

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

STATE OF NEW YORK; STATE OF
WASHINGTON; STATE OF RHODE ISLAND;
STATE OF ARIZONA; STATE OF CALIFORNIA;
STATE OF COLORADO; STATE OF
CONNECTICUT; STATE OF DELAWARE; THE
DISTRICT OF COLUMBIA; STATE OF HAWAII;
STATE OF ILLINOIS; STATE OF MAINE; STATE
OF MARYLAND; THE PEOPLE OF THE STATE
OF MICHIGAN; STATE OF MINNESOTA; STATE
OF NEW JERSEY; STATE OF NEW MEXICO;
STATE OF OREGON; STATE OF VERMONT;
STATE OF WISCONSIN,

Plaintiffs-appellees,

v.

ROBERT F. KENNEDY, JR., in his official capacity as
Secretary of the U.S. Department of Health and
Human Services; U.S. DEPARTMENT OF HEALTH
AND HUMAN SERVICES; SUSAN MONAREZ, in
her official capacity as Acting Director, First Assistant
to the Director, Principal Deputy Director of the
Centers for Disease Control and Prevention; MARTIN
MAKARY, in his official capacity as Commissioner of
the U.S. Food and Drug Administration; U.S. FOOD &
DRUG ADMINISTRATION; ANDREW
GRADISON, in his official capacity as Acting Assistant
Secretary of the Administration for Children and
Families; ADMINISTRATION FOR CHILDREN
AND FAMILIES; MARY LAZARE, in her official
capacity as Principal Deputy Administrator of the
Administration for Community Living;
ADMINISTRATION FOR COMMUNITY LIVING;
ARTHUR KLEINSCHMIDT, in his official capacity as
Principal Deputy Assistant Secretary of the Substance
Abuse and Mental Health Services Administration;
SUBSTANCE ABUSE AND MENTAL HEALTH
SERVICES ADMINISTRATION; CENTERS FOR
DISEASE CONTROL AND PREVENTION,

Defendants-appellants.

No. 25-1780

**ASSENTED-TO MOTION TO EXTEND DEADLINE TO FILE
OPENING BRIEF AND APPENDIX**

The government respectfully moves for an extension of its deadline to file its opening brief and appendix in the above-captioned case.

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 same is true for several other Executive agencies, including the federal appellants. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees of the federal appellants 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. Undersigned counsel for the Department of Justice therefore requests an extension of the government’s deadline to file its opening brief and appendix—currently due November 5, 2025—until Congress has restored appropriations to the Department.

4. The government respectfully requests that, when appropriations are restored, all current deadlines for the parties be extended for the number of days commensurate with the duration of the lapse in appropriations, plus an additional 14 days. Thus, for example, if the lapse had lasted 14 days, all parties’ deadlines would have been extended by $14 + 14 = 28$ days. The government will need this additional

time following the end of the lapse to restart regular government operations and prepare the brief for filing.

5. In addition, granting an extension calculated in the manner proposed above will avoid having all briefs that would otherwise have been due during the period of a lapse of appropriations from having the same due date following the restoration of appropriations, which would not be practicable for the government or the Court. It also preserves the original chronological order of filing in government cases for fairness to all parties.

6. Because the government is appealing from a preliminary injunction that will remain in effect during the pendency of the government's appeal, the requested extension will not prejudice plaintiffs. Counsel for plaintiffs has authorized counsel for the government to state that they do not object to the relief requested herein.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the government hereby moves for an extension of its deadline to file its opening brief and appendix, as described above, until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

Respectfully submitted,

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October 2025

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 423 words. It complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5) and (6) because it has been prepared using Microsoft Word 2016 in proportionally spaced 14-point Garamond typeface.

/s/ Steven A. Myers
STEVEN A. MYERS

CERTIFICATE OF SERVICE

I hereby certify that on October 20, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system. Participants in the case are represented by registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Steven A. Myers
STEVEN A. MYERS