

Sonya L Green v. U.S. Agency for Global Media

Docket # DC-0752-26-1338-I-1

Reply to Agency Response to Request for Adjudication as a Class

Summary Page

Case Title : Sonya L Green v. U.S. Agency for Global Media

Docket Number : DC-0752-26-1338-I-1

Pleading Title : Reply to Agency Response to Request for Adjudication as a Class

Filer's Name : Erik Snyder

Filer's Pleading Role : Appellant

Details about the supporting documentation

#	Title / Description	Mode of Delivery
1	Exhibit 1.pdf	Uploaded
2	Exhibit 2.pdf	Uploaded

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Reply to Agency Response to Request for Adjudication as a Class

Online Interview

1. Enter a brief title for your pleading.

Reply to Agency Response to Request for Adjudication as a Class

2. Does your pleading assert facts that you know from your personal knowledge?

No

3. Do you declare, under penalty of perjury, that the facts stated in this pleading are true and correct?

No

and VSIP offers. For example, the Court’s March 7, 2026, order granting summary judgment on certain issues in *Widakuswara* specifies that:

all official actions taken by Defendant Kari Lake between July 31 and November 19, 2025, including but not limited to the reduction-in-force notices issued on August 29, 2025, and **all actions otherwise taken** by Defendant Lake pursuant to the delegated authorities contained in the March and/or July Delegation documents, “**shall have no force or effect**,” *see* 5 U.S.C. § 3348(d)(1)-(2)

Exhibit 1 (emphasis added). Likewise, the Court’s March 17, 2026, order granting summary judgment on additional issues in *Widakuswara* states that:

all actions taken pursuant to the defendants’ decision to reduce USAGM to the “statutory minimum,” as set forth in the Statutory Minimum Memorandum are **VACATED** and **SET ASIDE**

Exhibit 2 (emphasis added). A federal district court judge’s orders deciding a dispositive motion do not lack the force of law simply because other matters in the case remain pending and thus there has been no final order of judgment. While the Agency claims that it intends to appeal, there is no guarantee that it will do so, nor any guarantee that such a hypothetical appeal would be successful. The district court’s decision in *Widakuswara* is the current law and there is no reason to delay adjudicating this case, potentially for years, on speculation that the law may someday change.

B. The Agency Relies on the Wrong Standard for Typicality

The remainder of the Agency’s brief is essentially a series of arguments that misconstrue either the law or Appellants’ claims to assert that the circumstances of putative class members are too different to warrant certification as a class. For example, the Agency contends that Appellants have not satisfied the “typicality” requirement of Rule 23(a) because their respective claims are not identical. IAF Tab 3 at 9-10. This is not the standard for typicality. Rather, “[t]ypicality is ordinarily met if the claims or defenses of the representatives and the members of the class stem from a single event or a unitary course of conduct, or if they are based on the same

legal or remedial theory.” *J.D. v. Azar*, 925 F.3d 1291, 1322 (D.C. Cir. 2019). Here, Appellants’ assert that their separations were the result of a “unitary course of conduct,” i.e. actions to “reduce USAGM to the ‘statutory minimum.’” Appellants also assert the same legal theory, i.e. that their separations are the result of a mutual mistake as to the Agency’s authority to offer the DRP, VERA, and VSIP. Appellants’ claims are thus typical of each other and of all putative class members.

C. Appellants Allege Two Distinct Theories of Mutual Mistake

In their opening brief, Appellants assert two distinct theories of mutual mistake: one of law and one of fact. The Agency ignores Appellants’ mutual mistake of law arguments and construes their claims as though they had asserted only a mutual mistake of fact. In particular, the Agency contends that Appellants’ proposed class lacks commonality because the DRP, VERA, and VSIP derive their authority from different statutes and because putative class members may have had different reasons for accepting these offers. IAF Tab 3 at 7-9.

These arguments are irrelevant to Appellants’ mutual mistake of law claim, which is that Ms. Lake’s improper appointment means that the Agency lacked authority to offer the DRP, VERA, and VSIP. IAF Tab 1 at 8. The particulars of the statutes authorizing these offers, and the reasons why putative class members accepted them, have no bearing on this claim – the only question is whether these offers were actions taken under Ms. Lake’s delegated authority and/or “pursuant to the [] decision to reduce USAGM to the ‘statutory minimum.’” Exhibits 1 and 2. As the Agency made the same DRP, VERA, and/or VSIP offers to all putative class members, resolving this question will necessarily “resolve an issue that is central to the validity of each [putative class member’s] claims in one stroke.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011). The Agency disputes that these offers were made under Ms. Lake’s authority, IAF

Tab 3 at 8, but that is exactly the point of Appellants' request for pre-decision discovery, IAF Tab 1 at 13-14.

Separate and apart from their mutual mistake of law claim, Appellants also assert a mutual mistake of fact, i.e. that that all putative class members were notified that they would likely be separated by a RIF and that the assumption the Agency could carry out this RIF was material to each putative class member's decision to accept the DRP, VERA, and/or VSIP. IAF Tab 1 at 9-10.¹ As the District Court in *Widakuswara* specifically held that the Agency had no authority to conduct this RIF, this assumption would constitute a mutual mistake of fact. *Id.*; Exhibits 1 and 2. The Agency contends that this claim requires an individualized inquiry into each individual putative class member's reasons for accepting the DRP, VERA, and/or VSIP, delving into their respective family and financial situations, communications with HR, seniority, and other personal matters. IAF Tab 3 at 8-9.

Appellants dispute that any such detailed inquiry would be necessary or relevant. The Agency is no doubt correct that each putative class member decided to accept the DRP, VERA, and/or VSIP because they believed it was the best option for their personal situation. However, accepting a separation incentive is only the "best option" for two categories of people: 1) those who had already decided to resign/retire, and 2) those who believe they will be separated regardless. Appellants believe it is unlikely that any putative class members belong to the first category. The Agency announced the DRP/VERA just two months after OPM had announced the original "fork in the road" version of the DRP – any individuals who were inclined to accept

¹ To be clear, only Appellant Amy Katz actually received a formal notice of RIF. The other named Appellants, and thus most if not all putative class members who took the DRP, were placed on administrative leave and told that the Agency intended to do a RIF. IAF Tab 1 at 5-7.

a resignation/retirement incentive without the threat of a RIF presumably took this earlier offer.² On the other hand, on or about March 15, 2025, the Agency placed virtually its entire staff on administrative leave and announced that they would be subject to a RIF. IAF Tab 1 at 4, 6-7. Two weeks later, on March 28, 2025, the Agency offered the DRP/VERA. *Id.* It is more likely than not that each putative class member who accepted these offers did so because they believed they would otherwise be terminated by the RIF.

To the extent that any inquiry into the individual circumstances of any putative class member's decision to accept the DRP, VERA, and/or VSIP offers, Appellants propose that it be deferred until the damages phase of this proceeding. If Appellants prevail on their mistake of law claim that the Agency had no authority to offer the DRP, VERA, and VSIP, then no such inquiry would be necessary.

The Agency likewise fails to distinguish between Appellants' mistake of law and mistake of fact claims with respect to the requirements of Rule 23(b) and remedies. IAF Tab 3 at 10-12. The Agency repeats its assertion that this matter cannot be adjudicated without a detailed inquiry into each putative class member's individual circumstances, which Appellants dispute for the reasons stated above.

On the question of remedies, the Agency asserts that some putative class members may seek different outcomes, which would require "individual mini-hearings on voluntariness and remedy for every class member." IAF Tab 3 at 11. That is not how class actions work. Appellants assert that their separations were involuntary. IAF Tab 1 at 5. The remedy for an involuntary separation is the same *status quo ante* relief as any other separation, i.e. reversal of the action, reinstatement, back pay, and attorney fees. *See Schultz v. United States Navy*, 810 F.2d

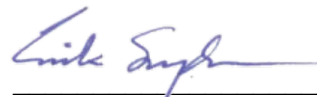
² As OPM's version of the DRP came before the March 5, 2025 delegation of authority to Ms. Lake, any individuals who accepted that offer would be excluded from the proposed class.

1133, 1136 (Fed. Cir. 1987), *on remand*, *Schultz v. Dept. of Navy*, 34 M.S.P.R. 225 (1987). If a class is certified and Appellants prevail, then individual class members would be entitled to the same relief as Appellants. And any minor individualized factual determinations needed like determination of back pay, repayment of VSIP incentives, etc. can easily “be accomplished” using agency “records” and “objective criteria—thus rendering unnecessary an evidentiary hearing on each claim.” *See Smilow v. Sw. Bell Mobile Systems, Inc.*, 323 F.3d 32, 40 (1st Cir. 2003) (explaining that common questions predominate when individualized issues can be resolved through records); *In re Visa Check/Mastermoney Antitrust Litig.*, 192 F.R.D. 68, 86 (E.D.N.Y. 2000), *aff’d* 280 F.3d 124 (2d Cir. 2001) (The need for individualized determinations that go only to damages, are generally regarded as no barrier to class certification) (citing many cases).

CONCLUSION

Appellants respectfully request that class certification be granted, or in the alternative, limited discovery is permitted prior to a decision on certification.

Respectfully submitted,



Erik D. Snyder, Esq.
Marlene A. Laimeche, Esq.
Kevin L. Owen, Esq.
William C. Schubert, Esq.
Gilbert Employment Law, P.C.
8403 Colesville Rd, Suite 1000
Silver Spring, MD 20910
Tel: (301) 608-0880
Fax: (301) 608-0881
esnyder-efile@gelawyer.com
mlaimeche-efile@gelawyer.com
kowen-efile@gelawyer.com
wschubert-efile@gelawyer.com

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PATSY WIDAKUSWARA, et al.,

Plaintiffs,

v.

KARI LAKE, et al.,

Defendants.

Case No. 1:25-cv-1015-RCL

ORDER

Upon consideration of the plaintiffs' [168] Motion for Partial Summary Judgment, the defendants' [202] Cross-Motion and Opposition, the plaintiffs' [208] Cross-Opposition and Reply, the defendants' [214] Cross-Reply, the plaintiffs' [216-1] Sur-Reply, the plaintiffs' [212] February 26, 2026 Notice, and the statements of fact and exhibits appended thereto, and the entire record, and for the reasons stated in the Memorandum Opinion to follow, it is hereby **ORDERED** that

the plaintiffs' [168] Motion is **GRANTED** in favor of the plaintiffs on Counts X and XI of the Supplemental Complaint; and it is further **ORDERED** that

all official actions taken by Defendant Kari Lake between July 31 and November 19, 2025, including but not limited to the reduction-in-force notices issued on August 29, 2025, and all actions otherwise taken by Defendant Lake pursuant to the delegated authorities contained in the March and/or July Delegation documents, "shall have no force or effect," *see* 5 U.S.C. § 3348(d)(1)–(2); and it is further **ORDERED** that

the defendants' [202] Cross Motion is **DENIED**; and it is further **ORDERED** that

the plaintiffs' [144] Motion to Enforce the Preliminary Injunction, which requested an order enjoining the August 29 RIF, is therefore **MOOT** due to the relief already granted herein; and it is further **ORDERED** that

no later than the close of business on March 11, 2026, the defendants shall file a Status Report identifying:

- (i) the individual or individuals who have served as acting CEO of USAGM since November 19, 2025, and any appointing order(s) thereof;
- (ii) to the extent different from (i), the individual serving as acting CEO following this Order, and any appointing order thereof;
- (iii) the current succession plan for the CEO of USAGM; and
- (iv) copies of all orders delegating the authorities of the CEO of USAGM entered since January 20, 2025; and it is further **ORDERED** that

should any future order or other document designate a new acting CEO, or delegate the authorities of the CEO, the defendants shall file a copy of such document in this Court within forty-eight hours of its issuance.

SO ORDERED.

Date: March 7, 2026



Royce C. Lamberth
United States District Judge

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

ORDER

Upon consideration of the plaintiffs’ [*Widakuswara* 166, *Abramowitz* 103] Motion for Partial Summary Judgment, the defendants’ [*Widakuswara* 189, *Abramowitz* 118] Cross-Motion for Partial Summary Judgment, and the entire record, it is hereby **ORDERED**

that the plaintiffs’ Motion on Count I in Case No. 25-cv-887 and on Count V in Case No. 25-cv-1015 is **DENIED IN PART** to the extent the Motion seeks reinstatement of terminated contracts, and otherwise **GRANTED IN PART**, and it is therefore further **ORDERED**

that all actions taken pursuant to the defendants’ decision to reduce USAGM to the “statutory minimum,” as set forth in the Statutory Minimum Memorandum are **VACATED** and **SET ASIDE**, including the March 18 Statutory Minimum Memorandum, the March 15 placement of 1,042 employees on administrative leave, the suspension of broadcasting operations, and the

termination of non-contractor staff, and that no later than March 23, 2026, all employees placed on administrative leave pursuant to the defendants' March 2025 directive shall return to work; and it is further **ORDERED**

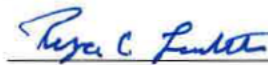
that the defendants' Cross-Motion is **GRANTED IN PART** to the extent it challenges the Court's jurisdiction to reinstate the terminated contracts and otherwise **DENIED IN PART**; and it is further **ORDERED**

that in light of the permanent relief granted herein, the Court will **FIND AS MOOT** the plaintiffs [*Widakuswara* 144, *Abramowitz* 84] Joint Motion to Enforce Preliminary Injunction, the defendants' [*Widakuswara* 175, *Abramowitz* 108] Motion to Dissolve or Modify the April 22, 2025 Preliminary Injunction, and the defendants' [*Widakuswara* 73] Motion to Vacate the March 28, 2025 Temporary Restraining Order; and it is further **ORDERED**

that the parties shall meet and confer no later than seven days following the issuance of this Order and, no later than seventy-two hours thereafter, shall file a joint statement proposing a plan for further proceedings in this case.

SO ORDERED.

Date: March 17, 2026



Royce C. Lamberth
United States District Judge

Certificate of Service

e-Appeal has handled service of the assembled pleading to MSPB and the following Parties.

Name & Address	Documents	Method of Service
MSPB: Washington Regional Office	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal
DeMaster, Jennifer	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal
Green, Sonya	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal
Hampton, Danielle	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal
Laimeche, Marlene	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal
Miller, Brian	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal
Owen, Kevin	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal
Schubert, William	Reply to Agency Response to Request for Adjudication as a Class	e-Appeal