



**U.S. Department of Justice**  
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VIA CM/ECF

Anastasia Dubrovsky, Clerk of Court  
U.S. Court of Appeals for the First Circuit  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 2500  
Boston, MA 02210

Re: *California v. HHS*, No. 25-2165

Dear Ms. Dubrovsky:

Plaintiffs' suggested in their supplemental brief that this Court "could vacate the preliminary injunction and remand with instructions to the district court to consider the effect of the *Planned Parenthood* decision in the first instance." Supp. Br. 2. Out of an abundance of caution, we write to inform the Court that defendants oppose vacatur and remand for reconsideration in this case. *Cf. Massachusetts Fair Hous. Ctr. v. HUD*, 159 F.4th 90, 91 (1st Cir. 2025) (mem.) (construing a similar suggestion made in a Rule 28(j) letter as a motion to remand and treating the government's decision not to respond to that letter as failing to oppose that "motion").

Remand would be inappropriate here because the asserted rationale is to allow the district court to reconsider a purely legal question on which it has already passed. *See New Hampshire Right to Life PAC v. Gardner*, 99 F.3d 8, 18 (1st Cir. 1996) ("Where the merits comprise a purely legal issue, reviewable de novo on appeal and susceptible of determination without additional factfinding, a remand ordinarily will serve no useful purpose."). That plaintiffs assert (Supp. Br. 4-7) alternate grounds to support the

preliminary injunction only underscores that this Court should resolve the stay motion and then proceed to briefing of defendants' appeal.

Respectfully submitted,

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cc: All counsel of record (by CM/ECF)