UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. 25-cv-03698-SI

STATEMENT OF DISTRICT COURT JUDGE SUSAN ILLSTON IN RESPONSE TO MANDAMUS PETITION

On July 21, 2025, the government filed a petition for a writ of mandamus, seeking review of the District Court's July 18, 2025 discovery order at Dkt. No. 214 ("Discovery Order"). The District Court appreciates the invitation to address the petition. *See* Dkt. No. 230. Beyond its reasoning in the Discovery Order itself, the District Court augments the appellate record with the following information.

Since the Discovery Order issued, petitioners produced the list of the reductions in force (RIFs) that petitioners represented to the Supreme Court were in progress and were halted by the District Court's May 22, 2025 preliminary injunction. Discovery Order at 9-10 (ordering production); Dkt. No. 224 (RIF list). In petitioners' application for a stay from the Supreme Court, the U.S. Solicitor General represented that "about 40 RIFs in 17 agencies were in progress and are currently enjoined." Application for Stay at 32-33, *Trump v. Am. Fed. of Gov't Emps., AFL-CIO*, No. 24A1174 (U.S. June 2, 2025). Petitioners provided this information to argue that the preliminary injunction was causing them irreparable harm. Now that petitioners have filed their RIF list, Dkt. No. 224, it is apparent that the figure presented to the Supreme Court included numerous agencies that are not defendants in this case and therefore were not enjoined by the District

Court. Specifically, the list of "40 RIFs in 17 agencies" included the following non-defendant agencies:

-Federal Mediation and Conciliation Service (2 RIFs)

-US Agency for Global Media (2 RIFs)

-Institute of Museum and Library Services (1 RIF)

-National Archives and Records Administration (1 RIF)

-National Endowment for Humanities (1 RIF)

-US African Development Foundation (1 RIF)

-Wilson Center (1 RIF)

Dkt. No. 224-1, Attach. to Peters Decl. Based on this list, petitioners' application to the Supreme Court should have stated that the injunction paused **31 RIFs in 10 agencies**, not 40 RIFs in 17 agencies. This discrepancy is not insignificant. In this Court's view, this further underscores the Court's previous finding that any deliberative process privilege, if it exists at all, is overridden by "the need for accurate fact-finding in this litigation . . . ." *See* Discovery Order at 7-8.

The Clerk shall serve a copy of this response on the United States Court of Appeals for the Ninth Circuit in *Trump v. United States District Court for the Northern District of California*, No. 25-4476 (9th Cir. July 21, 2025).

IT IS SO ORDERED.

Dated: July 28, 2025

SUSAN ILLSTON
United States District Judge

United States District Court
Northern District of California