

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

PLANNED PARENTHOOD FEDERATION OF
AMERICA, INC., et al.,

Plaintiffs-Appellees

v.

ROBERT F. KENNEDY, JR., in the official capacity as
Secretary of the Department of Health and Human Services,
et al.

Defendants-Appellants.

Nos. 25-1698,
25-1755

**APPELLANTS' MOTION FOR AN EXTENSION OF TIME TO FILE
REPLY BRIEF IN LIGHT OF THE LAPSE IN APPROPRIATIONS**

Pursuant to Federal Rule of Appellate Procedure 26(b), the government respectfully moves for an extension of time to file its reply brief in these consolidated cases. In support of that request, the government states as follows:

1. At the end of the day on September 30, 2025, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. The Court previously directed the government to submit its reply brief in this case by 5pm seven days after plaintiffs file their response brief. Because plaintiffs filed that brief on October 13, 2025, the government's reply is currently due at 5pm on October 20, 2025.

4. The government respectfully requests an extension of this deadline until Congress has restored appropriations to the Department. In particular, the government requests that, when appropriations are restored, its reply deadline be seven days later. Thus, for example, if appropriations are restored on October 17, the government's brief would be due on October 24. The government appreciates that the Court previously indicated that it would extend the deadline only for "grave cause." September 18, 2025, Order. The government respectfully submits that an extension is appropriate in light of the ongoing lapse in appropriations.

5. Given that the Court has scheduled argument for November 12, 2025, we recognize that the Court may wish to state a date past which the government's reply deadline will not be extended. *See Operations During a Government Shutdown*, <https://ca1.uscourts.gov/> (indicating that, at least with respect to the Court's October sitting, "government attorneys are expected to appear for oral argument"). Should the Court adopt this approach, the government suggests that the date be November 3, 2025, which would ensure that the appeal is fully briefed more than a week before argument.

6. Counsel for plaintiffs have indicated that plaintiffs oppose the relief requested in this motion.

7. For the foregoing reasons, although we greatly regret any disruption caused to the Court and the other litigants, the government respectfully moves for an extension of its reply deadline as set forth above.

Respectfully submitted,

DANIEL TENNY

/s/ Steven H. Hazel
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October 14, 2025

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 415 words, according to the count of Microsoft Word.

/s/ Steven H. Hazel

Steven H. Hazel