ORAL ARGUMENT SCHEDULED ON MAY 14, 2026
Nos. 25-5241, 25-5265, 25-5277, 25-5310 (Consolidated)

In the United States Court of Appeals for the District of Columbia Circuit

PERKINS COIE LLP,
PLAINTIFF-APPELLEE

v.

U.S. DEPARTMENT OF JUSTICE, ET AL.
DEFENDANTS-APPELLANTS

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRIEF OF AMICUS CURIAE LEADERSHIP NOW PROJECT IN SUPPORT OF PLAINTIFFS-APPELLEES AND AFFIRMANCE

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1 and D.C. Circuit Rules 12(f), 26.1, and 29(b), amicus curiae Leadership Now Project ("Leadership Now") states that it is a 501(c)(4) national membership organization of business leaders that is committed to protecting democracy as a foundation for political stability and a thriving economy. Leadership Now is not owned by any parent corporation, issues no stock, and no publicly held company owns a 10% or greater interest in it.

CERTIFICATE REGARDING PARTIES, RULINGS, AND RELATED CASES

All parties, intervenors, and other amici appearing in this Court are listed in the briefs for the parties and the briefs of other amici. References to rulings at issue and related cases also appear in the Brief of Appellants.

CERTIFICATE OF COUNSEL AS TO SEPARATE BRIEF

Pursuant to D.C. Circuit Rule 29(d), counsel for amicus certify that a separate brief is necessary to express the views of the business community and to highlight the risks that the challenged Executive Orders pose to the health of American business. Leadership

Now is particularly well suited to provide the Court with necessary context on these subjects given its membership includes business leaders at numerous, influential companies across the nation, with members in more than 25 states.

Dated: April 3, 2026

/s/ Katherine Pringle
Katherine Pringle

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STATEMENT OF INTEREST

Leadership Now is a national membership organization of business leaders committed to ensuring that the United States has a strong democracy and a strong economy. Leadership Now supports a set of core principles that include defending the rule of law, increasing competitiveness in the political system to improve the quality of governance, supporting civic participation, and planting seeds for longer-term national growth and prosperity. Leadership Now sees its mission as supporting an environment in which U.S. businesses can thrive, innovate, and contribute to societal well-being within a framework of accountable and durable democratic institutions.

Leadership Now submits this amicus brief to highlight the harms that the Executive Orders at issue in this appeal (the "Orders"), if reinstated, would impose on businesses and members of the business community, and the systemic risk they would pose to the conditions in which American commerce has thrived.

All parties have consented to the filing of this brief.[1]

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[1] No party or party's counsel authored any portion of this brief, and no party or party's counsel made any financial contribution to the preparation or submission of this brief. No person other than amicus

ARGUMENT

The Orders pose a serious risk to American businesses and to the competitive environment in which American business has thrived. If reinstated, the Orders would unconstitutionally punish clients of the targeted law firms and scores of other businesses that hold or seek government contracts.

More broadly, the Orders, if reinstated, would undermine the ability of any business whose interests are potentially or actually adverse to the government to secure effective representation. The risk of government retaliation would hang over every management decision, silencing business voices and inhibiting innovation. And the Orders would threaten the stable, accessible judicial system that is fundamental to the success of American business.

Leadership Now respectfully urges the Court to affirm the rulings of the District Courts finding the Orders unconstitutional.

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curiae and its counsel funded the preparation and submission of this brief.

I.
THE EXECUTIVE ORDERS UNCONSTITUTIONALLY ATTACK BUSINESSES' RIGHT AND ABILITY TO BE REPRESENTED BY VIGOROUS AND UNCONFLICTED COUNSEL OF THEIR CHOICE

The Orders would do immediate and incalculable harm to American businesses by severing or degrading strategic partnerships forged with chosen law firms. In some cases, the Orders directly force termination of client relationships – a law firm cannot represent its client in federal court if the firm's lawyers are not permitted to enter the courthouse, or represent its client in negotiations with a government that refuses to meet with its lawyers. In other cases, the Orders constructively force clients to terminate counsel relationships by sanctioning the clients if they continue the relationship. In *all* cases, the Orders undermine businesses' ability to trust that their attorneys will represent their interests without dampening their zeal in order to avoid retaliation by, or curry favor with, this Administration or a future one.

American businesses make substantial investments in their law firm relationships. In 2025, companies spent, on average, $10.8 million on outside counsel fees, while companies with revenues

over $20 billion spent $79.3 million on average.[2] This investment is typically focused on long-term relationships with a select group of law firms.[3] The selection of a law firm thus becomes a key strategic decision, reflecting company priorities, values, and legal and financial objectives.[4] Over time, management and the chosen law firms build trust and knowledge that improves the quality and efficiency of legal

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[2] Ass'n of Corp. Counsel, *ACC Law Department Management Benchmarking Report* 28-29, https://www.acc.com/sites/default/files/2025-06/ACC_2025_Law_Department_Management_Benchmarking_Report.pdf (last visited Apr. 2, 2026).

[3] *See, e.g.*, John C. Coates et al., *Hiring Teams, Firms and Lawyers: Evidence of the Evolving Relationships in the Corporate Legal Market*, 36 Law & Soc. Inquiry 999, 1009-10 (2011) (describing a finding of "convergence" whereby large companies "significantly shrink[] the number of outside law firms to which they direct the large portion of their outside spend"); David B. Wilkins, *Team of Rivals? Toward a New Model of the Attorney-Client Relationship*, 78 Fordham L. Rev. 2067, 2085-96 (2010) (analyzing the trend toward "'convergence' in the number of law firms a company is likely to hire (at least for important work) [and] 'consolidation' in the market for law firms capable of handling these kinds of assignments").

[4] *See, e.g.*, *In re Cendant Corp. Litig.*, 264 F.3d 201, 254 (3d Cir. 2001) ("The power to select counsel lets clients choose lawyers with whom they are comfortable and in whose ability and integrity they have confidence.").

services and makes it possible for outside counsel to advise on strategic or otherwise sensitive matters.

Severing counsel relationships can be exceptionally disruptive. Businesses face delays and costs as new legal teams build the knowledge their predecessors already possessed.[5] Management may be left to make key decisions, particularly in time-sensitive matters, without the benefit of trusted or experienced counsel. And companies may be unable to find equivalent counsel in areas of law that depend on a small number of firms with specialized experience or capability.

Yet, almost immediately after the issuance of the Orders, clients felt compelled to terminate engagements with their chosen law

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[5] *See, e.g.*, *Beamon v. City of Ridgeland*, 666 F. Supp. 937, 942 (S.D. Miss. 1987) (discussing expenses associated with changing counsel mid-stream, including the "time expended by substituted counsel in an effort to become familiar with the case or learn what withdrawing counsel already knew"); Susan P. Shapiro, *Bushwhacking the Ethical High Road: Conflict of Interest in the Practice of Law and Real Life*, 28 Law & Soc. Inquiry 87, 126 (2003) (identifying the burden associated with a client "finding and preparing a new law firm to represent it in the eleventh hour").

firms.[6] The government's Orders violated the Fifth and Sixth Amendment rights of such clients to be represented by counsel of their choice. *See United States v. Gonzalez-Lopez*, 548 U.S. 140, 144-46 (2006) (recognizing Sixth Amendment right "to counsel of choice"); *American Airways Charters v. Regan*, 746 F.2d 865, 866, 873 (D.C. Cir. 1984) (recognizing Fifth Amendment right to "choose and retain counsel" free from government intrusion). More businesses will

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[6] *See* Decl. of Thomas J. Perrelli ¶¶ 70-72, *Jenner & Block LLP v. U.S. Dep't of Just.*, 784 F. Supp. 3d 76 (D.D.C. 2025) (No. 25-CV-916) (stating that one client engaged new counsel after the Department of Justice notified the client that Jenner & Block could not attend a meeting and other clients expressed concern about Jenner's ability to negotiate with federal officials and enter federal buildings); Suppl. Decl. of Bruce M. Berman ¶ 6, *Wilmer Cutler Pickering Hale & Door LLP v. Exec. Off. of the President*, 784 F. Supp. 3d 127 (D.D.C. 2025) (No. 25-CV-917) (noting that one firm client terminated its retention of WilmerHale citing "the Order's issuance as the reason for terminating the engagement"); Decl. of David J. Burman ¶ 48, *Perkins Coie LLP v. U.S. Dep't of Just.*, 783 F. Supp. 3d 105 (D.D.C. 2025) (No. 25-CV-716) (stating that "several clients have already terminated, or have communicated that they are considering terminating, their legal engagements with Perkins Coie"); *see also* Decl. of Kalpana Srinivasan ¶ 70, *Susman Godfrey LLP v. Exec. Off. of the President*, 789 F. Supp. 3d 15 (D.D.C. 2025) (No. 25-CV-1107) (noting that clients contacted Susman Godfrey to "inquire about the effects of the Order, whether it impacts Susman Godfrey's ability to access the federal courts, whether it could negatively affect Susman Godfrey's continued representation of those clients, and whether it might influence juries who will be impaneled for their cases").

experience such violations if the Orders are reinstated, or if the government expands its list of targeted firms.

More broadly, reviving the Orders would undermine the ability of *every* business to challenge or oppose the government. Businesses must be able to rely on an "attorney's duty of entire devotion to the interest of the client." *Continental Casualty Co. v. Pullman, Comley, Bradley & Reeves*, 929 F.2d 103, 106 (2d Cir. 1991) (cleaned up); *see also Engel v. CBS, Inc.*, 145 F.3d 499, 504 (2d Cir. 1999) ("The ability to zealously and vigorously represent one's client is central to the attorney's profession."). Businesses regularly require the independent professional judgment of trusted counsel in opposition to the government as the businesses seek licenses or merger approvals, defend investigations, or challenge or otherwise navigate federal regulations or agency actions, to name just a few examples. Businesses must be free to take positions that are not aligned with the Administration, and their ability to do so is meaningless without access to attorneys who will zealously and effectively advocate on their behalf.

Reviving the Orders would effectively make all law firms beholden to the government for their existence. Law firms named in

the Orders may curry government favor to avoid enforcement. Law firms that "settle" may pull their punches to remain in the government's good graces. And *all* law firms would be on notice that the zealous representation of their clients, if that means acting in ways this Administration – or a future Administration – does not like, could result in retaliatory sanctions. Businesses cannot obtain effective representation if their attorneys are "tempted, consciously or otherwise, to pull [their] punches in advocating for or otherwise representing [their] client" due to fear of retaliatory sanctions by the government.[7]

Such harms to American businesses are not hypothetical or dependent on future regulations, as Appellants contend. Gov't Br. at 48-49, 56-57. They are immediate, they are consequential, and they are far-reaching.

[7] D.C. Bar, Ethics Opinion 391: Lawyers and Law Firms That Contemplate Agreeing with Governments to Conditions That May Limit or Shape Their Law Practices (2025).

II.
THE EXECUTIVE ORDERS UNCONSTITUTIONALLY PUNISH BUSINESSES THAT SEEK GOVERNMENT CONTRACTS

The government may not use its role in awarding contracts to achieve an unconstitutional purpose, nor may it "coerce a private party to punish or suppress disfavored speech." *National Rifle Association v. Vullo*, 602 U.S. 175, 190 (2024); *see also Legal Services Corp. v. Velazquez*, 531 U.S. 533, 537-39 (2001). The Orders, if reinstated, would do exactly that. Section 3 of the Orders extends beyond the targeted law firms to punish *all* businesses that are (or seek to become) government contractors, requiring them to disclose information about their relationships, and directing termination of their contracts unless they join the government's effort to punish the targeted firms.[8]

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[8] Section 3(a) of the Orders requires all government contractors to "disclose any business they do with [the targeted law firms]." *E.g.*, Exec. Order 14230 § 3(a), 90 Fed. Reg. 11781, 11781 (Mar. 6, 2025). Section 3(b) of the Orders further requires federal agencies to "(i) take appropriate steps to terminate any contract . . . for which [the targeted firm] has been hired to perform any service" and "(ii) otherwise align their agency funding decisions with the interests of the citizens of the United States; with the goals and priorities of my Administration as expressed in executive actions," and to submit "an assessment of contracts with [the targeted firm] or with entities that do business with

The government wields enormous influence over private business through federal contracts. The federal government is "the world's largest purchaser of goods and services."[9] It "spends hundreds of billions of dollars each year on contracts, which consume a large portion of the federal budget."[10] In 2024 alone, the federal government spent approximately $755 billion on contracts.[11] Its "vast procurement power increasingly drives American business" across industries as diverse as agriculture, technology, and manufacturing, so much so that "the future of America's private sector will be in competing for greater market share in the public sector."[12]

[the targeted firm] . . . and any actions taken with respect to those contracts in accordance with this order." *E.g.*, *id.* § 3(b).

[9] Daniel P. Gitterman, *The American Presidency and the Power of the Purchaser*, 43 Presidential Stud. Q. 225, 228-29 (2013) (citations omitted).

[10] *Federal Contracting*, U.S. Gov't Accountability Off., https://www.gao.gov/federal-contracting (last visited Apr. 2, 2026).

[11] *Id.*

[12] Baron Pub. Affs., *The World's Biggest Customer: Procurement and the U.S. Government* (Sept. 2022), https://www.baronpa.com/library/the-worlds-biggest-customer-procurement-and-the-u-s-government.

Important benefits also accrue to businesses that hold government contracts. "Government contracts provide unique opportunities and stability that can have a transformative impact for businesses," including fostering growth, maintaining long-term sustainability, and providing unique opportunity for networking and collaboration.[13] Critically, because "contract renegotiations account for the vast majority of funds allocated through government contracts," a company has a strong incentive to *retain* its status as a government contractor.[14] The federal government's market presence and political

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[13] Rich Weber, *How Government Contracts Can Unlock Business Opportunity and Stability*, Baker Tilly (Oct. 25, 2023), https://www.bakertilly.com/insights/benefits-of-government-contracts. As one study found, government contractors "become larger, more efficient, productive, and profitable, thus enabling them to earn higher abnormal returns." Bharat Raj Parajuli, *Economic Benefits of Firms' Government Sale Dependency* at 5 (Apr. 14, 2020), https://dx.doi.org/10.2139/ssrn.3576125.

[14] Jonathan Brogaard et al., *Political Influence and the Renegotiation of Government Contracts*, 34 Rev. Fin. Stud. 3095, 3095, 3103 (2021); *accord* Parajuli, *supra* note 13, at 2 ("[A] firm's past government sales significantly predict the firm's probability of winning a material government contract in the future.").

standing thus give it disproportionate power over the private businesses that seek or hold government contracts.

The government may not wield that power in ways that violate the Constitution. "Whether the executive is operating as a sovereign, contractor, landlord, or employer, it must comply with the Constitution." *Susman Godfrey LLP v. Executive Office of the President*, 789 F. Supp. 3d 15, 45 (D.D.C. 2025). The government may not use its contracting power to deter or retaliate against disfavored expression or association. *See, e.g.*, *Perkins Coie LLP v. U.S. Department of Justice*, 783 F. Supp. 3d 105, 150 (D.D.C. 2025) ("Constitutional limits apply, even when, as here, the government defends its action as appropriate because of the government's role as a contractor and employer." (citing, *inter alia*, *O'Hare Truck Service, Inc. v. City of Northlake*, 518 U.S. 712, 714-15 (1996))); *accord Jenner & Block LLP v. U.S. Department of Justice*, 784 F. Supp. 3d 76, 106 (D.D.C. 2025). And the government may not "coerce a private party to punish or suppress disfavored speech on [the government's] behalf" that the government could not punish or suppress directly. *Vullo,* 602 U.S. at 190 (*citing Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 67 (1963)).

It is difficult to conceive of a more clearcut example of government coercion than Section 3 of the Orders. Section 3 requires every government contractor to disclose any affiliation it may have with the targeted law firms, regardless of whether the affiliation is related to government contracts. And it forces government contractors to terminate all association with the targeted firms or lose their contracts. While this may be posed as a choice, the critical financial importance of government contracts means that the only "rational" choice is "self-preservation" by ending all association with the targeted firm. *Jenner & Block*, 784 F. Supp. 3d at 105.

Section 3 compels disclosure of government contractors' association with counsel, with a threat of reprisal if that association is maintained. This is a clear violation of the First Amendment, which protects the right to associate with others, *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984), and prohibits reprisals based on protected association or speech, *Houston Community College System v. Wilson*, 595 U.S. 468, 474 (2022). Forced disclosure of counsel relationships is particularly offensive to the First Amendment because "compelled disclosure of affiliation with groups engaged in advocacy may constitute

as effective a restraint on freedom of association as other forms of governmental action." *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595, 606 (2021) (cleaned up). Disclosure of counsel relationships may also reveal strategically sensitive information, as the retention of a particular lawyer or law firm may suggest information about a company's strategy or exposure.[15]

Whatever measure of discretion is afforded to the government as a contracting party, that discretion does not permit retaliation for the exercise of constitutional rights. *See Toolasprashad v. Bureau of Prisons*, 286 F.3d 576, 585 (D.C. Cir. 2002) ("An ordinarily permissible exercise of discretion may become a constitutional deprivation if performed in retaliation for the exercise of a First Amendment Right." (cleaned up)). Reinstating the Orders would violate the rights of every government contractor, which they could remedy only by bringing action against the very party that wields disproportionate power over their commercial future.[16]

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[15] Decl. of Kalpana Srinivasan, *supra* note 6, ¶ 69 (explaining that clients are often reluctant to disclose counsel relationships).

[16] The Orders would also violate due process by ordering the *immediate* termination of contracts held by contractors using the

III.
THE EXECUTIVE ORDERS' THREATS OF RETALIATION WOULD CHILL PROTECTED SPEECH BY BUSINESSES AND INDIVIDUALS

The threat of government retaliation chills protected expression by all members of the business community. Market participants regularly engage in the very same practices – serving clients, advocating for their clients or themselves, communicating their values, offering their perspectives on public policy, and donating to causes they support – for which these law firms were targeted. If the Orders are reinstated, the message will be clear that any business expressing an opinion that is adverse to this Administration (or future administrations) is in jeopardy. The threat of government retaliation will inhibit all businesses, directors, and investors, in clear violation of the First Amendment. *Hartman v. Moore,* 547 U.S. 250, 256 (2006) ("Official reprisal for protected speech "offends the Constitution [because] it threatens to inhibit exercise of the protected right.").

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targeted firms. *See Com. Drapery Contractors v. United States*, 133 F.3d 1, 6 (D.C. Cir. 1998) ("An agency may not impose even a temporary suspension without providing the 'core requirements' of due process: adequate notice and a meaningful hearing.").

The chilling effect can be seen in the speed by which some of the most powerful law firms in the country bent to the Administration. Paul, Weiss, Rifkind, Wharton & Garrison LLP quickly escaped sanctions by "adopting a policy of political neutrality with respect to client selection and attorney hiring" and adapting its pro bono practice to appease the Administration. Exec. Order 14244 § 1, 90 Fed. Reg. 13685 (Mar. 21, 2025). Eight other firms quickly fell into line without even being subjected to an executive order, collectively promising hundreds of millions in pro bono work on efforts supported by the Administration. *See Susman Godfrey*, 789 F. Supp. 3d at 33. As District Judge John D. Bates observed in his ruling in favor of Jenner & Block, the Administration's "repeated willingness to haggle [sent] the message loud and clear that" businesses could spare themselves if they compromise their speech. *Jenner & Block*, 784 F. Supp. 3d at 97.

The chilling effect is also seen in the way that law firms have backed away from pro bono work that might incur the ire of the Administration. A Reuters investigation found that in the past year major law firms have measurably reduced pro bono work on behalf of

vulnerable groups.[17] Firms have retreated from cases challenging the government; according to the Washington Post, "Large firms represented plaintiffs in 15 percent of cases challenging Trump executive orders between the start of his term in January and mid-September, compared with roughly 75 percent of cases during a comparable period in Trump's first term."[18] The New York Times similarly documented the "drastic change" in large firm participation in cases challenging the Administration, including a reduction in pro bono work by firms that were not targeted and had not "settled" with the Administration.[19] In short, the Administration's "scheme of informal censorship," *Vullo*, 602 U.S. at 188-89, has worked.

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[17] Mike Spector et al., *How Trump's Crackdown on Law Firms Is Undermining Legal defenses for the Vulnerable*, Reuters (July 31, 2025), https://www.reuters.com/investigations/trumps-war-big-law-leads-firms-retreat-pro-bono-work-underdogs-2025-07-31/.

[18] Shayna Jacobs et al., *Nation's Biggest Law Firms Back Off from Challenging Trump Policies*, Wash. Post (Oct. 26, 2025), https://www.washingtonpost.com/national-security/2025/10/26/smaller-law-firms-struggle-trump-administration-initiatives/.

[19] Matthew Goldstein & Jessica Silver-Greenberg, *Some Giant Law Firms Shy Away from Pro Bono Immigration Cases*, N.Y. Times (May 6, 2025), https://www.nytimes.com/2025/05/06/business/trump-law-firms-pro-bono-immigration.html; *see also* Ryan Lucas, *Trump Attacks on Law Firms Begin to Chill Pro Bono Work on Causes He*

If the Orders are reinstated, these chilling effects will intensify. The threat of official retaliation will hang over every investment, hiring, policy, and donation decision, with the wrong choice risking crippling retaliation by this Administration or a future Administration. Such a culture of silence, fear, and complicity is fundamentally at odds with the competition, creativity, and risk-taking that have driven the success of American businesses.

IV.
THE EXECUTIVE ORDERS POSE A THREAT TO THE RULE OF LAW THAT IS ESSENTIAL TO THE SUCCESS OF AMERICAN BUSINESSES

Finally, reinstatement of the Orders would threaten the effective functioning of the judicial system on which American businesses depend. The District Court, in each of the cases below, recognized the judiciary's dependence on "an informed, independent bar" and the risk that the Orders pose to the judicial branch. *E.g.*, *Jenner & Block*, 784 F. Supp. 3d at 98-99 (quoting *Legal Services Corp.*, 531 U.S. at 545). Attempts to silence lawyers who challenge

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Doesn't Like, NPR (Apr. 13, 2025), https://www.npr.org/2025/04/13/g-s1-59497/trump-law-firms-pro-bono.

government positions "threaten a deep and irreparable rift in the constitutional order because they seek 'to insulate the Government's acts from judicial inquiry.'" *Id.* (quoting *Legal Services Corp.*, 531 U.S. at 546). Without lawyers willing to challenge Executive actions, Executive positions become orthodoxy and Executive power uncheckable.

This is a grave concern for the business community. Businesses depend on a functional and accessible court system to regulate commercial transactions, curb regulatory overreach, and provide judicial redress. Businesses are universally affected by government regulation, are regular participants in court cases of all types, and are often parties in high-profile matters with far-reaching effects. With government playing an increasingly large role in commercial matters, a government interest of some sort can be found in all manner of legal issues. It may become impossible for businesses to find effective counsel in a world in which opposing a government interest risks crippling sanctions by the present Administration or a future one.

The protection of the law means nothing without access to a lawyer. The stable, accessible, and unbiased judicial system protected by the Constitution is largely responsible for the thriving American business culture. If allowed to stand, the Orders would upend that fundamental institution.

CONCLUSION

For the foregoing reasons, Amicus Curiae Leadership Now supports affirmance of the four District Court decisions below.

Dated: April 3, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2026, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system.

I further certify that the foregoing document was served on all parties or their counsel of record through the appellate CM/ECF system, as they are registered users.

Dated: April 3, 2026

/s/ Katherine Pringle
Katherine Pringle

Attorney for Amicus Curiae
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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief contains 3,703 words in accordance with the MS Word count and is typed in 14-point Century Schoolbook typeface.

Dated: April 3, 2026

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