

1 Erwin Chemerinsky (*pro hac vice*)
2 echemerinsky@law.berkeley.edu
3 Claudia Polsky (CA Bar No. 185505)
4 cpolsky@law.berkeley.edu
5 U.C. BERKELEY SCHOOL OF LAW
6 Law Building
7 Berkeley, CA 94720-7200
8 Telephone: 510.642.6483

9 Elizabeth J. Cabraser (CA Bar No. 83151)
10 ecabraser@lchb.com
11 Richard M. Heimann (CA Bar No. 63607)
12 rheimann@lchb.com
13 LIEFF CABRASER HEIMANN & BERNSTEIN, LLP
14 275 Battery Street, 29th Floor
15 San Francisco, CA 94111
16 Telephone: 415.956.1000

17 Anthony P. Schoenberg (CA Bar No. 203714)
18 tschoenberg@fbm.com
19 FARELLA BRAUN + MARTEL LLP
20 One Bush Street, Suite 900
21 San Francisco, California 94104
22 Telephone: (415) 954-4400

23 *Attorneys for Plaintiffs and the Proposed Class*
24 [Additional counsel listed on signature page]

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

19 NEETA THAKUR, et al.,

20 Plaintiffs,

21 vs.

22 DONALD J. TRUMP, et al.,

23 Defendants.

Case No. 3:25-cv-04737-RL

**JOINT CASE MANAGEMENT
STATEMENT**

1 On February 23, 2026, the Ninth Circuit denied Plaintiffs-Appellees’ motion for en banc
2 reconsideration of its Amended Order on Appellants’ motion for partial stay. *Thakur v. Trump*,
3 No. 25-4249, Dkt. No. 81 (Feb. 23, 2026). Pursuant to the Court’s most recent Scheduling and
4 Stay Order (Dkt. No. 183), Plaintiffs and Defendants submit this joint statement to advise the
5 Court as to whether Counts V (Violation of the APA: Contrary to Law; Illegal Departure from
6 Impoundment Control Act, Statutes, and Regulations) and VI (Violation of the APA: Arbitrary
7 and Capricious Failure to Engage in Reasoned Decision-making) should remain stayed following
8 the Ninth Circuit’s denial.

9 **Plaintiffs’ position:**

10 Plaintiffs respectfully request that the Court continue to stay the litigation as to Count VI
11 for another fourteen days as Plaintiffs evaluate their options on appeal. Count V, in contrast,
12 should not be stayed. As this Court already concluded, *Nat’l Institutes of Health v. Am. Pub.*
13 *Health Ass’n*, 145 S. Ct. 2658 (2025), “does not bear on Plaintiffs’ . . . claim that the agencies
14 acted contrary to law”—a contention that cannot be characterized as a disguised contract claim.
15 Dkt. 133 at 17. The Ninth Circuit’s Amended Order does not disturb this conclusion. *See Thakur*
16 *v. Trump*, No. 25-4249, Dkt. No. 73 at *10 (Dec. 23, 2025) (construing *NIH* only to call for
17 dismissal of Plaintiffs’ APA arbitrary and capricious claim). Litigation of Count V should
18 proceed. Finally, Defendants’ renewed argument that the Court lacks jurisdiction over *all* of
19 Plaintiffs’ claims—including those that are statutorily or constitutionally based—directly
20 contravenes controlling precedent, including the Ninth Circuit’s Amended Order in this case. *Id.*
21 at *9-*10.

22 **Defendants’ position:**

23 Defendants respectfully request that the Court lift the stay for both Count V and Count VI.
24 That stay was imposed in anticipation of the Ninth Circuit’s consideration of Plaintiffs’ en banc
25 petition. Now that the Ninth Circuit has denied the petition without dissent, there remains no
26 reason to maintain the existing stay. The Administrative Procedure Act (“APA”) claims in this
27 matter belong in the Court of Federal Claims. Indeed all claims, not just those brought under the
28 APA, should be in that court, as Defendants have consistently argued. Defs.’ Opp’n Mot.

1 Preliminary Injunction at 14-17, ECF No. 35; *see also, e.g., Holley v. United States*, 124 F.3d
2 1462, 1466 (Fed. Cir. 1997) (“The presence of a constitutional issue does not erase the
3 jurisdiction of the Court of Federal Claims based on a properly brought claim under the Tucker
4 Act, or bar the court from considering the constitutional issue in the course of determining
5 whether the [challenged action] was wrongful.”); *Suburban Mortg. Assocs., Inc. v. U.S. Dep’t of*
6 *Hous. & Urb. Dev.*, 480 F.3d 1116, 1128 (Fed. Cir. 2007) (“[A] claim that a government agency
7 has violated a party’s right to due process by refusing performance under a contract is
8 substantively indistinguishable from a breach of contract claim.”); *Tucson Airport Auth. v. Gen.*
9 *Dynamics Corp.*, 136 F.3d 641, 647 (9th Cir. 1998) (concluding that district court lacked
10 jurisdiction under the Tucker Act over constitutional claim because it was contractually based);
11 *Cartwright Int’l Van Lines, Inc. v. Doan*, 525 F. Supp. 2d 187, 196 (D.D.C. 2007) (finding the
12 Court of Federal Claims to provide an adequate remedy where contracts and related statutes and
13 regulations were both at issue since “[the] Court of Federal Claims has the authority to interpret
14 the meaning of federal statutes and regulations”). The unlikely possibility of Supreme Court
15 intervention does not counsel otherwise.

16 Dated: March 2, 2026

By: /s/ Kevin R. Budner

17 Elizabeth J. Cabraser (CA Bar No. 83151)
18 ecabraser@lchb.com
19 Richard M. Heimann (CA Bar No. 63607)
20 rheimann@lchb.com
21 Kevin R. Budner (CA Bar No. 287271)
22 kbudner@lchb.com
23 Annie M. Wanless (CA Bar No. 339635)
24 awanless@lchb.com
25 LIEFF CABRASER HEIMANN &
26 BERNSTEIN, LLP
27 275 Battery Street, 29th Floor
28 San Francisco, CA 94111
Telephone: 415.956.1000

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Anthony P. Schoenberg (CA Bar No. 203714)
tschoenberg@fbm.com
Linda S. Gilleran (CA Bar No. 307107)
lgilleran@fbm.com
Kyle A. McLorg (CA Bar No. 332136)
kmclog@fbm.com
Katherine T. Balkoski (CA Bar No. 353366)
kbalkoski@fbm.com
FARELLA BRAUN + MARTEL LLP
One Bush Street, Suite 900
San Francisco, CA 94104
Telephone: 415. 954.4400

Erwin Chemerinsky (*pro hac vice*)
echemerinsky@law.berkeley.edu
Claudia Polsky (CA Bar No. 185505)
cpolsky@law.berkeley.edu
U.C. BERKELEY SCHOOL OF LAW
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Berkeley, CA 94720-7200
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Attorneys for Plaintiffs and the Proposed Class

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Date: March 2, 2026

By: /s/ Jason Altabet

Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General
Civil Division

ERIC J. HAMILTON
Deputy Assistant Attorney General

JOSEPH E. BORSON
Assistant Branch Director

/s/ Jason Altabet
JASON ALTABET (Md. Bar No. 2211280012)
Trial Attorney, U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, N.W.
Washington, D.C. 20005
Tel.: (202) 305-0727
Email: jason.k.altabet2@usdoj.gov

KATHRYN BARRAGAN (D.C. Bar No. 90026294)
Trial Attorney, U.S. Department of Justice
Civil Division, Federal Programs Branch

Attorneys for United States

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(D)(3)

I, Kevin R. Budner, am the ECF User whose identification and password are being used to file this JOINT CASE MANAGEMENT STATEMENT. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that all signatories have concurred in this filing.

DATED: March 2, 2026

/s/ Kevin R. Budner
Kevin R. Budner