

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

COMMONWEALTH OF MASSACHUSETTS,)
et al.)

Plaintiffs,)

v.)

NATIONAL INSTITUTES OF HEALTH, *et al.*,)

Defendants.)

Case No. 1:25-cv-10338

ASSOCIATION OF AMERICAN MEDICAL)
COLLEGES, *et al.*)

Plaintiffs,)

v.)

NATIONAL INSTITUTES OF HEALTH, *et al.*,)

Defendants.)

Case No. 1:25-cv-10340

ASSOCIATION OF AMERICAN)
UNIVERSITIES, *et al.*)

Plaintiffs,)

v.)

DEPARTMENT OF HEALTH AND HUMAN)
SERVICES, *et al.*,)

Defendants.)

Case No. 1:25-cv-10346

**DEFENDANTS’ LIMITED OPPOSITION TO PLAINTIFFS’
MOTION TO FILE A SINGLE, CONSOLIDATED REPLY BRIEF**

Plaintiffs¹ filed three nearly identical motions for leave to file a single consolidated reply brief in support of their motions for temporary restraining orders (TRO), in lieu of three separate reply briefs. *See Mass. v. NIH*, Case No. 1:25-cv-10338 (Doc No. 75); *AAMC v. NIH*, Case No. 1:25-cv-10340 (Doc No. 32); and *AAU, v. HHS*, Case No. 1:25-cv-10346 (Doc No. 76). Defendants do not oppose Plaintiffs filing a consolidated reply.

However, Defendants oppose Plaintiffs’ request for leave to file what amounts to a third, full merits brief. Under the Court’s current Orders, each Plaintiff may file a 10-page reply covering all of its arguments. *Mass. v. NIH* (Doc No. 25 at 1); *AAMC v. NIH* (Doc No. 8 at 2); *AAU v. HHS* (Doc No. 45). Now, Plaintiffs seek leave to file a much longer reply in response to Defendants’ 30-page consolidated Opposition. The AAU Plaintiffs seek leave to file a 30-page consolidated reply; the AAMC Plaintiffs apparently seek to do the same, *AAMC v. NIH* (Doc No. 32 at 1); and the State Plaintiffs seek leave to file a 25-page consolidated reply, *Mass v. NIH* (Doc No. 75 at 1). In other words, Plaintiffs seek permission to file a reply as long, or nearly as long, as Defendants’ consolidated Opposition brief—giving Plaintiffs more than three pages of total briefing

¹ “Plaintiffs” refers to the named plaintiffs in *Commonwealth of Massachusetts, et al. v. National Institutions of Health (NIH), et al.* (1:25-cv-10338-AK), *Association of American Medical Colleges (AAMC) et al. v. NIH, et al.* (1:25-cv-10340), and *Association of American Universities (AAU), et al. v. Department of Health & Human Services (HHS), et al.* (1:25-cv-10346-AK), collectively.

for every one page submitted by Defendants.² Plaintiffs offer no justification for this result, where, as they concede in their motions, the cases present “overlapping[] legal claims and factual issues.”

As Defendants explained during the parties’ conferral about Plaintiffs’ proposal, Defendants do not object to a reasonable enlargement of the reply brief to 15 pages. And Defendants offered to agree to an enlargement to 20 pages to avoid burdening the Court with motions practice on this issue. But Defendants oppose Plaintiffs receiving leave to file a reply that amounts to a third full brief, equal in length to the consolidated Opposition filed by Defendants. Defendants therefore respectfully request that the Court limit any enlargement so that Plaintiffs’ consolidated reply is limited to, at most, 20 pages.

Respectfully submitted,

BRETT A. SHUMATE
Acting Assistant Attorney General

LEAH B. FOLEY
United States Attorney

BRIAN C. LEA
Deputy Associate Attorney General

Dated: February 17, 2025

/s/ Thomas Ports
BRIAN C. LEA (Ga. Bar No. 213529)
Deputy Associate Attorney General
MARC S. SACKS (Ga. Bar No. 621931)

² Plaintiffs filed 73 pages of briefing between two memoranda in support of motions for TROs and one joinder. *See Mass. v. NIH* (Doc No. 12) (30 pages); *AAMC v. NIH* (Doc No. 5) (6 pages); and *AAU v. HHS* (Doc No. 16) (37 pages). Adding even a 25-page reply to this total would result in 98 pages, which is more than three times the pages of Defendants’ single 30-page Opposition.

Deputy Director

KEVIN P. VANLANDINGHAM (NY Reg
No. 4741799)

Assistant Director

THOMAS PORTS (Va. Bar No. 84321)

Trial Attorney

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: thomas.ports@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: February 15, 2025

/s/ Thomas Ports
Thomas Ports