

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN PUBLIC HEALTH
ASSOCIATION; IBIS REPRODUCTIVE
HEALTH; INTERNATIONAL UNION,
UNITED AUTOMOBILE, AEROSPACE,
AND AGRICULTURAL IMPLEMENT
WORKERS (UAW); BRITTANY
CHARLTON; KATIE EDWARDS; PETER
LURIE; and NICOLE MAPHIS,

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH;
JAY BHATTACHARYA, *in his official
capacity as Director of the National Institutes
of Health*; UNITED STATES
DEPARTMENT OF HEALTH AND
HUMAN SERVICES; and ROBERT F.
KENNEDY, JR., *in his official capacity as
Secretary of the United States Department of
Health and Human Services,*
Defendants.

Case No. 1:25-cv-10787-BEM
Expedited Briefing Requested

**PLAINTIFFS' MOTION FOR PROTECTIVE ORDER
REGARDING CERTAIN ORGANIZATIONAL DECLARANTS**

Plaintiffs respectfully request that this Court enter a protective order to protect a subset of non-plaintiff organizational members ("Certain Organizational Declarants")¹ from any potential retaliation due to their participation in this lawsuit. The provisions contemplated in the Proposed

¹ The Certain Organizational Declarants are: APHA Member 1; APHA Member 2; APHA Member 7; UAW Member 3; UAW Member 9; UAW Member 10; UAW Member 13; UAW Pre-Member 1; UAW Pre-Member 7. The set of Certain Organizational Declarants who sought relief under the Motion to Seal and who are seeking protection under this Motion for Protective Order are the same. *See* ECF No. 33 at 1 n.1.

Protective Order, attached to this Motion as **Exhibit A**, have one targeted but critical purpose: to ensure that the fact of a Certain Organizational Declarant's participation in this litigation cannot "be considered in granting, denying, or otherwise reviewing any pending or future application for NIH/HHS funding, any appeal of a termination of funding, or any funding previously approved by NIH/HHS." *Id.* ¶ 2.

The parties engaged in negotiations to determine whether a protective order could be agreed upon prior to the filing of Plaintiff's Motion for Preliminary Injunction to alleviate the Certain Organizational Declarants' concerns, but an agreement could not be reached. Plaintiffs have filed redacted copies of the declarations of Certain Organizational Declarants on the docket. Plaintiffs now respectfully request this Court enter an order of protection and, until an order is entered, allow Plaintiffs to delay filing unredacted versions of these declarations with the Court and Defendants. Defendants have indicated that they take no position on Plaintiffs' request to delay filing unredacted versions of these declarations with the Court and Defendants until the Court rules on the instant Motion for Protective Order.

Because of Certain Organizational Declarants' concerns about potential retaliation, if the Court denies or modifies the relief requested in the Proposed Protective Order, then Plaintiffs request seven (7) days from the date of the Court's Order denying or modifying the Proposed Protective Order, to determine whether to forgo filing an unredacted declaration on behalf of one or more of the Certain Organizational Declarants in support of Plaintiffs' Motion for Preliminary Injunction, to withdraw the previously filed redacted declarations, and to file a corrected Memorandum in Support of the Motion for Preliminary Injunction with revised references to exhibits and the declarations.

Plaintiffs also request expedited briefing of seven (7) days for Defendants to oppose Plaintiffs' Motion for Protective Order—which presents a single, narrow issue—to reasonably limit delays in Plaintiffs' Motion for Preliminary Injunction briefing.

The accompanying Memorandum sets forth the reasons for seeking a protective order in this case. Counsel for Defendants has indicated that they object to the Motion for Protective Order and the related request for expedited briefing.

Dated: April 25, 2025

Respectfully submitted,

/s/ Jessie J. Rossman

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Counsel for Plaintiffs

* *Admitted pro hac vice*

** *Application for admission forthcoming*

LOCAL RULE 7.1 CERTIFICATION

Counsel for Plaintiffs hereby certifies that they conferred with counsel for the Defendants regarding this motion in a good faith effort to narrow or resolve the relief requested. The Defendants indicated they object to the motion and the related request for expedited briefing. The Defendants take no position on Plaintiffs' request to delay filing unredacted declarations with the Court and Defendants until the Court rules on the instant Motion for Protective Order.

April 25, 2025

/s/ Jessie J. Rossman
Jessie J. Rossman

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2025 a true copy of the above document was filed via the Court's CM/ECF system and that a copy will be sent automatically to all counsel of record.

April 25, 2025

/s/ Jessie J. Rossman
Jessie J. Rossman