

No. 25-1611

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

AMERICAN PUBLIC HEALTH ASSOCIATION et al.,

Plaintiffs-Appellees,

v.

NATIONAL INSTITUTES OF HEALTH et al.,

Defendants-Appellants.

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

**APHA PLAINTIFFS’ OPPOSITION TO DEFENDANTS’ REQUEST FOR
AN IMMEDIATE ADMINISTRATIVE STAY**

On July 3, 2025, ten days after filing their Notice of Appeal and nine days after the District Court denied their motion for stay, defendants filed their “Time Sensitive Motion for Stay Pending Appeal and Immediate Administrative Stay.” Plaintiffs respectfully request that this Court (1) deny defendants’ request for an immediate administrative stay and (2) set Friday, July 11, 2025, as the deadline for plaintiffs to oppose defendants’ motion for a stay pending appeal.

As to the first, defendants cannot credibly allege that they need immediate relief from complying with the District Court's order after waiting *ten days* following their Notice of Appeal and *nine days* following the District Court's denial of their motion to stay before filing the instant motion. *See* Notice of Appeal, *Am. Pub. Health Ass'n v. Nat'l Inst. of Health*, No. 25 Civ. 10787 (Jun. 23, 2025), ECF No. 139; *id.*, Order (Jun. 24, 2025), ECF No. 147. "Motions for stay, or other emergency relief, may be denied for failure to present promptly." 1st Cir. R. 27.0(b). Here, defendants provide neither justification for their delay nor argument in support of the need for immediate relief. As such and pursuant to Rule 27.0(b), this Court should deny their request for an immediate administrative stay. *Cf. New York v. McMahon*, No. 25-1495, 2025 WL 1503501, at *1 (1st Cir. May 27, 2025) (denying motion for immediate administrative stay where defendants "have not met their burden to show the need for an immediate administrative stay").

With respect to defendants' motion for a stay pending appeal, plaintiffs respectfully request to have until July 11, 2025, to file their opposition. This would give plaintiffs eight days (five business days) to draft and file their opposition in comparison with the nine days that defendants took following the District Court's denial of their initial motion to stay. Plaintiffs believe that this schedule strikes the appropriate balance between defendants' desire for emergency relief filed on the

eve of a three-day holiday weekend, and plaintiffs’ right to prepare a fulsome opposition, especially given that it is less than the ten-day period allowed under Rule 27(a)(3)(A) of the Federal Rules of Appellate Procedure.

For the foregoing reasons, plaintiffs request that this Court deny defendants’ request for an immediate administrative stay and set July 11, 2025, as the deadline for plaintiffs to oppose the motion for a stay pending appeal.

July 3, 2025

Respectfully submitted,

/s/ Jessie J. Rossman

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*Entry of appearance forthcoming

CERTIFICATE OF SERVICE

I certify that on July 3, 2025, the foregoing response was filed electronically through the Court's CM/ECF system. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system.

Dated: July 3, 2025

/s/ Jessie J. Rossman
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