TODD BLANCHE
Deputy Attorney General
BILAL A. ESSAYLI
First Assistant United States Attorney
DAVID M. HARRIS
Assistant United States Attorney
Chief, Civil Division
DANIEL A. BECK
Assistant United States Attorney
Chief, Complex and Defensive Litigation Section
ALEXANDER L. FARRELL (Cal. Bar No. 335008)
Assistant United States Attorney
Federal Building, Suite 7516
300 North Los Angeles Street
Los Angeles, California 90012
Telephone: (213) 894-5557
E-mail: Alexander.Farrell@usdoj.gov

Attorneys for Defendants

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

PECHANGA BAND OF INDIANS,

Plaintiff,

v.

ROBERT F. KENNEDY, JR., *et al*.,

Defendants.

No. 5:25-cv-03605-JGB-SP

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION [DKT. 58]

Declaration of Wesley Simmons filed concurrently herewith

Hearing Date: April 27, 2026
Hearing Time: 9:00 a.m.
Ctrm: 1, Riverside

Honorable Jesus G. Bernal
United States District Judge

TABLE OF CONTENTS

DESCRIPTION PAGE

Contents

TABLE OF AUTHORITIES

DESCRIPTION PAGE(s)

Cases

Statutes

Regulations

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Defendants oppose Plaintiff Pechanga Band of Indians' ("Plaintiff," "Pechanga," or the "Tribe") motion for a preliminary injunction (the "Motion"). Dkt. 58. The Tribe filed this lawsuit and its Motion seeking a court order compelling the Federal Government to enter a unilateral contract pursuant to the Indian Self-Determination and Education Assistance Act ("ISDEAA"). Specifically, the Tribe seeks an ISDEAA compact and funding agreement (collectively, a "compact") with the Indian Health Service ("IHS"), an agency within the United States Department of Health and Human Services, to open an opioid treatment program ("OTP") facility in Riverside County, to serve the public. Despite prolonged negotiations, the IHS and the Tribe were unable to reach agreement on material terms, including the scope of federal programs, authorized by the Snyder Act and the Indian Health Care Improvement Act, available for assumption under the ISDEAA. On July 3, 2025, the IHS rejected Pechanga's final offer to award the proposal. Now, the Tribe seeks to force the IHS into a unilateral contract based on their *preferred* terms, as an end-run around the limitations of the IHS's authority.

The evidence demonstrates, and which is at least acknowledged in Pechanga's pleadings (Dkt. 1-2), the IHS had substantial justifications in rejecting Pechanga's final offer. This lawsuit is not about providing opioid treatment services to Pechanga tribal members. It is about Pechanga and OneTogether Solutions, a third-party organization, trying to monetize the vast array of advantages available to Indigenous tribes under the ISDEAA, ***but not*** for the benefit of American Indians and Alaska Native ("AI/AN") patients.

As a federally recognized Indian tribe Pechanga has inherent sovereign authority to open a medical clinic on its own, without public funds or an ISDEAA contract with the IHS. Instead, it has selectively chosen to keep their opioid treatment facility closed, sue the federal government to compel a unilateral contract, and waste valuable time and public resources in pursuing this exploration. Pechanga's Motion is ***not*** about maintaining the

status quo. It misconstrues remedies available under the ISDEAA by improperly seeking a mandatory preliminary injunction. The Court should deny the Motion in its entirety.

II. STATUTORY AND REGULATORY FRAMEWORK

A. The Indian Health Service and Its Authorizing Statutes

The IHS's principal mission is to provide primary health care services to AI/AN throughout the United States. *See* S. Rep. No. 102-392, 102d Cong., 2d Sess., at 2-3 (1992), reprinted in 1992 U.S.C.C.A.N. 3943. The IHS authority to provide health care services to AI/AN flows primarily from two statutes. The first, the Snyder Act, 25 U.S.C. § 13, is a general and broad statutory mandate authorizing the IHS to "expend such moneys as Congress may from time to time appropriate for the benefit, care, and assistance of the Indians" for the "relief of distress and conservation of health." 25 U.S.C. § 13; 42 U.S.C. § 2001(a). The second, the Indian Health Care Improvement Act ("IHCIA"), 25 U.S.C. § 1601 *et seq.,* establishes programs specifically created by Congress to address Indian health initiatives, such as alcohol and substance abuse, diabetes, medical training, and urban Indian health.

The IHS provides health care to AI/AN through three separate mechanisms: 1) by administering health care services directly through its own facilities; 2) by contracting with tribes and tribal organizations (collectively referred to as "tribal contractors") that independently administer programs previously operated by the IHS under the ISDEAA; and 3) by funding contracts and grants to organizations operating programs for urban Indians. 25 U.S.C. § 1601 *et seq*. Under the first two mechanisms, the IHS and its tribal contractors deliver health care services through 163 "service units." The service units are grouped geographically within 12 IHS Area Offices, which are overseen by the IHS Headquarters Office located in Rockville, Maryland. *Id.*

Members of federally recognized tribes and their descendants are eligible to receive IHS services. *See* 42 C.F.R. § 136.12 (providing that, to receive IHS services, descendants must "belong[] to the Indian community served by the local facilities and program"). Eligible Indians may access services at any of the Indian health care facilities, whether

they are operated by the IHS directly or by a tribal contractor under the ISDEAA. *Id.*

B. The Indian Self-Determination and Education Assistance Act

1. Background of ISDEAA

In 1975, when Congress enacted the ISDEAA, 25 U.S.C. §§ 5301 *et seq.,* Congress designed the statute to foster Indian tribal self-governance by permitting the transfer of certain federal programs for Indians to tribal governments and other tribal organizations. 25 U.S.C. §§ 5301, 5302. Through the ISDEAA, Congress sought to decrease federal domination over programs for Indians and effectuate meaningful participation by Indian tribes in the planning, conduct, and administration of Indian programs and services. *See id.* In other words, Congress sought to establish a policy of Indian self-determination with respect to matters of health care and other federal programs. To that end, the ISDEAA directs the Secretary, upon the request of an Indian tribe or tribal organization, to enter into a "self-determination contract" (or compact) with a tribe or tribal organization that satisfies the ISDEAA's requirements, 25 U.S.C. §§ 5321(a)(1), 5304(i) (defining "Secretary"); 5384(a). ISDEAA agreements define the government-to-government relationship between the United States and the contracting tribes. *See* 25 U.S.C. §§ 5302, 5384; 25 C.F.R. § 900.3(b)(7); 42 C.F.R. § 137.

The ISDEAA authorizes tribes to contract for "shares" of programs, functions, services, and activities ("PFSA") operated by the IHS at any level of the Agency's operation, which include Headquarters (HQ), Area Office, and service unit levels. *See* 25 U.S.C. §§ 5321(a)(1); 5381(a)(8) (defining "tribal share"). Tribes may do so either by entering into contracts under Title I of ISDEAA or into self-governance "compacts" under Title V. *Id.*, §§ 5329, 5384(a).

The IHS finances its ISDEAA contracts, its direct care operations, and its activities under the IHCIA and the Snyder Act, from an annual lump-sum appropriation from Congress. *See, e.g.,* Commerce, Justice, Science; Energy and Water Development; and Interior and Environment Appropriations Act, 2026, Pub. Law No. 119-74, 140 Stat. 5, 146-150 (Jan. 23, 2026). The ISDEAA entrusts the IHS with the responsibility of

balancing the needs of all Indian tribes, including tribal contractors as well as those tribes that choose not to contract. *See, e.g., 25* U.S.C. §§ 5324(g), (i). The ISDEAA also limits funding to any particular tribe by requiring the Secretary to consider the health care needs of all Indian tribes when making contracting decisions under the statute. *See, e.g., id.; see also* 25 U.S.C. § 5325(b) ("the Secretary is not required to reduce funding ... serving a tribe to make funds available to another tribe or tribal organization"); 25 U.S.C. §§ 5385 (relating to funding agreements), 5388(b) – (d) (relating to funding and prohibited funding reductions under Title V).

Tribes that participate in the ISDEAA Title V Self-Governance program, established under 25 U.S.C. § 5382, must negotiate and enter into a written Funding Agreement with the IHS that identifies the federal programs to be performed and sets forth various terms related to each program, including the amount of funds to be provided. 25 U.S.C. § 5385.

Title V requires the IHS to negotiate in good faith "to maximize implementation of the self-governance policy," 25 U.S.C. § 5387(e), and that the IHS should interpret laws "in a manner that will facilitate—the inclusion of programs, services, functions, and activities . . . in the agreements entered into under [Title V]." 25 U.S.C. § 5392(a)(1). Indeed, the IHS supports and promotes tribal self-governance. *See* IHS Tribal Self Governance Fact Sheet, https://www.ihs.gov/newsroom/factsheets/tribalselfgovernance/ (visited April 6, 2026). Should negotiations concerning the terms of an ISDEAA compact reach impasse, a tribe may present the IHS with a proposal that is labeled a "final offer." 25 U.S.C. § 5386(b). Within 45 days of receipt of a final offer, the IHS must either accept or reject a tribe's proposal. *Id.* The IHS is permitted to reject a final offer by providing written notification "containing a specific finding supported by controlling legal authority" that the tribe's final offer falls within one of the four statutorily enumerated grounds for rejection:

> (i) the amount of funds proposed in the final offer exceeds the applicable funding level to which the Indian tribe is entitled under this subchapter;

> (ii) the program, function, service, or activity (or portion thereof) that is the subject of the final offer is an inherent Federal function that cannot legally be delegated to an Indian tribe;
>
> (iii) the Indian tribe cannot carry out the program, function, service, or activity (or portion thereof) in a manner that would not result in significant danger or risk to the public health; or
>
> (iv) the Indian tribe is not eligible to participate in self-governance under section 5383 of this title.

25 U.S.C. § 5387(c)(1)(A)(i-iv). The IHS must offer technical assistance to help the tribe overcome the Agency's objections to the final offer. *Id.* § 5387(c)(1)(B). And the IHS must offer the tribe the option of entering into the severable portions of a proposed compact and funding agreement, that the Secretary did not reject, subject to any additional alterations necessary to conform the compact or funding agreement to the severed provision. 25 U.S.C. § 5387(c)(1)(D).

2. ISDEAA's Program for Indians Requirements

As a threshold matter, Title V of the ISDEAA requires each funding agreement "shall … authorize the Indian tribe to plan, conduct, consolidate, administer, and receive full tribal share funding … for all programs, services, functions, and activities (or portions thereof), that are carried out for the benefit of Indians because of their status as Indians without regard to the agency or office *of the Indian Health Service* within which the program, service, function or activity (or portion thereof) is performed." 25 U.S.C. § 5385(b)(1) (emphasis added). In addition, the ISDEAA states such programs "include all programs, services, functions, and activities (or portions thereof), … with respect to which Indians tribes or Indians are primary or significant beneficiaries, *administered by the Department … through the [IHS]*…." 25 U.S.C. § 5385(b)(2) (emphasis added). Courts have upheld declinations of certain program proposals under ISDEAA's Title I (25 U.S.C. § 5321) because the programs were not "for the benefit of Indians because of their status as Indians." *See Navajo Nation v. Department of Health & Human Services*, 325 F.3d

1133, 1138 (9th Cir. 2003) (holding the Temporary Assistance for Needy Families Program is not contractible under the ISDEAA because it is not a program "for the benefit of Indians because of their status as Indians"); *see also Hoopa Valley Indian Tribe v. Ryan*, 415 F.3d 986, 991 (9th Cir. 2005) (holding a fishery restoration project was not a program for "Indians based on their status as Indians" because it was "intended to benefit a wide range of interests and only collaterally benefited Indians..."). Both cases found a collateral benefit to Indians was insufficient to overturn the agency's decision under the ISDEAA.

3. Expansion of Programs Assumed by Tribes Under the ISDEAA

A tribe's authorization to provide care to non-beneficiaries under 25 U.S.C. § 1680c is contingent upon multiple factors. In limited circumstances, the IHCIA authorizes Indian health care facilities to extend services to non-Indians. Regarding tribally administered the IHS programs, under the IHCIA, 25 U.S.C. § 1680c(c)(2) ("Section 813"), tribally administered Indian health care facilities may serve ineligible non-Indians ("non-beneficiaries" or members of the public not otherwise eligible for IHS services):

> [T]the governing body of the Indian tribe or tribal organization providing health services under such [ISDEAA] contract or compact is authorized to determine whether health services should be provided under such contract or compact to individuals who are not eligible for such health services …. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the consideration described in paragraph (1)(B). Any services provided by the Indian tribe or tribal organization pursuant to a determination made under this subparagraph shall be deemed to be provided under the agreement entered into by the Indian tribe or tribal organization the [ISDEAA].

25 U.S.C. § 1680c(2).

Courts have recognized the ability of tribes to expand federal programs assumed under the ISDEAA with greater flexibility than the federal government (e.g., *Becerra v. San Carlos Apache Tribe*, 602 U.S. 222, 240 (2024) (finding that ISDEAA provides tribes

"greater flexibility in planning and implementing healthcare programs attuned to the needs of their communities); *see also*, 25 U.S.C. §§ 5363(b)(3) and 5364(d)). But this ability is not limitless.

To qualify for expansion or redesign under the ISDEAA, the ISDEAA requires the program to be available for assumption under the ISDEAA in the first place, as discussed above. *See* 25 U.S.C. § 5385(b). Contrary to Pechanga's assertion (Dkt. 58 pg. 22), 25 U.S.C. § 1680c does not grant the IHS authority to compact under the ISDEAA for programs the IHS itself is not authorized to provide.

What's more, under the Federal Pre-Emption doctrine, a tribal resolution, even if purportedly enacted under the auspices of 25 U.S.C. § 1680c, cannot amend or otherwise extend the government's programmatic authority or decision-making responsibilities as proscribed by Congress in the Snyder Act, the IHCIA, and the ISDEAA. In other words, a tribe's decision to provide services to the public does not overturn Congress' decisions limiting the IHS authority under the ISDEAA.

In addition, Congress also required that the IHS and AI/AN tribes obtain full recovery of costs associated with the provision of services to non-beneficiaries. 25 U.S.C. § 1680c(c)(3). And "[n]otwithstanding … any other provision of law, amounts collected under [25 U.S.C. § 1680c], including Medicare, Medicaid, or children's health insurance program reimbursements … shall be credited to the account of the program providing the service and shall be used for the purposes listed in [25 U.S.C. §] 1641(d)(2) of this title ...." 25 U.S.C. § 1680c(c)(3). ISDEAA program revenue generated through services to non-beneficiaries must stay with the health program. *See* 25 U.S.C. § 1641(d)(2)(A). Specifically, program income must be used by both the IHS and tribes "to make improvements in facilities necessary to comply with the Social Security Act, to provide additional health care services, or for another health care-related purpose consistent with the IHCIA and the ISDEAA." *Swinomish Indian Tribal Cmty. v. Azar*, 406 F. Supp. 3d 18, 21-22 (D.D.C. 2019) (citing 25 U.S.C. § 1641(c)(1)(B), (d)(2)(A)).

4. Funding and Other Benefits Available to Tribes Under the ISDEAA

The ISDEAA authorizes the government to provide three types of funding: the "Secretarial amount," facility cost reimbursement ("Section 105(*l*) lease") funding, and Contract Support Cost funding. These appropriated funds are transferred to tribes and tribal organizations pursuant to the negotiated terms of their ISDEAA agreements.

Some ISDEAA contractors opt to subsidize their health care programs using their own funds, such as gaming revenue. ISDEAA contractors may also collect reimbursement from third-party payers such as Medicare, Medicaid, and private insurance. 25 U.S.C. §§ 1621f, 1641. The ISDEAA characterizes such revenue as "program income" that is "supplemental funding to that negotiated in the funding agreement." 25 U.S.C. § 5388(j).

When a tribe assumes operation of the IHS health care programs under an ISDEAA agreement, the tribe also becomes eligible for various other federal benefits, including: 1) indemnity from liability under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2671-2680; 2) access to discounted goods and services on Federal Supply Schedules ("FSS"), 25 U.S.C. § 5324(k); 3) the ability to receive limited cost outpatient drugs, 42 U.S.C. §§ 1396d(I)(2)(B), 256b(a)(4); 4) the ability to collect reimbursement for services provided to the IHS beneficiaries at 100% FMAP; and 5) use of Federal personnel, *see* 5 U.S.C. § 3371 *et seq.* (authority for agreements to assign IHS Civil Service employees to tribal contractors under the Intergovernmental Personnel Act); 42 U.S.C. § 2004b (authority for agreements for Public Health Service Commissioned Corps officer assignments to tribal contractors). Access to these benefits provides additional financial incentives for assuming IHS health care programs under the ISDEAA.

III. STATEMENT OF FACTS

The Riverside San Bernadino County Indian Health, Inc. is a consortium of several Indian tribes (the "Riverside Consortium") authorized under 25 U.S.C. § 5381(b). Declaration of Wesley Simmons ("Simmons Decl.") ¶ 10. Under the terms of an ISDEAA compact since 2004, Riverside Consortium administers IHS programs to AI/AN in Riverside and San Bernadino Counties, California. *Id.* ¶ 11. Riverside Consortium

administers alcohol and substance abuse treatment, including opioid abuse treatment services, mental health and specialty services, through a purchased/referred care ("PRC") program, on behalf of its member tribes, including Pechanga, and other AI/AN. *Id*.

Currently, the California Department of Healthcare Services data published online reflects that there are 13 OPTs in Riverside and San Bernardino Counties serving the public. The facilities serve a combined total of 5,055 patients. *Id*. ¶ 12. At least two tribes in California administer opioid abuse treatment programs and 16 operate substance abuse treatment services in California under the terms of ISDEAA agreements with the IHS. *Id*. ¶ 13. Pursuant to the Pechanga Tribal Resolution 240815-1.1, Pechanga authorized Riverside Consortium to administer IHS programs on its behalf under the terms of the IHS compact with Riverside Consortium. *Id*. ¶ 15. On or about August 11, 2023, Pechanga initiated ISDEAA negotiations by letter. *Id*. ¶ 16, Ex. A.

Pechanga initially proposed February 1, 2024, as the date they intended to partially withdraw from Riverside Consortium to enter their own compact with the IHS for the administration of an OTPs but did not provide basic operational specifics. *Id*. ¶ 17.

The parties met on September 13, 2023, and January 4, 2024, but Pechanga did not provide material information such as when they intended to withdraw from Riverside Consortium, open their clinic or whether they would provide a draft ISDEAA agreement for the IHS to review. *Id*. ¶ 18.

On May 22, 2024, the IHS voiced concerns related to draft language reflecting a service delivery area beyond Riverside County and San Bernadino County, as it did not appear to have the support of Riverside Consortium or other tribes in the area. *Id*. ¶ 21. Pechanga then informed the IHS they intended to provide services as of February 1, 2025. The IHS provided alternative language for Pechanga's draft compact and funding agreement. *Id*.

During the summer of 2024, the IHS and Pechanga continued to attempt to negotiate the terms of Pechanga's proposal and discussed concerns related to the proposed service delivery area. *Id*. ¶ 22. On August 15, 2024, Pechanga mentioned that they were

subcontracting with OneTogether Solutions for the administration of the proposed opioid treatment program. *Id*. ¶ 23.

On October 16, 2024, the IHS requested Pechanga provide a copy of its contract with OneTogether Solutions. A few weeks later, Pechanga responded about the funding associated with the partial withdrawal from Riverside Consortium but did not address the IHS's question about the OneTogether Solutions contract. *Id*. ¶¶ 25-26.

On November 19, 2024, Pechanga provided a heavily redacted copy of the "Full-Service Facility and Management Services Agreement" ("MSA") between Pechanga and OneTogether Solutions, and only weeks later provided an unredacted copy. *Id*. ¶¶ 28-29.

On December 27, 2024, the parties met to negotiate, and the IHS informed Pechanga that their proposal did not appear to reflect a tribally administered program as required by the ISDEAA. *Id*. ¶ 30. Pechanga's proposal reflected OneTogether Solutions would be administering the entire program and benefiting from Pechanga's ability to bill at the "All Inclusive Rate."[1] *Id*.

In addition, the IHS informed Pechanga that their intended service population was not clear in that the program did not appear to be a program for Indians. *Id*. ¶ 31. The IHS's Agency Lead Negotiator informed Pechanga that the IHS was not aware that OneTogether Solutions was contracting two other tribes at the time it entered into ISDEAA agreements with those tribes and that neither tribe mentioned an agreement with OneTogether Solutions during ISDEAA contract negotiations. Id. Further, the fact that the IHS has entered ISDEAA contracts with other tribes is not determinative of the legality

[1] The ability to bill at the "All Inclusive Rate" was extended to cover "Medicaid services provided … to American Indians/Alaskan Native (AI/AN) individuals through health care facilities owned and operated by AI/AN tribes and tribal organization with funding authorized by" the ISDEAA. *See* Memorandum of Agreement ("MOA") Between the IHS and the Health care Financing Administration on December 19, 1996; e.g., Indian Health Service; Medical Reimbursement Rates for Calendar Year 1995, 59 Fed. Reg. 65061-01. Under the MOA, services provided to AI/AN individuals are eligible for reimbursement at 100% FMAP whereas services provided to non-AI/AN would be eligible for reimbursement at the state's usual (regular) Federal Medical Assistance Percentage ("FMAP"), that determines the federal share of Medicaid costs.

and propriety of Pechanga's proposal and did not preclude the IHS from reviewing the legality and propriety of Pechanga's proposal. *Id*. ¶ 40. The IHS requested information about whether OneTogether Solutions was an AI/AN-owned enterprise and for information about the number of IHS beneficiaries vs. non-IHS beneficiaries Pechanga intended to serve. *Id*. ¶ 31.

Between January and March 2025, the parties communicated and discussed the proposal and revisions to the MSA, including language regarding purchased/referred care (PRC) and a reference to a 10-year exclusivity agreement with OneTogether Solutions. *See id*. ¶¶ 36-38. Pechanga did not identify any aspect of an OTP that the Tribe intended to administer on its own, such as financing, billing, or operationally managing the treatment services. *See id*.

On April 4, 2025, Pechanga provided via email statistical data regarding tribal member deaths and overall rates of death from opioid use in Riverside and San Bernardino counties, however, Pechanga did not indicate that changes were being made to reflect Pechanga's administration of the OTP. *Id*. ¶ 41, Ex. B, C.

On April 25, 2025, the parties met again but after almost two years of negotiations and technical assistance, the IHS informed Pechanga that negotiations regarding their ISDEAA proposal were at an impasse. *Id*. ¶ 42.

On May 10, 2025, Pechanga submitted its Final Offer ("Final Offer") describing its proposal as an effort to "establish a much-needed opioid treatment clinic (the "Clinic") through a Title V Compact and Funding Agreement with the IHS to serve its members, other Riverside Consortium patients, *and others* in need of opioid treatment." (emphasis added). The Final Offer was a proposal to administer an OTP program beyond the authority of the IHS to award. *Id*. ¶ 43. On July 3, 2025, the IHS partially rejected Pechanga's Final Offer and explained in detail how the agency came to its conclusion and why the agency was justified in its rejection of the Final Offer. *See id*. ¶ 47, Ex. D.

On August 1, 2025, Pechanga requested additional guidance from the IHS about how Pechanga could contract with OneTogether Solutions to administer the opioid

treatment program on Pechanga's behalf. *Id*. ¶ 48. On August 13, 2025, the IHS met with Pechanga and restated the agency's concerns with the OneTogether Solutions arrangement that were detailed in the Final Offer rejection letter. *Id*. ¶ 49. The IHS reiterated its recommendation that Pechanga provide an OTP through (or in partnership with) Riverside Consortium under Riverside Consortium's ISDEAA compact. *Id*. Pechanga stated that the meeting "was not meaningful technical assistance" because Pechanga did not receive guidance on how Pechanga "continue to partner with OneTogether Solutions" to administer an OTP on Pechanga's behalf. *Id*.

In accordance with the terms of Riverside Consortium's funding agreement, the IHS paid Riverside Consortium for the provision of health care programs to Pechanga tribal members through January 31, 2027. *Id*. ¶ 51.

If the IHS is compelled by court order to enter a compact with Pechanga, the sources of the funds would be required to be reduced from Riverside Consortium's compact, without consideration or input from their interests. *Id*. ¶ 52. This would not only create duplicative ISDEAA compacts with the Riverside Consortium and Pechanga but also could put the IHS in conflict with Riverside Consortium. *Id*.

As of today, there is nothing stopping Pechanga from opening, operating, or managing an OTP utilizing the Tribe's own funding or from alternative funding sources not from the IHS. *Id*. ¶ 53.

Although the IHS issued its partial rejection decision on July 3, 2025; Pechanga filed the complaint and this action five months later, on December 31, 2025. Dkt. 1. Pechanga filed the instant Motion three months after that on March 24, 2026. *See* Dkt. 58.

IV. LEGAL STANDARD FOR A PRELIMINARY INJUNCTION

"[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original) (internal citation omitted); *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 21–22 (2008). To meet that showing, the moving party must make "a clear showing" that "he is likely to succeed on

the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter*, 555 U.S. at 21–22. Where the government is a party, the balance of equities and the public interest factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

"A preliminary injunction can take two forms." *Marlyn Nutraceuticals v. Mucos Pharma GmbH & Co.,* 571 F.3d 873, 878 (9th Cir. 2009). "A prohibitory injunction prohibits a party from taking action and 'preserve[s] the status quo pending a determination of the action on the merits.'" *Id.* (quoting *Chalk v. U.S. Dist. Court*, 840 F.2d 701, 704 (9th Cir. 1988)). In contrast, a "mandatory injunction 'orders a responsible party to take action.'" *Id.* at 879 (quoting *Meghrig v. KFC W., Inc.*, 516 U.S. 479, 484 (1996)). "A mandatory injunction 'goes well beyond simply maintaining the status quo *pendente lite* [and] is particularly disfavored.'" *Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1320 (9th Cir. 1994) (quoting *Anderson v. United States*, 612 F.2d 1112, 1114 (9th Cir. 1980)). To this end, where "a party seeks mandatory preliminary relief that goes well beyond maintaining the status quo *pendente lite*, courts should be extremely cautious about issuing a preliminary injunction." *Martin v. Int'l Olympic Comm.*, 740 F.2d 670, 675 (9th Cir. 1984); *Comm. of Cent. Am. Refugees v. Immigr. & Naturalization Serv.*, 795 F.2d 1434, 1441 (9th Cir. 1986) (same). For mandatory preliminary relief to be granted, Plaintiffs "must establish that the law and facts *clearly favor* [thei]r position …." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (*en banc*) (emphasis in original); *see also Marlyn Nutraceuticals*, 571 F.3d at 879 ("In general, mandatory injunctions 'are not granted unless extreme or very serious damage will result and are not issued in doubtful cases ….'") (quoting *Anderson*, 612 F.2d at 1115).

In the preliminary injunction context, "it is not usually proper to grant the moving party the full relief to which he might be entitled if successful at the conclusion of a trial," particularly "where the relief afforded, rather than preserving the status quo, completely changes it. *Tanner Motor Livery, Ltd. v. Avis, Inc.*, 316 F.2d 804, 808-09 (9th Cir. 1963).

The Ninth Circuit defines the "status quo" as "the last uncontested status which preceded the pending controversy." *Id*. at 809.

Here, the *status quo* is the fact that there is no present funding agreement with Pechanga for the treatment center, because the Federal Government rejected Pechanga's Final Offer for legitimate and documented reasons. Pechanga admits that the status quo is not because the relief they seek requires *opening* the treatment facility. Dkt. 58 pg. 33 fn. 9. Mandating the Parties to enter a binding contract based on Pechanga's *preferred* contract terms would fundamentally *change* the status quo. As such and as explained below, a Motion for a Preliminary Injunction is not the proper procedural mechanism for that.

Finally, it is improper to seek the ultimate relief for a lawsuit in the form of a mandatory preliminary injunction. A Preliminary Injunction is intended to preserve the *status quo* until the case can be judged on the merits. Thus "judgment on the merits in the guise of preliminary relief is a highly inappropriate result." *Senate of California v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992). Yet the requested relief in the Complaint would lead to same result that Pechanga seeks via the Motion filed here.

V. ARGUMENT

Pechanga states in its Motion (p. 20) that "at this early stage Pechanga seeks only preliminary relief." That statement is ingenuine. ISDEAA compacts are essentially everlasting; they ***cannot*** be unilaterally terminated or amended by the government once executed, except in extraordinary circumstances. *See* 25 U.S.C. §§ 5330, 5387(a)(2) (emphasis added). In this context, Pechanga mischaracterizes its request for permanent relief as "only preliminary relief." Granting Pechanga's Motion would result in a permanent compact and circumvent the requirements of federal law.

A. IHS's Decision Is Beyond the Scope of the Court's Subject Matter Jurisdiction

Pechanga seeks a mandatory injunction requiring the IHS to agree to terms of an ISDEAA compact beyond its authority; this would enable Pechanga access to federal

benefits to which it is not entitled at public expense. The ISDEAA provides a limited waiver of sovereign immunity: the "district courts shall have original jurisdiction over any civil action or claims against the … Secretary arising under *this chapter* and … may order appropriate relief..." 25 U.S.C. §§ 5331(a) (emphasis added), 5391(a).

But this waiver is inapplicable. The parties to an ISDEAA agreement may, but are not required to, agree to discretionary terms. *See* 25 U.S.C. § 5385(d). Accordingly, the IHS's refusal to agree to the scope of services at issue is not mandatory or reviewable because any challenge to that decision falls outside of the ambit of the ISDEAA and its limited waiver of sovereign immunity. Put another way, if Pechanga were to propose as part of their request for OPTs, that they wanted to also operate a public bridge under the terms of an ISDEAA compact, then the IHS could reject that discretionary proposal to operate a bridge and that decision would not fall subject to this court's review.

Yet Pechanga's Motion rests squarely on that waiver, in forcing adoption of the compact terms that Pechanga prefers – which is to compel "duty" *not* required by the ISDEAA or its implementing regulations. Neither was the IHS rejection of Pechanga's Final Offer a "declination finding under ISDEAA § 5321(a)(2)," 25 U.S.C. § 5331(a), because, as discussed above, the Pechanga's proposal was beyond the bounds of the ISDEAA to begin with. The IHS decision to explain that was discretionary and not reviewable. If the waiver applies here, however, such waivers must be strictly construed in favor of the Government and may not be expanded beyond their terms. And, if it applies, it does not require the relief Pechanga asserts.

To get around these issues, however, Pechanga invents an argument of mandamus relief that is purportedly immune from application of the Federal Rules of Civil Procedure and principles of equity. Pechanga reads into the ISDEAA a right to a mandatory "statutory injunction" which "differs from equitable injunctions under Rule 65." Dkt. 58 pg. 19-20. But Pechanga's argument is incoherent, simply because Pechanga asserts a "right" to permanent injunctive relief that does not exist. *See id*.

By its own terms 25 U.S.C. § 5331(a) does not require a reviewing tribunal to issue

a preliminary injunction without considering the equitable considerations generally necessary for such action to be taken. Section 5331 provides that the Court "*may* order appropriate relief including money damages, injunctive relief against any action by an officer of the United States…" (emphasis added). Not only does the use of term "may" indicate the Section 5331 permissive and discretionary on its face with respect to a court's exercise of authority, injunctive relief is "not the only means of ensuring compliance." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 314 (1982). Section 5331(a) also provides for money damages and mandamus and therefore cannot be read as compelling a court to order injunctive relief as a means of enforcing the ISDEAA. Accordingly, Plaintiff continues to have the burden of proving the need for a preliminary injunction under 25 U.S.C. § 5331(a).

Issuing a preliminary injunction is "an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion." *Mazurak*, 520 U.S. at 972. A party seeking a preliminary injunction must establish the existence of four elements: "(1) likelihood of success on the merits; (2) likelihood of suffering irreparable harm absent a preliminary injunction; (3) the balance of equities tips in the plaintiff's favor; and (4) injunctive relief is in the public interest." *Leigh v. Salazar*, 677 F.3d 892, 896 (9th Cir. 2012) (citing *Winter*).

While all four elements referenced above must be met, the Ninth Circuit has also recognized a "serious questions" test that grants preliminary injunctions "if there are serious questions going to the merits; there is a likelihood of irreparable injury to the plaintiff; the balance of hardships tips sharply in favor on the plaintiff; and the injunction is in the public interest. *Lopez v. Brewer*, 2012 WL 1693926, *3 (9th Cir. May 15, 2012) (citing *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131-32 (9th Cir. 2011). This balancing of the preliminary injunction elements allows "a stronger showing of one element …[to] offset a weaker showing of another" as long as a plaintiff meets all four elements. *Lopez*, 2012 WL 1693926 at *3; *see also Alliance for the Wild Rockies*, 632 F.3d at 1135.

As in this case, when Pechanga requests a mandatory injunction that goes beyond the *status quo*, that the Tribe must meet a heightened standard that disfavors such relief "unless the facts and the law clearly favor the moving party." *See Stanley*, 13 F.3d at 1320. Here, they fail to do so. Courts should be "extremely cautious" about issuing a mandatory injunction that goes beyond the status quo. *Id*. at 319.

B. Pechanga Cannot Show a Likelihood of Success on the Merits

Even if jurisdiction exists over the complaint to review the IHS's rejection of Pechanga's Final Offer, Plaintiff cannot show a likelihood of success on the merits. This factor is a "threshold inquiry and is the most important factor." *Baird v. Bonta*, 81 F.4th 1036, 1040 (9th Cir. 2023). "Thus, a 'court need not consider the other factors' if a movant fails to show a likelihood of success on the merits." *Id*.

This litigation is an attempt to access financial and legal benefits -- afforded to tribes administering federal health care programs for Indians -- for services provided to non-Indians. In its denial letter, the IHS explained that while Pechanga has the authority to withdraw its funding and Programs, Services, Functions, and Activities ("PSFAs") from the Riverside Consortium to contract with the IHS for the benefit of Pechanga's own members under 25 U.S.C. § 5386(g), Pechanga does *not* have the right to enter into a compact with the IHS for the benefit of members of other tribes or unaffiliated Indians in Riverside County, where the IHS has already entered into an ISDEAA contract with another Tribal program to provide those services. Congress "has imposed on the IHS a duty to not accept contracts where acceptance would dictate substantive revisions to existing contracts. The IHS is obligated by law to protect existing contracts." IHS Final Offer Response Letter at 6 (citing *Pit River Health Serv. Inc. v. Indian Health Services*, DAB CR333, at *13 (1994) (H.H.S.); 1994 WL 596859, at *13 (Sept. 12, 1994)).

Pechanga is only entitled to compact under the ISDEAA to provide opioid treatment program services to its own members. But based on the data that Pechanga provided to the IHS during negotiations, its members represent a small percentage of the population of Riverside County, meaning that if Pechanga opened an opioid treatment program, it would

serve mostly non-beneficiaries. Moreover, Section 5385(b) establishes the limit, not the floor, of the IHS's authority. The IHS cannot enter ISDEAA agreements for purposes beyond those programs specifically authorized by 25 U.S.C. § 5385(b).

This Court can look towards *Navajo Nation* for guidance ultimately to determine that the IHS's rejection of the Final Offer in this instance was proper. As stated above, the *Navajo Nation* Court upheld a decision to reject a tribe's attempt to add a Temporary Assistance for Needy Families program to its contract under Title I of the ISDEAA because the program was not a program "for the benefit of Indians because of their status as Indians." *See Navajo Nation*, 325 F.3d at 1136; *see also supra*-Section II(B)(2). The Court explained, to be a program for the benefit of Indians because of their status as Indians, a program must be a "federal program[] specifically targeted to Indians and not merely [a] program[] that collaterally benefit[s] Indians as part of the broader population." *Id*. at 1138. Similarly, in *Jamestown S'Klallam Tribe v. Azar*, a district court explained the practical reason on why that utilizing ISDEAA funds for non-Indians is improper: that

> it is not reasonable to use such funds to underwrite the provision of services to non-Indians for a simple reason: tribes cannot contract with the government under ISDEAA to perform such services. To be eligible to ***90** be performed by a tribe under a Title V self-governance compact, a federal program must be "carried out for the benefit of Indians because of their status as Indians," or be a program "with respect to which Indian tribes or Indians are primary or significant beneficiaries.

Jamestown S'Klallam Tribe v. Azar, 486 F. Supp. 3d 83, 89–90 (D.D.C. 2020).

As the IHS explained to Pechanga in its decision, it was required to reject Pechanga's Final Offer because it is not a program for the benefit of Indians because of their status as Indians, nor are Indian tribes or America Indians or Alaska Natives the primary or significant beneficiaries. *See* Simmons Decl. ¶ 47, Ex. D. Pechanga's proposed OPT was not designed "for the benefit of Indians because of their status as Indians." Rather, the proposed opioid treatment program would be provided to the public. *See id*.

The IHS determined through years long negotiations and investigations that Pechanga's proposed program was intended to be a commercial facility open to the public that was not designed to be a program for the benefit of Indians because of their status as Indians.

Further, while an ISDEAA contractor may "determine whether health services should be provided under such contract or compact to individuals who are not [otherwise] eligible for such health services," 25 U.S.C. § 1680c(c)(2), this authority does not provide relief to Pechanga because a contractual provision permitting the tribe to administer services to non-beneficiaries is not mandatory.

C. Pechanga Cannot Show Irreparable Harm

Pechanga claims that its members are suffering from addiction daily and going without the care they need, putting them at risk of overdose and death. Dkt. 58 pg. 30. While the IHS does not dispute that the prevalence of opioid use disorder is a serious concern, Pechanga has not submitted evidence to support its motion that its members cannot receive treatment elsewhere. Pechanga states in conclusory fashion that "Riverside [Consortium] has limited funding and cannot offer all health care services that are needed." Dkt. 58-3 ¶ 10. Yet, there are 13 OPTs in Riverside and San Bernardino Counties that serve the public. Simmons Decl. ¶ 12. And at least two tribes in California administer opioid abuse treatment programs and 16 operate substance abuse treatment services in California under the terms of ISDEAA agreements with the IHS. *Id*. ¶¶ 11, 13. But Pechanga's health program facility sits empty, because of Pechanga's decisions in managing its venture capital.

To the extent that Plaintiff suffers any harm for lack of an ISDEAA compact with the IHS for an OTP, that harm is purely financial in nature. The Ninth Circuit has found that monetary losses do not generally constitute irreparable harm. *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1202 (9th Cir. 1980). Pechanga purportedly incurred millions of dollars to "maintain" a closed facility that they chose not to open, and they voluntarily entered an **ownership position** in OneTogether Solutions. Dkt. 58-5 ¶¶ 9-12. Pechanga claims that in the past five years, members of their Tribe have

passed away due to opioid overdoses. *See* Dkt. 58-3 ¶¶ 16-17, 25. While the prevalence of opioid use disorder is a serious concern, there is no evidence showing that the passing of the Pechanga members, or hypothetical passings of tribal members in the future, has direct or indirect relation to the IHS's denial of Pechanga's Final Offer. As the Ninth Circuit has stated: "Speculative injury does not constitute irreparable injury sufficient to warrant granting a preliminary injunction. A [movant] must do more than merely allege imminent harm sufficient to establish standing; a [movant] must demonstrate immediate threatened injury as a prerequisite to preliminary injunctive relief." *Caribbean Marine Servs. Co. v. Baldridge,* 844 F.2d 668, 674 (9th Cir. 1988). At this point, this is a lawsuit fundamentally about money; Pechanga has shown nothing but speculation in terms of potential harm to its members.

Nor has Pechanga explained its delay in seeking preliminary relief, which "undercuts the sense of urgency that ordinarily accompanies a motion for preliminary relief and suggests that there is, in fact, no irreparable injury." *Citibank, N.A. v. Citytrust*, 756 F.2d 273, 277 (2d Cir. 1985) (citation omitted). The IHS issued its partial Final Offer rejection decision on July 3, 2025; Pechanga did not file the complaint until five months later (December 31, 2025); and Pechanga did not file the instant Motion until three months after that (March 24, 2026). *See* Dkt. 1-2; *see also* Dkt. 1; *see also* Dkt. 58. Pechanga's failure to demonstrate irreparable injury is an independently sufficient ground for denying its motion; the Court need not consider the remaining preliminary injunction factors. *Amylin Pharm., Inc. v. Eli Lilly and Co.*, 456 Fed. Appx. 676, 679 (9th Cir. 2011) (unpublished).

D. The Balance of Equities and Public Interest Supports Denial of a Preliminary Injunction

The final two factors required for a preliminary injunction or temporary restraining order—balancing of the harm to the opposing party and the public interest—merge when the Government is the opposing party. *See, e.g., Nken, supra*, at 435. Courts must "pay particular regard for the public consequences in employing the extraordinary remedy of

injunction." *Weinberger*, 456 U.S. at 312-13. Moreover, any order that grants "particularly disfavored" relief by enjoining the governmental entity from administering the statute it is charged with enforcing, constitutes irreparable injury to the Defendants and weighs heavily against the entry of injunctive relief. *Cf. New Motor Vehicle Bd. v. Orrin W. Fox Co*., 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers).

First, Pechanga's non-binding authority shows that a preliminary injunction mandating the Government to enter a ***new*** ISDEAA compact is ***not*** a proper remedy. *See* Dkt. 58 pg. 29-30; *see also Pyramid Lake Paiute Tribe v. Burwell*, 70 F. Supp. 3d 534, 545 (D.D.C. 2014) (on summary judgment, "while the Court will issue an order declaring that the Secretary violated the ISDEAA by denying the Tribe's proposal outright, it will not direct her to enter into the Tribe's contract at the 2012 amount"); *see also Susanville Indian Rancheria v. Leavitt*, 2008 WL 58951, at *11 (E.D. Cal. Jan. 3, 2008) (on summary judgment, the district court ordered the government to continue to providing funding as authorized under a previously entered ISDEAA compact); *see also Red Lake Band of Chippewa Indians v. U.S. Dept. of Int.*, 624 F. Supp. 2d 1, 27 (D.D.C. 2009) (on summary judgment, the district court ordered performance under a previously entered ISDEAA compact). Therefore, balance of the equities and public interest favors the Government.

Moreover, even assuming Pechanga's facts as true, the Tribe's claims that they have paid rent, security, and utility expenses on the unopened facility since July 2024 should be reviewed with suspicion. This matter is not about providing opioid treatment services, because Pechanga has inherent authority as a sovereign tribal nation to open a medical clinic on its own without an ISDEAA agreement with the IHS. Pechanga selectively choose not to open the facility. It is illogical that Pechanga would purportedly incur "$6,600,363.00 of its own funds into the establishment of the proposed opioid treatment facility and program" and an "additional $2 million dollars to secure an ownership position in OneTogether Solutions." Dkt. 58-5 ¶ 9. Pechanga also purportedly incurred $304,613.76 in rental payments and incurred $50,537.69 for security and utility expenses. Dkt. 58-5 ¶¶ 11-12.

Despite all of this, Pechanga only claims that the tribal shares at issue are valued at $12,500. *See* Dkt. 58 pg. 34. Their own "valuation" is a fraction of the amount of money that they invested. The balancing of the hardships does not fall in favor of Pechanga because they can afford to spend millions of dollars in venture capital positions, maintain an empty medical facility by their own choosing, and incur limitless attorneys' fees by bringing this unnecessary lawsuit, all for a ISDEAA compact worth so little in their own words. And further, as an investor and owner, there is nothing in the record showing that Pechanga is not receiving financial returns from OneTogether's management and operation of other OTPs, thus would minimize any sort of "financial loss" they claim.

Moreover, Pechanga seeks the full relief to which they may have been entitled if successful on the merits. Specifically, they seek an order that "Defendants shall forthwith award and fund the compact and funding agreement proposal attached to the Plaintiff's Final Offer (Attachment A to the Complaint) dated May 20, 2025." Dkt. 58-1. It is not proper to grant such relief in the preliminary injunction context. *See Tanner Motor Livery, Ltd.*, 316 F.2d at 808-09; *Senate of California*, 968 F.2d at 978. In sum, the Motion fails to satisfy the many demanding requirements for seeking mandatory injunctive relief, much less the extreme remedy for disrupting the *status quo*.

Finally, the public interest weighs in favor of the Federal Government and against Pechanga. In accordance with the terms of Riverside Consortium's compact, the IHS paid Riverside Consortium for the provision of health care programs to Pechanga tribal members through January 31, 2027. The IHS would be required to enter into duplicative ISDEAA obligations under competing compacts.

Remedying such a scenario would require the IHS to unilaterally reduce Riverside's funding, which is also legally prohibited. *See* 25 U.S.C. § 5388(d). If the IHS is compelled by court order to enter a compact with Pechanga, the sources of the funds would be redirected from Riverside Consortium's compact and funding without consideration or input from their interests. *See* Simmons Decl. ¶ 52. Further, an order from this Court mandating the Federal Government into a compact would go beyond the terms expressly

set forth in the ISDEAA and would contain terms not expressly agreed to by the Parties.

To be clear, the Federal Government does not make light of substance abuse and the importance of substance abuse treatment. However, members of the Pechanga Tribe are not out of treatment resources due to the IHS rejecting Pechanga's Final Offer. As discussed above, there are multiple OPTs available in Riverside and San Bernardino Counties serving the public, which can include Pechanga's members. Therefore, the Federal Government's protection of limited tribal funding should remain in place, and it should not be forced by court order to support the Tribe's investment strategy.

E. A Bond is Required under Rule 65(c)

Finally, if the Court determines it has subject matter jurisdiction, and if it decides to grant relief, it should order a bond pursuant to Fed. R. Civ. P. 65(c), which states "[t]he court may issue a preliminary injunction or a temporary restraining order ***only if the movant gives security*** in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." Fed. R. Civ. P. 65(c) (emphasis added). Here, Pechanga seeks to bind the Federal Government into an ISDEAA compact without its consent, input, or without consideration to the Riverside Consortium. Pechanga argues that it should not have to post a bond and cites to *Navajo Health Foundation-Sage Memorial Hospital, Inc. v. Burwell*, 100 F. Supp. 3d 1122, 1191-92 (D.N.M. 2015) (*Sage*). Dkt. 58 pg. 34. In *Sage,* the district court found that forcing the tribal hospital to post a $6 million bond would be a substantial burden that could force it into insolvency. *Id*., at 1191-92.

Here, there is no risk to Pechanga of being forced into insolvency because 1) they are not legally entitled to the ISDEAA compact they seek and 2) they have not even opened the treatment facility. Pechanga made a voluntary choice to engage in the venture capital opportunity to take an ownership position in OneTogether Solutions, and so Pechanga is aware of the opportunity risks. As of today, there is nothing stopping Pechanga from opening, operating, or managing an OTP utilizing the Tribe's own funding or from alternative funding sources not from the IHS. Simmons Decl. ¶ 53. And if the Court grants

the Motion, the flood gates of ISDEAA benefits would open to Pechanga, despite only a very small amount of funding being redirect from Riverside Consortium: Pechanga would be able to access Federal Tort Claims Act coverage (25 U.S.C. 5321(c)), facilities costs reimbursement, contract support costs, which are paid pursuant to 25 U.S.C. § 5325(a)(2)-(3), access to Federal sources of supply (25 U.S.C. § 5324(k)), and the ability to bill at the All Inclusive Rate, all benefits that cost the Federal Government (i.e., taxpayers) substantially. Thus, if the Court grants a preliminary injunction, it should require Pechanga to post a bond commensurate with the scope of any injunction.

VI. CONCLUSION

For all the reasons explained, the Defendants respectfully request that Pechanga's Motion for a Preliminary Injunction be denied in its entirety.

Dated: April 6, 2026

Respectfully submitted,

TODD BLANCHE
Deputy Attorney General
BILAL A. ESSAYLI
First Assistant United States Attorney
DAVID M. HARRIS
Assistant United States Attorney
Chief, Civil Division
DANIEL A. BECK
Assistant United States Attorney
Chief, Complex and Defensive Litigation Section

/s/ Alexander L. Farrell
ALEXANDER L. FARRELL
Assistant United States Attorney

Attorneys for Defendants

Local Rule 11-6.2 Certificate of Compliance

The undersigned counsel of record certifies that this Opposition Brief contains 24 pages which complies with the page limit set by the Couret's Standing Order (Dkt. 36).

Dated: April 6, 2026

/s/ *Alexander L. Farrell*

ALEXANDER L. FARRELL
Assistant United States Attorney