

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

AMERICAN PUBLIC HEALTH
ASSOCIATION, *et al.*,

Plaintiffs,

v.

NATIONAL INSTITUTES OF HEALTH, *et al.*,

Defendants.

Civil Action No. 1:25-cv-10787-WGY

DEFENDANTS' MERITS BRIEF ON PHASE 1

This Court is well versed in the facts and procedural history in this case and the related matter, *Massachusetts, et al. v. Kennedy, et al.*, No. 1:25-cv-10814-WGY. At the combined June 3 Status Conference, this Court consolidated the “Phase 1” proceedings in both cases and set a merits hearing for June 16, 2025, at 10:00 a.m. *See* ECF No. 87; No. 25-cv-10814-WGY, ECF No. 119. That same day, the Court adopted in both cases the joint statement submitted in the related case proposing deadlines for simultaneous merits briefing and responses, but agreed to extend certain deadlines concerning Plaintiffs’ request to submit extra-record evidence. *See id*; *see also* No. 25-cv-10814-WGY, ECF No. 113.

The issues raised in the two cases overlap significantly, and the substantive arguments have been — and continue to be — addressed in the pleadings filed in both matters. For the sake of judicial efficiency, rather than repeating the arguments raised by Defendants in *Massachusetts*, the Defendants incorporate by reference, as though fully set forth herein, all arguments made in Defendants’ Merits Brief that will be filed today in *Massachusetts v. Kennedy*, 1:25-cv-10814, except for Defendants’ arguments concerning Plaintiffs’ purported Constitutional claims because

those claims (Counts IV, VI, and VII) have already been dismissed in this case. *See* ECF No. 84. Each set of Defendants reserve the right, however, to file separate responsive briefs in each of the cases limited to the arguments raised by the respective Plaintiffs' opening briefs.

Respectfully submitted,

LEAH B. FOLEY
United States Attorney

Dated: June 9, 2025

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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: June 9, 2025

/s/ Anuj K. Khetarpal
Anuj Khetarpal