

APPEAL,TYPE-D

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:25-cv-00385-ABJ
*Internal Use Only***

DELLINGER v. BESSENT et al
Assigned to: Judge Amy Berman Jackson
Cause: 28:1331 Fed. Question

Date Filed: 02/10/2025
Jury Demand: None
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: U.S. Government Defendant

Plaintiff

HAMPTON DELLINGER
*in his personal capacity and in his
official capacity as Special Counsel of
the Office of Special Counsel*

represented by **Jackson Erpenbach**
HECKER FINK LLP
1050 K St NW
Suite 1040
Washington, DC 20001
202-796-1870
Email: jerpenbach@heckerfink.com
ATTORNEY TO BE NOTICED

Joshua Adam Matz
HECKER FINK LLP
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929-294-2537
Fax: 212-564-0883
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ATTORNEY TO BE NOTICED

V.

Defendant

SCOTT BESSENT
*in his official capacity as Secretary of the
Treasury*

represented by **Madeline McMahon**
DOJ-CIV
1100 L Street NW
Washington, DC 20005
(202) 451-7722
Fax: (202) 616-8470
Email: madeline.m.mcmahon@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

SERGIO GOR
*in his official capacity as Director of the
White House Presidential Personnel*

represented by **Madeline McMahon**
(See above for address)
LEAD ATTORNEY

Office

ATTORNEY TO BE NOTICED

Defendant

KAREN GORMAN
*in her official capacity as Principal
 Deputy Special Counsel, upon the
 purported removal of the Special
 Counsel, the Acting Special Counsel of
 the Office of Special Counsel*

represented by **Madeline McMahon**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

KARL KAMMANN
*in his official capacity as the Chief
 Operating Officer of the Office of Special
 Counsel*

represented by **Madeline McMahon**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

DONALD J. TRUMP
*in his official capacity as President of the
 United States of America*

represented by **Madeline McMahon**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

RUSSELL VOUGHT
*in his official capacity as Director of the
 Office of Management and Budget*

represented by **Madeline McMahon**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
02/10/2025	<u>1</u>	COMPLAINT against SCOTT BESSENT, SERGIO GOR, KAREN GORMAN, KARL KAMMANN, DONALD J. TRUMP, RUSSELL VOUGHT (Filing fee \$ 405 receipt number ADCDC-11468025) filed by HAMPTON DELLINGER. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Civil Cover Sheet, # <u>3</u> Summons, # <u>4</u> Summons, # <u>5</u> Summons, # <u>6</u> Summons, # <u>7</u> Summons, # <u>8</u> Summons, # <u>9</u> Summons, # <u>10</u> Summons)(Matz, Joshua) (Entered: 02/10/2025)
02/10/2025	<u>2</u>	MOTION for Temporary Restraining Order <i>Request for Emergency Hearing</i> by HAMPTON DELLINGER. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Text of Proposed Order, # <u>3</u> Certificate of Compliance with Local Rule 65.1)(Matz, Joshua). Modified docket text on 2/10/2025 (znmw). (Entered: 02/10/2025)
02/10/2025	<u>3</u>	NOTICE of Appearance by Jackson Erpenbach on behalf of HAMPTON DELLINGER (Erpenbach, Jackson) (Entered: 02/10/2025)
02/10/2025	<u>4</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Kate L. Doniger, Filing fee \$ 100, receipt number ADCDC-11468271. Fee Status: Fee Paid. by HAMPTON DELLINGER. (Attachments: # <u>1</u> Declaration of Kate L. Doniger, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Matz, Joshua) (Entered: 02/10/2025)
02/10/2025	<u>5</u>	

	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Benjamin Stern, Filing fee \$ 100, receipt number ADCDC–11468322. Fee Status: Fee Paid. by HAMPTON DELLINGER. (Attachments: # <u>1</u> Declaration of Benjamin Stern, # <u>2</u> Certificate of Good Standing, # <u>3</u> Text of Proposed Order)(Matz, Joshua) (Entered: 02/10/2025)
02/10/2025	Case Assigned to Judge Amy Berman Jackson. (zmtm) (Entered: 02/10/2025)
02/10/2025	MINUTE ORDER granting <u>4</u> <u>5</u> Motions for Leave of Kate L. Doniger and Benjamin Stern to Appear Pro Hac Vice only upon condition that the lawyers admitted, or at least one member of the lawyers' firm, undergo CM/ECF training, obtain a CM/ECF username and password, and agree to file papers electronically. No court papers will be mailed to any lawyer. Counsel should register for e-filing via PACER and file a notice of appearance pursuant to LCvR 83.6(a) Click for instructions . Signed by Judge Amy Berman Jackson on 2/10/25. (DMK) (Entered: 02/10/2025)
02/10/2025	NOTICE of Hearing: Motion Hearing set for 2/10/2025 at 4:30 PM in Courtroom 25A– In Person before Judge Amy Berman Jackson. Members of the public can access the hearing via toll free number 833–990–9400. Meeting ID 208322628. (zdrf) (Entered: 02/10/2025)
02/10/2025	Minute Entry for proceedings held on 2/10/2025 before Judge Amy Berman Jackson re <u>2</u> MOTION for Temporary Restraining Order filed by HAMPTON DELLINGER. Motion arguments heard and taken under advisement. (Court Reporter Janice Dickman.) (zdrf) (Entered: 02/10/2025)
02/10/2025	MINUTE ORDER. Pending before the Court is plaintiff's motion for a Temporary Restraining Order <u>2</u> . The Court received the motion shortly after it was docketed and assigned this morning, and it was occupied with another hearing for most of the day, so it set a scheduling conference for 4:30 p.m. At the hearing, counsel for the defendants represented that they did not receive the motion until the early afternoon and had not yet had an opportunity to file a response. Counsel also indicated that the defendants were unable to take a position as to whether they would be willing to freeze the firing until the Court resolved the legal issues. The Court heard some argument from both sides with respect to the factors it must consider in connection with the motion, and it appreciates the fact that the lawyers were both ready to address them orally, at least in part, this afternoon. But the Court has not yet had the benefit of a written submission by the defendants. Therefore, the defendants' opposition to the motion will be due by noon tomorrow, February 11, 2025. Give the Court's concerns about the potential irreparable harm occasioned by the challenged firing of the Special Counsel, a Presidential appointee confirmed by the Senate to serve a 5–year term who "may be removed by the President only for inefficiency, neglect of duty, or malfeasance," 5 U.S.C. § 1211(b), and given the significant statutory and constitutional issues involved, the Court will defer ruling on the motion until after it has received and considered the defendants' submission. In the interim, though, to preserve the status quo -- which the D.C. Circuit has described as "the regime in place" before the challenged action, <i>Huisha–Huisha v. Mayorkas</i> , 27 F.4th 718, 733–34 (D.C. Cir. 2022), or "the last uncontested status which preceded the pending controversy," <i>id.</i> , quoting <i>District 50, United Mine Workers of America v. International Union, United Mine Workers of America</i> , 412 F.2d 165, 168 (D.C. Cir. 1969) -- the Court will issue a brief administrative stay. An administrative stay "buys the court time to deliberate": it "do[es] not typically reflect the court's consideration of the merits," but instead "reflects a first–blush judgment about the relative consequences" of the case. <i>United States v. Texas</i> , 144 S. Ct. 797, 798 (2024) (Barret, J., concurring). While administrative stays are more common in appellate

		<p>courts, district courts have recognized their applicability in cases seeking emergency relief – including in this District. See National Council of Nonprofits v. Office of Management & Budget, No. 25–CV–239, 2025 WL 314433 (D.D.C. Jan. 28, 2025); Order, Texas v. Department of Homeland Security, No. 24–CV–306 (E.D. Tex. Aug. 26, 2024); Chef Time 1520 LLC v. Small Business Administration, No. 22–CV–3587 (D.D.C. Dec. 1, 2022). As these courts have recognized, the "[t]he authority for an administrative stay arises from the All Writs Act and a court's inherent authority to manage its docket." Order, Texas, No. 24–CV–306, at 2. Therefore, it is HEREBY ORDERED that from the time of this order through midnight on February 13, 2025, plaintiff Hampton Dellinger shall continue to serve as the Special Counsel of the Office of Special Counsel, the position he occupied at 7:22 p.m. on Friday, February 7, 2025 when he received an email from the President, and the defendants may not deny him access to the resources or materials of that office or recognize the authority of any other person as Special Counsel. This period may only be extended by further order of the Court. SO ORDERED. Signed by Judge Amy Berman Jackson on 2/10/2025. (lcabj1) (Entered: 02/10/2025)</p>
02/10/2025	<u>6</u>	<p>NOTICE of Appearance by Madeline McMahon on behalf of All Defendants (McMahon, Madeline) (Entered: 02/10/2025)</p>
02/10/2025	<u>7</u>	<p>NOTICE OF APPEAL TO DC CIRCUIT COURT by SCOTT BESSENT, SERGIO GOR, KAREN GORMAN, KARL KAMMANN, DONALD J. TRUMP, RUSSELL VOUGHT. Fee Status: No Fee Paid. Parties have been notified. (McMahon, Madeline) (Entered: 02/10/2025)</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAMPTON DELLINGER,

Plaintiff,

v.

SCOTT BESSENT, *et al.*,

Defendants.

Civil Action No. 1:25-cv-00385-ABJ

DEFENDANTS' NOTICE OF APPEAL

PLEASE TAKE NOTICE that Defendants hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from this Court's Administrative Stay, entered in a Minute Order dated February 10, 2025.

Defendants intend to request a stay of this Court's Order pending appeal, including an immediate administrative stay, from the United States Court of Appeals for the District of Columbia Circuit.

Dated: February 10, 2025

Respectfully submitted,

BRETT A. SHUMATE
Acting Assistant Attorney General

CHRISTOPHER R. HALL
Assistant Branch Director

/s/ Madeline M. McMahon
MADELINE M. MCMAHON
(DC Bar No. 1720813)
Trial Attorney

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