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19 **UNITED STATES DISTRICT COURT**  
20 **NORTHERN DISTRICT OF CALIFORNIA**  
21 **OAKLAND DIVISION**

22  
23 AMERICAN FEDERATION OF  
GOVERNMENT EMPLOYEES, AFL-CIO;  
24 AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES,  
25 AFL-CIO; NATIONAL NURSES  
ORGANIZING COMMITTEE/NATIONAL  
26 NURSES UNITED; SERVICE EMPLOYEES  
INTERNATIONAL UNION, AFL-CIO;  
27 NATIONAL ASSOCIATION OF  
GOVERNMENT EMPLOYEES, INC.;  
28 NATIONAL FEDERATION OF FEDERAL

Case No.:

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1 EMPLOYEES, IAM, AFL-CIO;

2 Plaintiffs,

3 v.

4 DONALD J. TRUMP, in his official capacity as  
5 President of the United States; U.S. OFFICE OF  
6 PERSONNEL MANAGEMENT; CHARLES  
7 EZELL, in his official capacity as Acting Director  
8 of the U.S. Office of Personnel Management; U.S.  
9 DEPARTMENT OF STATE; U.S. AGENCY  
10 FOR INTERNATIONAL DEVELOPMENT;  
11 MARCO RUBIO, in his official capacities as U.S.  
12 Secretary of State and Acting Administrator for  
13 the U.S. Agency for International Development;  
14 U.S. DEPARTMENT OF DEFENSE; PETER  
15 HEGSETH, in his official capacity as U.S.  
16 Secretary of Defense; U.S. DEPARTMENT OF  
17 THE TREASURY; SCOTT BESSENT, in his  
18 official capacity as U.S. Secretary of the  
19 Treasury; U.S. DEPARTMENT OF VETERANS  
20 AFFAIRS; DOUG COLLINS, in his official  
21 capacity as U.S. Secretary of Veterans Affairs;  
22 U.S. DEPARTMENT OF JUSTICE; PAMELA  
23 BONDI, in her official capacity as U.S. Attorney  
24 General; U.S. DEPARTMENT OF HEALTH  
25 AND HUMAN SERVICES; ROBERT F.  
26 KENNEDY JR., in his official capacity as  
27 Secretary of Health and Human Services; U.S.  
28 DEPARTMENT OF HOMELAND SECURITY;  
KRISTI NOEM, in her official capacity as  
Secretary of Homeland Security; U.S.  
DEPARTMENT OF THE INTERIOR; DOUG  
BURGUM, in his official capacity as Secretary of  
the Interior; U.S. DEPARTMENT OF ENERGY;  
CHRIS WRIGHT, in his official capacity as  
Secretary of Energy; U.S. DEPARTMENT OF  
AGRICULTURE; BROOKE ROLLINS, in her  
official capacity as Secretary of Agriculture; U.S.  
ENVIRONMENTAL PROTECTION AGENCY;  
LEE ZELDIN, in his official capacity as  
Administrator of the U.S. Environmental  
Protection Agency; U.S. NATIONAL SCIENCE  
FOUNDATION; DR. SETHURAMAN  
PANCHANATHAN, in his official capacity as  
Director of the U.S. National Science Foundation;  
U.S. INTERNATIONAL TRADE  
COMMISSION; AMY A. KARPEL, in her  
official capacity as Chair of the U.S. International  
Trade Commission; U.S. GENERAL SERVICES

1 ADMINISTRATION; STEPHEN EHIKIAN, in  
2 his official capacity as Acting Administrator of  
3 the General Services Administration; U.S.  
4 SOCIAL SECURITY ADMINISTRATION;  
5 LELAND DUDEK, in his official capacity as  
6 Acting Commissioner of the Social Security  
7 Administration; U.S. DEPARTMENT OF  
8 LABOR; LORI CHAVEZ-DEREMER, in her  
9 official capacity as Secretary of Labor; U.S.  
10 DEPARTMENT OF HOUSING AND URBAN  
11 DEVELOPMENT; SCOTT TURNER, in his  
12 official capacity as Secretary of the U.S.  
Department of Housing and Urban Development;  
U.S. DEPARTMENT OF TRANSPORTATION;  
SEAN DUFFY, in his official capacity as  
Secretary of Transportation; U.S.  
DEPARTMENT OF EDUCATION; LINDA  
MCMAHON, in her official capacity as Secretary  
of Education;

Defendants.

13 1. Congress has long recognized that “labor organizations and collective bargaining  
14 in the civil service are in the public interest.” 5 U.S.C. § 7101(a). Accordingly, in the Civil Service  
15 Reform Act of 1978, it codified an extensive labor-management relations framework for federal  
16 civil servants in Chapter 71 of Title 5 of the U.S. Code (“Chapter 71”). For decades, federal civilian  
17 employees at agencies across the government have served their country honorably while joining  
18 together with their fellow civil servants to collectively bargain.

19 2. On March 27, 2025, President Trump issued an executive order entitled  
20 “Exclusions from Federal Labor-Management Programs,” which stripped the vast majority of  
21 federal workers of their right to organize and bargain collectively through a labor organization of  
22 their choosing (“Exclusion Order”). Although the Exclusion Order purported to be based on  
23 national security grounds, it broadly eliminated federal labor law protections for workers across a  
24 wide swath of agencies ranging from the Department of Veterans Affairs to the Environmental  
25 Protection Agency that have been provided by statute for nearly fifty years.

26 3. The vast overbreadth of the list of excluded agencies and the incongruity between  
27 the stated rationale of national security and those agencies’ primary functions would itself raise  
28 questions that the invocation of national security was pretextual. But here there is no need to

1 speculate as to the true rationale behind the Exclusion Order. The White House made clear that it  
2 was eliminating federal labor law protections for the vast majority of federal workers in response  
3 to constitutionally-protected speech and petitioning activity by Plaintiffs and other federal  
4 employee unions in opposition to executive actions by the Trump Administration.

5 4. The White House Fact Sheet accompanying the Exclusion Order decried actions by  
6 “hostile Federal unions” who had “declared war on President Trump’s agenda,” including by  
7 “filing grievances to block Trump policies.” The Fact Sheet specifically referenced a statement by  
8 the “largest Federal union”—*i.e.*, Plaintiff AFGE—that it was “fighting back” against President  
9 Trump’s policies. To further drive home the retaliatory intent of the Exclusion Order, the White  
10 House Fact Sheet concluded with the message “President Trump supports constructive  
11 partnerships with unions who *work with him.*” (emphasis added).

12 5. The avowedly retaliatory nature of the Exclusion Order and its attempt to punish  
13 federal unions who engage in politically disfavored speech and petitioning activities and decline  
14 to “work with” the President renders it unconstitutional under the First Amendment. Each of the  
15 Plaintiff Unions in this case has engaged in extensive speech and petitioning activity that has been  
16 broadly critical of “Trump’s agenda”—both his agenda to decimate the federal workforce and his  
17 broader agenda to fundamentally restructure the federal government through expansive and  
18 unprecedented exercises of executive authority.

19 6. Plaintiffs’ efforts have not gone unnoticed. Elon Musk, who runs the President’s  
20 “Department of Government Efficiency,” reposted on X (formerly Twitter) a post attacking a  
21 coalition of institutions as conducting a “coordinated hit job” against President Trump’s agenda.  
22 The post called out Plaintiffs AFGE, AFSCME, and NFFE directly by name and claimed “[a]lmost  
23 every single lawsuit that has been filed against the second Trump administration has come from  
24 this group” and “[t]his is the organization that coordinates all of the lawsuits against the  
25 administration.” When reposting the attack, Musk added the comment “Interesting”.

26 7. The Exclusion Order unconstitutionally retaliates against Plaintiffs for their  
27 protected First Amendment activity in opposition to President Trump.

28 8. In addition, the President’s actions are *ultra vires* and violate the separation of

1 powers. In the CSRA, Congress granted federal employees, including those at the agencies listed  
2 in the Exclusion Order, the right to join together in unions and collectively bargain with their  
3 employers. The statute permits the President in specific narrow circumstances to exclude agencies  
4 or subdivisions only upon a determination that those agencies have a *primary function* of  
5 intelligence, counterintelligence, investigative, or national security work, and a further  
6 determination that Chapter 71 “cannot be applied . . . in a manner consistent with national security  
7 requirements and considerations.” 5 U.S.C. § 7103(b)(1).

8 9. Previous presidents respected Congress’s wishes and only excluded certain  
9 subcomponents of departments. President Trump, however, has treated this limited grant of  
10 authority as an invitation from Congress to tear up Chapter 71 altogether. There is no limiting  
11 principle that would save Chapter 71 from wholesale Presidential invalidation while permitting  
12 the exclusions President Trump has decreed here. President Trump’s attack on unions across the  
13 government therefore exceeds his authority granted by Congress under the CSRA. His attempt to  
14 unilaterally rewrite the statute so as to render its requirements unrecognizable cannot stand.

15 10. Furthermore, the Exclusion Order and its implementation by the Office of  
16 Personnel Management (“OPM”) and the Agency Defendants have also unlawfully stripped away  
17 contractual rights and protections from hundreds of thousands of civil servants represented by the  
18 Plaintiffs without being provided due process required by the Fifth Amendment: They were never  
19 given notice of the President’s determination, any underlying evidence supporting it, or an  
20 opportunity to rebut that evidence. And indeed, the unilateral abrogation of property rights  
21 guaranteed by a contract with the federal government independently violates the Fifth Amendment.

22 11. The Exclusion Order also violates the Equal Protection Clause of the Fifth  
23 Amendment. The Exclusion Order purports to eliminate federal labor law rights due to alleged  
24 “obstruction” caused by provisions in union collective bargaining agreements but retains such  
25 rights for other employees at the very same agencies who have similar provisions in their collective  
26 bargaining agreements. Singling out groups for disfavored treatment based on whether they are  
27 deemed to be “work[ing] with” President Trump is not rationally related to a legitimate  
28 government interest.

1 12. Because Defendants’ actions are *ultra vires* and violate Plaintiffs’ and their  
2 members’ constitutional rights, the Exclusion Order should be enjoined.

3 **Jurisdiction**

4 13. This Court has jurisdiction pursuant to 28 U.S.C. § 1331.

5 14. Plaintiffs seek a declaratory judgment pursuant to 28 U.S.C. § 2201.

6 **Venue**

7 15. The District of Northern California is a proper venue for this action under 28 U.S.C.  
8 § 1391(e) because Plaintiff NNOC/NNU resides here and Plaintiffs AFGE, NNOC/NNU, NAGE,  
9 and NFFE represent federal employees here who have lost rights at work due to the Exclusion  
10 Order.

11 **Divisional Assignment**

12 16. This matter should be assigned to the Oakland Division because Plaintiff  
13 NNOC/NNU is headquartered in Alameda County and Plaintiff Unions represent federal  
14 employees throughout Northern California, including in Alameda County, who have lost rights at  
15 work due to the Exclusion Order.

16 **Parties**

17 17. Plaintiff American Federation of Government Employees, AFL-CIO (“AFGE”) is  
18 a labor organization and unincorporated association headquartered at 80 F Street N.W.,  
19 Washington, D.C. 20001. AFGE, the largest union of federal workers, represents approximately  
20 800,000 federal civilian employees through its affiliated councils and locals in every state in the  
21 United States and the District of Columbia. It represents more than 50,000 federal employees in  
22 California, at agencies including, but not limited to: the Department of Veterans Affairs, the Small  
23 Business Administration, the Environmental Protection Agency, and the Department of Defense.  
24 AFGE represents employees of the VA who are employed in San Francisco, Oakland, San Bruno,  
25 Eureka, Ukiah, Clearlake, and Martinez, California. AFGE represents employees working  
26 throughout the San Francisco Bay Area, including employees at the San Francisco Veterans Health  
27 Care System, the Palo Alto VA Medical Center, and various Social Security field offices and  
28 military installations.

1 18. AFGE members include nurses caring for our nation’s veterans in the Department  
2 of Veterans Affairs, civilian employees in the Department of Defense supporting our military  
3 personnel and their families, border patrol agents securing our borders, correctional officers  
4 maintaining safety in federal facilities, scientists conducting critical research, health care workers  
5 serving on military bases, and employees of the Social Security Administration making sure  
6 retirees receive the benefits they have earned.

7 19. AFGE is dedicated to fighting for dignity, safety, and fairness on the job for its  
8 members, and promoting efficiency and the improvement of government service so that  
9 government can more effectively serve the American people.

10 20. Plaintiff American Federation of State, County & Municipal Employees, AFL-CIO  
11 (“AFSCME”) is a national labor organization and unincorporated membership association  
12 headquartered at 1625 L Street, N.W., Washington, D.C. 20036. AFSCME is the largest trade  
13 union of public employees in the United States, with around 1.4 million members organized into  
14 approximately 3,400 local unions, 58 councils, and affiliates in 46 states, the District of Columbia  
15 and Puerto Rico. AFSCME, through its subordinate bodies including AFSCME District Council  
16 20 and the United Nurses Association of California / Union of Health Care Professionals  
17 (“UNAC”), represents federal civilian employees in agencies and departments across the federal  
18 government. AFSCME, through UNAC, represents employees of the VA who are employed at  
19 Pettis Memorial Hospital in Loma Linda, California and employees of the DOD who are employed  
20 at the Naval Medical Center San Diego.

21 21. AFSCME members include nurses, corrections officers, childcare providers,  
22 emergency medical technicians, sanitation workers, school bus drivers, civil engineers, policy  
23 analysts, and more, all with one thing in common: a dedication to making our communities  
24 stronger, healthier, and safer. Its members working for the federal government make our  
25 communities stronger, healthier, and safer by working to ensure aviation safety at the Federal  
26 Aviation Administration, criminal justice through the Department of Justice, health care for  
27 military servicemembers, veterans, and their families through the Departments of Defense and  
28 Veterans Affairs, a high-quality U.S. food system through the Department of Agriculture, the

1 distribution of free press in repressive regimes worldwide through the Agency for Global Media,  
2 and community service through the Peace Corps and AmeriCorps.

3 22. Plaintiff National Nurses Organizing Committee/National Nurses United  
4 (“NNOC/NNU”) is a labor organization and nonprofit corporation headquartered at 155 Grand  
5 Ave., Oakland, California 94612. NNOC/NNU members include Registered Nurses working in  
6 the Department of Veterans Affairs across 13 states who provide care to our nation’s veterans  
7 through a broad range of services. Approximately 1000 RNs employed at the San Diego VA are  
8 represented by NNOC/NNU. RNs with remote work arrangements are also in NNOC/NNU’s  
9 bargaining unit. This includes nurses who live and work in Alameda, Marin, and Santa Clara  
10 counties in California.

11 23. Plaintiff Service Employees International Union, AFL-CIO (“SEIU”) is a labor  
12 organization of approximately two million working people united by the belief in the dignity and  
13 worth of workers and the services they provide. SEIU’s members work in healthcare, the public  
14 sector, and property services. SEIU has over 150 affiliates across the United States, Canada, and  
15 Puerto Rico, and is headquartered at 1800 Massachusetts Ave., N.W., Washington, D.C. 20036.

16 24. SEIU members include physicians, technicians, long-term care workers, janitors,  
17 security officers, airport workers, librarians, childcare workers, educators, fast food workers,  
18 employees who work for city, county, and federal governments, and many more. SEIU, together  
19 with its local affiliates, represent approximately 80,000 federal sector employees in the United  
20 States, including nurses, doctors, other healthcare workers, police officers, first responders, office  
21 workers, scientists, engineers, analysts, maintenance workers, and more. SEIU federal sector  
22 members provide a broad swath of services and bring a substantial amount of expertise to  
23 numerous agencies across the federal government.

24 25. The National Association of Government Employees, Inc. (“NAGE”), also known  
25 as the National Association of Government Employees, SEIU Local 5000, is a national labor  
26 organization incorporated in Delaware and headquartered at 159 Thomas Burgin Parkway, Quincy,  
27 Massachusetts 02169. NAGE is also an affiliate of SEIU. In addition to many thousands of state,  
28 municipal, and private sector employees, NAGE represents approximately 75,000 federal civilian

1 bargaining unit employees. NAGE represents approximately 8,000 federal bargaining unit  
2 employees working for VA and DOD in California, including Army and Navy civilian employees  
3 working at locations including Naval Support Activity Monterey, Moffett Field, Camp Parks, Fort  
4 Hunter Liggett, and Parks Reserve Forces Training Area.

5 26. Founded in 1961, NAGE is an organization of members united by the belief in the  
6 dignity and worth of all workers and the services they provide. NAGE is dedicated to improving  
7 the lives of workers and their families and creating a more just and humane society.

8 27. NAGE members include groundskeepers, janitorial staff, cashiers, warehouse  
9 workers, childcare providers, drivers, administrative staff, healthcare providers, contract  
10 specialists, information technology specialists, technicians, engineers, support personnel, first  
11 responders, and many more. NAGE members work at various federal agencies including the  
12 Department of Defense, the Department of Veterans Affairs, the National Institutes of Health, the  
13 Department of Transportation, the Department of the Interior, and the Environmental Protection  
14 Agency.

15 28. Plaintiff National Federation of Federal Employees, IAM, AFL-CIO (“NFFE”) is  
16 an unincorporated association with its principal place of business in Washington, D.C. NFFE, the  
17 nation’s first federal union, is a national labor union representing approximately 110,000  
18 professional and non-professional federal government workers across the United States. NFFE,  
19 through its Local 1, represents professional employees of the San Francisco VA Medical Center  
20 and System in San Francisco, Oakland, Palo Alto, and Santa Clara who provide medical care to  
21 veterans throughout the Bay Area. NFFE is an affiliate of the International Association of  
22 Machinists and Aerospace Workers (IAM).

23 29. NFFE members include nurses, psychologists, doctors, and physical therapists  
24 caring for our nation’s veterans in the Department of Veterans Affairs, civilian employees in the  
25 Department of Defense supporting our military personnel and their families, health care workers  
26 serving on military bases, wildland firefighters, rangers, and land management specialists in five  
27 federal land management agencies, passport specialists verifying and processing millions of U.S.  
28 passport applications each year, veterinarians ensuring the humane treatment of animals across the

1 country, scientists conducting critical research and managing public data, employees improving  
2 our nation’s aerospace system at the Federal Aviation Administration, and employees of the  
3 General Services Administration making sure the federal government has facilities and space to  
4 operate.

5 30. AFGE, AFSCME, NNOC/NNU, SEIU, NAGE, and NFFE (“Plaintiff Unions”)  
6 bring this action on behalf of themselves as organizations and on behalf of their members, who  
7 have lost statutory and contractual protections at work due to the Exclusion Order.

8 31. Defendant Donald J. Trump is the President of the United States. He is sued solely  
9 in his official capacity. In that capacity, he issued the Exclusion Order.

10 32. Defendant United States Office of Personnel Management (“OPM”) is a federal  
11 agency headquartered in Washington, D.C.

12 33. Defendant Charles Ezell is Acting Director of OPM and is sued in his official  
13 capacity. In that capacity, he issued the memorandum to heads and acting heads of departments  
14 and agencies titled “Guidance of Executive Order Exclusions from Federal Labor-Management  
15 Programs.”

16 34. Defendant United States State Department (“State”) is a federal agency  
17 headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order.

18 35. Defendant United States Agency for International Development (“USAID”) is a  
19 federal agency headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion  
20 Order.

21 36. Defendant Marco Rubio is the Secretary of State and Acting Administrator for  
22 USAID and is sued in his official capacities.

23 37. Defendant United States Department of Defense (“DOD”) is a federal agency  
24 headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order, except  
25 for subdivisions under which labor rights may be reinstated by the Secretary of Defense.

26 38. Defendant Peter Hegseth is the Secretary of Defense and is sued in his official  
27 capacity. The Exclusion Order delegates authority to him to reinstate Chapter 71 rights to selected  
28 subdivisions of DOD.

1 39. Defendant United States Department of the Treasury (“Treasury”) is a federal  
2 agency headquartered in Washington, D.C. Except for the Bureau of Engraving and Printing, it is  
3 excluded from Chapter 71 by the Exclusion Order,

4 40. Scott Bessent is the Secretary of the Treasury and is sued in his official capacity.

5 41. Defendant United States Department of Veterans Affairs (“VA”) is a federal agency  
6 headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order, except  
7 for subdivisions under which labor rights may be reinstated by the Secretary of Veterans Affairs.

8 42. Doug Collins is the Secretary of Veterans Affairs and is sued in his official capacity.  
9 The Exclusion Order delegates authority to him to reinstate Chapter 71 rights to selected  
10 subdivisions of VA.

11 43. Defendant United States Department of Justice (“DOJ”) is a federal agency  
12 headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order, except  
13 for certain subdivisions of the United States Marshals Service.

14 44. Defendant Pamela Bondi is the U.S. Attorney General and is sued in her official  
15 capacity.

16 45. Defendant United States Department of Health and Human Services (“HHS”) is a  
17 federal agency headquartered in Washington, D.C. HHS’s component sub-agencies excluded from  
18 Chapter 71 by the Exclusion Order include the Office of the Secretary; the Food and Drug  
19 Administration (“FDA”); the Centers for Disease Control and Prevention (“CDC”); the  
20 Administration for Strategic Preparedness and Response; the Office of General Counsel; the Office  
21 of Refugee Resettlement, the Administration for Families and Children; and the National Institute  
22 of Allergy and Infectious Diseases, National Institutes of Health (“NIH”).

23 46. Defendant Robert F. Kennedy Jr. is the Secretary of Health and Human Services  
24 and is sued in his official capacity.

25 47. Defendant United States Department of Homeland Security (“DHS”) is a federal  
26 agency headquartered in Washington, D.C. DHS’s component sub-agencies excluded from  
27 Chapter 71 by the Exclusion Order include the Office of the Secretary; Office of the General  
28 Counsel; Office of Strategy, Policy, and Plans; Management Directorate; Science and Technology

1 Directorate; Office of Health Security; Office of Homeland Security Situational Awareness; U.S.  
2 Citizenship and Immigration Services; United States Immigration and Customs Enforcement  
3 (“ICE”); United States Coast Guard (“USCG”); Cybersecurity and Infrastructure Security Agency;  
4 and the Federal Emergency Management Agency.

5 48. Defendant Kristi Noem is the Secretary of Homeland Security and is sued in her  
6 official capacity.

7 49. Defendant United States Department of the Interior (“Interior”) is a federal agency  
8 headquartered in Washington, D.C. Interior’s component sub-agencies excluded from Chapter 71  
9 by the Exclusion Order include the Office of the Secretary, the Bureau of Land Management  
10 (“BLM”), the Bureau of Safety and Environmental Enforcement, and the Bureau of Ocean Energy  
11 Management.

12 50. Defendant Doug Burgum is the Secretary of the Interior and is sued in his official  
13 capacity.

14 51. Defendant United States Department of Energy (“Energy”) is a federal agency  
15 headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order, except  
16 for the Federal Energy Regulatory Commission.

17 52. Defendant Chris Wright is the Secretary of Energy and is sued in his official  
18 capacity.

19 53. Defendant United States Department of Agriculture (“USDA”) is a federal agency  
20 headquartered in Washington, D.C. USDA’s component sub-agencies excluded from Chapter 71  
21 by the Exclusion Order include the Food Safety and Inspection Service and the Animal and Plant  
22 Health Inspection Service.

23 54. Defendant Brooke Rollins is the Secretary of Agriculture and is sued in her official  
24 capacity.

25 55. Defendant United States Environmental Protection Agency (“EPA”) is a federal  
26 agency headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order.

27 56. Defendant Lee Zeldin is Administrator of the EPA and is sued in his official  
28 capacity.

1           57. Defendant United States National Science Foundation (“NSF”) is a federal agency  
2 headquartered in Arlington, VA. It is excluded from Chapter 71 by the Exclusion Order.

3           58. Dr. Sethuraman Panchanathan is the Director of the NSF and is sued in his official  
4 capacity.

5           59. Defendant United States International Trade Commission (“USITC”) is a federal  
6 agency headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order.

7           60. Defendant Amy Karpel is Chair of the USITC and is sued in her official capacity.

8           61. Defendant United States General Services Administration (“GSA”) is a federal  
9 agency headquartered in Washington, D.C. It is excluded from Chapter 71 by the Exclusion Order.

10          62. Defendant Stephen Ehikian is Acting Administrator of the GSA and is sued in his  
11 official capacity.

12          63. Defendant United States Department of Transportation (“DOT”) is a federal agency  
13 headquartered in Washington, D.C. DOT’s component sub-agencies include the Federal Aviation  
14 Administration (“FAA”).

15          64. Defendant Sean Duffy is Secretary of Transportation and is sued in his official  
16 capacity. Secretary Duffy was delegated authority by the Exclusion Order to issue orders excluding  
17 any DOT subdivision from Chapter 71.

18          65. Defendant United States Social Security Administration (“SSA”) is a federal  
19 agency headquartered in Washington, D.C. SSA’s Office of the Chief Information Officer was  
20 excluded from Chapter 71 by the Exclusion Order.

21          66. Leland Dudek is Acting Commissioner of the SSA and is sued in his official  
22 capacity.

23          67. Defendant United States Department of Labor (“DOL”) is a federal agency  
24 headquartered in Washington, D.C. DOL’s Office of the Chief Information Officer was excluded  
25 from Chapter 71 by the Exclusion Order.

26          68. Defendant Lori Chavez-DeRemer is Secretary of Labor and is sued in her official  
27 capacity.

28          69. Defendant United States Department of Housing and Urban Development (“HUD”)

1 is a federal agency headquartered in Washington, D.C. HUD’s Office of the Chief Information  
2 Officer was excluded from Chapter 71 by the Exclusion Order.

3 70. Scott Turner is the Secretary of HUD and is sued in his official capacity.

4 71. Defendant United States Department of Education (“Education”) is a federal  
5 agency headquartered in Washington, D.C. Education’s Office of the Chief Information Officer  
6 was excluded from Chapter 71 by the Exclusion Order.

7 72. Linda McMahon is Secretary of Education and is sued in her official capacity.

8 **Factual Background**

9 **I. Federal Employees at Departments Across the Government Have Served Their**  
10 **Country and Collectively Bargained for Decades**

11 73. For more than 60 years, our federal government has recognized that permitting  
12 collective bargaining between agencies and their employees strengthens the public interest.

13 74. In 1961, President John F. Kennedy formed a “Task Force on Employee-  
14 Management Relations in the Federal Service.” Secretary of Defense Robert F. McNamara served  
15 as one of the Task Force’s six members.

16 75. The Task Force explained that it “most emphatically” endorsed the “view that the  
17 public interest calls for a strengthening of employee-management relations within the Federal  
18 Government” and called federal employees’ involvement “in the formulation and implementation  
19 of personnel policies . . . an opportunity to be embraced.” Task Force Report at 1190.

20 76. In 1962, following these recommendations, President John F. Kennedy issued  
21 Executive Order No. 10988, “Employee-Management Cooperation in the Federal Sector.” This  
22 Order recognized that “the efficient administration of the Government . . . require[s] that orderly  
23 and constructive relationships be maintained between employee organizations and management  
24 officials.” Executive Order 10988 established a system where employee organizations could be  
25 recognized as exclusive representatives of bargaining units to negotiate binding collective  
26 bargaining agreements.

27 77. Presidents issued new executive orders building on that framework. *See, e.g.*, Exec.  
28 Order No. 11491, 34 Fed. Reg. 17605 (Oct. 28, 1969); Exec. Order No. 11838, 40 Fed. Reg. 5743

1 (Feb. 6, 1975). While the bargaining frameworks permitted agencies to exclude agencies or  
2 subcomponents with “a primary function [of] intelligence, investigative, or security work” when  
3 it was determined “that the Order cannot be applied in a manner consistent with national security  
4 requirements and considerations,” Exec. Order 11,491, § 3(b)(3), at no point was any Cabinet  
5 Department excluded writ large from coverage on the basis that collective bargaining was  
6 inconsistent with national security requirements and considerations. Rather, for decades federal  
7 employees at agencies listed in the Exclusion Order have had the right to join unions and engage  
8 in collective bargaining. *See* 1 A/SLMR 1, 1-12 (1971).

## 9 II. Congress Enacts the Civil Service Reform Act of 1978

10 78. Nearly five decades ago, Congress enacted the Civil Service Reform Act of 1978,  
11 which statutorily established collective bargaining for federal employees in Title VII, codified at  
12 Chapter 71 of Title 5 of the U.S. Code (“Chapter 71”).<sup>1</sup>

13 79. This Act “significantly strengthened the position of public employee unions while  
14 carefully preserving the ability of federal managers to maintain ‘an effective and efficient  
15 Government.’” *Bureau of Alcohol, Tobacco & Firearms v. FLRA*, 464 U.S. 89, 92 (1983) (quoting  
16 5 U.S.C. § 7101(b)).

17 80. In enacting the CSRA, Congress found that “labor organizations and collective  
18 bargaining in the civil service are in the public interest.” 5 U.S.C. § 7101(a).

19 81. Chapter 71 guarantees employees “the right to form, join, or assist any labor  
20 organization, or to refrain from any such activity.” 5 U.S.C. § 7102.

21 82. Chapter 71 also guarantees employees the right to “engage in collective bargaining  
22 with respect to conditions of employment through representatives chosen by employees under this  
23 chapter.” 5 U.S.C. § 7102(2).

24 83. Chapter 71 requires agencies to “accord exclusive recognition to a labor  
25 organization if the organization has been selected as the representative, in a secret ballot election,  
26 by a majority of the employees in an appropriate unit who cast valid ballots in the election.” 5

27 \_\_\_\_\_  
28 <sup>1</sup> Chapter 71 of Title 5 is also known as the Federal Service Labor-Management Relations  
Statute.

1 U.S.C. § 7111(a).

2 84. Once labor organizations are certified as exclusive representatives, they must act  
3 for “all employees in the unit” and are required to represent the interests of all such employees  
4 “without discrimination and without regard to labor organization membership.” 5 U.S.C.  
5 § 7114(a)(1).

6 85. Federal employees voluntarily choose to join labor organizations and to pay  
7 membership dues to those organizations. 5 U.S.C. § 7115. If an employee within a bargaining unit  
8 so chooses and provides a written authorization to do so, agencies are required to deduct  
9 membership dues from an employee’s pay and transmit those dues to the labor organization. *Id.*  
10 No employee is mandated to pay any membership dues, or any agency or other fees, to a labor  
11 organization under the statutory framework.

12 86. Chapter 71 requires agencies and exclusive representatives to negotiate in good  
13 faith to reach a collective bargaining agreement. “[I]f agreement is reached,” agencies and  
14 exclusive representatives are required “to execute on the request of any party to the negotiation a  
15 written document embodying the agreed terms, and to take such steps as are necessary to  
16 implement such agreement.” 5 U.S.C. § 7114(b)(5). Upon approval of the agency head, or failure  
17 to approve or disapprove the agreement within 30 days, the agreement “shall take effect and shall  
18 be binding on the agency and the exclusive representative.” *Id.* § 7114(c)(3).

19 87. Collective bargaining agreements entered into by Plaintiffs have provided  
20 bargaining unit employees with protections such as safety and health requirements to ensure their  
21 welfare, protections for workers regarding reduction-in-force (“RIF”) actions and procedures,  
22 procedures for and limits on discipline and adverse actions against members, and provisions  
23 covering working hours, overtime, sick leave, and time off.

24 88. As part of Congress’s efforts to design a system “to meet the special requirements  
25 and needs of the Government,” *id.* § 7101(b), Chapter 71 expressly protects enumerated  
26 management rights, excluding these topics from the collective bargaining process, *id.* § 7106. For  
27 example, these rights protect agency officials’ authority “to determine the mission, budget,  
28 organization, number of employees, and internal security practices of the agency,” and “in

1 accordance with applicable laws . . . to hire, assign, direct, layoff, and retain employees in the  
2 agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against  
3 such employees.” 5 U.S.C. § 7106.

4 89. Chapter 71 also protects the management right to “take whatever actions may be  
5 necessary to carry out the agency mission during emergencies.” *Id.*

6 90. The bargaining framework is further tailored to ensure government flexibility by  
7 removing certain employees from its coverage. For example, Chapter 71 excludes “management  
8 official[s]”—individuals in positions “the duties and responsibilities of which require or authorize  
9 the individual to formulate, determine, or influence the policies of the agency”—from its definition  
10 of “employee.” *Id.* § 7103 (a)(2), (a)(11). Furthermore, bargaining units may not include “any  
11 employee engaged in intelligence, counterintelligence, investigative, or security work which  
12 directly affects national security.” *Id.* § 7112(b)(6).

13 91. Likewise, Chapter 71 expressly excludes certain agencies from its scope, including  
14 the Government Accountability Office, the Federal Bureau of Investigation, the Central  
15 Intelligence Agency, the National Security Agency, the Tennessee Valley Authority, the Federal  
16 Labor Relations Authority, the Federal Service Impasses Panel, and the United States Secret  
17 Service. 5 U.S.C. § 7103(a)(3).

18 92. In certain limited circumstances, the President is permitted to issue orders  
19 excluding other agencies or subdivisions thereof from Chapter 71. This is only permissible after a  
20 determination is made that (1) “the agency or subdivision has as a primary function intelligence,  
21 counterintelligence, investigative, or national security work” and (2) “the provisions of this chapter  
22 cannot be applied to that agency or subdivision in a manner consistent with national security  
23 requirements and considerations.” 5 U.S.C. § 7103(b)(1).

24 93. Presidents’ past use of this § 7103(b)(1) authority demonstrates its limited scope:  
25 It has never been used to exclude an entire Cabinet Department from Chapter 71. Instead,  
26 presidents have only used this authority to exclude specific sub-department agencies or  
27 subdivisions thereof. *See, e.g.*, Exec. Order 12171, 44 Fed. Reg. 66565 (Nov. 19, 1979)  
28 (excluding, *inter alia*, six intelligence-focused “[a]gencies or subdivisions of the Department of

1 the Army, Department of Defense”); Exec. Order 12410, 48 Fed. Reg. 13143 (Mar. 28, 1983)  
2 (excluding the Joint Special Operations Command, a subdivision under the jurisdiction of the Joint  
3 Chiefs of Staff); Exec. Order 13039, 62 Fed. Reg. 12529 (Mar. 11, 1997) (excluding the Naval  
4 Special Warfare Development Group, a subdivision of the Department of the Navy, Department  
5 of Defense).

6 94. In January 2020, President Trump issued a memorandum that purported to delegate  
7 his authority under 5 U.S.C. § 7103(b)(1) to “issue orders excluding Department of Defense  
8 agencies or subdivisions thereof” from coverage under Chapter 71 to the Secretary of Defense. 85  
9 Fed. Reg. 10033 (Jan. 29, 2020).

10 95. Then-Secretary of Defense Mark Esper testified before Congress that he did not  
11 request the authority from the President and could not recall a time in the past where using this  
12 authority would have been warranted. Secretary Esper explained he would wait to see what his  
13 staff recommended “and make an assessment from there.” Mark Esper Testimony, House Armed  
14 Services Committee (Feb. 27, 2020).

15 96. A bipartisan coalition of U.S. senators pushed back against using this authority to  
16 strip bargaining rights from DOD employees en masse, explaining that “collective bargaining is  
17 not only compatible with this needed flexibility, but also is a key component in preserving  
18 flexibility by giving employees a voice in the system and providing avenues for management to  
19 receive feedback.” Erich Wagner, “Senators from Both Political Parties Urge Trump to  
20 ‘Reconsider’ Defense Union Memo,” *Government Executive* (Feb. 28, 2020). They went on to  
21 note that “exemptions permitted by the process are not meant to be given widely to an entire  
22 department as a sweeping declaration, but to be carefully considered.” *Id.*

23 97. Secretary Esper never exercised the authority delegated by President Trump.

24 98. On February 24, 2021, President Joe Biden rescinded the delegation to the  
25 Secretary of Defense that purported to allow the secretary to exercise the president’s 5 U.S.C.  
26 § 7103(b)(1) authority. Exec. Order 14018 § 1, 86 Fed. Reg. 11855 (Feb. 24, 2021).

27  
28

1           **III. Plaintiff Unions Speak Out Against Executive Actions by the Trump**  
2           **Administration**

3           99. From the beginning of his second term, President Trump has sought to reduce the  
4 size of, and the protections afforded to, the federal workforce. *See, e.g.*, Exec. Order 14171, 90  
5 Fed. Reg. 8625 (Jan. 20, 2025) (purporting to eliminate civil service protections for “policy-  
6 influencing” positions); Exec. Order 14158, 90 Fed. Reg. 8441 (Jan. 20, 2025) (establishing  
7 “Department of Government Efficiency”).

8           100. Guided by Elon Musk and the Department of Government Efficiency (“DOGE”),  
9 the Trump administration has fired tens of thousands of civil servants who were serving their  
10 probationary period, sought to eradicate entire government agencies, and is seeking to fire tens or  
11 hundreds of thousands more through mass reductions-in-force. *See* Exec. Order 14210, 90 Fed.  
12 Reg. 11095 (Feb. 11, 2025) (calling for “large-scale reductions in force”).

13           101. Plaintiff Unions have been on the front lines in the press, social media, airwaves,  
14 and in the courts opposing the Trump administration’s agenda. This includes lawsuits against the  
15 Trump administration and DOGE’s efforts to strip federal workers of their rights and to fire them  
16 en masse and other examples of executive overreach. *See, e.g.*, *AFGE v. Trump*, No. 1:25-cv-  
17 00264 (D.D.C.) (AFGE, AFSCME); *AFGE v. Ezell*, No. 1:25-cv-10276 (D. Mass.) (AFGE,  
18 AFSCME, NAGE); *AFGE v. OPM*, No. 3:25-cv-01780 (N.D. Cal.) (AFGE, AFSCME);  
19 *Widakuswara v. Lake*, No. 25-cv-002390 (S.D.N.Y.) (AFGE, AFSCME); *AFSCME v. SSA*, No.  
20 1:25-cv-00596 (D. Md.) (AFSCME); *AFL-CIO v. DOL*, No. 1:25-cv-00339 (D.D.C.) (AFSCME,  
21 AFGE, SEIU); *All. for Retired Ams. v. Bessent*, No. 1:25-cv-00313 (D.D.C.) (AFGE, SEIU);  
22 *Somerville Public Schools v. Trump*, No. 1:25-cv-10677 (D. Mass.) (SEIU, AFSCME Council 93);  
23 *NTEU v. Trump*, No. 1:25-cv-00420 (D.D.C.) (NFFE); *AFT v. Bessent*, No. 8:25-cv-00430 (D.  
24 Md.) (NFFE); *Ctr. for Taxpayer Rts. v. IRS*, 1:25-cv-00457, (D.D.C.) (NFFE).

25           102. It could not be clearer that the Trump administration is monitoring which entities  
26 are filing suits against the administration. Musk reposted on X an attack on a coalition of  
27 organizations supporting the civil service, which includes members who have filed suits  
28 challenging Trump administration policies, that characterized the group as conducting a

1 “coordinated hit job” on President Trump’s agenda and directly named Plaintiffs AFGE,  
2 AFSCME, and NFFE. @elonmusk, X (Feb. 12, 2025, 10:28 PM),  
3 <https://x.com/elonmusk/status/1889879302965191056>. Musk also reposted a story on X about a  
4 lawsuit successfully blocking cuts to National Institutes of Health funding stating “Which law  
5 firms are pushing these anti-democratic cases to impede the will of the people?” @elonmusk, X  
6 (Feb. 11, 2025, 1:24 PM), <https://x.com/elonmusk/status/1889380095015465272>.

7 103. And President Trump himself has announced his intention to use his administration  
8 to target groups based on their speech, stating “We have a lot of law firms that we’re going to be  
9 going after . . . [b]ecause they were very dishonest people.” Joe DePaolo, *We Have a Lot of Law*  
10 *Firms We’re Going After’: Trump Declares Plan to Target Law Firms He Considers ‘Very, Very*  
11 *Dishonest’*, Mediaite (Mar. 9, 2025), [https://www.mediaite.com/news/we-have-a-lot-of-law-](https://www.mediaite.com/news/we-have-a-lot-of-law-firms-were-going-after-trump-declares-plan-to-target-law-firms-he-considers-very-very-dishonest/)  
12 [firms-were-going-after-trump-declares-plan-to-target-law-firms-he-considers-very-very-](https://www.mediaite.com/news/we-have-a-lot-of-law-firms-were-going-after-trump-declares-plan-to-target-law-firms-he-considers-very-very-dishonest/)  
13 [dishonest/](https://www.mediaite.com/news/we-have-a-lot-of-law-firms-were-going-after-trump-declares-plan-to-target-law-firms-he-considers-very-very-dishonest/). And during a March 24, 2025 cabinet meeting, President Trump reiterated his intention  
14 to retaliate against law firms, stating “law firms have to behave themselves,” and “they behave  
15 very badly, very wrongly.” Michael Birnbaum, *Law firms refuse to represent Trump opponents in*  
16 *the wake of his attacks*, Washington Post (Mar. 25, 2025),  
17 <https://www.washingtonpost.com/politics/2025/03/25/trump-law-firms/>.

18 104. President Trump has issued multiple executive orders seeking to punish law firms  
19 because they represented clients or causes disfavored by the President. *See, e.g.*, Exec. Order  
20 14230, *Addressing Risks from Perkins Coie LLP* (Mar. 6, 2025) (ordering agencies to terminate  
21 contracts with law firm that Trump claimed “worked . . . to judicially overturn . . . election laws”);  
22 Exec. Order 14237, *Addressing Risks from Paul Weiss* (Mar. 14, 2025) (same, regarding law firm  
23 that “brought a pro bono suit against individuals” involved in the January 6 Capitol riot); Exec.  
24 Order 14246, *Addressing Risks from Jenner & Block* (Mar. 25, 2025) (same, regarding law firm  
25 that Trump claimed “abused its pro bono practice to engage in activities that undermine justice  
26 and the interests of the United States”); Exec. Order, *Addressing Risks from WilmerHale* (Mar. 27,  
27 2025) (same).

28 105. The focus on lawsuits against the administration is further demonstrated by a

1 March 6, 2025 memorandum for agency heads from President Trump stating that “[i]n recent  
2 weeks, activist organizations . . . have obtained sweeping injunctions . . . functionally inserting  
3 themselves into the executive policy making process and therefore undermining the democratic  
4 process” and demanding that agencies request that courts require securities to be posted by parties  
5 seeking preliminary relief.

6 106. Plaintiff Unions, along with their allies, have achieved major success in court cases  
7 challenging the legality of various executive actions taken by the Trump administration. For  
8 example, on March 13, 2025, in a case brought by AFGE, AFSCME, local unions, and non-profit  
9 organizations, a federal judge granted a preliminary injunction from the bench that required  
10 reinstatement of thousands of fired probationary workers at the Departments of Veterans Affairs,  
11 Agriculture, Interior, Energy, Defense, and Treasury. *AFGE v. Ezell*, No. C-25-01780-WHA, 2025  
12 WL 820782 (N.D. Cal. Mar. 14, 2025).

13 107. Each Department ordered to reinstate their unlawfully fired probationary workers  
14 due to *AFGE v. Trump*, or subcomponents thereof, are included in the Exclusion Order.

15 108. On March 21, AFSCME and AFGE joined journalists, other unions, and non-profit  
16 press freedom organizations to challenge the Trump Administration’s dismantlement of the U.S.  
17 Agency for Global Media and its Voice of America media programming, which promotes free  
18 press and democracy abroad. *Widakuswara v. Lake*, No. 25-cv-02390 (S.D.N.Y.). They filed for a  
19 temporary restraining order on March 24, which was granted on March 28.

20 109. Plaintiff Unions have also sought to protect Americans’ data by challenging actions  
21 by DOGE. Unions including AFGE, AFSCME, and SEIU sued the Department of Labor on  
22 February 5, 2025 to protect sensitive data at the DOL. *AFL-CIO v. DOL*, No. 1:25-cv-00339  
23 (D.D.C.). AFGE and SEIU brought a suit against the Treasury Department on February 3, 2025 to  
24 protect sensitive personal and financial data. *All. for Retired Ams. v. Bessent*, No. 1:25-cv-00313  
25 (D.D.C.). NFFE and others sued the Education Department, Treasury Department, and OPM on  
26 February 10, 2025 and obtained a preliminary injunction protecting their members’ data on March  
27 24, 2025. *AFT v. Bessent*, No. DLB-25-0430, 2025 WL 895326 (D. Md. Mar. 24, 2025). And  
28 AFSCME and others sued the Social Security Administration and DOGE and obtained a TRO

1 protecting personal data on March 20, 2025. *AFSCME v. SSA*, No. 1:25-cv-00596, 2025 WL  
2 868953 (D. Md. Mar. 20, 2025.)

3 110. Plaintiff Unions have also worked to enforce the rights of their members and  
4 bargaining unit employees by filing grievances against agencies when Trump administration  
5 policies violate the rights of covered employees. For example, at the VA, AFGE affiliates and  
6 NNOC/NNU have filed grievances on policies including the “5 points” email and cancellation of  
7 alternative workplace arrangements at the VA.

8 **IV. In Response to “Hostile Unions,” Trump Issues the Exclusion Order**

9 111. The night of March 27, 2025, President Trump issued the Exclusion Order. In it, he  
10 declared that pursuant to his authority under 5 U.S.C. § 7103(b), the following agencies and  
11 subdivisions (the “Excluded Agencies”), and accordingly, their employees, were excluded from  
12 Chapter 71 of Title 5:

- 13 a. The Department of State.
- 14 b. The Department of Defense, except for any subdivisions excluded pursuant to  
15 section 4 of the Executive Order of March 27, 2025, entitled ‘Exclusions from  
16 Federal Labor-Management Relations Programs.’
- 17 c. The Department of the Treasury, except the Bureau of Engraving and Printing.
- 18 d. The Department of Veterans Affairs.
- 19 e. The Department of Justice.
- 20 f. Agencies or subdivisions of the Department of Health and Human Services:
  - 21 i. Office of the Secretary.
  - 22 ii. Food and Drug Administration.
  - 23 iii. Centers for Disease Control and Prevention.
  - 24 iv. Administration for Strategic Preparedness and Response.
  - 25 v. Office of the General Counsel.
  - 26 vi. Office of Refugee Resettlement, Administration for Children and Families.
  - 27 vii. National Institute of Allergy and Infectious Diseases, National Institutes of  
28 Health.

- 1 g. Agencies or subdivisions of the Department of Homeland Security:
  - 2 i. Office of the Secretary.
  - 3 ii. Office of the General Counsel.
  - 4 iii. Office of Strategy, Policy, and Plans.
  - 5 iv. Management Directorate.
  - 6 v. Science and Technology Directorate.
  - 7 vi. Office of Health Security.
  - 8 vii. Office of Homeland Security Situational Awareness.
  - 9 viii. U.S. Citizenship and Immigration Services.
  - 10 ix. United States Immigration and Customs Enforcement.
  - 11 x. United States Coast Guard.
  - 12 xi. Cybersecurity and Infrastructure Security Agency.
  - 13 xii. Federal Emergency Management Agency.
- 14 h. Agencies or subdivisions of the Department of the Interior:
  - 15 i. Office of the Secretary.
  - 16 ii. Bureau of Land Management.
  - 17 iii. Bureau of Safety and Environmental Enforcement.
  - 18 iv. Bureau of Ocean Energy Management.
- 19 i. The Department of Energy, except for the Federal Energy Regulatory Commission.
- 20 j. The following agencies or subdivisions of the Department of Agriculture:
  - 21 i. Food Safety and Inspection Service.
  - 22 ii. Animal and Plant Health Inspection Service.
- 23 k. The International Trade Administration, Department of Commerce.
- 24 l. The Environmental Protection Agency.
- 25 m. The United States Agency for International Development.
- 26 n. The Nuclear Regulatory Commission.
- 27 o. The National Science Foundation.
- 28 p. The United States International Trade Commission.

- 1 q. The Federal Communications Commission.
- 2 r. The General Services Administration.
- 3 s. The following agencies or subdivisions of each Executive department listed in
- 4 section 101 of title 5, United States Code, the Social Security Administration, and
- 5 the Office of Personnel Management:
  - 6 i. Office of the Chief Information Officer.
  - 7 ii. any other agency or subdivision that has information resources management
  - 8 duties as the agency or subdivision’s primary duty.

9 112. Although the Exclusion Order purported to be tailored to those agencies and  
10 subdivisions that have as their primary function “intelligence, counterintelligence, investigative,  
11 or national security work,” the Order *carved out* from the exclusion subdivisions of the United  
12 States Marshals Service, as well as “any agency police officers, security guards, or firefighters”  
13 *except* those working at the Bureau of Prisons. Exclusion Order § 2 (1-499(a)).

14 113. Plaintiff AFGE and its affiliated subordinate bodies represent all bargaining unit  
15 employees at the Bureau of Prisons.

16 114. The Exclusion Order permitted the Departments of Defense and Veterans Affairs—  
17 but only these Departments—to suspend the application of the Order and restore Chapter 71  
18 coverage to selected subdivisions. *Id.* § 4. But they must make that determination within 15 days  
19 and publish it in the Federal Register.

20 115. All of the Plaintiff Unions represent employees at the VA whose bargaining rights  
21 are in limbo: their rights were eliminated by the order, and are now at the mercy of a decision by  
22 the VA Secretary. And AFGE, AFSCME, NAGE, and NFFE represent DOD employees in a  
23 similar situation.

24 116. The Exclusion Order delegated authority to the Secretary of Transportation to issue  
25 orders excluding its subdivisions, including the Federal Aviation Administration, from Chapter 71  
26 coverage. *Id.* § 5.

27 117. Plaintiff Unions AFGE, AFSCME, and NAGE represent DOT employees whose  
28 rights are now placed in jeopardy and could be eliminated by the Transportation Secretary.

1 118. The Exclusion Order signals that additional exclusions are forthcoming: it asks each  
2 agency head to report within 30 days to the President which additional agency subdivisions they  
3 determine should be excluded from Chapter 71. *Id.* § 7.

4 119. Each of the Plaintiff Unions represents employees at some of these currently non-  
5 excluded agencies and/or subdivisions, such that their members' collective bargaining rights are  
6 hanging in the balance.

7 120. The Exclusion Order directs agency heads to, "upon termination of the applicable  
8 collective bargaining agreement," reassign employees who were conducting official time business,  
9 terminate pending grievance proceedings, and terminate proceedings before the Federal Labor  
10 Relations Authority involving exceptions or arbitral awards or unfair labor practices. *Id.* § 6.

11 121. At no point did President Trump give notice or the underlying unclassified evidence  
12 supporting his determination to the affected employees and exclusive representatives whose  
13 statutory bargaining rights he eliminated and whose contracts he abrogated.

14 122. The affected employees and exclusive representatives also had no opportunity to  
15 rebut the evidence underlying the determination that purportedly formed the basis of the exclusion.

16 123. A White House spokesperson explained the President's motivation for the  
17 Exclusion Order: "The goal is to stop employees in certain security-related agencies from  
18 unionizing in ways that disrupt the president's agenda." Rebecca Davis O'Brien, "Trump Order  
19 Could Cripple Federal Worker Unions Fighting DOGE Cuts," *New York Times* (Mar. 29, 2025)  
20 <https://www.nytimes.com/2025/03/29/us/politics/federal-worker-unions-doge.html>.

21 **OPM Exclusion Memorandum**

22 124. Before the Executive Order was publicly issued, Charles Ezell, the Acting Director  
23 of the Office of Personnel Management, issued a memorandum to heads and acting heads of  
24 departments and agencies titled "Guidance of Executive Order Exclusions from Federal Labor-  
25 Management Programs" ("Exclusion Memorandum").

26 125. OPM's Exclusion Memorandum explained that Chapter 71 and the Foreign Service  
27 Labor-Management Relations Statute "will no longer apply" to the agencies listed in the Exclusion  
28 Order. Exclusion Memorandum p.1.

1 126. As such, the Exclusion Memorandum stated that “those agencies and subdivisions  
2 are no longer required to collectively bargain with Federal unions.” *Id.* at 3.

3 127. The Exclusion Memorandum emphasized that the Exclusion Order caused unions  
4 to “lose their status as the ‘exclusive[ly] recogni[zed]’ labor organizations for employees of the  
5 agencies and agency subdivisions covered by” the Order. *Id.*

6 128. The Exclusion Memorandum then instructed agencies to “consider and implement  
7 the changes described below,” outlining “some common provisions of agency CBAs that may be  
8 inconsistent with the President’s policies and management priorities.” *Id.*

9 129. OPM instructed agencies “[t]o implement [the Exclusion Order], agencies should  
10 cease participating in grievance procedures after terminating their CBAs.” *Id.* at 5.

11 130. Highlighting that the Exclusion Order is intended to make it easier to fire workers  
12 en masse, OPM also instructed agencies to “[d]isregard [c]ontractual RIF [a]rticles,” such that  
13 “[a]fter terminating their CBAs,” they “should conduct RIFs . . . without regard to provisions in  
14 terminated CBAs that go beyond” statutory and regulatory requirements. *Id.*

15 131. OPM instructed agencies that after they “terminate CBAs that require [Performance  
16 Improvement Plans (“PIPs”)] of more than 30 days, they should take prompt action to reduce PIPs  
17 for former bargaining unit employees to no more than 30 days.” *Id.* at 4.

18 132. OPM instructed agencies “that have terminated their CBAs” to “thereafter use  
19 chapter 75 procedures to separate underperforming employees without PIPs in appropriate cases.”  
20 *Id.*

21 133. OPM explained that “employees no longer have representational activities to  
22 conduct once their agency or subdivision has been excluded from the [Chapter 71] coverage,” such  
23 that the Exclusion Order “requires agencies to promptly return” employees on official time to  
24 conduct representational work “to performing solely agency business.” *Id.* at 6.

25 134. OPM also instructed agencies that “[w]hen a covered agency terminates its CBAs,”  
26 they should terminate allotments to dues payments through agency payroll systems. *Id.*

27 **White House Fact Sheet**

28 135. That same night, the White House issued a Fact Sheet describing its Exclusion

1 Order. The White House, Fact Sheet: President Donald J. Trump Exempts Agencies with National  
2 Security Missions from Federal Collective Bargaining Requirements (Mar. 27, 2025)  
3 [https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-exempts-](https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-exempts-agencies-with-national-security-missions-from-federal-collective-bargaining-requirements/)  
4 [agencies-with-national-security-missions-from-federal-collective-bargaining-requirements/](https://www.whitehouse.gov/fact-sheets/2025/03/fact-sheet-president-donald-j-trump-exempts-agencies-with-national-security-missions-from-federal-collective-bargaining-requirements/).

5 136. The Fact Sheet laid bare the true reason for the President’s Exclusion Order:  
6 retaliating against Plaintiff Unions for daring to stand up and oppose “President Trump’s agenda.”

7 137. In the Fact Sheet, the White House referred to “hostile Federal unions” and asserted  
8 that “Certain Federal unions have declared war on President Trump’s agenda.”

9 138. The Fact Sheet stated that “[t]he largest Federal union”—Plaintiff AFGE—  
10 “describes itself as ‘fighting back’ against Trump. It is widely filing grievances to block Trump  
11 policies.”

12 139. The Fact Sheet further highlighted that “VA’s unions have filed 70 national and  
13 local grievances over President Trump’s policies since the inauguration – an average of over one  
14 a day.”

15 140. Each Plaintiff Union represents employees at the VA, and most Plaintiff Unions or  
16 their affiliates have filed grievances to advocate for their members’ rights at the VA since President  
17 Trump’s inauguration.

18 141. The Fact Sheet also made clear that President Trump was targeting unions based  
19 on their viewpoint, stating “President Trump supports constructive partnerships with unions who  
20 work with him; he will not tolerate mass obstruction that jeopardizes his ability to manage agencies  
21 with vital national security missions.”

22 **Waco Lawsuit**

23 142. The same night, and on information and belief before the Exclusion Order was  
24 published on the White House website, the Departments of Defense, Agriculture, Homeland  
25 Security, Housing and Urban Development, Justice, and Veterans Affairs, along with the  
26 Environmental Protection Agency and Social Security Administration, filed suit in the Western  
27 District of Texas at Waco against a collection of local unions and councils (the “Waco Lawsuit”).

28 143. All of the local unions and councils sued in the Waco Lawsuit are affiliated with

1 Plaintiff AFGE.

2 144. In the Waco Lawsuit, the Trump administration attacks core tenets of the collective  
3 bargaining framework set forth by Congress in Chapter 71 of Title 5.

4 145. For example, it decries that CBAs include provisions related to “unaccountable  
5 private arbitrators in the form of grievance adjudication,” Waco Compl. ¶ 3, despite the fact that  
6 Congress provided that all CBAs “shall provide procedures for the settlement of grievances,  
7 including questions of arbitrability” and that grievance procedures in federal CBAs “shall be  
8 subject to binding arbitration,” 5 U.S.C. § 7121(b)(1)(C)(iii); *see also* Waco Compl. ¶ 104 (noting  
9 that a CBA requires an agency “to arbitrate grievances at the union’s request”).

10 146. In the Waco Lawsuit, the plaintiff departments contend that the Exclusion Order,  
11 in conjunction with Chapter 71 and the Foreign Service Labor Relations Act, “vitiat[e] their CBAs  
12 with Defendants.” Waco Compl. ¶ 13.

13 147. The Waco Lawsuit highlights that Plaintiff AFGE has published an article on its  
14 website stating it is “fighting back” against the Trump administration’s “Attacks on Civil Service.”  
15 Waco Compl. ¶ 172.

16 148. That article, published March 3, 2025, catalogued an extensive list of First  
17 Amendment-protected activities in which AFGE was engaged in response to executive actions  
18 taken by the Trump administration. It highlighted AFGE’s involvement in seven lawsuits against  
19 the administration in federal court. These included not only lawsuits to protect the rights of federal  
20 employees, but also multiple lawsuits “against the administration for sharing confidential data with  
21 the so-called Department of Government Efficiency (DOGE) run by Elon Musk.” It stated that  
22 AFGE “continues to educate the public about the impact of these anti-worker policies on federal  
23 employees and the American people who rely on them to provide the services they have paid for  
24 and deserve” and its “leaders have been giving interviews to the media and have been quoted  
25 extensively on the danger of these policies.” And it explained that it was “working with councils  
26 and locals in drafting local and national grievances against actions that violated our contracts.”  
27 AFGE, *What AFGE Is Doing: A Recap of AFGE’s Major Actions Against Trump’s Attacks on*  
28 *Civil Service* (Mar. 3, 2025), <https://www.afge.org/article/what-afge-is-doing-a-recap-of-afges->

1 major-actions-against-trumps-attacks-on-civil-service-2/.

2 149. The various departments bringing the Waco Lawsuit requested declaratory relief  
3 that they “have the power to terminate the subject CBAs pursuant to the Executive Order.” Waco  
4 Compl. ¶ 176.

5 **V. Plaintiff Unions’ Representation of Employees at Excluded Agencies and the DOT**

6 150. AFGE represents approximately 6,490 employees working at the Department of  
7 State, including at the Bureau of the Comptroller. Its members provide office support and  
8 assistance to the department.

9 151. NFFE represents approximately 1,540 employees working at Passport Services at  
10 the Department of State. Its members process millions of passport applications for American  
11 citizens.

12 152. AFGE represents nearly 250,000 civilian employees working throughout the  
13 Department of Defense, at a wide variety of agencies including but not limited to the Defense  
14 Health Agency, Army and Air Force Exchange Services, Defense Commissary Agency, Defense  
15 Contract Management Agency, Defense Finance and Accounting Service, and service branches  
16 including the Army, Air Force, Marine Corps, Navy, and National Guard.

17 153. AFSCME represents around 400 federal employees who, as registered nurses,  
18 provide health care at the Naval Medical Center San Diego, a component of the DOD.

19 154. NAGE represents approximately 40,000 employees working at Defense agencies  
20 including but not limited to Army and Air Force Exchange Services, Defense Commissary  
21 Agency, the Navy Exchange, Defense Intelligence Agency, and service branches including the  
22 Army, Air Force, Marine Corps, Navy, and National Guard.

23 155. NFFE represents approximately 21,900 employees working at Defense agencies  
24 including Defense Health Agency and service branches including the Army, Air Force, Space  
25 Force, Marine Corps, Navy and Coast Guard.

26 156. AFGE represents approximately 1,100 employees working at the U.S. Mint in the  
27 Department of Treasury. Its members include coin press operators, machinists, police officers, and  
28 other professional and non-professional staff.

1 157. AFGE represents approximately 320,000 employees working throughout the VA.  
2 AFGE members, many who are veterans themselves, serve veterans working in a variety of roles,  
3 including pharmacists, nurses, social workers, chaplains, housekeeping aids, veterans claim  
4 examiners, veterans service representatives, canteen staff, custodians, and physicians.

5 158. NNOC/NNU represents approximately 16,400 Registered Nurses working at the  
6 VA. RNs represented by NNOC/NNU provide care to our nation's Veterans, through a broad range  
7 of services, including but not limited to inpatient and outpatient services, care at and away from  
8 the bedside, working in units ranging from critical care units to in-home services, and also  
9 providing patient education.

10 159. SEIU and/or its affiliates represent approximately 27,000 employees providing  
11 services to veterans at the VA.

12 160. NAGE represents approximately 22,000 employees working at the VA. NAGE  
13 members serve veterans in a variety of ways including as physicians, nursing staff, pharmacists,  
14 technicians, medical support assistants, counselors, therapists, administrative staff, food service  
15 workers, groundskeepers, janitorial staff, and cemetery workers.

16 161. AFSCME represents approximately 850 employees who, as registered nurses,  
17 provide health care at the VA.

18 162. NFFE represents approximately 9,700 employees working at the VA.

19 163. AFGE represents approximately 28,000 employees, primarily corrections officers,  
20 at the Department of Justice working at the Bureau of Prisons and Executive Office for  
21 Immigration Review.

22 164. AFSCME represents approximately 600 employees at the DOJ working for the  
23 Office of Justice Programs, the DOJ's largest grant making component. It also represents DOJ  
24 employees at the U.S. Parole Commission, Justice Management Division, Office of Community  
25 Oriented Policing Services, and some of the DOJ's Litigation Divisions. In total AFSCME  
26 represents around 1,500 DOJ employees.

27 165. AFGE represents approximately 2,500 employees at the Department of Health and  
28 Human Services working at the Center for Disease Control and Prevention, who serve in various

1 positions such as health communication specialists. In addition, AFGE represents approximately  
2 100 employees at the Department of Health and Human Services working at the Food and Drug  
3 Administration, who serve in various positions.

4 166. AFGE represents approximately 25,000 employees at the Department of Homeland  
5 Security in subcomponents included in the Exclusion Order. The employees represented by AFGE  
6 are employees working at Citizenship and Immigration Services in positions such as economists,  
7 program analysts at the Federal Emergency Management Agency, mechanics and financial clerks  
8 for the U.S. Coast Guard, and professional employees at Immigration and Customs Enforcement.

9 167. AFGE represents approximately 800 employees at the Department of Interior. The  
10 employees represented by AFGE are employees of the National Information Resources  
11 Management Center, Bureau of Land Management, and Office of Secretary in various positions.

12 168. NFFE represents approximately 1,500 employees at the Department of Interior's  
13 Bureau of Land Management.

14 169. AFGE represents approximately 3,800 employees at the Department of Energy in  
15 excluded components. The employees represented by AFGE are professional and non-professional  
16 employees.

17 170. AFGE represents approximately 6,000 employees in the Food Safety and  
18 Inspection Service and the Animal and Plant Health Inspection Service at the Department of  
19 Agriculture.

20 171. NFFE represents approximately 120 employees at the Animal and Plant Health  
21 Inspection Service at the Department of Agriculture. NFFE also represents approximately 130  
22 employees at the Office of the Chief Information Officer at the Department of Agriculture.

23 172. AFGE represents approximately 8,500 employees working at the Environmental  
24 Protection Agency in a variety of positions, including budget analysts, program analysts,  
25 biologists, chemists, and lawyers.

26 173. NAGE represents approximately 400 employees working at the Environmental  
27 Protection Agency in a variety of positions.

28 174. AFGE represents approximately 1,000 USAID employees working in a variety of

1 positions, including program analysts.

2 175. AFGE represents approximately 700 employees working at the National Science  
3 Foundation in a variety of positions, including IT specialists and mathematicians.

4 176. AFGE represents approximately 250 employees working at the International Trade  
5 Commission in a variety of positions.

6 177. AFGE represents approximately 4,000 employees working at the General Services  
7 Administration in a variety of positions, including architects, accountants, engineers, contract  
8 specialists, project managers, program analysts, and realty specialists.

9 178. NFFE represents approximately 3,100 employees working at the General Services  
10 Administration.

11 179. NAGE represents approximately 800 employees working at the Federal Aviation  
12 Administration and the U.S. Volpe National Transportation Center, contained within the  
13 Department of Transportation, in a variety of positions, including flight data specialists, engineers,  
14 scientists, community planners, and others.

15 180. AFSCME represents approximately 2,000 non-supervisory employees working at  
16 the Federal Aviation Administration, contained within the Department of Transportation.

17 181. NFFE represents approximately 800 employees working at the Federal Aviation  
18 Administration, contained within the Department of Transportation.

19 182. AFGE represents approximately 4,600 employees at the Department of  
20 Transportation, including employees at the FAA, FRA, FTA, NHTSA, PHMSA, FMCSA and  
21 Great Lakes Saint Lawrence Seaway Development Corporation. AFGE members at the Department  
22 of Transportation work in a variety of positions including program analysts and economists.

23 183. AFGE represents employees in the Office of Chief Information Officer at the Social  
24 Security Administration, the Department of Housing and Urban Development, the Department of  
25 Education, and the Office of Personnel Management.

26 **VI. Plaintiff Unions and Their Members Have Been Harmed by the Exclusion Order**

27 184. Plaintiff Unions AFGE, AFSCME, NNOC/NNU, SEIU, NAGE, and NFFE on their  
28 own or in conjunction with their affiliated councils and locals, represent members and bargaining

1 unit employees in agencies and departments across the federal government for which they or their  
2 affiliates have been certified as the exclusive representative pursuant to 5 U.S.C. § 7111.

3 185. As described above, Plaintiff Unions represent members and bargaining unit  
4 employees at agencies included in the Exclusion Order.

5 186. Membership in Plaintiff Unions is voluntary.

6 187. The leadership of Plaintiff Unions are democratically elected by and from their  
7 respective members.

8 188. The activities of Plaintiff Unions are funded by their members through voluntary  
9 membership dues.

10 189. AFGE represents approximately 660,000 civilian employees working in Excluded  
11 Agencies, including DOD, Treasury, VA, DOJ, HHS, DHS, Interior, Energy, USDA, EPA,  
12 USAID, and GSA.

13 190. AFSCME represents approximately 2,700 civilian employees working in Excluded  
14 Agencies, including DOD, VA, and DOJ.

15 191. NNOC/NNU represents approximately 16,400 civilian employees working at the  
16 VA, an Excluded Agency.

17 192. SEIU and/or its affiliates represents approximately 27,000 civilian employees  
18 working at the VA, an Excluded Agency.

19 193. NAGE represents approximately 62,400 civilian employees working in Excluded  
20 Agencies, including DOD, VA, and EPA.

21 194. NFFE represents approximately 37,900 civilian employees working in Excluded  
22 Agencies, including DOD, VA, Interior (BLM), USDA (APHIS), State, and GSA.

23 195. Plaintiff Unions' representation of federal civilian employees includes engaging in  
24 collective bargaining with federal agencies, providing representation in binding arbitrations and  
25 other matters, including formal discussions and investigative examinations, arising under the  
26 Federal Service Labor-Management Relations Statute, 5 U.S.C. Ch. 71, political advocacy, the  
27 submission of public comments to agency rulemakings, and litigation in court.

28 196. By removing a wide swath of agencies at which Plaintiffs represent employees from

1 the coverage of Chapter 71, the Exclusion Order dramatically impairs the ability of Plaintiff  
2 Unions and their affiliates to perform core services for their members: representing them in  
3 negotiations with agencies to secure binding collective bargaining agreements covering federal  
4 employees' working conditions, and enforcing those obligations through contractual grievance  
5 procedures and before the Federal Labor Relations Authority.

6 197. Because of the Exclusion Order, Plaintiff Unions and/or their affiliated subordinate  
7 bodies have lost "their status as the 'exclusive[ly] recogni[zed]' labor organizations for the  
8 employees of the" Excluded Agencies. Exclusion Memorandum at 3.

9 198. As a result of the Exclusion Order, Excluded Agencies are refusing to participate  
10 in proceedings before the Federal Labor Relations Authority

11 199. For example, one Excluded Agency has informed AFGE and Federal Labor  
12 Relations Authority that it is no longer engaging in the process to hold an election to determine if  
13 employees wish to be represented by AFGE pursuant to a petition for representation filed in  
14 February. And the FLRA has informed NNOC/NNU that a representation case hearing was  
15 "indefinitely postponed" due to the Exclusion Order.

16 200. As a result of the Exclusion Order, Excluded Agencies are refusing to honor  
17 contractual obligations made to their employees and their exclusive representatives, including  
18 Plaintiff AFGE's members and affiliates.

19 201. For example, one Excluded Agency has informed an AFGE member that it will not  
20 take further action on a grievance due to the Exclusion Order and Exclusion Memorandum.

21 202. Each Plaintiff Union has also been harmed by its loss of bargaining power resulting  
22 from the Exclusion Order.

23 203. Plaintiff Unions' members have now lost contractual rights and protections  
24 governing their working conditions that they had obtained through collective bargaining. For  
25 example, members have lost rights covering safety and health requirements to ensure their welfare,  
26 protections for workers regarding reduction-in-force ("RIF") actions and procedures, procedures  
27 for and limits on discipline and adverse actions against members, and provisions covering working  
28 hours, overtime, sick leave, and time off.



1           212. AFGE, AFSCME, SEIU, NAGE, and NFFE have exercised their First Amendment  
2 right to petition the government by filing lawsuits against the Trump administration challenging a  
3 variety of anti-worker actions and other aspects of “Trump’s agenda” that Plaintiffs believe exceed  
4 the authority of the executive branch. Plaintiffs have also made public statements critical of  
5 policies advanced by the Trump administration.

6           213. Plaintiff Unions and their affiliates have also petitioned the government by filing  
7 grievances challenging Trump administration policies that have harmed their federal employee  
8 bargaining unit members.

9           214. The Exclusion Order and OPM’s Exclusion Memorandum were initiated, and were  
10 issued, in retaliation for Plaintiff Unions’ protected exercise of their First Amendment rights.

11           215. In direct response and in close temporal proximity to this First Amendment-  
12 protected activity, Defendants have retaliated against the Plaintiff Unions by eliminating their  
13 status as exclusive representative for a substantial number of their federal employee members and  
14 excluding those members from federal labor law protection.

15           216. Defendants have further stated their intent to rescind numerous binding CBAs and  
16 terminate outstanding grievances pursuant to the retaliatory Exclusion Order.

17           217. The elimination of the right to serve as exclusive representative, abrogation of  
18 contracts, and associated economic injury to Plaintiff Unions serves to chill First Amendment  
19 protected conduct by a person of ordinary firmness.

20           218. Public statements confirm that the Exclusion Order was retaliatory and based on  
21 Plaintiff Unions’ views: the White House’s own Fact Sheet justified the Order by claiming that  
22 “Certain Federal unions have declared war on President Trump’s agenda” and “[t]he largest  
23 Federal union describes itself as ‘fighting back’ against Trump.”

24           219. The same night the Exclusion Order was released, the Trump administration filed  
25 suit seeking declaratory relief that it may rescind its binding CBAs pursuant to the Exclusion  
26 Order. The lawsuit was filed exclusively against affiliates of AFGE, the “largest Federal union”  
27 targeted in the Fact Sheet.

28           220. The Fact Sheet confirms the intended chilling effect of the Exclusion Order on other

1 unions with a viewpoint-based threat. The Fact Sheet concludes by stating, “President Trump  
2 *supports constructive partnerships with unions who work with him; he will not tolerate mass*  
3 *obstruction* that jeopardizes his ability to manage agencies with vital national security missions.”  
4 (emphasis added).

5 221. The chill resulting from the Exclusion Order is heightened even further because it  
6 delegates authority to some agency heads to determine whether certain subdivisions should be  
7 excluded or included in Chapter 71 protections and asks all agency heads to suggest additional  
8 exclusions.

9 222. All Plaintiff Unions represent employees in agencies where the threat remains that  
10 additional bargaining rights will be stripped away. Paired with the Fact Sheet’s admonition that  
11 Trump supports “unions who work with him,” this encourages unions to refrain from voicing  
12 political views critical of the Trump administration or publicly support Trump, or else face the  
13 elimination of their representation rights and membership.

14 **Count II**

15 *Ultra vires (Violation of Chapter 71 of Title 5/Separation of Powers)*

16 223. Plaintiffs reallege Paragraphs 1 through 222.

17 224. Pursuant to 5 U.S.C. § 7103(b)(1), agencies or subdivisions thereof may only be  
18 excluded from Chapter 71 if (1) “the agency or subdivision has as a primary function intelligence,  
19 counterintelligence, investigative, or national security work,” and (2) “the provisions of [Chapter  
20 71] cannot be applied to that agency or subdivision in a manner consistent with national security  
21 requirements and considerations.”

22 225. Decades of consistent practice demonstrates that this exclusion is meant to be  
23 applied narrowly.

24 226. The very Federal Labor Relations Authority case cited by the Executive Order  
25 cautions that “national security” must be read narrowly in light of the fact that “[I]abor  
26 organizations and collective bargaining in the civil service have been determined by the congress  
27 to be ‘in the public interest.’” *Dep’t of Energy and NAGE, Local R5-181*, 4 F.L.R.A. 644 (1980)  
28 (quoting 5 U.S.C. § 7101(a)).



1 provides that “[n]o person shall be . . . deprived of life, liberty, or property without due process of  
2 law.” U.S. Const. amend. V.

3 235. “Valid contracts are property, whether the obligor be a private individual, a  
4 municipality, a state, or the United States. Rights against the United States arising out of a contract  
5 with it are protected by the Fifth Amendment.” *Lynch v. United States*, 292 U.S. 571, 579 (1934).

6 236. Chapter 71 makes clear that federal collective bargaining agreements are binding  
7 on all parties. *See* 5 U.S.C. §§ 7114, 7116.

8 237. Agency terminations of federal CBAs and outstanding grievances pursuant to the  
9 Exclusion Order and Exclusion Memorandum will deprive Plaintiff Unions, their affiliates, and  
10 their members of constitutionally protected property interests contained in collective bargaining  
11 agreements with the Excluded Agencies.

12 238. The Supreme Court and the Ninth Circuit have recognized that due process  
13 generally “requires, at the least, that an affected party be informed of the official action, be given  
14 access to the unclassified evidence on which the official actor relied[,] and be afforded an  
15 opportunity to rebut that evidence.” *Kashem v. Barr*, 941 F.3d 358, 384 (9th Cir. 2019) (quoting  
16 *Ralls Corp. v. Comm. on Foreign Inv. in U.S.*, 758 F.3d 296, 319 (D.C. Cir. 2014)).

17 239. Even if national security concerns are implicated, due process of law requires  
18 “notice of, and access to, the unclassified information” underlying the decision. *Id.* (quoting *Ralls*  
19 *Corp.*, 758 F.3d at 320).

20 240. Because the Exclusion Order was issued without giving Plaintiff Unions and other  
21 affected parties notice, the underlying unclassified evidence supporting the president’s  
22 determination, and an opportunity to rebut that evidence, it should be enjoined.

#### 23 **Count IV**

##### 24 *Violation of the Fifth Amendment (Abrogation of Property Rights in Federal Contract)*

25 241. Plaintiffs reallege Paragraphs 1 through 240.

26 242. “The United States are as much bound by their contracts as are individuals. If they  
27 repudiate their obligations, it is as much repudiation, with all the wrong and reproach that term  
28 implies, as it would be if the repudiator had been a State or a municipality or a citizen.” *Lynch v.*

1 *United States*, 292 U.S. 571, 580 (1934) (quoting *The Sinking Fund Cases*, 99 U.S. 700, 719  
2 (1878)).

3 243. Because Congress authorized the Excluded Agencies to form binding contracts that  
4 created protected property interests, “the due process clause prohibits the United States from  
5 annulling them, unless, indeed, the action taken falls within the federal police power or some other  
6 paramount power.” *Id.* at 579.

7 244. Because the Exclusion Order abrogates Plaintiff Unions’ contracts with the federal  
8 government and associated property interests, it violates the Fifth Amendment and should be  
9 enjoined.

10 **Count V**

11 *Violation of the Fifth Amendment (Equal Protection)*

12 245. Plaintiffs reallege Paragraphs 1 through 244.

13 246. The Due Process Clause contains “an equal protection component” that binds the  
14 federal government in the same way that the Equal Protection Clause binds the states. *United States*  
15 *v. Carrillo-Lopez*, 68 F.4th 1133, 1139 (9th Cir. 2023) (internal quotations omitted).

16 247. The Equal Protection clause is violated when the government singles out similarly  
17 situated entities for adverse treatment without a constitutionally legitimate justification. A “bare  
18 ... desire to harm a politically unpopular group” is not a legitimate government interest. *City of*  
19 *Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 446 (1985). Moreover, the government “may  
20 not rely on a classification whose relationship to an asserted goal is so attenuated as to render the  
21 distinction arbitrary or irrational.” *Id.*

22 248. The Exclusion Order’s division between which agencies and subdivisions are  
23 excluded from Chapter 71 demonstrates that the purported national security rationale is “so  
24 attenuated as to render the distinction arbitrary or irrational.” The Exclusion Order permits police  
25 officers, security guards, and firefighters working at otherwise excluded agencies to remain  
26 protected by Chapter 71—except for those working at the AFGE-represented Bureau of Prisons,  
27 whose labor rights were eliminated. Similarly, AFSCME-represented employees at DOJ working  
28 on policing issues have lost bargaining rights on supposed national security grounds, while the

1 police whose work they support retain their bargaining rights.

2 249. In addition, the same features of Congress’s collective bargaining framework that  
3 the government contends impede its national security goals—such as binding CBAs that take  
4 precedence over new agency regulations and grievance and arbitration procedures, *see* Waco  
5 Compl. ¶¶ 78, 104—apply to CBAs covering police and firefighters.

6 250. The government’s own statements demonstrate that the distinctions contained in  
7 the Exclusion Order are based on which unions the Trump administration deems “hostile” because  
8 they have engaged in speech and petitioning activity critical of President Trump’s agenda.  
9 Punishing Plaintiffs for their constitutionally protected activity is not a legitimate government  
10 interest.

11 251. Because the Exclusion Order violates equal protection principles, it should be  
12 enjoined.

13 **Relief Requested**

14 **WHEREFORE**, Plaintiff pray that this Honorable Court enter an ORDER:

- 15 A. Declaring that the Exclusion Order, the Exclusion Memorandum, and the  
16 associated termination of federal CBAs and grievances violates the First  
17 Amendment, Fifth Amendment, and is *ultra vires*;
- 18 B. Enjoining the Defendants and their agents and successors from implementing or  
19 otherwise giving effect to the Exclusion Order and Exclusion Memorandum;
- 20 C. Directing Defendants to honor the assignment of union dues by continuing to allot  
21 union membership dues and to remit any dues that have been collected;
- 22 D. Granting Plaintiffs’ attorney’s fees and costs; and
- 23 E. Granting such other relief as this Court may deem just and proper.

24 Respectfully submitted,

25 DATED: April 3, 2025

26 /s/ Leon Dayan  
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