

**ORAL ARGUMENT NOT YET SCHEDULED**  
**No. 18-5257**

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**UNITED STATES COURT OF APPEALS**  
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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JANE DOE 2, ET AL.,

*Plaintiffs-Appellees,*

v.

DONALD J. TRUMP, ET AL.,

*Defendants-Appellants.*

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On Appeal from the United States District Court  
for the District of Columbia, No. 1:17-cv-01597-CKK  
Before the Honorable Judge Kollar-Kotelly

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**PLAINTIFFS-APPELLEES' RESPONSE TO GOVERNMENT'S MOTION  
TO EXPEDITE BRIEFING SCHEDULE**

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September 10, 2018

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Plaintiffs-Appellees respectfully submit this response to the government's Motion to Expedite Briefing Schedule, which seeks to set an extraordinarily expedited briefing schedule for Defendants' appeal from the district court's order of August 6, 2018, denying their motion to vacate the preliminary injunction, which has been in place since October 30, 2017. Plaintiffs do not oppose the government's proposal to bypass the motions period and proceed directly to briefing on the merits. Defendants' proposed schedule for briefing is, however, unjustified and would cause significant difficulties for Plaintiffs' counsel.

The preliminary injunction from which the government seeks relief—and which this Court previously refused to lift<sup>1</sup>—has already been in place for nearly a year, and the government has pointed to nothing to suggest that the district court's ruling keeping that injunction in place constitutes an emergency requiring expedited briefing. Indeed, the government waited three full weeks before even filing the notice of appeal of the district court's denial of their request to lift the preliminary injunction, and they have not requested a stay of that decision either from the district court or from this Court.

Moreover, as a practical matter, the dates proposed by the government—with its opening brief to be filed on September 21 and Plaintiffs' response brief to

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<sup>1</sup> Order, *Doe v. Trump*, No. 17-5267 (D.C. Cir. Dec. 22, 2017).

be filed on October 22—create significant conflicts for Plaintiffs’ counsel.<sup>2</sup> Specifically, as Plaintiffs’ counsel explained to the government during the parties’ discussions over the briefing schedule, undersigned counsel is participating in a three-week trial in Boston beginning on October 15<sup>3</sup> and will be unavailable to devote significant resources to this appeal leading up to and during that proceeding. The proposed due date for Plaintiffs’ response brief, October 22, falls in the middle of that trial. It also falls in the middle of briefing in this case that will be taking place in the district court over significant privilege issues; the parties have proposed to the district court that they each file crossing briefs due on October 9 and October 30.

Notwithstanding the government’s attempt (at 4) to paint this accelerated timeline as a compromise that “only cuts short its own time to file a brief” and that “accommodate[s] counsel’s other litigation commitments,” the government’s proposed schedule would disadvantage Plaintiffs. As described above, the proposed schedule places Plaintiffs’ opposition brief in the middle of its lead

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<sup>2</sup> The government originally proposed a much less expedited schedule to Plaintiffs’ counsel, with the government’s brief due 40 days after this Court entered a briefing order, and Plaintiffs’ response brief due 30 days after the government’s brief would be due. Undersigned counsel explained his conflicts to the government. The schedule that the government has actually proposed to this Court makes those conflicts, if anything, even worse.

<sup>3</sup> *Students for Fair Admission v. President and Fellows of Harvard College*, No. 14-14176 (D. Mass.).

appellate counsel's trial in a month where Plaintiffs' team of attorneys already has two other briefs due in the district court. And while the government's appellate team has already briefed issues related to the March 2018 implementation plan before the Ninth Circuit, Plaintiffs will be briefing these issues at the appellate level for the first time.

As noted, Plaintiffs do not oppose the government's proposal to bypass the motions period and proceed directly to briefing this case on the merits, but respectfully request that this Court enter a briefing schedule that avoids other significant conflicts and allows the parties to brief the important issues in this case with due consideration.<sup>4</sup>

### **CONCLUSION**

Although Plaintiffs-Appellees do not oppose Defendants' request to bypass the motions period and proceed directly to briefing on the merits, the motion to expedite briefing should otherwise be denied.

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<sup>4</sup> The Court may set a briefing schedule for this appeal according to its usual practices. Plaintiffs previously suggested to the government that the government's opening brief be due November 2, the opposition brief be due December 2, and the reply brief be due December 21, with all amicus briefs due seven days after the briefs for the parties they support.

Respectfully submitted,

/s/ Paul R.Q. Wolfson

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## CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), the undersigned hereby certifies that this response complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A).

1. Exclusive of the exempted portions of the response, as provided in Fed. R. App. P. 32(f), the response contains 678 words.

2. The response has been prepared in proportionally spaced typeface using Microsoft Word 2016 in 14 point Times New Roman font. As permitted by Fed. R. App. P. 32(g)(1), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

/s/ Paul R.Q. Wolfson \_\_\_\_\_

PAUL R.Q. WOLFSON

## CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of September, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the appellate CM/ECF system.

/s/ Paul R.Q. Wolfson

PAUL R.Q. WOLFSON