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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ANTHROPIC PBC,

Plaintiff,

v.

U.S. DEPARTMENT OF WAR, et al.,

Defendants.

Case No. 26-cv-1996

**PLAINTIFF ANTHROPIC PBC'S
REPLY BRIEF IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Judge: Hon. Rita F. Lin

Hearing Date: March 24, 2026
Time: 1:30 PM (PST)
Courtroom: 12, 19th Floor

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INTRODUCTION

Defendants insist that this is “a usual case,” involving nothing more than a “routine exercise” of the President’s authority to guide federal contracting. Dkt. 96 (“Opp.”) at 3, 22. But courts “are not required to exhibit a naiveté from which ordinary citizens are free.” *Dep’t of Com. v. New York*, 588 U.S. 752, 785 (2019).

After Anthropic adhered to its long-expressed and strongly held views about the safe and responsible use of AI, and declined to abandon two narrow contract terms that restrict use of its frontier AI model for lethal autonomous warfare and mass surveillance of Americans, the Executive Branch launched an unprecedented campaign of retaliation. The President commanded his subordinates to immediately blacklist Anthropic government-wide in response to the company’s supposed “Radical Left” and “WOKE” views. Dkt. 1-1. The Secretary of War responded to Anthropic’s “rhetoric” and “ideology” by issuing a “final” decision designating the company as a supply-chain risk—the first time an American company has ever been so designated—and ordering all military contractors to immediately stop doing business with Anthropic. Dkt. 1-2. Other Defendants followed suit.

Put simply, the Executive Branch is leveraging its powers to punish a major American company for the sin of expressing its views on a matter of profound public significance. Left unchecked, the Challenged Actions will continue to harm Anthropic in irreparable ways. They will also harm the public and chill the speech of companies and individuals throughout our Nation—as numerous amici have now attested.

No amount of after-the-fact lawyering can cure the statutory and constitutional violations apparent on the face of the Challenged Actions. Defendants do not even attempt to defend the legality of the Secretary’s February 27 Order, and now concede (Opp. 21) that the Secretary had no power to order all defense contractors to stop working with Anthropic. They are left instead to argue that an Order declaring itself “final” and “[e]ffective immediately,” Dkt. 1-2, is somehow “not a final” action, Opp. 16. Defendants’ attempt to rehabilitate the supply-chain-risk designation fares no better: the March 3 Determination by the Secretary unveiled along with the opposition brief is procedurally flawed, exceeds the substantive authority granted by Congress, and rests on arbitrary

1 and inconsistent rationales. As to the First Amendment, Defendants contend that Anthropic either
 2 engaged in no protected speech or that its speech was not the motivating factor for Defendants’
 3 actions. But they fail to grapple with the language in the Presidential Directive and the Secretarial
 4 Order expressly acknowledging that they punished Anthropic because of its rhetoric and ideological
 5 views. And Defendants’ arguments regarding Anthropic’s due process and separation of powers
 6 claims are similarly unpersuasive.

7 Anthropic is therefore entitled to a preliminary injunction that preserves the pre-February 27
 8 status quo. That relief “would not require Defendants to use Anthropic’s services or prevent them
 9 from transitioning to other AI providers.” Dkt. 6 (“Mot.”) at 2. Defendants could have lawfully
 10 begun such a transition (instead of retaliating against Anthropic) before the afternoon of February
 11 27, *see* Dkt. 1 ¶ 87, and they may lawfully do so while a preliminary injunction is in place. Nor
 12 would a preliminary injunction prohibit the President from “guid[ing] his subordinates’ lawful
 13 exercise of discretion regarding procurement policies,” Opp. 23, consistent with federal procurement
 14 statutes and regulations. Instead, preliminary relief would enjoin only the Secretary’s unprecedented
 15 and stigmatizing designation of Anthropic as a supply-chain risk under 10 U.S.C. § 3252, his
 16 secondary-boycott directive to defense contractors (which Defendants no longer defend), and
 17 implementation of the facially retaliatory Presidential Directive issued on February 27.

18 ARGUMENT

19 I. Anthropic Is Likely To Prevail On The Merits

20 A. Defendants’ Unprecedented Campaign Of Retaliation Violated Anthropic’s 21 First Amendment Rights

22 Uncontroverted facts establish that the Executive Branch did exactly what the First
 23 Amendment forbids: it wielded the extraordinary “power of the State to punish or suppress
 24 disfavored expression,” *Nat’l Rifle Ass’n of Am. v. Vullo*, 602 U.S. 175, 188 (2024), through an
 25 unprecedented supply-chain designation of an American technology company followed by a
 26 government-wide campaign of retaliation. The government retaliates in violation of the First
 27 Amendment where (1) a person has engaged in constitutionally protected activity, (2) the
 28 government takes an adverse action that would chill a person of ordinary firmness, and (3) the

1 constitutionally protected activity was a “substantial or motivating” factor in the government’s
2 action. *O’Brien v. Welty*, 818 F.3d 920, 932 (9th Cir. 2016); *see* Mot. 12. Defendants do not dispute
3 that the second element is satisfied here. Instead, they argue that Anthropic did not engage in
4 protected speech and that Anthropic’s speech was not the motivating factor for the challenged
5 actions. *See* Opp. 11-15. Both arguments fail.

6 *Anthropic Engaged In Constitutionally Protected Activity.* From its inception, Anthropic and
7 its founders have advocated for the safe and responsible use of AI. *See* Mot. 12-13. That public
8 expression has encompassed legislative advocacy, interviews, articles, and blog posts, Dkt. 1 ¶¶ 140-
9 142—including CEO Dario Amodei’s public statement on February 26, explaining why Anthropic
10 could not “in good conscience” abandon the two disputed use restrictions. Dkt. 6-18. That kind of
11 speech on a subject of great public significance “is at the heart of the First Amendment’s
12 protection.” *Snyder v. Phelps*, 562 U.S. 443, 451-52 (2011) (internal quotation marks omitted).

13 And the Executive Branch has “openly acknowledge[d] that [Anthropic] engaged in speech.”
14 *Perkins Coie LLP v. U.S. Dep’t of Justice*, 783 F. Supp. 3d 105, 151 (D.D.C. 2025). The President’s
15 February 27 directive emphasized Anthropic’s supposed “Leftwing,” “Radical Left,” and “WOKE”
16 views. Dkt. 1-1. The Secretary of War’s Order on the same day called out Anthropic’s “rhetoric” and
17 its purported “Silicon Valley ideology.” Dkt. 6-21. Even the documents belatedly introduced by
18 Defendants in support of their opposition brief underscore the expressive nature of Anthropic’s
19 activities. Their purported explanations for why Anthropic is a supply-chain risk repeatedly point to
20 expressive activity: “statements made [by Anthropic] during negotiations,” Dkt. 96-2; its decision to
21 engage in a “public[] spat” with the Department, *id.*; “the public statements of Anthropic’s CEO and
22 others associated with the company,” *id.*; and Anthropic’s purported discussions “with the press,”
23 Dkt. 96-3 ¶ 13. Those are all core speech activities, protected by the First Amendment.

24 Despite their own statements, Defendants contend that this “dispute stems from Anthropic’s
25 refusal to agree to the Government’s ‘all lawful use’ contractual term,” asserting that “[t]he refusal is
26 conduct, not speech.” Opp. 12. But even if this case could be artificially narrowed to a mere dispute
27 about “contract negotiations,” Opp. 13, Defendants’ categorical position that negotiations with the
28 government never implicate the First Amendment is untenable. Indeed, it is foreclosed by the

1 Supreme Court’s decision in *Janus* (see Mot. 13)—a decision Defendants fail to address. In that
2 case, the Court held that the “positions [a] union takes in collective bargaining” with the government
3 are “private speech” protected by the First Amendment. *Janus v. Am. Fed’n of State, Cnty. & Mun.*
4 *Emps.*, 585 U.S. 878, 884-85 (2018); see also *id.* at 893-94. If Defendants were correct that all
5 speech incidental or adjacent to government contract negotiations is unprotected conduct, *Janus*
6 would have come out differently. Just like a union’s collective bargaining with the government,
7 Anthropic’s negotiations with the Department are speech activities.

8 At a minimum, those negotiations qualify as protected expressive conduct. “The Supreme
9 Court has . . . long recognized that the First Amendment extends protection to ‘expressive conduct,’
10 that is, a message ‘delivered by conduct’ that is not purely expressive activity but which is ‘intended
11 to be communicative.’” *Imperial Sovereign Ct. of Montana v. Knudsen*, ___ F.4th ___, 2026 WL
12 708218, at *13 (9th Cir. Mar. 13, 2026). That aptly describes the communications at issue here.
13 Anthropic is a public benefit corporation whose charter, mission, and advocacy center on safe and
14 responsible use of advanced AI. Dkts. 6-1 ¶¶ 8-11, 6-2 ¶ 6; see generally *Burwell v. Hobby Lobby*
15 *Stores*, 573 U.S. 682, 701, 712-13 (2014) (private entities, and particularly benefit corporations, may
16 have “altruistic objectives” and “mission[s]” rooted in “ethical [and] moral . . . principles”). Its
17 negotiating stance and refusal to accede to the government’s proposed contract modification were
18 intended to convey Anthropic’s foundational principles regarding AI safety, as explained in Dr.
19 Amodei’s public statement on February 26. Dkt. 6-1 ¶¶ 33-36, 38-39; Dkt. 6-18. And Defendants
20 underscored that they understood the expressive nature of those acts when they accused Anthropic of
21 engaging in “brand-building” and “marketing” through the company’s adherence to its views during
22 negotiations. Dkt. 96-2. For those reasons, the government’s cited cases establishing that not all
23 conduct is subject to First Amendment protection, see Opp. 12-13, do not apply here.

24 The Petition Clause reinforces the application of the First Amendment here. The Petition
25 Clause “extends to” advocacy directed to “all departments of the Government,” even when parties
26 are motivated solely by “economic interests.” *California Motor Transp. Co. v. Trucking Unlimited*,
27 404 U.S. 508, 510-11 (1972). To be sure, it does not “require the Government ‘to listen or respond’
28 to petitions.” Opp. 13. But it does “prohibit[] any” government “sanction” on petitioning activity,

1 *Nader v. Democratic Nat'l Comm.*, 567 F.3d 692, 696 (D.C. Cir. 2009), which is precisely what
2 Defendants did here. Anthropic sought to “influence public officials” (Opp. 13) about the
3 importance of its narrow limits on the use of AI. *See, e.g.*, Dkt. 96-3 ¶ 11.

4 *Anthropic’s Protected Activity Was A “Substantial Or Motivating Factor” In The*
5 *Challenged Actions*. Defendants offer no meaningful response to Anthropic’s showing that its
6 expressive activities motivated the Challenged Actions. Nor could they. Unlike cases where
7 retaliatory motive must be inferred, the retaliatory motive here is evident on the face of the
8 Presidential Directive and the Secretarial Order. The President and the Secretary of War punished
9 Anthropic because of its “rhetoric” and its expression of “ideological” views that the current
10 Administration perceives as aligning with a “Radical Left” and “WOKE” perspective. Dkts. 1-2, 1-1.
11 Those statements are not comprehensible without reference to Anthropic’s public expression and
12 advocacy around AI safety, including Dr. Amodei’s public statement on February 26. Defendants
13 simply ignore the language quoted above—it does not appear anywhere in their 30-page opposition
14 brief. But they identify no sound basis for this Court to disregard it.

15 Defendants attempt to reframe the cause of the supply-chain designation as Anthropic’s
16 refusal to agree to “the Government’s standard contractual term.” Opp. 14. Even under that framing,
17 however, Anthropic’s stance on AI use limitations was inseparable from protected expression,
18 expressive conduct, and petitioning activity. *Supra* pp. 3-4. Anthropic’s refusal “to sign a document
19 expressing support” for this Administration’s preferred position on “controversial public issues”—
20 and its related public and private communications explaining and defending that stance—fall
21 comfortably within the protections of the First Amendment. *Janus*, 585 U.S. at 892. And the
22 Challenged Actions were a direct response to that activity. After all, Defendants first threatened a
23 supply chain risk designation to make Anthropic “pay a price” for standing by its views on AI safety.
24 Dkt. 1 ¶ 83.

25 Indeed, the scope of the retributive response confirms retaliatory purpose. If the Executive
26 Branch were merely displeased with a vendor rejecting “the Government’s standard contractual
27 term,” Opp. 14, it could have followed procurement procedures and declined to contract with
28 Anthropic. Instead, it took a series of actions plainly designed to “maximize the harm inflicted upon”

1 Anthropic. *Soranno’s Gasco, Inc. v. Morgan*, 874 F.2d 1310, 1316 (9th Cir. 1989). It publicly
2 branded Anthropic as a national security risk and purported to blacklist and impose a secondary
3 boycott on the company. As Anthropic’s declarants have explained and Defendants do not dispute,
4 the Department has even pressured Anthropic’s counterparties into carrying out the secondary
5 boycott. Dkts. 6-3 ¶ 30, 6-4 ¶ 14. That response is wildly disproportional to any legitimate
6 procurement dispute, underscoring Defendants’ desire to punish Anthropic for its perceived ideology.

7 Those considerations distinguish this case from *American Federation of Government*
8 *Employees v. Trump*, 167 F.4th 1247, 1256 (9th Cir. 2026). *See* Opp. 11, 15. The plaintiffs in that
9 case challenged an executive order excluding various agencies from collective bargaining
10 requirements, allegedly for retaliatory purposes. The Ninth Circuit held that “the President would
11 have taken the same action even in the absence of protected conduct.” *Id.* at 1256. It observed that
12 the executive order “discloses no retaliatory animus on its face,” *id.*, and that the lines drawn by the
13 executive order had plausible, non-retaliatory justifications, *id.* at 1256-58. Neither observation
14 applies here. Retaliatory animus is written into the text of the Challenged Actions, and the
15 disproportionate scope of those Actions demonstrates why Defendants cannot carry their burden to
16 show they “would have reached the same decision” absent retaliatory animus. *CarePartners, LLC v.*
17 *Lashway*, 545 F.3d 867, 877 (9th Cir. 2008) (“[I]t is insufficient to show merely that it *could* have
18 reached the same decision.”).

19 Accepting Anthropic’s arguments does not mean that the government violates the First
20 Amendment “every time it rejects a vendor’s proposed term,” or that government contractors may
21 wield the First Amendment as “a license to unilaterally impose contract terms on the Government.”
22 Opp. 13. The government has discretion in deciding upon “the terms and conditions” of its
23 procurements, Opp. 1, and it remains free to walk away from a negotiation. What it may not do is
24 wield a punitive supply-chain-risk designation and a secondary boycott to punish a company for its
25 expressed viewpoints and advocacy. “[E]ven though a person has no ‘right’ to a valuable
26 governmental benefit and even though the government may deny him the benefit for any number of
27 reasons, there are some reasons upon which the government may not rely”—including retaliation
28 “because of constitutionally protected speech.” *Perry v. Sindermann*, 408 U.S. 593, 597 (1972).

1 **B. The Secretary Of War Violated The Administrative Procedure Act**

2 Anthropic’s APA claim challenges the Secretary’s “final” decision, announced on February
3 27 and “[e]ffective immediately,” to “designate Anthropic a Supply-Chain Risk to National
4 Security” and prohibit any “contractor, supplier, or partner that does business with the United States
5 military” from “conduct[ing] any commercial activity with Anthropic.” Dkt. 1-2. The record before
6 the Court now makes clear that the Department implemented that Secretarial Order through a
7 subsequent Secretarial “Determination” (issued on March 3) and a letter to Anthropic (dated March
8 3, but sent on March 4) notifying Anthropic of the designation.¹

9 Remarkably, the Opposition does not defend the legality of the February 27 Secretarial
10 Order. To the contrary: After maligning Anthropic in public and purporting to immediately bar all
11 military contractors from doing any business with the company, the Secretary and his co-defendants
12 now explain in court that military contractors and other private enterprises “remain free to transact
13 with Anthropic for any purpose unrelated to providing a service to the Government.” Opp. 21. They
14 further acknowledge that “the statutory process” Congress required *in advance* of a supply chain
15 designation did not occur until “[a]fter the Secretary’s” self-described final decision on February 27.
16 *Id.* at 6; *see* 10 U.S.C. § 3252(b). Those concessions mean that Defendants have no prospect of
17 success on the merits of Anthropic’s APA claim regarding the Secretarial Order—and no reasonable
18 basis for resisting a preliminary injunction or stay as to that Order. Defendants instead pivot to the
19 argument that the Secretarial Order is “*not* a final agency action.” Opp. 16. That argument fails; but
20 even if it were correct, the Secretary’s new Determination would not survive APA review.

21 **1. The February 27 Secretarial Order is final agency action**

22 Defendants first characterize the Secretarial Order as “the beginning” of the Department’s
23 decisionmaking process rather than its “consummation.” Opp. 16; *see Bennett v. Spear*, 520 U.S.
24 154, 178 (1997). That is beyond implausible. The Secretary stated, in no uncertain terms: “This

25 _____
26 ¹ For avoidance of doubt, Anthropic seeks preliminary relief with respect to the February 27
27 Secretarial Order, Dkt. 1-2; the Secretarial “Determination” (dated March 3) that formalizes the
28 Section 3252 designation, Dkt. 96-2 at 2; and the Secretarial Letter (received by Anthropic on the
evening of March 4), Dkt. 1-3. Until the filing of the opposition brief, Anthropic was unaware of any
March 3 Determination. But because the Determination and Letter carry out the February 27
Secretarial Order, Anthropic is entitled to relief with respect to each of the documents.

1 decision is final.” Dkt. 1-2. He further declared that the purported bar on military contractors,
2 suppliers, and partners conducting commercial activity with Anthropic was “[e]ffective
3 immediately.” *Id.* That language (which does not appear anywhere in the Opposition) describes a
4 “definitive decision,” not a “tentative or interlocutory” one. *U.S. Army Corps of Eng’rs v. Hawkes*
5 *Co.*, 578 U.S. 590, 597-98 (2016) (internal quotation marks and citation omitted). Defendants point
6 to the fact that the Secretary failed to follow Section 3252’s requirements before acting. Opp. 16.
7 That failure merely underscores the illegality of the Secretarial Order; it does not make it less final.

8 The Order also plainly imposes legal consequences. Defendants assert that the Secretarial
9 Order is not “the source of any binding legal obligations,” by which they seem to mean that the
10 Secretarial Order did not *lawfully* impose any obligations “on Anthropic or any other contractor.”
11 Opp. 17. But finality is judged by whether an action imposes “legal consequences,” *Bennett*, 520
12 U.S. at 178, not whether it does so permissibly. The Order here purports to “immediately” prohibit
13 every military contractor from “conduct[ing] any commercial activity with Anthropic.” Dkt. 1-2.
14 Indeed, within hours, major law firms began alerting their government-contractor clients to “audit[
15 their Anthropic exposure now” and “prepare to deploy alternatives” to Anthropic. Dkts. 6-30, 6-31.

16 Alternatively, Defendants argue that even if the Secretarial Order is a “final agency action,”
17 the March 3 Secretarial Determination is “a new agency action, evaluated on its own record.” Opp.
18 17 (citing *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 21 (2020)). True, an
19 agency may choose “to ‘deal with [a] problem afresh’ by taking *new* agency action.” *Regents*, 591
20 U.S. at 21. But when an agency “decline[s] to disturb” its prior agency action, *id.*, judicial review
21 focuses on the initial action and “is limited to ‘the grounds that the agency invoked when it took
22 th[at] action,’” *id.* at 20. Here, nothing in the March 3 Determination (or the March 4 Letter) disturbs
23 or rescinds the February 27 Secretarial Order. *See* Dkts. 96-2 at 2, 1-3; *cf. Nat’l Urb. League v. Ross*,
24 508 F. Supp. 3d 663, 703 (N.D. Cal. 2020) (“A final agency action does not become non-final after it
25 is implemented.”).

26 And while an agency may sometimes “elaborate later on” the ground it originally invoked to
27 justify a final agency action, the March 3 Determination contains no rationale for the designation
28

1 besides a rote recitation of the statutory text. Dkt. 96-2 at 2. That is not a “reasoned explanation.”
2 *Dep’t of Com.*, 588 U.S. at 785; *see also SEC v. Chenery Corp.*, 318 U.S. 80, 94 (1943).

3 **2. Regardless, the Secretary’s subsequent Section 3252 determination fails**
4 **APA review many times over**

5 Even accepting Defendants’ mistaken premise that the March 3 Determination is the
6 relevant final agency action, that Determination would not survive APA review. Whatever deference
7 properly attaches to that Determination, *see generally Am. Fed’n of Gov’t Employees, AFL-CIO*, 167
8 F.4th at 1257, it cannot overcome the Secretary’s repeated failure to comply with 5 U.S.C. § 706(2).
9 The Determination failed to “observe” the “procedure required by law,” *id.* § 706(2)(D), by relying
10 on a risk assessment from the wrong subordinate and neglecting to make any genuine determination
11 about less-intrusive measures. The designation of an American company as a supposed “supply
12 chain risk” based on a dispute about contract terms far exceeds the authority Congress granted the
13 Secretary in Section 3252. *See id.* § 706(2)(C). The confused, contradictory, and contrived rationales
14 asserted in support of the Determination are arbitrary and capricious. *Id.* And the post hoc rationales
15 advanced by the agency in this litigation cannot remedy those failures.

16 *The Secretary Failed To Observe Procedures Required By Law.* Under the Department’s
17 regulations, the Secretary may make a designation “only after [o]btaining a joint recommendation”
18 from specified officials “on the basis of a risk assessment by the Under Secretary of Defense for
19 Intelligence.” 48 C.F.R. § 239.7304(a). The Under Secretary for Intelligence did not prepare any
20 such risk assessment here; rather, it was prepared by Emil Michael, the Under Secretary for
21 Research and Engineering. Dkts. 96-3 ¶ 1, 96-2 at 6-9. Under Secretary Michael attempts to justify
22 that violation by explaining that the Department recently underwent a reorganization. Dkt. 96-3 ¶¶ 6-
23 8; *see Opp.* 18. But that provides no basis for the agency to act “contrary to existing valid
24 regulations.” *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see also*
25 *California v. Bureau of Alcohol, Tobacco, Firearms, & Explosives*, 718 F. Supp. 3d 1060, 1085
26 (N.D. Cal. 2024) (agency violates the APA when it “fails to comply with its own regulations”).

27 Moreover, Section 3252(b)(2) requires the Secretary to determine that “less intrusive
28 measures” could not “reduce” the identified supply chain risk before taking action. The Secretary

1 flouted that requirement. The March 3 Secretarial Determination pronounces that conclusion but
2 does not explain it. *See* Dkt. 96-2 at 2. And none of the documents in the “recommendation packet”
3 purportedly sent to the Secretary in advance of that Determination even discuss less-intrusive
4 measures. *See id.* at 3-11. Defendants’ only response to this lacuna is to point (Opp. 20) to a
5 declaration submitted on March 17—along with their opposition—which cannot possibly stand in
6 for the pre-decisional procedure Congress required.

7 *The Secretary Exceeded His Statutory Authority.* Section 3252 is not a broad grant of
8 authority for the Secretary to punish counterparties whose principles differ from his own. It is a
9 narrow statute, drafted with exacting precision, authorizing the Secretary to exclude a contractor or
10 subcontractor from certain Department procurements only in circumstances creating a “risk that an
11 adversary may sabotage, maliciously introduce unwanted function, or otherwise subvert” an
12 information technology system used for national-security purposes. 10 U.S.C. § 3252(d)(4).

13 The Secretary’s Determination rests on an untenable reading of that statute, under which he
14 may classify an American company as an “adversary.” Opp. 18. But that is contrary to the text and
15 history of Section 3252. The text plainly targets “malicious foreign actors,” Dkt. 54-1 at 6—not
16 American companies with whom the Department has contractual or policy disagreements. Statutory
17 history is in accord: Congress modeled Section 3252 on a prior statutory provision enacted in
18 response to a catastrophic cyber incident perpetrated “by a foreign intelligence agency.” *Id.* at 4. And
19 “Executive Branch practice—which began contemporaneously with enactment of the statute”—
20 resolves any doubt. *Kennedy v. Braidwood Mgmt., Inc.*, 606 U.S. 748, 783 (2025). Shortly after
21 Congress enacted Section 3252’s substantively identical predecessor provision, the Department
22 issued implementing instructions defining the relevant risk as “sabotage or subversion” by “foreign
23 intelligence, terrorists or other hostile elements.” Dep’t of Def., Instruction 5200.44, Protection of
24 Mission Critical Functions to Achieve Trusted Systems and Networks (TSN) (Nov. 5, 2012),
25 perma.cc/TW3D-735M. Consistent with that understanding, no American entity has ever been
26 designated as a supply chain risk, much less labeled an adversary itself.

27 Defendants ignore the Department’s instruction, instead invoking dictionary definitions for
28 the word “adversary” that “broadly encompass[] any ‘opponent in a contest, conflict, or dispute.’”

1 Opp. 19. That contravenes the “fundamental principle of statutory construction (and, indeed, of
2 language itself) that the meaning of a word cannot be determined in isolation, but must be drawn
3 from the context in which it is used.” *Deal v. United States*, 508 U.S. 129, 132 (1993). Defendants’
4 broad reading of “adversary” proves far too much: it could sweep in all manner of domestic entities
5 and individuals who “opposed” the Administration (or the Secretary) in negotiations, legislative
6 conflicts, or even political disputes.

7 *The Rationales Underlying The Determination Are Arbitrary And Capricious*. Apart from the
8 Secretary’s unduly expansive construction of Section 3252, the explanations given for applying that
9 provision to Anthropic fail APA review. The Secretary’s March 3 Determination again provided no
10 explanation beyond parroting the statutory text. Dkt. 96-2 at 2. The only purportedly
11 contemporaneous rationales are found in a conspicuously undated memorandum from Under
12 Secretary Michael. *See* Opp. 16. It is unclear whether the Secretary acted based on all, some, or any
13 of those rationales. Regardless, none of the rationales is reasonable or reasonably explained.²

14 The memorandum asserts that “Anthropic [sought] to grant itself” a “veto” over Department
15 operations. Dkt. 96-2 at 6. That assertion is unmoored from technical reality: “Anthropic does not
16 have the access required to disable [its] technology or alter [its] model’s behavior before or during
17 ongoing operations.” Second Ramasamy Decl. ¶ 14. Once deployed in classified environments,
18 Anthropic has no access to (or control over) the model. *Id.* ¶¶ 13-20. It could not “veto” particular
19 uses even if it wanted to. *Id.* And Anthropic did *not* want to, as Dr. Amodei explained to the
20 Secretary and in a public statement. Second Heck Decl. ¶¶ 6-9; *cf.* Dkt. 96-2 at 6 (accusing
21 Anthropic executive of “question[ing] the propriety of the potential use of [Claude] for a sensitive
22 military operation”). In fact, the company proposed contract language expressly disavowing any
23 such authority, precisely to allay any concern about operational control. Second Heck Decl. ¶ 9.

24 The memorandum next observes that AI technology is often “opaque” to its users and subject
25 to some measure of control by its providers. Dkt. 96-2 at 7. But those concerns apply across the
26 entire industry. Second Ramasamy Decl. ¶ 20; Dkt. 96-3 ¶ 9 (conceding that these are “common
27

28 ² Defendants also submitted a document under seal produced by a third party, which the Court should disregard. The record does not indicate how (or even whether) the Department relied on it.

1 concern[s] with all LLMs”). If anything, Anthropic is more transparent than other companies and has
2 a longstanding history of open and successful partnership with the Department. Second Ramasamy
3 Decl. ¶ 20. Moreover, any concern about “operational risk” posed by Anthropic’s ability to
4 “unilaterally alter . . . model weights,” Dkt. 96-2 at 7, reflects another technical misunderstanding:
5 Anthropic has no unilateral ability to make changes to model weights once the Department has
6 deployed the model. Second Ramasamy Decl. ¶¶ 13-20.³

7 The rationales advanced by Defendants are also “internally inconsistent.” *Nat’l Parks*
8 *Conservation Ass’n v. EPA*, 788 F.3d 1134, 1141 (9th Cir. 2015). For example, Under Secretary
9 Michael’s memorandum posits that “Anthropic’s risk level escalated” over its entire course of
10 dealing with the Department to the point that the company’s services posed “an unacceptable
11 national security threat.” Dkt. 96-2 at 8. Yet Defendants also contend that if Anthropic had “agreed
12 to the Government’s term” by the Secretary’s February 27 deadline, “the challenged actions would
13 not have occurred.” Opp. 14. If Anthropic already posed an unacceptable national security threat by
14 that point—and the Department genuinely feared that the company might interfere with military
15 operations—the Department should have taken this action regardless of whether Anthropic accepted
16 its contract term. This kind of “unexplained inconsistency” is a classic sign of “arbitrary”
17 decisionmaking. *Int’l Rehabilitative Scis. Inc. v. Sebelius*, 688 F.3d 994, 1001 (9th Cir. 2012).

18 And the present circumstances suggest it is also a sign of pretext. On the morning of March
19 4, before the Department notified Anthropic of the Secretary’s March 3 Determination, Under
20 Secretary Michael emailed Dr. Amodei. In response to Anthropic’s latest proposed contractual
21 resolution, Under Secretary Michael wrote: “I think we are very close here,” and “I hope this
22 work[s].” Second Heck Decl. Ex. 1. It is inconceivable that Under Secretary Michael’s
23 memorandum—undated, but apparently completed in time to be an exhibit to the March 3
24 Determination—reflected genuine concerns that Anthropic would sabotage military operations,
25 when he was actively negotiating with Anthropic through March 4 and expressing keen interest in
26 Anthropic continuing to provide AI services to the Department. This case presents the Court with

27 ³ The memorandum also characterizes Anthropic as adopting a “negotiation posture meant
28 principally to benefit its public perception.” Dkt. 96-2 at 6. But concern about a company’s public
relations activities is not a reasonable explanation for designating that company a supply-chain risk.

1 “explanation[s] for agency action that [are] incongruent with what the record reveals about the
2 agency’s priorities and decisionmaking process.” *Dep’t of Com.*, 588 U.S. at 785. The only plausible
3 conclusion is that the reasons set forth in the memorandum are “contrived.” *Id.* at 784.

4 *New Rationales Unveiled In A Declaration On March 17 May Not Be Considered.* The
5 declaration from Under Secretary Michael, submitted along with Defendants’ opposition, adds brand
6 new rationales to the mix. These “belated justifications” cannot change the analysis. *Regents*, 591
7 U.S. at 20; *see, e.g., Thakur v. Trump*, 787 F. Supp. 3d 955, 982 (N.D. Cal. 2025) (“post-hoc
8 materials must . . . contain no new rationalizations” for an earlier action). In any event, the post hoc
9 rationales are no less arbitrary or capricious. The declaration references misgivings about
10 Anthropic’s employment of “foreign nationals,” but concedes in the same paragraph that the “other
11 major U.S. AI labs that provide LLM products to DoW may present similar risks.” Dkt. 96-3 ¶ 10;
12 *see also* Dkt. 6-1 ¶ 24 (describing Anthropic’s commitment to defeating authoritarian adversaries). It
13 observes that “adversarial nation states have a practice of stealing Anthropic’s LLM technology,”
14 Dkt. 96-3 ¶ 11, which makes Anthropic a victim—not an adversary itself. And it alludes to an
15 incident in which “safety filters” on Claude interfered with CDC work, *id.* ¶ 14, which arose from
16 the use of a general commercial model for research and was promptly addressed, underscoring
17 Anthropic’s commitment to supporting special government uses. Second Ramasamy Decl. ¶ 21.

18 **C. The Challenged Actions Violate Due Process**

19 By purporting to designate Anthropic a supply-chain risk, blacklist it, and impose a
20 secondary boycott on the company, Defendants also deprived Anthropic of constitutionally protected
21 interests without due process of law. Mot. 20-21.

22 Defendants respond that “Anthropic’s cursory invocation of reputational harm does not
23 suffice.” Opp. 21. Although harm to reputation “alone” does not implicate a liberty interest, *id.*,
24 government labels of wrongdoing that affect a person’s “reputation,” combined with tangible harm
25 or legal consequences, do implicate constitutional due process protections, *FCC v. Fox Television*
26 *Stations, Inc.*, 567 U.S. 239, 255-56 (2012). For example, the loss of public employment based on
27 charges of “disloyalty” may trigger due process protections. *Wieman v. Updegraff*, 344 U.S. 183,
28 191-92 (1952); *see also Paul v. Davis*, 424 U.S. 693, 708-09 (1976); *Wisconsin v. Constantineau*,

1 400 U.S. 433, 437 (1971). And there is nothing cursory about the concrete damage to Anthropic’s
2 reputation and tangible interests inflicted by the supply-chain risk designation and assertion that
3 Anthropic is endangering American troops. Dkts. 1-2; 6-4 ¶¶ 5-20; 6-5 ¶¶ 4-10.

4 That alone is sufficient to trigger due process protections, but there is more. Anthropic has
5 protected interests in contractual relationships with third parties, *Al Haramain Islamic Found. v. U.S.*
6 *Dep’t of Treasury*, 686 F.3d 965, 979-80 (9th Cir. 2012), and in not being de facto debarred from
7 government contracting, *Trifax Corp. v. District of Columbia*, 314 F.3d 641, 643-44 (D.C. Cir.
8 2003). The government has no good answer. As to contracts with third parties, it asserts that it
9 “played no role” in impairing those contractual relationships, Opp. 21, ignoring the Secretary’s
10 directive that “[e]ffective immediately, no contractor, supplier, or partner that does business with the
11 United States military may conduct any commercial activity with Anthropic” as well as the fact that
12 Defendants took steps to enforce that secondary boycott, Dkts. 1-2, 6-3 ¶ 30, 6-4 ¶ 14. As to
13 government contracting, the government observes that a prospective contractor has no protectible
14 interest in particular contracts. Opp. 21. But that is not the issue here. The President’s command that
15 “EVERY Federal Agency” must “IMMEDIATELY CEASE” dealings with Anthropic, and that no
16 federal agency will “do business with [Anthropic] again,” Dkt. 1-1, fits within established precedent
17 recognizing that “debaring a corporation from government contract bidding ... triggers the
18 procedural guarantees of the Due Process Clause,” *Trifax Corp.*, 314 F.3d at 643.

19 Defendants argue that Anthropic received constitutionally adequate post-deprivation process,
20 either through reconsideration or judicial review, Opp. 22, but that argument fares no better. “The
21 fundamental requirements of procedural due process are notice and an opportunity to be heard *before*
22 the government may deprive a person of a protected liberty or property interest.” *Conner v. City of*
23 *Santa Ana*, 897 F.2d 1487, 1492 (9th Cir. 1990) (emphasis added). Purported national-security
24 concerns do not allow the government to dispense with that basic component of due process. *See*
25 *Nat’l Council of Resistance of Iran v. Dep’t of State*, 251 F.3d 192, 207-08 (D.C. Cir. 2001); *see also*
26 *Ralls Corp. v. CFIUS*, 758 F.3d 296, 319 (D.C. Cir. 2014). The D.C. Circuit has rejected the
27 argument (repeated here by the government) that “the foreign-policy/national-security nature” of a
28 designation of an entity as a foreign terrorist organization “support[ed] the constitutional adequacy

1 of a post-deprivation remedy.” *Nat’l Council*, 251 F.3d at 207. The constitutional baseline is that
2 “[p]re-deprivation notice typically is required absent ‘a strong justification’ from the government.”
3 *Garza v. Woods*, 150 F.4th 1118, 1130 (9th Cir. 2025).

4 Defendants do not attempt to articulate such a justification. They point to Section 3252(c),
5 which allows the Department to “limit disclosure” of information regarding a supply-chain-risk
6 designation. Opp. 22. But they do not explain why the Department needed to withhold the factual
7 basis for the designation before the Secretary imposed it. Nor could they plausibly do so: the
8 government publicly released the *same* information with its filing in this Court. If post-deprivation
9 process is constitutionally inadequate for purported foreign terrorist organizations, *see Nat’l Council*,
10 251 F.3d at 207-08, it is surely inadequate for a leading American frontier AI company.

11 And Defendants’ failure to afford pre-deprivation process was not harmless. For instance,
12 Under Secretary Michael’s memorandum is riddled with speculative assertions, factual errors, and
13 misunderstandings that Anthropic could have rebutted had it been afforded the opportunity. Among
14 other problems, the memorandum states that “Anthropic [sought] to grant itself” a “veto” over
15 Department operations. Dkt. 96-2 at 6. Anthropic did nothing of the sort. *Supra* p. 11. The
16 memorandum also asserts that Anthropic sought to “restrict[] the use of a system” to “diminish
17 functionality” and limit “warfighting capabilities.” Dkt. 96-2 at 6. Had Anthropic been able to
18 respond, it could have demonstrated why that assertion is irreconcilable with technological reality.
19 Second Ramasamy Decl. ¶¶ 13-20. Due process exists precisely to prevent these kinds of
20 government actions premised on errors that “go uncorrected despite potentially easy, ready, and
21 persuasive explanations.” *Al Haramain*, 686 F.3d at 982.

22 **D. The Presidential Directive Violated The Separation Of Powers By Blacklisting**
23 **Anthropic Without Statutory Or Constitutional Authority To Do So**

24 Anthropic is also likely to establish that the Presidential Directive, and thus the federal
25 agency actions implementing it, are unlawful. It is “black letter law” that the President’s power to act
26 “must stem either from an Act of Congress or from the Constitution.” *Minnesota v. Mille Lacs Band*
27 *of Chippewa Indians*, 526 U.S. 172, 188-89 (1999). Yet here, as Anthropic has explained, no statute
28 or constitutional provision authorized the President unilaterally to blacklist a company and to

1 effectively debar it from any existing or future government contract. Mot. 21-22.

2 Invoking *Nuclear Regulatory Commission v. Texas*, 605 U.S. 665, 681 (2025) (*NRC*),
3 Defendants argue (Opp. 22-24) that this claim fails because Anthropic has available remedies under
4 “the APA and contract-specific statutory review schemes.” That is incorrect. The APA does not
5 apply to the President and offers no vehicle to challenge the legality of the Directive itself, as the
6 government acknowledges. Opp. 16 n.5. And contract remedies operate only piecemeal—through
7 bid protests or disputes tied to particular procurements—and cannot reach a government-wide
8 directive that both immediately and prospectively excludes a company from all federal contracting.
9 *See, e.g.*, 28 U.S.C. § 1491(b)(1); 41 U.S.C. §§ 7103(a)(1), 7104, 7107.

10 Defendants also invoke *NRC* for their argument that *ultra vires* review is available only when
11 the Executive Branch acts “contrary to a specific prohibition in a statute.” Opp. 23. That
12 misunderstands both *NRC* and Anthropic’s claim. *NRC* involved a “nonstatutory *ultra vires* review”
13 claim challenging an agency action for which Congress had specifically limited the scope of judicial
14 review. 605 U.S. at 680. In those circumstances, “[b]ecause *ultra vires* review could become an easy
15 end-run around the limitations” of “judicial-review statutes,” the doctrine is “strictly limited.” *Id.* at
16 681. But Anthropic is seeking relief from an unlawful Presidential Directive and from implementing
17 agency actions complying with that Directive. And “[r]eview of the legality of Presidential action
18 can ordinarily be obtained in a suit seeking to enjoin the officers who attempt to enforce the
19 President’s directive.” *Franklin v. Massachusetts*, 505 U.S. 788, 828 (1992) (Scalia, J., concurring in
20 part and concurring in the judgment); *Chamber of Com. of U.S. v. Reich*, 74 F.3d 1322, 1328 (D.C.
21 Cir. 1996). Courts routinely consider *ultra vires* claims that a presidential action exceeded statutory
22 authority without applying *NRC*’s “specific prohibition” standard. *E.g.*, *Newsom v. Trump*, 141 F.4th
23 1032, 1044 (9th Cir. 2025); *Murphy Co. v. Biden*, 65 F.4th 1122, 1128-29 (9th Cir. 2023).

24 In any event, the “specific prohibition” standard is satisfied here. By taking the extraordinary
25 step of ordering the entire Executive Branch to cancel all contracts with Anthropic and debarring
26 Anthropic from future government contracting, invoking no relevant legal authority, the Presidential
27 Directive exceeds the President’s authority. Congress enacted a detailed framework governing
28 federal procurement and contractor exclusions, which specifies who may be excluded, under what

1 circumstances, and through what process. *See* 10 U.S.C. §§ 3203(a)(1), 3204(a); 40 U.S.C. § 121(a);
2 41 U.S.C. §§ 3303(a)(1), 3304(a); *see also* 48 C.F.R. §§ 9.406-2, 9.407-2. The Directive overrides
3 that comprehensive statutory framework, meaning the President engaged in “an attempted exercise
4 of power that had been specifically withheld.” *Leedom v. Kyne*, 358 U.S. 184, 189 (1958).

5 Nor can the President’s Article II authority justify the Directive. No doubt, “the President
6 may guide his subordinates’ *lawful* exercise of discretion regarding procurement policies.” Opp. 23
7 (emphasis added). But the Constitution, including the Take Care Clause, does not empower the
8 President to direct subordinates to act unlawfully, such as by violating procurement statutes enacted
9 by Congress or binding procurement regulations. *See, e.g., Nebraska v. Su*, 121 F.4th 1, 16 (9th Cir.
10 2024) (Procurement Act “does not give the President unrestrained authority to issue any
11 procurement policy that he desires”).

12 **II. Preliminary Injunctive Relief Is Needed To Prevent Further Irreparable Harm**

13 Anthropic is suffering ongoing violations of its constitutional rights, damage to its reputation
14 and institutional standing, loss of important relationships with private defense-sector partners, and
15 other substantial economic injuries. Mot. 22-24. Defendants do not contest Anthropic’s factual
16 showing and offer no contrary evidence.

17 As to the constitutional injuries, Defendants argue that “there is no evidence of a chilling
18 effect on Anthropic’s speech.” Opp. 25. But irreparable injury unquestionably exists whenever the
19 government violates the First Amendment or the Due Process Clause. *Melendres v. Arpaio*, 695 F.3d
20 990, 1002 (9th Cir. 2012); *see Am. Ass’n of Univ. Professors v. Trump*, 2025 WL 3187762, at *36
21 (N.D. Cal. Nov. 14, 2025). So the relevant question is not whether *Anthropic* has been chilled, but
22 whether Defendants’ retaliatory actions would chill the speech of a person of ordinary firmness. And
23 Defendants do not dispute that Anthropic satisfies that objective standard. *See supra* p. 3.

24 As to the reputational harm that ineluctably followed from the Executive Branch labeling
25 Anthropic an unpatriotic threat to national security, Defendants dismiss Anthropic’s evidence as
26 “conclusory statements about risks that may occur at a future date.” Opp. 25. That ignores the
27 record. Anthropic has suffered lost contracts, business uncertainty, and the stigma of being cast as
28 (among other things) a threat to the lives of American soldiers. Dkt. 6-4 ¶¶ 5, 9, 12-15.

1 That reputational harm is comparable to other forms of reputational harm that have recently
2 been found to warrant provisional relief. *See, e.g., AAUP*, 2025 WL 3187762, at *36. It accrued the
3 day Anthropic was blacklisted by the President and became the first American company labeled a
4 supply-chain risk—not at some speculative future date. Dkts. 6-5 ¶ 4, 6-4 ¶¶ 12-15, 18. Because
5 these reputational injuries are “not easily measured or fully compensable in damages,” they are
6 irreparable as a matter of law. *AAUP*, 2025 WL 3187762, at *36 (internal quotation marks omitted).
7 Undisputed record evidence likewise refutes Defendants’ claim that Anthropic’s loss of key private
8 defense-sector relationships is “speculative.” Opp. 26. The Challenged Actions stalled six potential
9 Anthropic national security contracts; prevented at least three significant deals valued at almost \$200
10 million from closing; forced Anthropic partners to “immediately switch[] from Claude to a
11 competing generative AI model”; and ended several partnerships altogether—all within days of
12 Defendants’ branding of Anthropic as a threat to the nation. Dkts. 6-3 ¶ 33, 6-4 ¶¶ 11-20.
13 Anthropic’s customers have canceled sales meetings, sought to shorten or renegotiate existing
14 contracts, and replaced Claude with competitors’ models. *Id.* Anthropic’s partners are not merely
15 “assessing” their relationships with the company—some are actively terminating them. *Id.* These
16 already-inflicted losses are far from the “subjective apprehensions and unsupported predictions” that
17 characterize speculative harm. *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 675-76 (9th
18 Cir. 1988).

19 Finally, Defendants miss the point when they attempt to recast Anthropic’s economic injuries
20 as arising from a simple breach of contract that could be litigated in the Court of Federal Claims.
21 Anthropic is not challenging the termination of any particular government contract; it challenges
22 Defendants’ attempt to blacklist the company and brand it a national security threat. Those actions
23 have cost Anthropic revenue and threaten to inflict still more harms. Dkts. 6-5 ¶ 6, 6-4 ¶¶ 16-20, 6-3
24 ¶¶ 32-33. Anthropic accordingly seeks injunctive and declaratory relief against the Challenged
25 Actions—relief for which the Court of Federal Claims offers no recourse. *See Pacito v. Trump*, ___
26 F.4th ___, 2026 WL 620449, at *18-21 (9th Cir. Mar. 5, 2026); *Thakur*, 787 F. Supp. 3d at 990-91.

1 III. The Balance Of The Equities And The Public Interest Weigh In Favor Of An Injunction

2 Because Anthropic has established a likelihood of success on its constitutional and statutory
3 claims, it has “also established that both the public interest and the balance of the equities favor a
4 preliminary injunction.” *Ariz. Dream Act Coal. v. Brewer*, 757 F.3d 1053, 1069 (9th Cir. 2014).
5 Nonetheless, as amici from across the Nation and across the political spectrum have now attested, a
6 preliminary injunction would serve an array of specific and vital public interests. Twenty-two former
7 high-ranking military leaders, who served under presidents of both parties, warn that the Challenged
8 Actions will have “dire” consequences for the national defense and “will materially detract from
9 military readiness and operational safety.” Dkt. 58 at 14. Microsoft—an industry leader and prime
10 government contractor uniquely positioned to understand the private sector’s role in safeguarding
11 national security—cautions that the Challenged Actions could deprive Americans of “access to state-
12 of-the-art technological solutions” critical to national security in the digital age. Dkt. 75 at 11.
13 Thirty-seven employees from OpenAI and Google explain that the Challenged Actions threaten to
14 “chill open deliberation” and “professional debate” amongst the people best positioned to understand
15 AI technology and its potential for “catastrophic misuse.” Dkt. 24-1 at 6, 8, 9. Amici have articulated
16 other compelling public interests: government contractors who would bear unnecessary, “substantial
17 and wide-ranging costs”; ideologically diverse think tanks and the largest federal employee union, both
18 concerned about unconstitutional government retaliation; and theologians underscoring the public
19 interest in ethical guardrails on technical progress. Dkts. 67, 71, 75, 80.

20 Defendants respond that an injunction would prevent the Executive “from effectuating
21 statutes enacted by representatives of its people.” Opp. 28. But the Executive’s actions here are *not*
22 faithful to the statute Congress enacted. The government “cannot suffer harm from an injunction that
23 merely ends an unlawful practice.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013). And
24 “the rule of law is secured by a strong public interest that the laws enacted by [the people’s]
25 representatives are not imperiled by executive fiat.” *Washington v. Trump*, 145 F.4th 1013, 1037
26 (9th Cir. 2025) (internal quotation marks omitted).

1 **IV. The Scope Of Requested Relief Is Appropriate And No Stay Or Bond Should Issue**

2 Defendants conclude by asking the Court to narrowly tailor any preliminary relief, grant a
3 stay pending appeal, and require a bond under Fed. R. Civ. P. 65(c). Opp. 29-30.

4 The preliminary relief proposed by Anthropic is already narrowly tailored. It only enjoins
5 specific, unlawful executive actions and bars Defendants from “implementing, applying, or
6 enforcing” those specific actions. *See* Dkt. 6-34. It would not “compel[] Defendants’ use of
7 Anthropic’s products and services” going forward. Opp. 29. Anthropic recognizes that the relief
8 sought here “would not require Defendants to use Anthropic’s services or prevent them from
9 transitioning to other AI providers,” so long as that transition complies with applicable regulations,
10 statutes, and constitutional provisions. Mot. 2. For the avoidance of any doubt, Anthropic would not
11 object to the Court including similar language in its order.

12 Defendants acknowledge that the factors governing a request for a stay pending appeal are
13 substantially the same as those governing a preliminary injunction. Opp. 30. For the reasons noted
14 above, Defendants could not satisfy those standards here. But to allow for a more orderly appellate
15 process, and without prejudice to its arguments that Defendants are not entitled to a stay, Anthropic
16 would not object to Defendants’ alternative proposal for an administrative stay “for a period of seven
17 days to allow Defendants to seek an emergency, expedited stay from the court of appeals,” *id.*, or
18 whatever other brief, time-limited period this Court deems appropriate.

19 Finally, no Rule 65(c) bond is appropriate here. Rule 65(c) “invests the district court ‘with
20 discretion as to the amount of security required, if any.’” *Johnson v. Couturier*, 572 F.3d 1067, 1086
21 (9th Cir. 2009) (citations omitted). Defendants have not demonstrated that they “will incur any
22 significant cost” here, and “a bond ‘would have a negative impact on [Anthropic’s] constitutional
23 rights’” by taxing it for seeking relief against unconstitutional retaliation. *Kharb v. DHS*, 2026 WL
24 485765, at *5 (C.D. Cal. Feb. 17, 2026). At the least, “because this litigation is brought to protect the
25 public interest and ensure compliance with federal law,” only a “nominal bond” should be required.
26 *Thakur*, 787 F. Supp. 3d at 1005 (“\$100”).

27 **CONCLUSION**

28 This Court should grant the emergency relief in Anthropic’s proposed order.

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/s/ Michael J. Mongan

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