1 ¶¶ 6-7 (May 31, 2025). If the move to NASA goes forward, VOA will be unable to continue even the limited radio programming it currently broadcasts. Ex. 1, Dryden Decl. ¶ 10. Moreover, over the past months, Defendants have systematically destroyed the studios within the Cohen building, substantially undermining the prospect of meaningful additional production and broadcast in the building, even if Defendants were to forestall their move. *Id*. Figures 1-11 and accompanying text; *see also* Ex. 2, Supplemental Declaration of Kathryn Neeper ¶ 3.

Defendants also fail to disclose to the Court their plan—sent to Congress on November 25—to close "six overseas news bureaus and four overseas marketing offices, including in Jakarta, Indonesia; Islamabad, Pakistan; Nairobi, Kenya; and Prague, Czech Republic." Minho Kim, *Trump to Close Voice of America's Overseas Offices and Radio Stations*, N.Y. TIMES (Dec. 2, 2025) (attached as Exhibit 2).

Moreover, in touting their plans to resume Korean broadcasting, Defendants do not mention that they intend to broadcast only five minutes of content, repeated twice each night—an amount that can only be described as a check-the-box exercise, in direct defiance at the very least of the requirement that USAGM "maintain broadcasting hours into North Korea at levels not less than the prior fiscal year." Further Consolidated Appropriations Act 2024, 138 Stat. 813;

see also Memorandum Order, ECF No. 164 at 9; Ex. 2, Neeper Decl. ¶ 4. This limited broadcast is unlikely to reach a meaningful audience given the unusual media consumption habits of those in North Korea. *See* Ex. 2, Neeper Decl. ¶¶ 5-7.

Because Defendants still have not complied with this Court's order to show cause and have not shown they have a true plan to comply with prong (3), the Court should not lift its pause on Defendants' proposed reduction in force. In any event, Defendants are barred by the continuing resolution from implementing that reduction in force until at least January 31, 2026, so keeping this pause in place should not harm Defendants before then.[7] And even when the continuing resolution expires, Defendants presumably will have to rescind the pending reduction in force anyway, given that it does not comply with the Agency's collective bargaining agreements with AFSCME Local 1418 and AFGE Local 1812, which have been restored in response to a preliminary injunction entered by Judge Friedman. *See Am. Fed'n of State, Cnty. & Mun. Emps. v. Trump*, No. 1:25-cv-3306-PLF, ECF No. 38 (Nov. 18, 2025). Since the CBAs require 60-days' notice before effectuating a RIF (not the 30 days provided in the notices before this Court), that means the earliest the agency should plausibly effectuate a RIF is April 1, 2026.

Finally, this latest manifestation of the "disrespect the defendants have shown toward the Court's orders" and its "disregard" for the Court's "orders to produce information" further

[7] 139 Stat. 500 § 120(a) ("[D]uring the period between the date of enactment of this Act and the date specified in section 106(3) of this Act, no federal funds may be used to initiate, carry out, implement, or otherwise notice a reduction in force to reduce the number of employees within any department, agency, or office of the Federal Government."). Not all executive agencies have heeded Congress's ban on reductions in force, however. *See Am. Fed'n of State, Cnty. & Mun. Emps. v. OMB*, No. 25-CV-08302-SI, 2025 WL 3485737, at *1 (N.D. Cal. Dec. 4, 2025) (temporary restraining order blocking State Department from separating employees in violation of continuing resolution); *see also* Order Granting Motion for Preliminary Injunction and Enjoining Reductions in Force, *AFSCME v. OMB*, No. 25-CV-08302-SI, ECF No. 139 (Dec. 17, 2025) (entering preliminary injunction regrading same dispute).

demonstrates the need for final judgment on Plaintiffs' claims. It is more than clear that Defendants will not meaningfully comply in good faith with prong (3) of the preliminary injunction, and indeed will not even be candid with the Court about their plans for compliance. Rather than continue to try to find a path through Defendants' "obfuscation," and to avoid further wasting "previous judicial time and resources," Plaintiffs respectfully request that this Court turn to reaching a decision on the pending motions for summary judgment, success on which will require the Agency to vacate its illegal actions. *See* Mem. Order, ECF No. 164 at 19.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court decide Plaintiffs' pending motion for partial summary judgment on the APA claims as well as the *Widakuswara* Plaintiffs' motion to supplement the complaint and for summary judgment on their Appointments Clause and FVRA claims, before deciding Defendants' instant motion. If the Court decides Defendants' motion before the preliminary injunction is overtaken by final judgment, the Court should deny it, and in all events the Court should maintain the current pause on reductions-in-force.

Dated: December 22, 2025

Respectfully submitted,

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** The views expressed herein do not purport to represent the institutional views of Yale Law School, if any.

CERTIFICATE OF SERVICE

I hereby certify that, on December 22, 2025, I caused the foregoing to be served on counsel of record via the Court's electronic case filing system.

_____/*s*/_____
Georgina Yeomans