

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

CASA INC., et al.

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, et al.

Defendants-Appellants.

No. 25-2188

**OPPOSED MOTION TO PLACE APPEAL IN ABEYANCE IN
LIGHT OF PENDING PETITIONS FOR WRITS OF
CERTIORARI, OR ALTERNATIVELY TO STAY BRIEFING
SCHEDULE IN LIGHT OF LAPSE OF APPROPRIATIONS**

Defendants-appellants respectfully move to place this appeal in abeyance pending the Supreme Court's disposition of the pending petition for writ of certiorari before judgment in *Trump v. Barbara*, No. 25-365 (U.S. filed Sept. 26, 2025), and its disposition of the petition for writ of certiorari in *Trump v. Washington*, No. 25-364 (U.S. filed Sept. 26, 2025), including any merits proceedings if one or both petitions are granted. Alternatively, defendants move for a stay of the briefing schedule in light of the lapse of appropriations. Plaintiffs-appellees oppose this motion and plan to file a response. Plaintiffs-appellees

informed us they would not oppose a shorter, 30-day extension of the briefing schedule.

1. This case challenges Executive Order 14,160, “Protecting the Meaning and Value of American Citizenship,” 90 Fed. Reg. 8,449 (Jan. 20, 2025). The Order announces the Executive Branch’s interpretation of the Citizenship Clause of the Fourteenth Amendment and a corresponding statutory provision, explaining that those provisions do not extend the privilege of U.S. citizenship where neither parent has a sufficient relationship with the United States, specifically when the father was not a citizen or lawful permanent resident and the mother was either: (1) unlawfully present or (2) lawfully but temporarily present (such as visiting under the auspices of the Visa Waiver Program or visiting on a student, work, or tourist visa). *Id.* § 1, 90 Fed. Reg. at 8,449.

2. Plaintiffs were originally several individuals and two organizations. The district court granted a universal preliminary injunction at their behest, and the government appealed. *See* No. 25-1153. After a divided panel of this Court denied the government’s motion for a stay pending appeal, the government sought a stay

pending appeal from the Supreme Court, which granted the stay “to the extent that the injunctions are broader than necessary to provide complete relief to each plaintiff with standing to sue.” *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025). Plaintiffs promptly amended their complaint in district court to seek class certification and class-wide relief. After the district court entered an indicative ruling, this Court dismissed the pending appeal and returned proceedings to the district court. No. 25-1153, Order (July 29, 2025). The district court certified a class and granted a nationwide preliminary injunction. Dkts. 130–132.

3. Nationwide relief against the Executive Order at issue here has also been entered in three other cases. In *Washington v. Trump*, the Ninth Circuit affirmed a nationwide preliminary injunction issued at the behest of several State plaintiffs. *See* 145 F.4th 1013 (9th Cir. 2025). In *New Jersey v. Trump*, the First Circuit affirmed a similar injunction for a different group of State plaintiffs. *See Doe v. Trump*, No. 25-1169, 2025 WL 2814730, at *1 (1st Cir. Oct. 3, 2025)¹. In *Barbara v. Trump*, a district court in the District of New Hampshire

¹ The First Circuit consolidated its review of the nationwide injunction in *New Jersey* with review of a narrower injunction in the *Doe v. New Jersey* case arising out of the same district court.

issued a preliminary injunction to another putative nationwide class of individuals affected by the Executive Order. *See* 2025 WL 1904338 (D.N.H. July 10, 2025).

4. On September 26, 2025, the Solicitor General filed a petition for a writ of certiorari before judgment in *Barbara*, along with a petition for a writ of certiorari to the Ninth Circuit in *Washington*. *Trump v. Barbara*, No. 25-365 (U.S. filed Sept. 26, 2025); *Trump v. Washington*, No. 25-364 (U.S. filed Sept. 26, 2025). The government thus moves to place this appeal in abeyance pending the Supreme Court's disposition of those petitions, including any merits proceedings in either or both cases. An abeyance would preserve the resources of both of the parties and the Court while the Supreme Court considers whether to take up the lawfulness of the Executive Order. Abeyance is particularly warranted where, like here, the Supreme Court's previous grant of interim relief in this case indicates a likelihood that the Supreme Court will grant certiorari. *See, e.g., Trump v. CASA, Inc.*, 606 U.S. 831, 877 (2025) (Kavanaugh, J., concurring); *Does 1–3 v. Mills*, 142 S.Ct. 17, 18 (2021) (Barrett, J., concurring in denial of application for injunctive relief); *see also Trump v. CASA, Inc.*, 606 U.S. 831, 921 (2025)

(Sotomayor, J., dissenting) (asking lower courts to “enable [the Supreme] Court’s prompt review”).

Given the potential for imminent Supreme Court review of the central merits issue and the overlapping injunctive relief from multiple courts that presently fully protects the plaintiffs here, there is no need for the parties and the Court to expend resources on potentially duplicative proceedings.

5. If the appeal is not held in abeyance, the federal appellants alternatively move to stay the briefing schedule in light of the lapse in appropriations. At the end of the day on September 30, 2025, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for several other Executive agencies, including the federal appellants. The Department does not know when funding will be restored by Congress.

6. Absent an appropriation, Department of Justice attorneys and employees of the federal appellants are prohibited from working, even on a voluntary basis, except in very limited circumstances,

including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

7. Undersigned counsel for the Department of Justice therefore requests a stay of the briefing schedule until Congress has restored appropriations to the Department.

8. The Government respectfully requests that, when appropriations are restored, all current deadlines for the parties be extended for the number of days commensurate with the duration of the lapse in appropriations, plus an additional 14 days. Thus, for example, if the lapse had lasted 14 days, all parties’ deadlines would be extended by $14 + 14 = 28$ days. The Government will need this additional time following the end of the lapse to restart regular government operations and finalize the brief for filing.

9. In addition, granting an extension calculated in the manner proposed above will avoid having all briefs that would otherwise have been due during the period of a lapse of appropriations from having the same due date following the restoration of appropriations, which would not be practicable for the Government or the Court. It also preserves

the original chronological order of filing in government cases for fairness to all parties.

10. Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves in the alternative for a stay of the briefing schedule in this case, as described above, until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

11. We have consulted with counsel for plaintiffs, and they have stated that they oppose this motion. They informed us they would not oppose a shorter, 30-day extension of the briefing schedule.

Respectfully submitted,

/s/ Derek Weiss
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CERTIFICATE OF COMPLIANCE

This motion complies with Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 1,150 words. The motion also complies with the typeface and type-style requirements of Rule 32(a)(5) and Rule 32(a)(6) because it was prepared using Microsoft Word in Century Schoolbook, 14-point font, a proportionally-spaced typeface.

/s/ *Derek Weiss*

Derek Weiss