IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW MEXICO,
408 Galisteo St.
Santa Fe, NM 87501;

STATE OF ARIZONA,
2005 N. Central Ave.
Phoenix, AZ 85004;

THE PEOPLE OF THE STATE OF MICHIGAN,
525 Ottawa St.
Lansing, MI 48933;

STATE OF CALIFORNIA,
1300 I St.
Sacramento, CA 95814;

STATE OF CONNECTICUT,
165 Capitol Ave.
Hartford, CT 06106;

STATE OF HAWAI'I,
425 Queen St
Honolulu, HI 96813;

STATE OF MARYLAND,
200 St. Paul Place, 20th Fl.
Baltimore, MD 21202;

STATE OF MASSACHUSETTS,
1 Ashburton Pl
Boston, MA 02108

STATE OF MINNESOTA,
445 Minnesota St., Ste. 600
St. Paul, MN 55101;

STATE OF NEVADA
1 State of Nevada Way, Ste. 100

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

C.A. No. _____

Las Vegas, NV 89119

STATE OF OREGON,
100 SW Market St
Portland, OR 97210

STATE OF RHODE ISLAND,
150 South Main St
Providence, RI 02903;

STATE OF VERMONT,
109 State St.
Montpelier, VT 05609;

STATE OF WASHINGTON,
800 Fifth Ave., Ste. 2000
Seattle, WA 98104;

Plaintiffs,

v.

ELON MUSK, in his official capacity,
c/o Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20530

U.S. DOGE SERVICE
1600 Pennsylvania Avenue, NW
Washington, DC 20530

U.S. DOGE SERVICE TEMPORARY ORGANIZATION,
c/o Executive Office of the President
1600 Pennsylvania Avenue, NW
Washington, DC 20530

DONALD J. TRUMP, in his official capacity as PRESIDENT OF THE UNITED STATES,
1600 Pennsylvania Avenue, NW
Washington, DC 20530

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. There is no greater threat to democracy than the accumulation of state power in the hands of a single, unelected individual. Although our constitutional system was designed to prevent the abuses of an 18th century monarch, the instruments of unchecked power are no less dangerous in the hands of a 21st century tech baron. In recent weeks, Defendant Elon Musk, with President Donald J. Trump's approval, has roamed through the federal government unraveling agencies, accessing sensitive data, and causing mass chaos and confusion for state and local governments, federal employees, and the American people.

2. Oblivious to the threat this poses to the nation, President Trump has delegated virtually unchecked authority to Mr. Musk without proper legal authorization from Congress and without meaningful supervision of his activities. As a result, he has transformed a minor position that was formerly responsible for managing government websites into a designated agent of chaos without limitation and in violation of the separation of powers.

3. The Founders of this country fought for independence from the British monarchy due in no small part to the King's despotic power to create an unlimited number of governmental offices and to fill those offices with the King's supporters. In fact, this practice so severely undermined the Founders' freedoms that it is a listed grievance in the Declaration of Independence.

4. Informed by that history, the Framers of the Constitution crafted the Appointments Clause to protect against such tyranny in our system of government. The Appointments Clause

was designed to buttress the separation of powers in two ways: first by requiring that Congress create an office before the President can fill it, and second by requiring that the Senate confirm a nominee to an office created by law. These limitations on the President's power make executive appointments accountable to Congress and make the Senate's confirmation decisions accountable to the people. *See United States v. Arthrex*, 594 U.S. 1, 12 (2021). In this way, the Appointments Clause serves a vital role in curbing Executive abuses of power.

5. Mr. Musk's seemingly limitless and unchecked power to strip the government of its workforce and eliminate entire departments with the stroke of a pen or click of a mouse would have been shocking to those who won this country's independence. There is no office of the United States, other than the President, with the full power of the Executive Branch, and the sweeping authority now vested in a single unelected and unconfirmed individual is antithetical to the nation's entire constitutional structure.

6. Mr. Musk does not occupy an office of the United States and has not had his nomination for an office confirmed by the Senate. His officer-level actions are thus unconstitutional. This Court should restore constitutional order and, consistent with the Appointments Clause, enjoin Mr. Musk from issuing orders to any person in the Executive Branch outside of DOGE and otherwise engaging in the actions of an officer of the United States, and declare that his actions to date are *ultra vires* and of no legal effect.

JURISDICTION AND VENUE

7. The Court has jurisdiction under 28 U.S.C. §§ 1331 and 2201(a).

8. The Court may grant declaratory, injunctive and other relief pursuant to 28 U.S.C. §§ 2201–02.

9. An actual controversy exists between the parties within the meaning of 28 U.S.C. § 2201(a).

10. Venue is proper in the District of Columbia under 28 U.S.C. §§ 1391(b)(2) and (e)(1). Defendants are organizations of the United States, the President of the United States, and an individual employed by the United States sued in his official capacity, and a substantial part of the events or omissions giving rise to the claims in this Complaint occurred and continue to occur within this District.

PARTIES

A. Plaintiffs

11. Plaintiff the State of New Mexico is a sovereign state of the United States. New Mexico is represented by Attorney General Raúl Torrez. The Attorney General is New Mexico's chief law enforcement officer and is authorized to pursue this action pursuant to N.M. Stat. Ann. § 8-5-2(B).

12. Plaintiff the State of Arizona is a sovereign state of the United States. Arizona is represented by Attorney General Kris Mayes. The Attorney General is Arizona's chief law enforcement officer and is authorized to pursue this action pursuant to Arizona Revised Statutes § 41-193(A)(3).

13. Plaintiff the People of the State of Michigan is represented by Attorney General Dana Nessel. The Attorney General is Michigan's chief law enforcement officer and is authorized to bring this action on behalf of the People of the State of Michigan pursuant to Mich. Comp. Laws § 14.28.

14. Plaintiff the State of California is a sovereign state of the United States. California is represented by Attorney General Rob Bonta. The Attorney General is California's chief law

enforcement officer and is authorized to pursue this action pursuant to section 13 of article V of the California Constitution.

15. Plaintiff the State of Connecticut is a sovereign state of the United States. Connecticut is represented by Attorney General William Tong, who is the chief law enforcement officer of Connecticut.

16. Plaintiff the State of Hawai'i is a sovereign state of the United States. Hawai'i is represented by and through Attorney General Anne E. Lopez, who is the chief law enforcement officer of Hawai'i.

17. Plaintiff the State of Maryland is a sovereign state of the United States. Maryland is represented by and through Attorney General Anthony G. Brown, who is the chief law enforcement officer of Maryland.

18. Plaintiff State of Massachusetts is a sovereign state of the United States. Maryland is represented by and through Attorney General Andrea Joy Campbell, who is the chief law enforcement officer of Maryland.

19. Plaintiff the State of Minnesota is a sovereign state of the United States. Minnesota is represented by Attorney General by Attorney General Keith Ellison who is the chief law enforcement officer of Minnesota.

20. Plaintiff the State of Nevada is a sovereign state of the United States. Nevada is represented by Attorney General Aaron Ford who is the chief law enforcement officer of Nevada.

21. Plaintiff the State of Oregon is a sovereign state of the United States. Oregon is represented by Attorney General Dan Rayfield, who is the chief law enforcement officer of Oregon.

22. Plaintiff the State of Rhode Island is a sovereign state of the United States. Rhode Island is represented by Attorney General Peter F. Neronha who is the chief law enforcement officer of Rhode Island.

23. Plaintiff the State of Vermont is a sovereign state of the United States. Vermont is represented by Attorney General Chastity Clark who is the chief law enforcement officer of Vermont.

24. The State of Washington is a sovereign state in the United States. Washington is represented by Attorney General Nicholas W. Brown. The Attorney General of Washington is the chief legal adviser to the State and is authorized to act in federal court on behalf of the State on matters of public concern.

B. Defendants

25. Defendant Elon Musk is sued in his official capacity as a "special Government employee" of the Executive. 18 U.S.C. § 202(a).

26. Defendant the United States Department of Government Efficiency Service was established by Executive Order on January 20, 2025, and is a group organized within the Executive Office of the President.

27. Defendant the United States Department of Government Efficiency Service Temporary Organization was established by Executive Order on January 20, 2025.

28. Defendant Donald J. Trump is sued in his official capacity as the President of the United States.

LEGAL FRAMEWORK

29. The Constitution creates a deliberate and ordered process for the exercise of significant authority over the Nation's laws, its purse, and its people. While the President has the

authority to recommend to Congress "such measures as he shall judge necessary and expedient," U.S. Const. art. II, § 3, it is Congress that ultimately wields the power to enact a law authorizing the exercise of significant authority and disbursing any necessary funding.

30. The separation of powers is one of the core, fundamental principles that undergirds our constitutional structure. It is Congress, not the President, that possesses the power to enact laws and appropriate funds. Among the President's responsibilities include his obligation to "take care that the laws" Congress enacts are "faithfully executed." U.S. Const. art. II, § 3.

31. Likewise, the Constitution prevents the President from making unilateral changes to existing laws concerning the structure of the Executive Branch and federal spending. For example, the President cannot establish—or "delete"—federal agencies. Nor may the President unilaterally shut off federal funding where Congress has already appropriated the money.

32. In these and a host of other ways, the Constitution reflects the Framers' clear intent to provide checks and balances among the coordinate branches of government.

A. The Appointments Clause

33. The Appointments Clause is a pillar of this basic constitutional structure and serves as a vital bulwark against "the danger of one branch's aggrandizing its power at the expense of another branch." *Freytag v. C.I.R.*, 501 U.S. 868, 880 (1991).

34. The Appointments Clause provides that the President:

> shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

U.S. Const. art. II, § 2, cl. 2.

35. The Appointments Clause is among the Constitution's most "significant structural safeguards of the constitutional scheme," *Edmond v. United States*, 520 U.S. 651, 659 (1997), because it prevents one branch from "aggrandizing its power" or "dispensing it too freely . . . to inappropriate members of the Executive Branch." *Freytag,* 501 U.S. at 878, 80. The Supreme Court has explained that "[i]f there is any point in which the separation of the legislative and executive powers ought to be maintained with great caution, it is that which relates to officers and offices." *Myers v. United States*, 272 U.S. 52, 116 (1926) (quoting 1 ANNALS OF CONG. 581 (1789)).

36. The Appointments Clause also serves the twin purposes of transparency and accountability. "'Assigning the nomination power to the President guarantees accountability for the appointees' actions because the 'blame of a bad nomination would fall upon the president singly and absolutely.'" *Arthrex*, 594 U.S. at 12 (quoting The Federalist No. 77, p. 517 (J. Cooke ed. 1961) (A. Hamilton)). Likewise, "[t]he Appointments Clause adds a degree of accountability in the Senate, which shares in the public blame 'for both the making of a bad appointment and the rejection of a good one.'" *Id.* (citation omitted). The Clause allows the public to scrutinize individuals who exercise significant authority through a public vetting process under an oath of office pursuant to 5 U.S.C. § 3331.

37. Precedent interpreting the Appointments Clause distinguishes between two types of "officers": "inferior" officers and what have become known as "principal" or "noninferior" officers. *See Arthrex*, 594 U.S. at 12. In essence, there are three types of Executive Branch personnel (other than the President and Vice President): (1) principal officers, (2) inferior officers, and (3) employees. *See generally id*.

38. Principal officers must always be nominated by the President and confirmed by the Senate. *Id.*

39. Inferior officers must be nominated by the President and confirmed by the Senate unless Congress creates an exception and "by Law vest[s] the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments." U.S. Const. art. II, § 2, cl. 2. In other words, when there is no law addressing the appointment of an inferior officer, the principal-officer procedure applies; only the President can nominate the officer, and appointment requires the advice and consent of the Senate.

40. The hiring of employees—who are distinct from "Officers of the United States"—is not governed by the Appointments Clause because they are categorized as "lesser functionaries subordinate to officers of the United States." *Buckley v. Valeo*, 424 U.S. 1, 126 n.162 (1976) (per curiam).

41. The difference between an officer and an employee is that an officer exercises "significant authority" on behalf of the United States on a continuing basis. *Lucia v. Sec. & Exch. Comm'n*, 585 U.S. 237, 245 (2018) (quoting *Buckley*, 424 U.S. at 6).

42. Continuing offices are distinguished from those that are personal, contractual, or limited to a single task. *Edmond v. United States*, 520 U.S. 651, 661 (1997).

43. There is not "an exclusive criterion for distinguishing between principal and inferior officers for Appointments Clause purposes," but the central rule is that "'inferior officers' are officers whose work is directed and supervised at some level by others who were appointed by Presidential nomination with the advice and consent of the Senate." *Edmond*, 520 U.S. at 661, 663.

44. Importantly, the Appointments Clause only grants the President the power to nominate officers to offices that Congress has already "established by Law." U.S. Const. art. II, §

2, cl. 2. "If Congress has not reached a consensus that a particular office should exist, the Executive lacks the power to unilaterally create and then fill that office." *Trump v. United States*, 603 U.S. 593, 650 (2024) (Thomas, J., concurring). "By keeping the ability to create offices out of the President's hands, the Founders ensured that no President could unilaterally create an army of officer positions to then fill with his supporters. Instead, our Constitution leaves it in the hands of the people's elected representatives to determine whether new executive offices should exist." *Id.* at 646 (Thomas, J., concurring).

45. The "significant authority" that distinguishes officers subject to the Appointments Clause from employees not subject to the Clause includes, among other things, the binding execution or interpretation of the laws. This applies to many types of executive decisions, such as the authority to receive, oversee, or disburse public funds, authority over contracts, the power to determine the use of and access to government property, and the power to issue regulations.[1]

B. Temporary Organization Statute

46. "Administrative agencies are creatures of statute. They accordingly possess only the authority that Congress has provided." *Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety & Health Admin.*, 595 U.S. 109, 117 (2022) (per curiam).

47. Congress has provided that the President may establish a "temporary organization" for a "specific period not in excess of three years for the purpose of performing a specific study or

[1] *See, e.g.*, *Buckley*, 424 U.S. at 140 ("determinations of eligibility for funds" are among duties implicating Appointments Clause); *id.* ("rulemaking . . . represents the performance of a significant government duty exercised pursuant to public law" and may only be "exercised" by officers); *United States v. Tingey*, 30 U.S. (5 Pet.) 115, 126 (1831) (discussing officers "for the purpose of making contracts, or for the purchase of supplies"); *United States v. Maurice*, 26 F. Cas. 1211, 1214 (Cir. Ct. D. Va. 1823).

other project." 5 U.S.C. § 3161. By its plain terms, this limited authorization does not amount to a *carte blanche* grant of authority to the Executive to create new federal agencies from whole cloth.

48. Although the Executive Order that created the United States DOGE Service Temporary Organization purports to invoke this statute, 5 U.S.C. § 3161 does not provide DOGE with the authority it has purported to exercise.

49. The "major questions" doctrine further constrains administrative power by requiring "Congress to speak clearly when authorizing an agency to exercise powers of vast economic and political significance." *Nat'l Fed'n of Indep. Bus.*, 595 U.S. at 117 (citation and quotation marks omitted). When the executive branch purports to exercise such powers, "the question" is whether a statute (or the Constitution) "plainly authorizes" that action. *Id.*

FACTUAL BACKGROUND

50. On November 12, 2024, then President-elect Trump announced on X (formerly known as Twitter) that he planned to establish a "Department of Government Efficiency," describing it as a "Manhattan Project" for the federal government that would "pave the way" to "dismantle Government Bureaucracy, slash excess regulations, cut wasteful expenditures, and restructure Federal Agencies."[2]

51. President Trump's earliest indication that Mr. Musk would lead such an effort appeared was during a YouTube conversation between the two on August 12, 2024, in which President Trump enthusiastically responded to Mr. Musk offering to take a leadership role on a government efficiency commission, noting that Mr. Musk was "the greatest cutter."

[2] Donald Trump (@RealDonaldTrump), X (Nov. 12, 2024).

52. On the day of his inauguration, President Trump issued an Executive Order ("DOGE Executive Order") creating the United States Department of Government Efficiency Service ("DOGE Service").

53. While President Trump purported to simply be renaming the pre-existing entity United States Digital Service, he gave the DOGE Service a different mission and structure.[3]

54. Through the DOGE Executive Order, President Trump created a DOGE Administrator position to lead another new entity, the U.S. DOGE Service Temporary Organization ("DOGE Temporary Organization"). The DOGE Administrator was directed to implement a "Software Modernization Initiative" "to improve the efficiency of federal software and information technology systems and promote interoperability among agency networks and systems."[4]

55. The DOGE Executive Order also created DOGE Teams that are intended to be embedded in every federal agency and will typically consist of a Team Lead, one engineer, one human resources specialist, and one attorney. The DOGE Teams were to be created through consultation between the relevant agency head and the DOGE Administrator.[5]

56. President Trump tasked the DOGE Temporary Organization with advancing the "President's DOGE agenda, by modernizing Federal technology and software to maximize governmental efficiency and productivity" before its termination date, July 4, 2026.[6]

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[3] Establishing and Implementing the Presidents Department of Government Efficiency," Exec. Order No. 14,158, 90 Fed. Reg. 8441 (Jan. 20, 2025), https://www.govinfo.gov/content/pkg/FR-2025-01-29/pdf/2025-02005.pdf [hereinafter "DOGE Executive Order"].
[4] DOGE Executive Order at § 4(a)
[5] *Id.* at § 4(a).
[6] *Id.* at § 1.

57. In the DOGE Executive Order, President Trump further directed federal agency heads to "take all necessary steps, in coordination with the [DOGE] Administrator and to the maximum extent consistent with law, to ensure [DOGE] has full and prompt access to all unclassified agency records, software systems, and IT systems."[7]

58. On its face, the Executive Order exempts the DOGE Service, DOGE Administrator, and DOGE Teams from the July 4, 2026, sunset provision.[8]

59. The statements and actions of President Trump, other White House officials, and Mr. Musk himself indicate that Mr. Musk has been directing the work of DOGE personnel[9] since at least January 21, 2025.

60. On February 3, 2025, White House Press Secretary Karoline Leavitt confirmed that, as President Trump had planned, Mr. Musk had taken charge of DOGE: "As you know, President Trump tasked Mr. Musk with starting up DOGE, and he already has done that in the first week, they've been incredibly productive and efficient already, saving taxpayers tens of billions of dollars, so we welcome Mr. Musk's support in this effort."

61. During this initial period, DOGE secured access to sensitive material in dozens of federal agencies, including the Department of the Treasury,[10] the Office of Personnel

[7] *Id.* at § 4(b).
[8] *Id.* at § 1.
[9] Unless otherwise indicated, Plaintiffs use "DOGE personnel" and "DOGE-affiliated personnel" to refer individuals whose apparent or actual authority derives from the DOGE Executive Order.
[10] Alan Rappeport, Maggie Haberman, Theodore Schleifer, & Andrew Duehren, *Elon Musk's Team Now Has Access to Treasury's Payments System*, N.Y. Times (Feb. 1, 2025), https://www.nytimes.com/2025/02/01/us/politics/elon-musk-doge-federal-payments-system.html.

Management,[11] the Centers for Medicare and Medicaid Services,[12] the Department of Labor,[13] the Department of Education,[14] the Department of Energy (which oversees nuclear weapons), the Department of Defense, and the Centers for Disease Control.

62. After this conduct became public, White House Press Secretary Leavitt revealed that Mr. Musk was a "special government employee," though she could not confirm whether he had received any security clearance and did not disclose the date on which he became a "special government employee."[15]

63. "[S]pecial Government employee" is a statutory term that means, in relevant part, "an officer or employee of the executive . . . of the United States Government , . . . who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent." 18 U.S.C. § 202(a).

MR. MUSK'S UNLAWFUL CONDUCT

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[11] Caleb Ecarma & Judd Legum, *Musk associates given unfettered access to private data of government employees,* MUSK WATCH (Feb. 3, 2025), at https://www.muskwatch.com/p/muskassociates-given-unfettered (last accessed Feb. 3, 2025).

[12] Alan Condon, *DOGE sets sights on Medicaid,* NY TIMES (Feb. 3, 2025) (noting that DOGE has been provided access to key payment and contracting systems at CMS).

[13] Kim Kelly (@GrimKim), X (Feb. 4, 2025, 5:04 PM ET), https://x.com/GrimKim/status/1886898588099240401 (reporting that DOL workers were ordered to give DOGE access to anything they want without regard to security protocols).

[14]Jeff Stein et al., *U.S. government officials privately warn Musk's blitz appears illegal,* WASH. POST (Feb. 4, 2025), https://www.washingtonpost.com/business/2025/02/04/elon-musk-government-legal-doge/ ("Inside the Education Department, some staffers are deeply alarmed by the fact that DOGE staffers have gained access to federal student loan data, which includes personal information for millions of borrowers. Some employees have raised the alarm up their chain of management").

[15] Bobby Allyn & Shannon Bond, *Elon Musk's DOGE Team Sets Off Tensions in the Federal Government,* NPR (Feb. 3, 2025), https://www.npr.org/2025/02/03/nx-s1-5285539/doge-musk-usaid-trump.

64. Although he occupies a role President Trump—not Congress—created and even though the Senate has never voted to confirm him, Mr. Mr. Musk has and continues to assert the powers of an "Officer[] of the United States" under the Appointments Clause. Indeed, in many cases, he has exceeded the lawful authority of even a principal officer, or of the President himself.

65. As explained below, Mr. Musk: (1) has unprecedented and seemingly limitless access across the federal government and reports solely to President Trump, (2) has asserted significant and sweeping authority across a broad swath of federal agencies, and (3) has engaged in a constellation of powers and activities that have been historically associated with an officer of the United States, including powers over spending and disbursements, contracts, government property, regulations, and agency viability.

66. In sum, Mr. Musk purports to exercise and in fact asserts the significant authority of a principal officer on behalf of the United States. Yet, he does not occupy an office created by Congress and has not been nominated by the President or confirmed by the Senate. As a result, all of Mr. Musk's actions are *ultra vires* and contrary to law.

A. Mr. Mr. Musk Has Unprecedented Access and Reports Only to President Trump.

67. Mr. Musk is far more than an adviser to the White House. He executes the President's agenda by exercising virtually unchecked power across the entire Executive Branch, making decisions about expenditures, contracts, government property, regulations, and the very existence of federal agencies. No executive position wields as much power over the operations of the Executive Branch other than the President.

68. Mr. Musk has gained sweeping and unprecedented access to sensitive data, information, systems, and technological and financial infrastructure across the federal government. This access is seemingly limitless and dependent upon Mr. Mr. Musk's discretion.

69. For instance, on February 7, 2025, President Trump verified that Mr. Musk and DOGE did not need the access they had attained to sensitive Treasury Department information. Asked why DOGE needed access to Americans' sensitive data, he replied, "It doesn't. … But they get it very easily. And we don't have very good security in our country, and they get it very easily."[16]

70. Mr. Musk's DOGE personnel has inserted itself into at least 17 federal agencies. On February 7, 2025, when asked whether there was anything in the federal government that Mr. Mr. Musk had been instructed not to touch, President Trump replied: "Well, we haven't discussed that much." He added, "I guess maybe you could say some high intelligence or something. And I'll do that myself if I have to."[17]

71. In addition, statements by Mr. Musk and President Trump make clear that the individual with the closest proximity to Mr. Musk is President Trump and Mr. Musk reports only to President Trump.

72. President Trump's February 8, 2025, statements illustrate that no one stands between Mr. Musk and Trump in the Executive chain-of-command: "I've instructed him to go check out Education, to check out the Pentagon."[18]

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[16] Hanna Perry, *Trump Says DOGE Does Not Even Needs Its Access to Sensitive Info*, Newsweek (Feb. 7, 2025), https://www.newsweek.com/trump-says-doge-does-not-even-need-its-access-sensitive-info-2028177.

[17] *See* Erica L. Green & Michael D. Shear, *Musk Wields Scythe on Federal Work Force, With Trump's Full Blessing*, N.Y. TIMES (Feb. 8, 2025).

[18] *See* Erica L. Green & Michael D. Shear, *Musk Wields Scythe on Federal Work Force, With Trump's Full Blessing*, N.Y. TIMES (Feb. 8, 2025).

73. And despite the numerous, monumental actions Mr. Musk and DOGE have taken, Mr. Musk evidently has significant autonomy regarding when, how frequently, and in what depth he briefs the President, which briefings the White House has described simply "as needed."[19]

74. Indeed, there have been reports that Mr. "Mr. Musk is not fully briefing White House Chief Of Staff Susie Wiles about his plans and that the White House is effectively in the dark," and that there is no clarity about "the proper chain of communication … between agencies and the White House" with respect to DOGE.

75. On February 11, 2025, Mr. Musk and President Trump jointly addressed the public from the White House Oval Office.[20] If there were any doubt about the reach of Mr. Musk's *de facto* power over Executive-Branch operations, his remarks delivered *from the Oval Office* on February 11, 2025—with the President sitting in silence at the Resolute as Mr. Musk held the floor—should dispel it.

76. Mr. Musk's authority to direct and veto the staffing decisions of agencies was supported by an additional Executive Order. This Executive Order expressly mandated large-scale reductions in workforce by every agency, requires hiring plans with all decisions made in consultation with DOGE personnel, and prohibits the filling of any vacancies without DOGE approval.[21]

B. Mr. Musk Has Exercised Sweeping Authority Across Numerous Federal Agencies.

[19] Jake Lahut, *Elon Musk's Takeover Is Causing Rifts in Donald Trump's Inner Circle,* Wired (Feb. 5, 2025), https://www.wired.com/story/trump-aides-concern-musk-takeover/.

[20] Elena Moore*, Trump and Musk appear together in the Oval Office to defend the work of DOGE*, NPR (Feb. 11, 2025), https://www.npr.org/2025/02/11/nx-s1-5293504/trump-musk-doge-oval-office.

[21] "Implementing the President's 'Department of Workforce Efficiency'' Workforce Optimization Initiative" (Feb. 11, 2025) https://www.whitehouse.gov/presidential-actions/2025/02/implementing-the-presidents-department-of-government-efficiency-workforce-optimization-initiative/

77. The specifics of Mr. Musk's conduct within various agencies confirm that he is wielding the power of a principal officer, a principal officer that has never previously existed. Mr. Musk has purported to exercise, and in fact exercised, sweeping authority across a wide swath of federal agencies. Defendants' conduct has already impaired the work of several of these agencies, perhaps irrevocably, harming the people they serve and the Plaintiff States.

U.S. Department of Treasury (Treasury)

78. The U.S. Treasury Department maintains and safeguards our nation's central bank account. Treasury's Bureau of the Fiscal Services ("BFS") receives coded payment instructions in the form of payment files from a host of federal agencies to disburse funds to tens of millions of Americans every year. These funds include social security benefits, veteran's benefits, childcare tax credits, Medicaid and Medicare reimbursements, federal employee wages, and federal tax refunds. Plaintiff States also receive billions of dollars in funds every year directly from Treasury through BFS under federal grant programs.

79. BFS also operates the Treasury Offset Program, which, among other things, helps states recover delinquent state income taxes and child support by subtracting those debts from a person's federal income tax refund. This program recovered $720.9 million in state income tax debt and $1.4 billion in child support in fiscal year 2024.[22]

[22] United States Dep't of the Treasury, Bureau of the Fiscal Serv., Treasury Offset Program, How the Treasury Offset Program Collects Money for State Agencies, https://www.fiscal.treasury.gov/top/state-programs.html (last visited Feb. 5, 2025).

80. BFS processes payments after the payment files are certified by the responsible agency and checked against Treasury's "do not pay" system.[23]

81. Mr. Musk has publicly criticized BFS for not using its role as payment processor to interfere with congressionally authorized and agency-certified payments.[24]

82. On January 24, 2025, Tom Krause, a tech executive apparently working with or behalf of DOGE, asked Trump appointee and then-acting Treasury Secretary David A. Lebryk, to halt certain foreign aid payments through BFS systems because Mr. Musk believed they violated certain executive orders.[25] On information and belief, at the time Mr. Krause made this request, he was not a Treasury employee but rather was affiliated with DOGE.

83. DOGE was not seeking to stop the payments because they were going to an improper payee. Rather, DOGE sought to stop the payments for policy reasons.[26]

84. Mr. Lebryk stated that he did not believe "we have the legal authority to stop an authorized payment certified by an agency" and that the less legally risky route would be for the State Department to stop and evaluate the propriety of the payments.[27] Mr. Krause responded by

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[23] *See* U.S. Dep't of the Treasury, Press Releases, Treasury Department Letter to Members of Congress Regarding Payment Systems, https://home.treasury.gov/news/press-releases/sb0009 (Feb. 4, 2025); Payment Integrity Information Act of 2019, codified at 31 U.S.C. § 3351.

[24] *See, e.g.*, Elon Musk (@Elon Musk), X (Feb. 8, 2025), https://x.com/elonmusk/status/1888314848477376744.

[25] *See* Katelyn Polantz & Phil Mattingly, *Musk Associates Sought to Use Critical Treasury Payment System to Shut Down USAID Spending, Emails Show*, CNN, updated Feb. 6, 2025, 3:31 P.M. EST, https://www.cnn.com/2025/02/06/politics/elon-musk-treasury-department-payment-system/index.html.

[26] Tim Reid, *Helen Coster & James Oliphant, Musk's DOGE Cuts Based More On Political Ideology Than Real Cost Savings So Far*, REUTERS (Feb. 12, 2025), http://reuters.com/world/us/musk-cuts-based-more-political-ideology-than-real-cost-savings-so-far-2025-02-12/.

[27] *See* Katelyn Polantz & Phil Mattingly, *supra.*

threatening Mr. Lebryk, telling him he could face legal risk himself if he did not comply with DOGE.

85. Shortly after Scott Bessent was confirmed as Treasury Secretary on January 27, 2025, Mr. Lebryk was placed on administrative leave and ultimately resigned after 30 years of federal service.[28] Beginning February 2, 2025, Secretary Bessent granted DOGE personnel full access to BFS payment systems, which contain sensitive Treasury data, including Social Security and Medicare customer payment data as well as Plaintiff States' bank account and related financial information.

86. On February 2, 2025, in response to a tweet about Lutheran Family Services, Mr. Musk responded, "The @DOGE team is rapidly shutting down these illegal payments."[29] Lutheran Family Services provides child behavioral health, substance abuse rehabilitation, and refugee resettlement services pursuant to government contracts. Mr. Musk has not substantiated his claim that payments to Lutheran Family Services pursuant to those contracts, are illegal.

87. An internal email sent to BFS IT personnel by the BFS threat intelligence team has identified DOGE access as "the single greatest insider threat risk the Bureau of the Fiscal Service has ever faced." The intelligence team recommended the DOGE members be monitored as an insider threat. Critically, they called for "suspending" any access to payment systems and "conducting a comprehensive review of all actions they may have taken on these systems."[30]

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[28] Alan Rappeport, Maggie Haberman, Theodore Schleifer, & Andrew Duehren, *Elon Musk's Team Now Has Access to Treasury's Payments System*, N.Y. TIMES (Feb. 1, 2025), https://www.nytimes.com/2025/02/01/us/politics/elon-musk-doge-federal-payments-system.html.

[29] Elon Musk (@Elon Musk), X (Feb. 2, 2025), https://x.com/elonmusk/status/1885964969335808217.

[30] Vittoria Elliot & Leah Feiger, *A U.S. Treasury Threat Intelligence Analysis Designates DOGE Staff as "Insider Threat*, Wired (Feb. 7, 2025), https://www.wired.com/story/treasury-bfs-doge-insider-threat/.

88. The letter discusses reports "at other federal agencies indicating that DOGE members have performed unauthorized changes and locked civil servants out of the sensitive systems they gained access to." This contradicts statements from administration officials denying such changes.

89. This kind of authority over Treasury, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

90. DOGE's unauthorized access to the BFS system poses a threat to cybersecurity and system malfunction[31] and has endangered the Plaintiff States' access to billions of dollars in lawfully appropriated Congressional funding and the security of their banking information. These risks are exacerbated by DOGE's use of artificial intelligence to analyze data gathered from agencies.[32]

91. These risks are not mere speculation: A court filing revealed that, on February 6, Treasury officials found that Marko Elez had accidentally been given "read/write" permissions to one of the payment databases, allowing him to make changes to the sensitive payment database.[33]

U.S. Agency for International Development (USAID)

92. USAID is created by statute and funded by Congressional appropriations. 22 U.S.C. § 6563. It is one of the foremost development agencies in the world, providing food, medicine, and infrastructure funding in developing countries around the world, both to aid those countries

[31] Robert E. Rubin, Lawrence H. Summers, Timothy F. Geithner, Jacob J. Lew, & Janet L. Yellen, *Five Former Treasury Secretaries: Our Democracy Is Under Siege*, N.Y. TIMES (Feb. 10, 2025), https://www.nytimes.com/2025/02/10/opinion/treasure-secretaries-doge-musk.html.
[32] Jeff Stein et al., *In Chaotic Washington Blitz, Elon Musk's Ultimate Goal Becomes Clear*, WASH. POST (Feb. 8, 2025); Charlie Warzel et al., *The Government's Computing Experts Say They Are Terrified*, THE ATLANTIC (Feb. 7, 2025).
[33] Jess Bidgood, *When Musk's Team Shows Up at Your Doorstep*, N.Y. TIMES (Feb. 12, 2025), https://www.nytimes.com/2025/02/12/us/politics/elon-musk-doge-cfpb-trump.html.

and to further U.S. foreign policy. In doing so, it buys millions of dollars of products from American farmers. The agency also has contracts with American universities to provide certain services, including public universities in the Plaintiff States.

93. With a budget of over $40 billion, USAID accounts for more than half of all U.S. foreign assistance. USAID has missions in over 100 countries. As of January 2025, USAID had a workforce of over 10,000, with approximately two-thirds serving overseas.

94. On Saturday, February 1, 2025, a group of about eight DOGE personnel entered the USAID building and demanded access to every door and floor, despite only a few of them having the requisite security clearance.[34] The areas to which they sought access included a sensitive compartmented information facility—commonly known as a SCIF—an ultra-secure room where officials and government contractors take extraordinary precautions to review highly classified information. DOGE personnel, aided by phone calls from Mr. Musk, had pressured USAID officials for days to access the secure facility and its contents.[35]

95. When USAID personnel attempted to block access to some areas, DOGE personnel, including Mr. Musk, threatened to call federal marshals. Under threat, the agency personnel acquiesced, and DOGE personnel were eventually given access to the secure spaces.

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[34] *See* John Hudson, Ellen Nakashima, Missy Ryan, Mariana Alfaro & Faiz Siddiqui, *Trump Moves To Wrest Control Of USAID As Musk Says, "We're shutting it down,"* WASH. POST (Feb. 3, 2025). https://www.washingtonpost.com/politics/2025/02/02/usaid-trump-musk/.

[35] *See* Andrew Roth, *Doge V USAID: How Elon Musk Helped His Acolytes Infiltrate World's Biggest Aid Agency*, THE GUARDIAN (Feb. 5, 2025), https://www.theguardian.com/us-news/2025/feb/05/musk-doge-takeover-usaid.

96. Later that day, top officials from USAID and the bulk of the staff in USAID's Bureau for Legislative and Public Affairs were put on leave. Some of them were not notified but had their access to agency terminals suspended. USAID's security official was also put on leave.[36]

97. Within hours, USAID's website vanished. It remains inoperative.[37]

98. On Sunday, February 2, 2025, Mr. Musk tweeted, "USAID is a criminal organization. Time for it to die."[38] Later, he tweeted, "We spent the weekend feeding USAID into the woodchipper."[39]

99. Mr. Musk provided no support for his claim that USAID is a criminal organization.

100. On Monday, February 3, 2025, Mr. Musk stated that he was in the process of closing the agency, with President Trump's blessing. Mr. Musk stated: "I went over it with him [President Trump] in detail, and he agreed that we should shut it down. And I actually checked with him a few times [and] said 'are you sure?' The answer was yes. And so we're shutting it down."[40]

101. On Monday, February 3, 2025, USAID staffers were told that the agency's headquarters in Washington, D.C., would be closed.[41] That day, USAID contract officers emailed agency higher-ups asking for the required authorization and justification needed to cancel

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[36] *Id.*; John Hudson, Ellen Nakashima, Missy Ryan, Mariana Alfaro & Faiz Siddiqui, *Trump Moves To Wrest Control Of USAID As Musk Says, "We're shutting it down,"* WASH. POST (Feb. 3, 2025).
[37] USAID, https://www.usaid.gov (last visited Feb. 8, 2025).
[38] Elon Musk (@Elon Musk), X (Feb. 2, 2025), https://x.com/elonmusk/status/1886102414194835755.
[39] Elon Musk (@Elon Musk), X (Feb. 2, 2025), https://x.com/elonmusk/status/1886307316804263979.
[40] John Hudson, et al., *Trump Moves To Wrest Control Of USAID As Musk Says, "We're shutting it down,"* WASH. POST (Feb. 3, 2025).
[41] *See* Ellen Knickmeyer, Farnoush Amiri, & Adriana Gomez Licon, *Trump And Must Move To Dismantle USAID, Igniting Battle With Democratic Lawmakers*, AP NEWS (Feb. 3, 2025), https://apnews.com/article/trump-musk-usaid-c0c7799be0b2fa7cad4c806565985fe2.

programs abroad. But the response came directly from DOGE personnel, one of the contract workers said in a sworn account filed with the federal court.[42]

102. That same day, DOGE personnel approached the agency's acting leadership and handed them a list of 58 people, almost all senior career officials, to put on administrative leave.[43] The acting leadership of the agency—including two Trump appointees—were skeptical, but eventually relented.[44]

103. On Tuesday, February 4, 2025, USAID sent out an email placing nearly its entire workforce on administrative leave.

104. This authority over USAID, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

105. Defendants' attempts to destroy USAID have injured the Plaintiff States by endangering the funding that their public universities receive pursuant to contracts with USAID.

106. On Friday, February 7, 2025, a federal judge in the U.S. District Court for the District of Columbia issued a TRO, temporarily enjoining USAID from (1) placing 2,200 USAID employees on administrative leave; and (2) engaging in a mandatory expedited evacuation of USAID employees from their host countries. Among other things, the Court held that these actions

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[42] Ellen Knickmeyer, *Lawsuit Describes Musk's DOGE Teams Overseeing The Ending Of Hundreds Of USAID Programs Abroad*, AP (Feb. 12, 2025); Declaration of Thomasina Doe, Civil Action No. 1:25-CV-352, at 9 ("While the Senior Procurement Executive sent the email, there was no indication from whom the order was coming officially for documentation purposes. When someone asked the Senior Procurement Executive, Jami Rodgers, [a DOGE official] named Jeremy Lewin responded").

[43] *See* Nahal Toosi & Robbie Gramer, *How spending $153M to pay its bills put USAID in DOGE's crosshairs*, POLITICO (Feb. 8, 2025), https://www.politico.com/news/2025/02/08/usaid-trump-musk-doge-00203191.

[44] *Id.*

could violate the Further Consolidated Appropriations Act of 2024, Pub. L. 118-47 §§ 7063(a), (b), 138 Stat. 460 (2024), and place USAID employees abroad at risk of physical and other harms. *See American Foreign Service Assoc. v. Trump*, No. 1:25-cv-00352-CJN, Doc. 15 (D.D.C. Feb. 7, 2025).

Office of Personnel Management (OPM)

107. OPM serves as the chief human resources agency and personnel policy manager for the federal government. Among other things, OPM formulates and oversees policies related to federal employment, ensuring compliance with merit system principles and federal laws.

108. OPM administers benefits programs such as health insurance, retirement plans, and life insurance for federal employees. Accordingly, OPM maintains and manages extensive data on federal employees.

109. OPM also maintains a security clearance database. Past data breaches of OPM have implicated the security clearance database and have resulted in the leak of five million digitized fingerprints and sensitive background records.[45] The systems include a vast database called Enterprise Human Resources Integration, which contains dates of birth, Social Security numbers, appraisals, home addresses, pay grades and length of service of government workers, the officials said. [46]

[45] Ellen Nakashima, *Hacks of OPM databases compromised 22.1 million people, federal authorities say*, WASH. POST (July 9, 2015), https://www.washingtonpost.com/news/federal-eye/wp/2015/07/09/hack-of-security-clearancesystem-affected-21-5-million-people-federal-authorities-say/ (last accessed Feb. 2, 2025).
[46] Tim Reid, *Exclusive: Musk aides lock workers out of OPM computer systems*, REUTERS (Feb. 2, 2025), https://www.reuters.com/world/us/musk-aides-lock-government-workers-out-computer-systems-us-agency-sources-say-2025-01-31/?utm_source=chatgpt.com.

110. Upon information and belief, DOGE gained full and unfettered access to OPM systems over the existing CIO's objection on or about January 20, 2025.[47]

111. DOGE-affiliated personnel directed OPM staff to grant them high-level access to OPM computer systems, and quickly took control of them, including systems containing large troves of personally identifiable information. DOGE-affiliated personnel also locked career civil servants at OPM out of at least some of those systems, giving them completely unchecked control over the systems and the information they contain.

112. On January 27, 2025, an unknown "OPM employee for nearly a decade and a Federal Employee for almost 20 years" posted a message to the r/FedNews discussion board on https://Reddit.com. The message stated, "According to the FedNews Message, 'Our CIO, Melvin Brown, . . . was pushed aside just one week into his tenure because he refused to setup email lists to send out direct communications to all career civil servants. Such communications are normally left up to each agency."

113. At some point after the inauguration, DOGE created an "outside server" to store records of millions of federal employees and their sensitive data.

114. The outside server installed by DOGE is of unknown nature and origin. Upon information and belief, the outside server was installed by an "outside employee" that had not undergone background investigations.

115. This server was created to facilitate DOGE's attempts to send a mass email offering the "Fork in the Road" buyout package to nearly all employees.

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[47] Isaac Stanley-Becker et al., *Musk's DOGE agents access sensitive personnel data, alarming security officials*, WASH. POST (Feb. 6, 2025), https://www.washingtonpost.com/national-security/2025/02/06/elon-musk-doge-access-personnel-data-opm-security/ ("At least six DOGE agents were given broad access to all personnel systems at the OPM on the afternoon of Jan. 20, the day of Trump's inauguration, according to two agency officials.").

116. On January 28, 2025, Executive Branch personnel across federal agencies—as well as many contractors—received an email from HR@opm.gov with the subject line "Fork in the Road," describing a "deferred resignation program."[48]

117. This email was received by 2.3 million federal employees and contractors. The email offered them continued pay and benefits through September 2025 if they resigned by February 6th by simply sending an email to the Office of Personnel Management with the word "Resign" in the subject line.[49]

118. The connection between the "Fork in the Road" program and Mr. Musk is clear. Upon his 2022 acquisition of then-Twitter, Mr. Musk made a similar offer to company employees through an email identically titled "Fork in the Road" that promised three months' severance to those who resigned within 24 hours. This history supports a reasonable belief that Mr. Musk conceived of and offered the "deferred resignation program" to federal employees.

119. This email purports to make binding spending commitments on behalf of the federal government.

120. According to subsequent reporting, Mr. Musk and his team have exerted direct control over OPM and the "Fork in the Road" initiative. The email was sent out via a custom-built email system from Mr. Musk's team and was sent without consultation with other advisers to the President or OMB officials.[50]

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[48] OPM, *Fork in the Road* (Jan. 28, 2025), at https://www.opm.gov/fork (last accessed Feb. 3, 2025).
[49] *Id.*
[50] Caleb Ecarma & Judd Legum, *Musk associates given unfettered access to private data of government employees,* MUSK WATCH (Feb. 3, 2025), at https://www.muskwatch.com/p/muskassociates-given-unfettered (last accessed Feb. 3, 2025).

121. It appears that OPM is now significantly controlled by Mr. Musk.[51] This authority over OPM, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

U.S. Department of Health and Human Services (HHS)

122. HHS is a federal agency charged with enhancing the health and well-being of Americans. Of its 13 operating divisions, 10 are public health service agencies and three are human service agencies.

123. Through these divisions, HHS oversees or operates more than 100 programs, including social services such as Temporary Assistance to Needy Families (TANF), HeadStart, and other childcare programs. HHS also offers health prevention and wellness programs and participates in national efforts to prepare for, respond to, and recover from disasters and public health emergencies. The agency also conducts and funds health-related research.

124. One critical division of HHS is the Center for Medicare and Medicaid Services (CMS). CMS is responsible for overseeing critical entitlement programs providing health coverage for many older, disabled, or low-income enrollees. It serves more than 160 million enrollees across Medicare, Medicaid, CHIP, and the Health Insurance Marketplace. CMS spends about $1.5 trillion yearly, which is about 22% of all federal healthcare spending.

125. Another critical division within HHS is the Centers for Disease Control (CDC), the nation's leading science-based, data-driven service organization protecting the public's health.

126. Several of HHS's operating divisions maintain personally identifiable data for large numbers of individuals.

[51] Jeff Stein et al., *In Chaotic Washington Blitz, Elon Musk's Ultimate Goal Becomes Clear*, WASH. POST (Feb. 8, 2025).

127. On February 5, 2025, the Wall Street Journal reported that DOGE representatives had "access to key payment and contracting systems" at CMS.[52]

128. CMS confirmed the reports of DOGE access as well. On February 5, 2025, it put out a press release stating that two "Agency veterans" were leading the collaboration with DOGE, including ensuring appropriate access to CMS systems and technology."[53]

129. Bloomberg reported that DOGE "gained access to payment and contracting systems."[54] Because much of Medicare is administered through employers, contracts contain key information about Medicare's functioning.

130. Reportedly, DOGE personnel also visited the CDC in Atlanta, requesting "lists of new employees and employees who are still on probation."[55] It is unclear why DOGE would need these lists except to select employees to fire. But DOGE personnel do not have the legal authority to fire CDC employees.

131. This kind of authority over the HHS, including its management of personnel, its funding decisions, and systems, may only be exercised by a duly appointed officer.

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[52] Anna Wild Mathews & Liz Essley Whyte, *DOGE Aides Search Medicare Agency Payment Systems for Fraud,* (Feb. 5, 2025), https://www.wsj.com/politics/elon-musk-doge-medicare-medicaid-fraud-e697b162.

[53] Centers for Medicare & Medicaid Servs., Press Release, CMS Statement on Collaboration with DOGE, https://www.cms.gov/newsroom/press-releases/cms-statement-collaboration-doge (Feb. 5, 2025).

[54] Riley Griffin & Madison Muller, *Musk's DOGE Team Mines for Fraud at Medicare, Medicaid*, BLOOMBERG (Feb. 5, 2025), https://www.bloomberg.com/news/articles/2025-02-05/musk-s-doge-team-mines-for-fraud-at-medicare-and-medicaid-agency.

[55] Joyce Lupiani, *Elon Musk's DOGE Team Visits CDC in Atlanta, Reports Say*, FOX 5 ATLANTA (Feb. 6, 2025), https://www.fox5atlanta.com/news/elon-musks-doge-team-visits-cdc-atlanta-reports-say.

132. Plaintiff States stand to suffer immediate harm from this unauthorized access. The States receive funding and programming support from HHS. *See, e.g.,* Chapman-See Decl. ¶ 11 (outlining $16,313,304,384 in federal grant funds received by the State of Washington in FY 2024 from HHS).

133. Moreover, threats to CDC and other programs that protect public health pose a threat to state residents.[56] As the experience of COVID-19 shows, disease outbreaks impose significant harms and costs on states, inflicting classic pocketbook injuries. And public health threats to residents inflicted by federal actions infringe the state's sovereign interests. *See Massachusetts v. EPA*, 549 U.S. 497, 518, 520 (2007).

U.S. Department of Energy (DOE)

134. DOE advances the energy, environmental, and nuclear security of the United States. It promotes scientific and technological innovation and manages the environmental cleanup of the nuclear weapons complex. DOE is the largest federal sponsor of basic research in the physical sciences, including in Plaintiff States' public universities. *See* Chapman-See Decl. ¶ 12.

135. DOE also operates the State Energy Program, which "provides resources directly to the states for allocation by the governor-designated State Energy Offices for use in efficiency, renewable, and alternative energy demonstration activities." The State Energy Program provides $50 million to states annually.

136. A particularly critical division within the DOE is the National Nuclear Security Administration. The NNSA maintains the nuclear weapons stockpile, provides the Navy with

[56] Pien Huang & Will Stone, *Morale Plummets At The CDC As Staff Fear Job Losses*, NPR (Feb. 7, 2025), https://www.npr.org/sections/shots-health-news/2025/02/07/nx-s1-5290273/cdc-employee-lists-doge ("Losing even half of these workers would be "devastating" for the agency's current disease outbreak responses, which includes H5N1 bird flu, measles and mpox.").

nuclear propulsion, and responds to nuclear emergencies around the world.[57] Its computer systems carry some of the most critical, confidential information in our nation, including information regarding nuclear weapons.

137. On February 5, 2025, DOGE representative Luke Farritor (Farritor), a former SpaceX intern, received access to the DOE's IT system. The move was opposed by the DOE's general counsel's office and chief information office, in part because Farritor lacked a security clearance.[58]

138. Two days later, a different DOGE representative, Ryan Riedel, was installed as the DOE's chief information officer. According to officials within the DOE, "DOGE members will have access to computer drives and human resource systems, data on grants and loans on energy projects and financial management systems."[59]

139. This authority over DOE, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

140. Plaintiff States stand to suffer immediate harm from these actions, both because of their public universities' relationship with the DOE as grantees, *see, e.g.*, Chapman-See Decl. ¶ 12 (outlining $82,949,065 in funds received in FY2024 to facilitate approximately 100 federal grant programs), and because any increased risks to nuclear safety pose a clear danger to their

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[57] U.S. Dep't of Energy, NNSA, About NNSA, https://www.energy.gov/nnsa/about-nnsa (last visited Feb. 7, 2025).

[58] Ella Nilsen & Sean Lyngaas, *Trump Energy Secretary Allowed 23-Year-Old DOGE Rep to Access IT Systems Over Objections From General Counsel*, CNN (Feb. 7, 2025), https://www.cnn.com/2025/02/06/climate/doge-energy-department-trump/index.html.

[59] Timothy Gardner, *Three DOGE Members Raise Access Concerns at U.S. Energy Department, Sources Say*, REUTERS, (Feb. 7, 2025), https://www.reuters.com/world/us/three-doge-members-raise-access-concerns-us-energy-department-sources-say-2025-02-07/.

sovereign interests. *See Massachusetts*, 549 U.S. at 518, 520 (2007) (states receive "special solicitude" in standing analysis where federal action poses a threat to "sovereign territory" or "the earth and air within" a state's domain).

141. Control over or access to the DOE's IT systems poses more mundane threats as well. Payments to states under the State Energy Program must be certified by the agency before BFS can process them. A failure in the DOE's IT systems or a decision using those systems not to fund the Program would immediately endanger Plaintiffs' ability to provide energy security for their residents and would force Plaintiffs to divert resources currently used for other things.

Consumer Financial Protection Bureau (CFPB)

142. Congress created the CFPB after the great recession of 2007-08. Congress assigned the CFPB the mission of supporting and protecting American consumers in the financial marketplace. To fulfill its statutory mission, CFPB monitors financial markets for risks to consumers; enforces consumer finance law; investigates consumer complaints; and writes rules to protect consumers from unfair, deceptive, or abusive practices in the financial sector.[60]

143. In recent years, CFPB has issued rules to protect Americans from medical debt, expand their access to banking services, and crack down on financial institutions that levy high fees on customers, resulting in more than $21 billion returned to taxpayers.

144. CFPB's rules assist the Plaintiff States in enforcing their own consumer protection laws.

145. CFPB's investigative work can be highly sensitive, including extraordinary access to a bank's communications, customer records, and other nonpublic data.

[60] Pub. L. 111–203 (2010), https://www.consumerfinance.gov/about-us/the-bureau/.

146. On Friday, February 7, 2025, Mr. Musk's aides set up shop in a conference room at CFPB's headquarters and began their review of the agency, accessing and parsing its sensitive personnel and financial records.[61] Hours later that afternoon, Mr. Musk tweeted "CFBP RIP."[62]

147. That night, CFPB's website, consumerfinance.gov, was no longer working and remains down.

148. Just three days later, all CFPB employees were told to "[s]tand down from performing any work task" and "[e]mployees should not come into the office," by the agency's acting Director Russell Vought.[63]

149. If allowed to continue, Defendants' assault on the CFPB will harm the Plaintiff States by requiring them to invest far greater resources and personnel to protect their citizens. As just one example, CFPB is co-Plaintiff with the State of Minnesota in two consumer cases but is no longer taking an active role, requiring the State of Minnesota to devote additional resources to the litigation.

150. This authority over CFPB, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

U.S. Department of Defense (Defense Department)

[61] *See* Tony Room, *DOGE targets Consumer Financial Protection Bureau as Musk tweets 'RIP'*, WASH. POST (Feb. 7, 2025).

[62] Elon Musk (@Elon Musk), X (Feb. 7, 2025), https://x.com/elonmusk/status/1887979940269666769.

[63] *See* Stacey Cowley, *Confusion Reigns as 'a Wrecking Ball Hits the Consumer Bureau*," (Feb. 10, 2025), https://www.nytimes.com/2025/02/10/business/cfpb-shutdown-confusion.html.

151. On Friday, February 7, 2025, President Trump stated that he had "instructed [Mr. Musk] . . . to check out the Pentagon."[64] He added that Mr. Musk would be going through "just about everything" at the Defense Department.

152. The Defense Department has billions of dollars in contracts with Mr. Musk through SpaceX and other companies he owns. The Defense Department relies on SpaceX to get most of its satellites into orbit and works closely with his companies on a variety of other initiatives.

153. This authority over the Defense Department, including its contracts, management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

U.S. General Services Administration (GSA)

154. The GSA is the central procurement agency for the Federal Government. Among many other services, it acquires real estate for office space, provides vehicles for governmental use, including non-tactical vehicles for the military, and supplies office space needs. Its 18F technology group assists government agencies in building and buying technology products and fixing technical problems.

155. On January 27, 2025, only a week into the new administration, DOGE announced that it already had terminated three GSA leases as the "first steps" to "right size the federal real estate portfolio of more than 7,500 leases."[65]

156. Mr. Musk claimed on X that he had "deleted" GSA's 18F technology group.[66]

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[64] *See* Erica L. Green & Michael D. Shear, *Musk Wields Scythe on Federal Work Force, With Trump's Full Blessing*, N.Y. TIMES (Feb. 8, 2025).

[65] Department of Government Efficiency (@DOGE), X (Jan. 27, 2025), https://x.com/DOGE/status/1884015256957296917.

[66] Weslan Hansen, *DOGE Chief Claims to 'Delete' GSA's 18F Tech Group*, MERITALK (Feb. 4, 2025), https://www.meritalk.com/articles/doge-chief-claims-to-delete-gsas-18f-tech-group/.

157. According to news reports, Mr. Musk and DOGE have "taken over the Office of Personnel Management and the General Services Administration along with their computer systems."[67]

158. DOGE has been interviewing GSA employees, "frequently with almost no notice and often scheduled over existing client meetings." Employees "fear that, based on the brief interaction, their job is on the line." The DOGE questions led GSA staffers to believe the group was looking to cull employees.[68]

159. DOGE is assisting with the development of a chatbot called GSAi to "increase worker productivity" and have proposed other AI tools to scrub contracts for redundancies and streamline processes.[69]

160. DOGE workers said they plan to automate a majority of GSA jobs, and Mr. Musk plans to liquidate as much as half of the federal government's nonmilitary real estate holdings.[70]

161. This kind of authority over the GSA, including its contracts, management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

162. Haphazard cuts in personnel that cause service outages at GSA — even relatively brief ones — could be disastrous for the States and citizens who use GSA services. GSA operates

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[67] Tom Hals & Jack Queen, *Is Elon Musk's Government Efficiency Drive Legal?* , REUTER (Feb. 5, 2025), https://www.reuters.com/world/us/is-elon-musks-government-efficiency-drive-legal-2025-02-05/.

[68] Danny Nguyen, 'Anxiety provoking': Government workers describe their DOGE interviews, POLITICO (Feb. 12, 2025), https://www.politico.com/news/2025/02/12/government-workers-doge-interviews-016214.

[69] *Id.*

[70] Jeff Stein et al., *In Chaotic Washington Blitz, Elon Musk's Ultimate Goal Becomes Clear*, WASH. POST (Feb. 8, 2025).

Login.gov, the central login system for Medicare, Medicaid, Social Security and other public assistance lifelines.[71]

U.S. Department of Education (ED)

163. The Department of Education provides critical services to the country. Although education is primarily a state and local responsibility, ED operates several important programs, including those that provide funding for low-income schools, special education, and financial aid for college students.

164. As of February 4, 2025, DOGE personnel have gained access to ED's student loan database.[72]

165. As of February 7, 2025, several DOGE personnel were working out of the undersecretary's office on the seventh floor of ED's headquarters. Staff members have been told little about the group, which has been spotted in hallways and rummaging through boxes. This group of DOGE personnel does not interact at all with anyone who is not part of their team.[73]

166. The highest-ranking officials at ED — even those recently appointed by President Donald Trump — were pushed out of their own offices. DOGE personnel even rearranged the furniture and set up white noise machines to muffle their voices.[74]

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[71] Danny Nguyen, 'Anxiety provoking': Government workers describe their DOGE interviews, POLITICO (Feb. 12, 2025), https://www.politico.com/news/2025/02/12/government-workers-doge-interviews-016214.

[72] Jeff Stein et al., *U.S. Government Officials Privately Warn Musk's Blitz Appears Illegal,* WASH. POST (Feb. 4, 2025), https://www.washingtonpost.com/business/2025/02/04/elon-musk-government-legal-doge/.

[73] *See* Collin Binkley & Bianca Vázquez Toness, *Musk Team's Access To Student Loan Systems Raises Alarm Over Borrowers' Personal Information*, AP (Feb. 7, 2025), https://apnews.com/article/education-department-trump-doge-8c5bba3883b3d924b28114a4f291bec4.

[74] Annie Nova, How Elon Musk's DOGE took over the Education Department, one office at a time, CNBC (Feb. 12, 2025), https://www.cnbc.com/2025/02/12/trump-doge-education-elon-musk-cuts.html.

167. DOGE personnel have obtained administrator-level electronic accounts at ED, allowing them to access sensitive information.[75] Upon information and belief, the two DOGE personnel with administrator-level status have no familiarity with ED's inner workings prior to this time. One of them has accessed the back end of the Department of Education website. It is highly unusual for anyone from another government agency to obtain such access.

168. On February 7, 2025, Mr. Musk tweeted, "What is this 'Department of Education' you keep talking about? I just checked and it doesn't exist."[76]

169. At a press conference that day, Trump said that he had "instructed" Mr. Musk to "go check out Education" and that Mr. Musk "will be looking at education pretty quickly."[77]

170. As promised, DOGE announced three days later that the Agency had 'terminated 89 contracts worth $881mm," and another 29 DEI training grants totaling $101mm.[78] Eliminating the agreements effectively halted the work of the Institute of Education Sciences, the arm of ED responsible for gathering information about students and schools nationwide.[79]

171. This kind of authority over ED, including its management of personnel, its contracts, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

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[75] Tyler Kingkade & Natasha Korecki, *Inside DOGE's takeover of the Education Department*, NBC NEWS (Feb. 8, 2025).

[76] Elon Musk (@Elon Musk), X (Feb. 7, 2025), https://x.com/elonmusk/status/1888038615780909178.

[77] *See* Erica L. Green & Michael D. Shear, *Musk Wields Scythe on Federal Work Force, With Trump's Full Blessing*, N.Y. TIMES (Feb. 8, 2025).

[78] Department of Government Efficiency (@DOGE), X (Feb. 10, 2025), https://x.com/DOGE/status/1889113011282907434.

[79] Zachary Schermele, DOGE slashes millions from Education Department research, USA TODAY (Feb. 11, 2025), https://www.usatoday.com/story/news/education/2025/02/11/doge-musk-education-department-research/78411180007/.

172. States, school districts, and public universities rely on ED's funding and personnel. *See* Padilla Decl. ¶¶ 8(a)-(e) (identifying $1,879,210,362 in grants to New Mexico alone); Chapman Decl. ¶14 (outlining $2,493,055,346 in funding to the state of Washington for federal programs in FY2024).

173. Title I grants provide supplemental education funding to school districts and charter schools, especially those with high rates of poverty. *See* Padilla Decl. ¶ 8(a). These funds serve an estimated 26 million students in nearly 90% of school districts and nearly 60% of all public schools and are critical to closing the funding gaps between schools in communities with high rates of poverty and their wealthier counterparts. In fiscal year 2024, Title I provided over $18 billion in funding. *See* Padilla Decl. ¶ 8(a) (identifying $146,145,066 in grant awards to New Mexico alone).[80]

174. The Individuals with Disabilities Education Act (IDEA) provides formula grants to help states pay the additional cost of providing special education and related services to children with disabilities. *See* Padilla Decl. ¶8(d). In fiscal year 2024, IDEA provided over $14 billion in grants to states. *See* Padilla Decl. ¶ 8(d) (identifying $109,028,430 in grant awards to New Mexico alone).[81]

175. Each year, ED awards financial aid to approximately 13 million students.[82] ED's student loan database contains highly sensitive information about these borrowers, including their

[80] *See* Department of Education, Fiscal Year 2025 Budget Summary at 15, www.ed.gov/sites/ed/files/about/overview/budget/budget25/summary/25summary.pdf.
[81] Department of Education, Fiscal Year 2025 Budget Summary at 28, www.ed.gov/sites/ed/files/about/overview/budget/budget25/summary/25summary.pdf;
[82] *See* Department of Education, Federal Student Aid, https://www.ed.gov/about/ed-offices/fsa/federal-student-aid.

Social Security number, date of birth, student loan account information, contact information, driver's license number, and financial information throughout the student aid lifecycle.[83]

U.S. Department of Labor (DOL)

176. On February 4, 2025, Department of Labor leadership reportedly told its employees that USDS would be accessing the DOL headquarters around 4 p.m. on February 5, 2024.

177. A journalist shared on social media that her sources told her that "DOGE is going after the DOL next. DOL workers have been ordered to give DOGE access to anything they want- or risk termination."[84] This included providing access to any requested DOL system without regard to security protocols.

178. Upon information and belief, DOL leadership told employees that when Mr. Musk and his team visit the DOL, they are to do whatever they ask, not to push back, not to ask questions. They were told to provide access to any DOL system they requested access to and not to worry about any security protocols; just do it. Based on leadership's statements, the employee believed they could face termination if they did not comply.[85]

179. The States rely on DOL for funding, resources, and personnel. *See* Decl. Nair, ¶¶ 8-17; ¶ 23.

180. This kind of authority over the DOL, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

U.S. Department of Transportation (DOT)

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[83] *See* Department of Education, Privacy Policy for StudentAid.gov, https://studentaid.gov/notices/privacy.

[84] 2 Kim Kelly (@GrimKim), X (Feb. 4, 2025, 5:04 PM ET), https://x.com/GrimKim/status/1886898588099240401.

[85] Affidavit from Rushab Sanghvi, https://storage.courtlistener.com/recap/gov.uscourts.dcd.277150/gov.uscourts.dcd.277150.1.0_2.pdf.

181. The Department of Transportation plans and coordinates federal transportation projects and sets safety regulations for major modes of transportation, including air travel, which is regulated by the Federal Aviation Administration (FAA).

182. The FAA provides air traffic control service for "more than 45,000 flights and 2.9 million airline passengers traveling across the more than 29 million square miles that make up the U.S. national airspace system."[86]

183. On Wednesday, February 5, Mr. Musk posted on X: "With the support of President [Trump], the @DOGE team will aim to make rapid safety upgrades to the air traffic control system." Secretary of Transportation Sean Duffy confirmed that Mr. Musk and his team will "plug in to help upgrade our aviation system" and "remake our airspace . . . quickly."[87]

184. The systems involved in air traffic control are immense and complex. "A single program run by the FAA to help air-traffic controllers, En Route Automation Modernization, contains nearly 2 million lines of code; an average iPhone app, for comparison, has about 50,000."[88] The consequences of changes in these systems could be catastrophic: "In the FAA, even a small systems disruption could cause mass grounding of flights, a halt in global shipping, or worse, downed planes."[89]

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[86] Federal Aviation Administration, National Airspace System (last updated April 20, 2023), https://www.faa.gov/air_traffic/nas.

[87] Jason Lalljee, *Musk Sets Sights on Aviation Reform*, AXIOS (Feb. 5, 2025), https://www.axios.com/2025/02/05/dc-plane-crash-musk-doge ; *see also* Secretary Sean Duffy (@SecDuffy), X (Feb.5, 2025), https://x.com/SecDuffy/status/1887209012867047525.

[88] Charlie Warzel & Ian Bogost, *The Government's Computing Experts Say They Are Terrified*, THE ATLANTIC (Feb. 7, 2025), https://www.theatlantic.com/technology/archive/2025/02/elon-musk-doge-security/681600/.

[89] *Id.*

185. Thus, Mr. Musk is planning to make—and may have already started to make—rapid-fire changes to FAA systems and processes, potentially without the subject matter expertise, testing, coordination, and oversight ordinarily required.

186. Further, Mr. Musk now has, or will imminently have, access to FAA systems, although the FAA oversees SpaceX's operations in commercial airspace and Mr. Musk previously threatened to sue the FAA for "regulatory overreach" when it did not approve launch licenses quick enough for SpaceX.[90]

187. This kind of authority over the FAA, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

National Oceanic and Atmospheric Administration (NOAA)

188. The NOAA provides critical information to state governments, including information about weather, severe storms, wildfires, tornados, hurricanes, and coastal flooding.

189. DOGE has been investigating NOAA. Former NOAA officials said that DOGE staffers visited NOAA headquarters in Silver Spring, Md., and the Hoover Building in Washington, D.C., the location of NOAA's parent agency, the U.S. Department of Commerce. The agency has been told it should expect to lose half of its 13,000 employees and to prepare for 30% budget cuts.[91]

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[90] Elon Musk (@Elon Musk), X (Feb. 5, 2025), https://x.com/elonmusk/status/1887233566263967812 ("Just a few days ago, the FAA's primary aircraft safety notification system failed for several hours!").

[91] Laura Geller & Tracy J. Wholf, *Democrats Concerned DOGE Is Targeting NOAA, Sources Say*, CBS NEWS (Feb. 5, 2025).

190. DOGE has also accessed NOAA IT systems. As of February 5, 2025, several key NOAA websites were down. [92]

191. The National Marine Fisheries Service, a division of the NOAA, received an emailed order to halt "ALL INTERNATIONAL ENGAGEMENTS."[93] The order includes all participation with international agencies and emails "with foreign national colleagues."

192. DOGE-affiliated personnel Nikhil Rajpal was also given edit access to the NOAA's documents after an alleged order came from acting Commerce Secretary Jeremy Pelter. Rajpal previously worked at Tesla and Twitter.

193. This authority over the NOAA, including its management of personnel, its funding decisions, programs, and systems, may only be exercised by a duly appointed officer.

Federal Emergency Management Agency (FEMA)

194. On February 9, 2025, Homeland Security Secretary Kristi Noem acknowledged that DOGE has access to FEMA's data, including that of federal disaster aid recipients' personal information, as part of an "audit."[94]

195. On February 9, Mr. Musk tweeted that "FEMA is broken."[95] On February 10, Mr. Musk tweeted that DOGE had discovered that FEMA spent nearly $60 million housing migrants

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[92] ABC Climate Unit, *DOGE Now Has Access To NOAA's IT Systems; Reviewing DEI Program, Sources Say*, ABC NEWS (Feb. 5, 2025), https://www.kron4.com/hill-politics/democrats-accuse-doge-of-going-after-noaa/amp/.

[93] Dell Cameron, *NOAA Employees Told to Pause Work with 'Foreign Nationals,'* WIRED (Feb. 5, 2025).

[94] Aileen Graef & Veronica Stracqualursi, DOGE Team Has Access To FEMA Private Information On Those Who Received Disaster Relief Grants, ACTION NEWS NOW (Feb. 9, 2025), https://www.actionnewsnow.com/news/doge-team-has-access-to-fema-private-information-on-those-who-received-disaster-relief-grants/article_9f408dd9-cffd-57ae-ab33-17b5e6d450a5.html

[95] Elon Musk (@Elon Musk), X (Feb. 9, 2025), https://x.com/elonmusk/status/1888488867809956267.

in what he alleged were "luxury" New York City hotels. He wrote that the money "violated the law" and that "a clawback demand will be made today to recoup those funds."[96]

196. That day, four FEMA officials were fired. FEMA's acting administrator, Cameron Hamilton, stated that the payments were suspended and that personnel "will be held accountable."[97]

197. This authority over the FEMA, including its management of personnel, its funding decisions, and systems, may only be exercised by a duly appointed officer.

Small Business Administration

198. Mr. Musk and DOGE have gained access to all systems of the Small Business Administration—including HR, contracts, and business systems—which supported more than 100,000 financings to small businesses last year alone.[98]

199. This authority over the Small Business Administration, including its personnel, data, funding decisions, and technological infrastructure, may only be exercised by a duly appointed officer.

C. Mr. Musk Has Engaged in Conduct That Exceeds the Authority Historically Recognized As Belonging to an Officer.

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[96] Elon Musk (@Elon Musk), X (Feb. 10, 2025), https://x.com/elonmusk/status/1888891512303263815.

[97] Antonio Pequeno IV, *Four FEMA Officials Fired After Musk's DOGE Claims Agency Funded Migrant Housing In 'Luxury' Hotels* (Feb. 11, 2025), http://forbes.com/sites/antoniopequenoiv/2025/02/11/four-fema-officials-fired-after-musks-doge-claims-agency-funded-migrant-housing-in-luxury-hotels/.

[98] Nicole Narea, *Elon Musk's Secretive Government IT Takeover, Explained*, VOX (Feb. 5, 2025), https://www.vox.com/politics/398366/musk-doge-treasury-sba-opm-budget; Bobby Allyn & Shannon Bond, *Elon Musk Is Barreling into Government with DOGE, Raising Unusual Legal Questions,* NPR (Feb. 3, 2025), https://www.npr.org/2025/02/03/nx-s1-5285539/doge-musk-usaid-trump.

200. The exercise of significant authority associated with officers of the United States includes the authority to receive, oversee, or disburse public funds, authority over contracts, the power to determine the use of and access to government property, and the power to issue regulations. Mr. Musk has asserted or promised to assert all these forms of significant authority, and more, through his widespread actions across the Executive Branch, both within and between agencies.

Controlling Expenditures and Disbursements of Public Funds

201. Under the banner of improving efficiency, cutting waste, and rooting out fraud, Mr. Musk and DOGE have assumed and exercised authority over public funds held by the federal government.

202. Mr. Musk announced his intent to use DOGE to take control of federal spending and reduce it by $2 trillion and to drastically downsize the federal government.[99] It is doubtful that *any* officer in the Executive Branch has the power to do so, let alone a non-confirmed government employee.

Terminating Federal Contracts and Exercising Control over Federal Property

203. DOGE has expressly indicated that it intends to eliminate every contract not essential to operations or required by law, over objection from agency officials.

[99] Jonathan Schwabish, *The Implications of Shrinking the Federal Workforce by DOGE's Recommended 75 Percent*, URBAN INSTITUTE (Jan. 20, 2025), https://www.urban.org/urban-wire/implications-shrinking-federal-workforce-doges-recommended-75-percent; Madeliene Ngo and David A. Fahrenhold, *Musk Wants to Slash $2 Trillion in Federal Spending. Is That Possible*?, N.Y. TIMES (Nov. 16, 2024), https://www.bloomberg.com/news/videos/2024-10-28/elon-musk-we-can-cut-2-trillion-from-us-budget-video.

204. Federal employees have reported that "DOGE teams don't tell department staffers which contracts they need to cancel."[100]

205. On January 31, 2025, DOGE said in a post on X that it had eliminated 104 contracts related to diversity, equity, inclusion and accessibility (DEIA) at more than a dozen federal agencies.[101]

206. On February 3, DOGE wrote in a post on X that it had canceled twenty-two leases in the past six days.[102] DOGE also posted that it had canceled thirty-six contracts across six agencies to cut federal expenditures.[103]

207. DOGE wrote on February 4 that it canceled twelve contracts in the GSA and the Department of Education.[104]

208. DOGE posted on its X account on February 7, 2025, that "coordination across 35 agencies over the last two days" had resulted in cuts of $250 million through the termination of 199 contracts.[105]

209. Mr. Musk and DOGE have made clear that they will continue to eliminate federal contracts.

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[100] Annie Nova, How Elon Musk's DOGE took over the Education Department, one office at a time, CNBC (Feb. 12, 2025), https://www.cnbc.com/2025/02/12/trump-doge-education-elon-musk-cuts.html.

[101] Department of Government Efficiency (@DOGE), X (Jan. 31, 2025), https://x.com/DOGE/status/1885420298138247458

[102] Department of Government Efficiency (@DOGE), X (Feb. 3, 2025), https://x.com/DOGE/status/1886273522214813785

[103] Department of Government Efficiency (@DOGE), X (Feb. 3, 2025), https://x.com/DOGE/status/1886578681805504608.

[104] Department of Government Efficiency (@DOGE), X (Feb. 4, 2025), https://x.com/DOGE/status/1886982858369020330.

[105] Department of Government Efficiency (@DOGE), X (Feb. 7, 2025), https://x.com/DOGE/status/1888046273543979183

210. Among the cuts sought by the DOGE team is an 80% reduction in spending on a contract to manage websites and call center technology that parents and students use for help applying for federal student aid. There are two years remaining on an $824 million contract with information technology services company Accenture for the work.[106]

211. DOGE also plans to sell government real estate holdings at GSA.

Binding the Government to Future Financial Commitments Without Congressional Authorization

212. Through the "Fork in the Road" initiative, Mr. Musk has committed to severance packages through September.

Eliminating Agency Regulations and Entire Agencies and Departments

213. Mr. Musk has made clear that he plans to embark on a massive and unprecedented deregulation project by rescinding thousands of agency regulations.

214. Mr. Musk has publicly remarked that "regulations, basically, should be default gone" and has promised a "wholesale removal of regulations."[107]

[106] Collin Binkley & Bianca Vazquez Toness, *Musk team's access to student loan systems raises alarm over borrowers' personal information*, AP NEWS (Feb. 7, 2025), https://apnews.com/article/education-department-trump-doge-8c5bba3883b3d924b28114a4f291bec4

[107] Matt Shuham, *Elon Musk Suggests Getting Rid Of All Regulations In Midnight Call,* HUFFPOST (Feb. 3, 2025), https://www.yahoo.com/news/elon-musk-suggests-getting-rid-212557557.html (""These regulations are added willy-nilly all the time. So we've just got to do a wholesale, spring cleaning of regulation and get the government off the backs of everyday Americans so people can get things done.").

215. Trump stated that Mr. Musk "will pave the way for my Administration to dismantle Government Bureaucracy, slash excess regulations, cut wasteful expenditures, and restructure Federal Agencies."[108]

216. Mr. Musk has called for the elimination of entire federal organizations, such as the CFPB and USAID.[109]

217. Again, it is doubtful that any one officer of the Executive Branch has the authority to engage make such cuts, let alone an unconfirmed government employee.

Directing Action by Agencies

218. The Executive Order creating DOGE purports to create a hierarchy in which the DOGE Administrator answers to the White House Chief of Staff.

219. However, public reporting makes clear that Mr. Musk is acting unsupervised by anyone and without advance consultation with President Trump or White House staff about his or DOGE's actions.

220. Further, Trump is "not closely monitoring Mr. Musk's moves"; instead, he provides Mr. Musk unfettered discretion to take control of federal finances, agency operations, and sensitive information as he sees fit because he "views Mr. Musk as doing the task he assigned him."[110]

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[108] Soo Rin Kim, *Some Ethics Experts Raise Concerns Over Musk and Ramaswamy's Department of Government Efficiency Roles*, ABC NEWS (Nov. 13, 2024), https://abcnews.go.com/US/ethics-experts-raise-concerns-musk-ramaswamys-department-government/story?id=115838961.

[109] Elon Musk (@Elon Musk), X (Nov. 27, 2024, 12:35 AM ET), https://x.com/elonmusk/status/1861644897490751865 (identifying the CFPB as an area of federal government to "delete"). Last week, Mr. Musk posted: "CFPB RIP."

[110] Isaac Arnsdorg & Jacqueline Alemany, *Trump, Musk wage two-front war as donor does president's 'dirty work'*, WASH. POST (Feb. 4, 2025), https://www.washingtonpost.com/politics/2025/02/03/trump-musk-president-role/.

221. Mr. Musk and his DOGE personnel have conducted their work by threatening, ignoring, and overriding any objections or concerns raised by agency heads and staff. Federal employees have reported that they feel "afraid," "confused," and intimidated.[111]

222. Constantly shifting demands from DOGE employees about how much funding they need to cut have left employees confused and afraid, two employees told CNBC.

223. What's more, they said, the demands of DOGE teams appear to be arbitrary, and not rooted in any political or policy goals.

Acting as a Principal Officer Unsupervised by Heads of Departments

224. Mr. Musk is not subject to removal by any officer higher than himself as DOGE Administrator—only by President Trump.

225. Mr. Musk's authority extends across all agencies in the Executive Branch in an unprecedented manner.

D. Defendants' Actions Have Harmed the Plaintiff States and Will Continue to Harm Them Unless Enjoined.

226. "[J]udicial review of an Appointments Clause claim will proceed even where any possible injury is radically attenuated." *Landry v. F.D.I.C.*, 204 F.3d 1125, 1131 (D.C. Cir. 2000); *see also Lofstad v. Raimondo*, 117 F.4th 493, 497 (3rd Cir. 2024) ("A litigant need not show direct harm or prejudice caused by an Appointments Clause violation . . . Such harm is presumed" (citing *Cirko v. Comm'r of Soc. Sec.*, 948 F.3d 148, 154 (3rd Cir. 2020)).

227. Here, however, Mr. Musk's unlawful assault on the federal government has directly harmed the Plaintiff States. Mr. Musk has interfered with funding that goes directly to the Plaintiff

[111] Annie Nova, How Elon Musk's DOGE took over the Education Department, one office at a time, CNBC (Feb. 12, 2025), https://www.cnbc.com/2025/02/12/trump-doge-education-elon-musk-cuts.html.

States and stated his intent to continue interfering with such funding. That amounts to a classic pocketbook injury.

228. Defendants have also unlawfully accessed financial data, including of the Plaintiff States, and exposed that data to cybersecurity risks.

Financial and Programmatic Harms to States

229. The federal government disburses billions of dollars directly to the States, to support law enforcement, health care, education, and many other programs. *See*, *e.g.*, Gilliam Decl. ¶ 7 ("Federal funding comprises 42% of the New Mexico Environment Department's budget."); Chang Decl. ¶ 8 (noting that New Mexico's Abandoned Mine Lands Program is fully federally funded and its Coal Mine Reclamation Program is 79% federally funded); Henerson Decl. ("In FY 2025, the State of Arizona is slated to receive more than $30 billion in federal funding" for a huge array of State agencies."). In fiscal year 2022, 36.4% of state revenue came from federal dollars.[112]

230. Defendants have attempted to use their unlawful control of federal agencies to stop many such payments, and they have expressed their intent to continue and expand those efforts.

231. For example, Defendants have halted payments from USAID to public universities, including in the Plaintiff States, *see* Brunell Decl. ¶¶ 3-8; stated that they intend to use Treasury's BFS system to halt payments to innumerable recipients, including the Plaintiff States; and stated that they intend to destroy the U.S. Department of Education, which provides billions of dollars in funding to the Plaintiff States.

[112] Rebecca Thiess, Kate Watkins & Justin Theal, *Record Federal Grants to States Keep Federal Share of State Budgets High*, PEW (Sept. 10, 2024), https://www.pewtrusts.org/en/research-and-analysis/articles/2024/09/10/record-federal-grants-to-states-keep-federal-share-of-state-budgets-high.

232. Mr. Musk has also stated that he intends to "delete" the CFPB. The destruction of CFPB, the U.S. Department of Education, or other agencies would place unanticipated financial and resource constraints on Plaintiff States.

233. For example, CFPB's investigations into and enforcement of consumer protection laws benefits residents of Plaintiff States. With the cessation of CFPB operations, state consumer protection agencies and other enforcement authorities will likely face an increase in complaints and requests for assistance, resulting in the need to invest greater resources and personnel to protect their citizens. *See supra* ¶ 145.

234. Since its formation in 2011, the CFPB has shouldered a massive burden for Plaintiff States by regulating and enforcing consumer protection laws against industries that exploit financially vulnerable consumers, including payday lenders, mortgage servicers, foreclosure relief services, and debt collectors. These industries already account for a substantial percentage of all complaints Plaintiff States receive each year. Complaints will increase dramatically if the CFPB ceases enforcement of the Consumer Financial Protection Act and abandons the CFPB-prescribed rules that bring uniformity to the information financial institutions and debt collectors must provide to consumers.

235. The CFPB also produces educational resources that aid consumers with questions or issues related to finances, a burden Plaintiff States will bear if the CFPB halts operations. Further, the CFPB operates a unique victims fund that has provided more $3.3 billion in restitution to 6.7 million consumers harmed by insolvent businesses, a cost the states cannot possibly bear.

236. Likewise, the U.S. Department of Education Office of Civil Rights (OCR) has jurisdiction over areas that state civil rights offices may not. For example, some state civil rights offices do not have clear jurisdiction over public schools under state statutes prohibiting

discrimination against people with disabilities. Without OCR, discrimination against students with disabilities in public schools (e.g., with respect to Individualized Education Programs (IEPs), protections under Section 504 of the Rehabilitation Act of 1973, like prohibitions against seclusion and restraint) will go without investigation or oversight by a government entity. The public will then turn to state civil rights offices, which will have to spend time and resources to review the cases to determine jurisdiction.

237. Plaintiff States operate numerous programs through federal-state partnerships and contracts, whereby the two parties collectively oversee and administer programs that serve both the States themselves and their citizens.[113] For example, New Mexico's Department of Workforce Solutions has approximately 85 contracts with the federal government. *See* Declaration of Sarita Nair, ¶¶ 8-17; ¶ 23

238. If the federal government ceases to fulfill its obligations under these agreements, Plaintiff States will incur greater financial costs and strain on personnel and other resources to compensate for the lost federal funding and staffing needed to administer and operate these programs, or else cut them entirely. *See, e.g.*, Henderson Decl. ¶¶ 3-4, 10-11; Gilliam Decl. ¶¶ 9-11; Padilla Decl. ¶¶ 9-12.

239. Aside from cooperatively administered programs, many federal programs are overseen and operated entirely by states at the local level. Federal hiring freezes or workforce reductions can lead to understaffed federal agencies, causing delays and inefficiencies in program implementation. States may need to allocate additional resources to manage these programs effectively, adding to their financial burdens. *See, e.g.*, Chang Decl. ¶¶ 3-11.

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[113] Bridget Fahey, *Coordinated Rulemaking and Cooperative Federalism's Administrative Law*, 132 YALE L.J. 1320, 1323 (2023).

Unauthorized Access to and Disclosure of the States' Private Data

240. Plaintiff States have a proprietary interest in maintaining the privacy and security of their financial and banking information that they have transmitted to federal agencies. *See TransUnion LLC v. Ramirez,* 594 U.S. 413, 424 (holding that "disclosure of private information" is a concrete harm "traditionally recognized as providing a basis for lawsuits in American courts.").

241. Plaintiff States' bank account information and other sensitive financial data, such as taxpayer identification numbers, financial account numbers, are stored in the Bureau of the Fiscal Service ("BFS") payment systems within Treasury.

242. Unauthorized access to State financial data jeopardizes the privacy and security of the States' data.

243. Because the Federal Government is under constant threat of cyberattacks, increasing the number of people with access to secure systems and rewriting basic programs presents grave cybersecurity risks, including with respect to the Plaintiff States' data.

244. Further, the rushed and reckless manipulation of federal agency data management and storage systems by people unfamiliar with agency systems creates opportunities for cyberhacking, jeopardizing national security and infrastructure controlled by agencies like DOT, DOD, and DOE.

245. Defendants have also defied the strict cybersecurity controls for accessing federal networks, including by reportedly connecting personal devices to sensitive government systems[114] and ignoring information-security protocols.

[114] Letter from Senators to Susan Wiles, White House Chief of Staff Executive (Feb. 5, 2025), https://www.bennet.senate.gov/wp-content/uploads/2025/02/DOGE-Letter.pdf.

246. Agency employees have attempted to raise the alarm about this reckless conduct. Treasury's security contractor even flagged DOGE's conduct as an "insider threat."

247. Mr. Musk and DOGE have already gained access to and altered IT networks for numerous agencies that are responsible for maintaining and protecting critical infrastructure and national safety, including the Department of Energy.

248. Media reporting as of February 9, 2025, indicated that Mr. Musk and DOGE intended to access another secure Treasury database, the Central Accounting Reporting System (CARS) in the next few days. CARS was created to promote uniformity in accounting procedures across federal agencies to enable the federal government to better track financial transactions for the purpose of identifying potential national security risks. The database is believed to be of interest to foreign intelligence agencies. When government auditors have examined the system in the past, the Treasury has pushed for them to do it in secure environments or on the Fiscal Service's laptops.

249. Thousands of citizens have contacted officials at Plaintiff States to voice their fears about Mr. Musk's and DOGE's unprecedented access to protected financial, personal, and other sensitive data. *See, e.g.*, Bush-Koleszar Decl. ¶¶ 4-7 (describing some of the more than 2,600 citizen letters detailing concerns about Mr. Musk and DOGE having unauthorized access to personal information held by federal agencies); Clinton Decl. ¶¶ 7-7-13 (describing some of the more than 1,600 citizen letters detailing same).

250. Defendants' expanded access may cause a chilling effect on accessing or applying for state programs. Some state citizens have expressed reluctance to provide private information to the government due to fears about data security and data misuse, whether through pursuit of the DOGE agenda or the use of federal data for Mr. Musk's private ventures.

251. On February 11, 2025, U.S. District Court Judge Paul A. Engelmayer issued an order amending a preliminary injunction entered on February 8, 2025, restraining Defendant President Trump, the Department of Treasury, and Treasury Secretary Scott Bessent from (a) granting access to "personally identifiable and/or confidential financial information of payees" to individuals other than "career employees with a need for access to perform their job duties within the BFS who have passed all background checks and security clearances and taken all information security training called for in federal statutes and Treasury Department regulations," (b) "granting access to all political appointees, special government employees, and government employees detailed from an agency outside the Treasury Department, to any Treasury Department payment record, payment systems, or any other data systems maintained by the Treasury Department containing personally identifiable information and/or confidential financial information of payees."

252. Judge Engelmayer further ordered Defendant Trump, the Department of Treasury, and Secretary Bessent "to direct any person prohibited above from having access to such information, records and systems but who has had access to such information, records, and systems since January 20, 2025, to immediately destroy any and all copies of material downloaded." Order, at *3, *New York v. Trump*, 1:25-cv-01144-JAV (S.D.N.Y. Feb. 8, 2025).

CAUSES OF ACTION

COUNT I

Violation of the Appointments Clause of the U.S. Constitution

Against All Defendants

253. The Plaintiffs States incorporate the preceding allegations as if alleged herein.

254. Mr. Musk is an "Officer[] of the United States." U.S. Const. art. II, § 2, cl. 2.

255. Mr. Musk asserts significant and unprecedented authority in the Executive branch, including making decisions about spending, personnel, contracts, government property, regulations, and agency existence. And he occupies a continuing position as part of the federal government.

256. Mr. Musk takes actions that can only be taken by a nominated and confirmed principal officer of the United States. But President Trump did not appoint Mr. Musk with the advice and consent of the Senate.

257. Mr. Musk does not occupy an office created by law and has no authority to exercise the powers of a principal officer, or any other officer.

258. Mr. Musk's actions violate Article II, Section 2 of the United States Constitution.

259. Mr. Musk's actions, personally and through his oversight of DOGE and DOGE personnel, have harmed Plaintiff States.

260. To remedy the Appointments Clause violation, the improperly appointed officer's challenged actions should be rendered invalid. *Ryder v. United States*, 515 U.S. 177 (1995); *Lucia v. SEC*, 585 U.S. 237 (2018); *Stern v. Marshall*, 564 U.S. 462 (2011); *Clinton v. City of New York*, 524 U.S. 417 (1998); *INS v. Chadha*, 462 U.S. 919 (1983).

COUNT II

Conduct in Excess of Statutory Authority
Against Defendants Mr. Musk, U.S. DOGE Service, and U.S. DOGE Temporary Service Organization

261. The Plaintiffs States incorporate the preceding allegations as if alleged herein.

262. DOGE has purported to exercise authority of its own, and not merely to have acted as an adviser to the President.

263. "Administrative agencies are creatures of statute. They accordingly possess only the authority that Congress has provided." *Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety & Health Admin.*, 595 U.S. 109, 117 (2022) (per curiam).

264. Congress has not provided any authority to DOGE.

265. The Constitution does not provide any authority to DOGE.

266. The temporary organization statute, 5 U.S.C. § 3161, does not provide DOGE with the authority it has purported to exercise.

267. That statute provides that a "temporary organization" is defined as an organization "established by law or Executive order for a specific period not in excess of three years for the purpose of performing a specific study or other project." 5 U.S.C. § 3161(a)(1) (emphasis added).

268. There is no plausible definition of "project" that would include DOGE's attempt to remake the entire Executive Branch, as described above, or to destroy agencies, fire personnel, halt funding, or dispose of government property.

269. That conclusion is supported by the major questions doctrine, under which courts "expect Congress to speak clearly when authorizing an agency to exercise powers of vast economic and political significance." *Nat'l Fed'n of Indep. Bus.*, 595 U.S. at 117 (citation and quotation marks omitted).

270. When the executive branch purports to exercise such powers, "the question" is whether a statute (or the Constitution) "plainly authorizes" that action. *Id.*

271. The temporary organization statute, 5 U.S.C. § 3161, does not "plainly authorize" DOGE to remake the entire Executive Branch as described above, or to destroy agencies, fire personnel, halt funding, or dispose of government property.

272. Accordingly, DOGE's conduct to that effect has been *ultra vires* and DOGE must be enjoined from any such further conduct.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff States pray that this Court grant the following relief:

A. Injunctive Relief

273. Issue a temporary restraining order that immediately and temporarily, until such time as the Court may hear a motion for preliminary injunction, orders Mr. Musk to identify all ways in which any data obtained through unlawful agency access was used, including whether it was used to train any algorithmic models or create or obtain derivative data, orders Mr. Musk to destroy any copies or any derivative data from such unauthorized access in his or DOGE's possession, custody, or control, and bars Mr. Musk and DOGE from:

(a) ordering any change in the disbursement of public funds by agencies;

(b) extending offers on behalf of the United States that would bind the government to an appropriation that has not been authorized by law;

(c) cancelling government contracts;

(d) disposing of government property;

(e) ordering the rescission or amendment of regulations;

(f) making personnel decisions for agency employees;

(g) taking steps to dismantle agencies created by law or otherwise asserting control over such agencies, including, *e.g.*, placing employees on administrative leave;

(h) accessing sensitive and confidential agency data, using agency data for other than its authorized purpose;

(i) altering agency data systems without authorization by law and without taking all appropriate protections against cybersecurity risks; or

(j) engaging in any other conduct that violates the Appointments Clause or exceeds statutory authority.

274. Issue preliminary and permanent injunctions granting the same Relief as set forth in the preceding paragraph of this Complaint.

B. Declaratory Relief

275. (1) Declare that Mr. Musk's officer-level governmental actions to date, including those of his subordinates and designees, are *ultra vires* and shall have no legal effect; and (2) declare that any future orders or directions by Mr. Musk or DOGE in the categories outlined in the Injunctive Relief section of this Prayer for Relief above are *ultra vires* and of no legal effect.

A. Other Relief

276. Award the Plaintiff States their reasonable fees, costs, and expenses, including attorneys' fees, pursuant to 28 U.S.C. § 2412.

277. Award such other relief as this Court may deem just and proper.

Dated: Santa Fe, New Mexico
February 13, 2025

Respectfully submitted,

RAÚL TORREZ
Attorney General of the State of New Mexico

By: /s/ *Anjana Samant*
Anjana Samant

Deputy Counsel

DC Bar No 4267019
James Grayson*
Chief Deputy Attorney General
Steven Perfrement
Assistant Attorney General
New Mexico Department of Justice
408 Galisteo Street
Santa Fe, New Mexico 87501
jgrayson@nmdoj.gov
asamant@nmdoj.gov
SPerfrement@nmdoj.gov
(505) 270-4332

Attorneys for the State of New Mexico

DANA NESSEL
Attorney General, State of Michigan

By: */s/ Joseph Potchen*
Joseph Potchen*
Deputy Attorney General
Linus Banghart-Linn*
Chief Legal Counsel
Jason Evans*
Assistant Attorney General
Michigan Department of Attorney General
525 W. Ottawa St.
Lansing, MI 48933
517-335-7632
evansj@michigan.gov

Attorneys for the People of the State of Michigan

KRISTIN K. MAYES
Attorney General for the State of Arizona

By: */s/ Joshua D. Bendor*
Joshua D. Bendor*
Solicitor General
2005 North Central Avenue
Phoenix, Arizona 85004
(602) 542-3333
Joshua.Bendor@azag.gov

Attorneys for the State of Arizona

ROB BONTA
Attorney General for the State of California

By: */s/ Laura L. Faer*
Laura L. Faer*
Supervising Deputy Attorney General
1515 Clay St.
Oakland, CA 94612
(510) 879-3304
Laura.Faer@doj.ca.gov

Attorneys for the State of California

WILLIAM TONG
Attorney General for the State of Connecticut

By: */s/ Michael K. Skold*
Michael K. Skold*
Solicitor General
165 Capitol Ave
Hartford, CT 06106
(860) 808-5020
Michael.Skold@ct.gov

Attorneys for the State of Connecticu

ANNE E. LOPEZ
Attorney General for the State of Hawai'i

By: /s/ Kalikoʻonālani D. Fernandes
Kalikoʻonālani D. Fernandes*
Solicitor General
David D. Day*
Special Assistant to the Attorney General
425 Queen Street
Honolulu, HI 96813
(808) 586-1360
kaliko.d.fernandes@hawaii.gov

Attorneys for the State of Hawai'i

ANTHONY G. BROWN
Attorney General for the State of Maryland

By: */s/ Adam D. Kirschner*
Adam D. Kirschner*
Senior Assistant Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
(410) 576-6424
AKirschner@oag.state.md.us

Attorneys for the State of Maryland

ANDREA JOY CAMPBELL
Attorney General of Massachusetts

By: */s/ David C. Kravitz*
David C. Kravitz*

1 Ashburton Pl., 20th Fl
Boston, MA 02108
(617) 963-2277
katherine.dirks@mass.gov

Attorneys for the State of Massachusetts

KEITH ELLISON
Attorney General for the State of Minnesota

By: */s/ Liz Kramer*
Liz Kramer*
Solicitor General
445 Minnesota Street, Suite 1400
St. Paul, Minnesota 55101
(651) 757-1010
Liz.Kramer@ag.state.mn.us

Attorneys for the State of Minnesota

DAN RAYFIELD
Attorney General for the State of Oregon

By: */s/ Deanna J. Chang*
Deanna J. Chang*
Senior Assistant Attorney General
100 SW Market Street
Portland, OR 97201
(971) 673-1880
Deanna.j.chang@dog.oregon.gov

Counsel for the State of Oregon

PETER F. NERONHA
Attorney General for the State of Rhode Island

By: */s/ Jeff Kidd*
Jeff Kidd*
Special Assistant Attorney General
150 South Main Street
Providence, Rhode Island 02903
(401) 274-4400
jkidd@riag.ri.gov

Attorneys for the State of Rhode Island

CHARITY R. CLARK
Attorney General for the State of Vermont

By: */s/ Jonathan T. Rose*
Jonathan T. Rose*
Solicitor General
109 State Street
Montpelier, VT 05609
(802) 793-1646
Jonathan.rose@vermont.gov

Attorneys for the State of Vermont

NICHOLAS W. BROWN
Attorney General for the State of Washington
By: */s/ Andrew Hughes*
Andrew Hughes*
Assistant Attorney General
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 464-7744
Andrew.Hughes@atg.wa.gov

Attorneys for the State of Washington

* *Pro Hac Vice*