

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

(1) TERRY BAYLES;	)	
(2) KERRY WELBORN;	)	
(3) AUSTIN CLAYLON;	)	
(4) CALEB BACON;	)	
(5) TONY BLAKE;	)	
(6) MISTY CAMPBELL;	)	Case No.: CIV-25-370-RAW-JAR
(7) BILLY CHASE;	)	
(8) JEREMIAH COLBERT;	)	District Judge Ronald A. White
(9) GEORGE DAVENPORT;	)	Magistrate Judge Jason A. Robertson
(10) CHRISTOPHER GRAY;	)	
(11) JAMES HENSON;	)	
(12) PEYTON JONES;	)	
(13) JAMES GEOFFREY;	)	
(14) SAWYER LOPEZ;	)	
(15) ADELBY MARTINEZ; and	)	
(16) JAMES MCKIBBEN,	)	
	)	
Petitioners,	)	
	)	
v.	)	
	)	
(1) THE CHOCTAW NATION OF	)	
OKLAHOMA; and	)	
(2) CHOCTAW COUNTY SHERIFF,	)	
TERRY PARK, EX. REL. COUNTY JAIL,	)	
	)	
Respondents.	)	

**THE CHOCTAW NATION OF OKLAHOMA’S RESPONSE IN OPPOSITION
TO PETITIONERS’ MOTION FOR TEMPORARY RESTRAINING ORDER**

Respondent Choctaw Nation of Oklahoma (the “Nation”) submits this Response in Opposition to Petitioners’ Motion for Temporary Restraining Order (Dkt 10) (the “Motion”). Petitioners seek extraordinary, merits-dispositive relief against a sovereign entity before the Court has determined whether it has subject-matter jurisdiction over the Nation or whether Petitioners have exhausted available tribal-court remedies. The Motion should be denied.

I. INTRODUCTION

Petitioners request a TRO that would, among other things, prohibit the Nation and the Choctaw Nation Public Defender's Office ("CNPDO") from contacting Petitioners regarding this federal case; prohibit review of attorney-client communications; prohibit plea discussions or offers outside the presence of civil counsel; prohibit alleged "interference" with the attorney-client relationship; enjoin Mr. David Hale from representing Petitioners in their ongoing tribal criminal cases; and require the Nation to appoint "truly independent counsel" for all defendants facing criminal charges in the Choctaw Nation. This relief cannot be issued for multiple threshold reasons.

First, the Nation is a sovereign, and Petitioners have not pleaded, nor could they plead, any waiver of tribal sovereign immunity or congressional abrogation authorizing this Court to enter injunctive relief against the Nation. Second, Petitioners' likelihood-of-success argument rests almost entirely on alleged rights to "effective assistance of counsel" under the Sixth Amendment and enforcement via 42 U.S.C. § 1983, neither of which supplies a cause of action against a sovereign Indian tribe. Any obligations regarding criminal defense arise, if at all, under ICRA and the Choctaw Nation's Constitution, and must be raised in the Nation's courts in the first instance, not federal court.

Third, Petitioners seek to enjoin Mr. David Hale, who is not a party to this action and has not been served. Rule 65 does not authorize injunctions directed at non-parties, and the requested relief is therefore improper and ineffective as framed.

Fourth, Petitioners' Motion is materially supported by hearsay and unconfirmed third-party reports, facts Petitioners themselves expressly acknowledge, rather than competent evidence of an immediate, irreparable injury.

Finally, Petitioners do not merely seek to preserve the status quo. They seek mandatory, status-quo-altering relief that would restructure ongoing tribal criminal proceedings and dictate who may represent criminal defendants. Such relief is disfavored, subject to heightened scrutiny, and wholly inappropriate where jurisdiction is lacking and tribal remedies remain available.

II. STANDARD GOVERNING THE RELIEF SOUGHT

Both a temporary restraining order and a preliminary injunction are extraordinary remedies. Petitioners

request for a temporary restraining order or preliminary injunction requires him to show that four conditions are met:

- (1) irreparable harm to [petitioner] if the injunction is not granted;
- (2) a substantial likelihood that he will prevail on the merits; (3)
- threatened injury to [petitioner] outweighs possible harm to the
- opposing party if the injunction is granted; and (4) that the
- injunction would not be contrary to the public interest.

Thomas v. Carson, 30 Fed. Appx. 770, 772 (10th Cir. 2002) (citing *ACLU v. Johnson*, 194 F.3d 1149, 1155 (10th Cir. 1999)). Temporary restraining orders can last no longer than 14 days. *Tooele Cnty. v. United States*, 820 F.3d 1183, 1187 (10th Cir. 2016); Fed. R. Civ. P. 65(b)(2). Because Petitioners seek relief lasting more than 14 days, their request is properly treated as a motion for a preliminary injunction, not a temporary restraining order, regardless of how the Motion is titled. “Because ‘a preliminary injunction is an extraordinary remedy, the right to relief must be clear and unequivocal.’” *Aid for Women v. Foulston*, 441 F.3d 1101, 1115 (10th Cir. 2006) (quoting *Schrier v. Univ. of Colo.*, 427 F.3d 1253, 1258 (10th Cir. 2005)). “Because it constitutes drastic relief to be provided with caution, a preliminary injunction should be granted only in cases where the necessity for it is clearly established.” *U.S. ex rel. Citizen Band Potawatomi Indian Tribe of Oklahoma v. Enter. Mgmt. Consultants, Inc.*, 883 F.2d 886, 888–89 (10th Cir. 1989) (quoting *Goldammer v. Fay*, 326 F.2d 268, 270 (10th Cir. 1964)).

Here, the standard Petitioners must meet is further heightened because it does not preserve the status quo, but disrupts the status quo with new court ordered mandates. Thus, the standard is a higher burden for Petitioners:

In *SCFC ILC, Inc. v. Visa USA, Inc.*, this court identified the following three types of specifically disfavored preliminary injunctions and concluded that a movant must “**satisfy an even heavier burden of showing that the four [preliminary injunction] factors ... weigh heavily and compellingly in movant's favor before such an injunction may be issued**”: (1) **preliminary injunctions that alter the status quo**; (2) **mandatory preliminary injunctions**; and (3) **preliminary injunctions that afford the movant all the relief that it could recover at the conclusion of a full trial on the merits**. 936 F.2d 1096, 1098–99 (10th Cir.1991). With one important alteration, a majority of the *en banc* court has voted to affirm the core holding of *SCFC ILC*. Part I of the Opinion of Murphy, J., joined by Ebel, Kelly, Hartz, O'Brien, McConnell, and Tymkovich, JJ.; Part I of the Opinion of McConnell, J, joined by Hartz, O'Brien, and Tymkovich, JJ. Thus, if a movant seeks a preliminary injunction that falls into one of the three categories identified in *SCFC ILC*, the movant must satisfy a heightened burden. The *en banc* court does, however, jettison that part of *SCFC ILC* which describes the showing the movant must make in such situations as “heavily and compellingly.” *SCFC ILC*, 936 F.2d at 1098. Instead, the *en banc* court holds that courts in this Circuit must recognize that any preliminary injunction fitting within one of the disfavored categories must be more closely scrutinized to assure that the exigencies of the case support the granting of a remedy that is extraordinary even in the normal course. Furthermore, because a historically disfavored preliminary injunction operates outside of the normal parameters for interim relief, movants seeking such an injunction are not entitled to rely on this Circuit's modified-likelihood-of-success-on-the-merits standard. Instead, **a party seeking such an injunction must make a strong showing both with regard to the likelihood of success on the merits and with regard to the balance of harms, and may not rely on our modified likelihood-of-success-on-the-merits standard.**

O Centro Espirita Beneficiente Uniao Do Vegetal v. Ashcroft, 389 F.3d 973, 975–76 (10th Cir. 2004), *aff'd* and remanded sub nom. *Gonzales v. O Centro Espirita Beneficiente Uniao do Vegetal*, 546 U.S. 418, 126 S. Ct. 1211, 163 L. Ed. 2d 1017 (2006) (emphasis added). The relief sought in

the Motion for Temporary Restraining Order is disfavored as it easily falls within the first two categories.

First, by requiring the Nation to undertake new obligations by mandating them to appoint new counsel for all defendants facing criminal charges in the Nation's court system, the Motion seeks mandatory relief that alters the status quo, rather than preserving it. Second, the relief mandates action rather than prohibits action as it requires the Nation to obtain new legal counsel for criminal defendants. Where a movant seeks mandatory relief that alters the status quo, rather than preserving it, the movant bears a particularly heavy burden. *Id.* Petitioners do not meet that burden.

But first, where, as here, sovereign immunity and a challenge to subject-matter jurisdiction are implicated, the Court must resolve those threshold issues before considering equitable relief. FRCP 65 does not independently confer jurisdiction. Rather, it provides a remedy a court may use once its jurisdiction is established. In other words, a court cannot issue injunctive relief against a respondent over whom it lacks jurisdiction. *Daye v. Cmty. Fin. Loan Serv. Centers, LLC*, 280 F. Supp. 3d 1222, 1253 (D.N.M. 2017) (*quoting Steans v. Combined Ins. Co. of Am.*, 148 F.3d 1266, 1271 (11th Cir. 1998)).

III. ARGUMENTS

A. THE COURT LACKS JURISDICTION TO ISSUE A TRO AGAINST THE NATION

1. Tribal sovereign immunity bars Petitioners' requested injunctive relief

Petitioners expressly seek injunctive relief against “the Choctaw Nation of Oklahoma and Choctaw Nation Public Defender’s Office,” including orders that would control indigent-defense appointments, disqualify tribal attorneys, and restructure the Nation’s administration of criminal defense. Absent a clear waiver or congressional abrogation, which Petitioners do not allege, tribal

sovereign immunity bars such relief. *Kiowa Tribe of Okla. v. Mfg. Techs., Inc.*, 523 U.S. 751, 754 (1998). “It is settled that a waiver of sovereign immunity cannot be implied but must be unequivocally expressed.” *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58, 98 S. Ct. 1670, 1677, 56 L. Ed. 2d 106 (1978) (citations omitted). If jurisdiction is challenged, the party asserting jurisdiction must prove jurisdiction is proper by a preponderance of the evidence, and **conclusory allegations will not suffice**. *United States ex rel. Hafter D.O. v Spectrum Emergency Care, Inc.*, 190 F.3d 1156, 1160 (10th Cir. 1999); *Celli v. Shoell*, 40 F.3d 324, 327 (10th Cir. 1994); *Penteco Corp. Ltd. P’ship – 1985A v. Union Gas System, Inc.*, 929 F.2d 1519, 1521 (10th Cir. 1991).

The Nation’s immunity applies to the ICRA claims and even to habeas claims. “[T]he provisions of § 1303 can hardly be read as a general waiver of the tribe’s sovereign immunity. In the absence here of any unequivocal expression of contrary legislative intent, we conclude that suits against the tribe under the ICRA are barred by its sovereign immunity from suit.” *Martinez*, 436 U.S. 49, 59, 98 S. Ct. 1670, 1677.

Recasting the claims as habeas, constitutional, ICRA-based, or § 1983-style does not create jurisdiction where none exists.¹

Because sovereign immunity is jurisdictional, it independently requires denial of the requested TRO.

2. The Nation is not a proper custodian for habeas-type injunctive relief

Petitioners’ First Amended Petition admits that Petitioners are housed in various county jails and names the Choctaw County Sheriff ex rel. County Jail as a respondent. Habeas-type relief

¹ To the extent that Petitioners believe that raising a federal question circumvents immunity, it does not: “We disagree that federal-question jurisdiction negates an Indian tribe’s immunity from suit. Indeed, nothing in § 1331 unequivocally abrogates tribal sovereign immunity.” *Miner Elec., Inc. v. Muscogee (Creek) Nation*, 505 F.3d 1007, 1011 (10th Cir. 2007).

runs against the immediate physical custodian, not against a sovereign entity that does not operate the jail facilities. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

For that reason as well, the Court lacks authority to enter custody-related injunctive orders against the Nation.

3. Petitioners have bypassed tribal remedies; comity bars federal intervention

Petitioners assert that exhaustion should be excused as “ineffective, futile, or meaningless,” but the First Amended Petition confirms that Petitioners have chosen to proceed in federal court rather than pursue available tribal judicial remedies addressing alleged ICRA or tribal-constitutional violations. These conclusory allegations of futility matter not, as petitioners must first exhaust their tribal court options:

Federal courts have recognized, however, a non-statutory exhaustion requirement that generally applies to challenges to tribal court authority. The tribal exhaustion rule ‘provides that, absent exceptional circumstances, federal courts typically should abstain from hearing cases that challenge tribal court [authority] until tribal court remedies, including tribal appellate review, are exhausted.’

Valenzuela v. Silversmith, 699 F.3d 1199, 1206 (10th Cir. 2012) (*quoting Crowe & Dunlevy, P.C., v. Stidham*, 640 F.3d 1140, 1149 (10th Cir. 2011)). The Tenth Circuit holds “the tribal exhaustion rule to § 1303 petitions,” even though § 1303 does not explicitly require petitioners to exhaust their claims before filing them in federal court. *Chegup v. Ute Indian Tribe of Uintah & Ouray Reservation*, 28 F.4th 1051, 1061 (10th Cir. 2022) (*quoting Valenzuela*, 699 F.3d at 1205-6).

But again, futility claims cannot be presumed:

On the futility exception, the Tenth Circuit has held that “‘speculative futility is not enough to justify federal jurisdiction.’ The [plaintiff] cannot simply assert that it is not subject to Tribal Court jurisdiction; rather, it must actually seek adjudication of this issue in Tribal Court.” *Bank of Okla. v. Muscogee (Creek) Nation*, 972 F.2d 1166, 1170 (10th Cir. 1992) (*quoting White v. Pueblo of San Juan*, 728 F.2d 1307, 1313 (10th Cir. 1984)). The futility “exception to sovereign immunity clearly does not apply where a

party voluntarily chooses not to pursue its case in Tribal Court.”
Bank of Okla. v. Muscogee (Creek) Nation, 972 F.2d at 1170.

World Fuel Servs., Inc. v. Nambe Pueblo Dev. Corp., 362 F. Supp. 3d 1021, 1060 (D.N.M. 2019).

And there is no allegation of any attempt to exhaust the remedies in tribal court.

Federal courts consistently require exhaustion of tribal remedies as a matter of comity and respect for tribal self-governance:

This tribal exhaustion requirement is “a ‘prudential rule,’ based on comity.” *Strate v. A-1 Contractors*, 520 U.S. 438, 453, 117 S.Ct. 1404, 137 L.Ed.2d 661 (1997) (citation omitted) (quoting *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 20 n.14, 107 S.Ct. 971, 94 L.Ed.2d 10 (1987)). It is “grounded in federal policies supporting tribal sovereignty, including: ‘(1) furthering congressional policy of supporting tribal self-government; (2) promoting the orderly administration of justice by allowing a full record to be developed in the tribal court; and (3) obtaining the benefit of tribal expertise if further review becomes necessary.’” *Norton v. Ute Indian Tribe of the Uintah and Ouray Rsrv.*, 862 F.3d 1236, 1242–43 (10th Cir. 2017) (quoting *Kerr-McGee Corp. v. Farley*, 115 F.3d 1498, 1507 (10th Cir. 1997)). “Where [these] comity concerns are present, ‘[j]urisdiction presumptively lies in the tribal court ... unless Congress has expressly limited that jurisdiction.’” *United States v. Tsosie*, 92 F.3d 1037, 1041 (10th Cir. 1996) (second alteration and omission in original) (quoting *Smith v. Moffett*, 947 F.2d 442, 444 (10th Cir. 1991)). **“At a minimum, exhaustion of tribal remedies means that tribal appellate courts must have the opportunity to review the determinations of the lower tribal courts.”** *Iowa Mut.*, 480 U.S. at 17, 107 S.Ct. 971.

Chegup, 28 F.4th 1051, 1060 (emphasis added). In other words, this is not a matter of filing in the Nation’s district court then complaining in federal court about undesirable outcomes. Petitioners must exhaust even the appellate process available. That principle applies with particular force where, as here, Petitioners ask this Court to intervene directly in ongoing tribal criminal proceedings by dictating representation and internal defense governance.

B. PETITIONERS CANNOT SATISFY THE RULE 65 FACTORS AS TO THE NATION

Even if the Court were to reach the Rule 65 factors, Petitioners cannot satisfy them.

1. No likelihood of success on the merits

a. The Bill of Rights from the US Constitution does not apply to the Nation to create a cause of action in federal court.

Petitioners assert a likelihood of success based on the Sixth Amendment right to effective assistance of counsel, citing federal cases involving state or federal detention. But the Tenth Circuit has clearly held “that because the Bill of Rights does not apply to Indian tribes, tribal convictions cannot violate the Sixth Amendment.” *United States v. Shavanaux*, 647 F.3d 993, 998 (10th Cir. 2011). The Sixth Amendment constrains federal and state actors; it does not supply a federal constitutional cause of action against an Indian tribe for the internal operation of its criminal-justice system. *United States v. Bryant*, 579 U.S. 140, 149, 136 S. Ct. 1954, 1962, 195 L. Ed. 2d 317 (2016), *as revised* (July 7, 2016) (quoting *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 56, 98 S.Ct. 1670, 56 L.Ed.2d 106 (1978)). The Nation cannot be compelled into federal courts to answer for allegations of constitutional violations.

Any rights concerning counsel arise, if at all, under ICRA and tribal law, and must be raised in tribal court:

Tribal forums are available to vindicate rights created by the ICRA, and § 1302 has the substantial and intended effect of changing the law which these forums are obliged to apply. Tribal courts have repeatedly been recognized as appropriate forums for the exclusive adjudication of disputes affecting important personal and property interests of both Indians and non-Indians.

Martinez, 436 U.S. 49, 65, 98 S. Ct. 1670, 1680–81, 56 L. Ed. 2d 106 (1978)).

b. Section 1983 does not apply to the Nation

Petitioners contend that “42 U.S.C. § 1983 allows this Court to enforce the rights of the Plaintiffs” against the Nation. It does not. Section 1983 applies to persons acting under color of state law. “A § 1983 action is unavailable ‘for persons alleging deprivation of constitutional rights under color of tribal law.’” *Burrell v. Armijo*, 456 F.3d 1159, 1174 (10th Cir. 2006). *Jojoba v.*

Chavez, 55 F.3d 488, 492 (10th Cir.1995). “The traditional definition of acting under color of state law requires that the defendant in a § 1983 action have exercised power possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law.” *E.F.W. v. St. Stephen's Indian High Sch.*, 264 F.3d 1297, 1305 (10th Cir. 2001) (internal quotations omitted). “[I]t is the plaintiff's burden to plead, and ultimately establish, the existence of ‘a real nexus’ between the defendant's conduct and the defendant's ‘badge’ of state authority in order to demonstrate action was taken ‘under color of state law.’” *Id.* (quoting *Jojoba v. Chavez*, 55 F.3d 488, 494 (10th Cir.1995)). Several times in the First Amended Petition, the Nation’s constitution and tribal laws are implicated. Section 1983 does not authorize suits against sovereign Indian tribes, nor does it permit federal courts to restructure tribal criminal defense systems. Moreover, a tribe is not a “person” and thus § 1983 does not apply to the Nation. 42 U.S.C.A. § 1983.

c. The requested relief exceeds the scope of § 1303 habeas

Petitioners ask the Court to enjoin CNPDO, disqualify tribal counsel, and require appointment of “truly independent counsel” across the board. That is institutional reform, not habeas relief testing the legality of detention. Section 1303 does not authorize such relief. Title 25 U.S.C. § 1303 gives any person detained by an Indian tribe the right to seek a writ of habeas corpus “to test the legality of his detention [...]” There are no specific allegations that any detention is illegal. *See generally* First Amended Complaint, Dkt. 15. Petitioners simply make conclusory statements without any facts to support the same.

Instead, § 1303 is being used as a vehicle to circumvent jurisdictional bars in this case as the remedy actually sought is beyond habeas relief. “[T]he provisions of § 1303 can hardly be read as a general waiver of the tribe's sovereign immunity. In the absence here of any unequivocal

expression of contrary legislative intent, we conclude that suits against the tribe under the ICRA are barred by its sovereign immunity from suit.” *Martinez*, 436 U.S. 49, 59, 98 S. Ct. 1670, 1677.

d. Petitioners improperly seek to enjoin a non-party (Mr. Hale)

Petitioners seek an injunction “enjoining Mr. David Hale” from representing Petitioners in their tribal criminal cases. Mr. Hale is not a party to this action and has not been served. Rule 65(d)(2) limits injunctions to parties, their officers, agents, and those acting in active concert with them. An injunction directed at a non-party attorney is procedurally improper and ineffective.

Any disputes regarding Mr. Hale’s representation belong in the Nation’s courts, not in a federal TRO aimed at a non-party.

2. No showing of irreparable harm attributable to the Nation

The requirement to show irreparable harm cannot be based on speculation and is not presumed:

The equitable remedy is unavailable absent a showing of irreparable injury, a requirement that cannot be met where there is no showing of any real or immediate threat that the plaintiff will be wronged again—a “likelihood of substantial and immediate irreparable injury.” *O’Shea v. Littleton*, 414 U.S., at 502, 94 S.Ct., at 679. The speculative nature of Lyons’ claim of future injury requires a finding that this prerequisite of equitable relief has not been fulfilled.

City of Los Angeles v. Lyons, 461 U.S. 95, 111, 103 S. Ct. 1660, 1670, 75 L. Ed. 2d 675 (1983).

Petitioners’ asserted harms largely concern alleged jail conditions, mail handling, and access restrictions attributable to the Choctaw County Jail, not the Nation. Petitioners also concede that much of their evidence consists of third-party reports.

As to the Nation, Petitioners seek sweeping structural and prophylactic relief, such as communication restrictions, disqualification of counsel, and mandatory appointments, rather than relief aimed at curing any imminent injury. Such relief cannot satisfy the irreparable-harm requirement, particularly where Petitioners have bypassed tribal remedies and this Court lacks

jurisdiction. Petitioners allege no facts demonstrating that the Nation's courts are unwilling or unable to resolve the matters they now attempt to place before this Court.

3. Balance of equities and public interest weigh strongly against a TRO

Petitioners argue that the public interest favors immediate federal intervention. But the requested TRO would require this Court to supervise and restructure core aspects of the Nation's criminal-justice system and to interfere directly with ongoing tribal prosecutions. That is oppose to the public policy of tribal sovereignty: "It is "grounded in federal policies supporting tribal sovereignty, including: '(1) furthering congressional policy of supporting tribal self-government; (2) promoting the orderly administration of justice by allowing a full record to be developed in the tribal court; and (3) obtaining the benefit of tribal expertise if further review becomes necessary.'" *Chegup*, 28 F.4th 1051, 1060 (*quoting Norton*, 862 F.3d 1236, 1242–43); see also *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 16, 107 S. Ct. 971, 976, 94 L. Ed. 2d 10 (1987)("Regardless of the basis for jurisdiction, the federal policy supporting tribal self-government directs a federal court to stay its hand in order to give the tribal court a 'full opportunity to determine its own jurisdiction.'"(quotation omitted); *N.L.R.B. v. Pueblo of San Juan*, 276 F.3d 1186, 1195 (10th Cir. 2002)("We therefore do not lightly construe federal laws as working a divestment of tribal sovereignty and will do so only where Congress has made its intent clear that we do so.").

Even assuming *arguendo* that Petitioners could satisfy Rule 65's substantive factors, the failure to exhaust available tribal remedies independently counsels against emergency federal intervention. Federal policy strongly favors tribal sovereignty, self-government, and judicial independence. Requiring Petitioners to raise alleged ICRA, tribal-constitutional issues, and tribal law claims in tribal court serves, not undermines, the public interest.

V. CONCLUSION

Petitioners seek an extraordinary Temporary Restraining Order that presupposes federal jurisdiction, extends Sixth Amendment and § 1983 doctrines to a sovereign Indian tribe, interferes with ongoing tribal criminal proceedings, and attempts to enjoin a non-party attorney. Because the Court lacks jurisdiction over the Nation and because Petitioners cannot satisfy Rule 65's requirements, the Motion should be denied.

For the foregoing reasons, the Nation respectfully requests that the Court deny Petitioners' Motion for Temporary Restraining Order as to the Choctaw Nation of Oklahoma. The Nation further requests, respectfully, this Court consider the forthcoming Motion to Dismiss prior to determining Petitioners' Motion for Temporary Restraining Order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2025, I electronically transmitted the attached document to the Clerk of Court using the Electronic Case Filing System for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

/s/ Michael Burrage

Michael Burrage