

Notice to Hon. Jennifer L. Rochon
Common Cause v. Department of Homeland Security, No. 1:26-cv-08882
October 13, 2026
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VIA ECF

Hon. Jennifer L. Rochon
United States District Court for the Southern District of New York
500 Pearl Street, Room 1920
New York, NY 10007

Re: *Common Cause v. Department of Homeland Security*, No. 1:26-cv-08882

Dear Judge Rochon:

Plaintiffs respectfully submit this letter in advance of tomorrow's status conference to formally raise the following concerns and questions put at issue by Defendants' status report, Dkt. 44. Defendants' status report does not provide necessary assurances regarding their diligence in seeking to comply or in actually complying with this Court's order. In addition to the fact, as discussed in Plaintiffs' prior filing, that ads continued to air following this Court's order, it appears that the government did not act diligently to ensure timely compliance by Defendant agencies or LMD. And that the ads continued airing on Monday raises questions about the accuracy of Defendants' prior representation that no order need issue because the ads would cease airing on Sunday. Accordingly, Plaintiffs respectfully request that the Court seek inquiry into the topics discussed below to develop information necessary for any future compliance proceedings.

Ad Data

1. According to AdImpact data reviewed by undersigned counsel:
 - 570 ads ran after 6:46 p.m. eastern on October 11, when the Court's order requiring "immediate attention" was issued.
 - 143 ads ran after 7:58 p.m. eastern, the time at which counsel indicates he forwarded the Court's order "to agency counsel," ECF 44 at 1, and shortly after Reuters first published a story about the Court's order at 7:51 p.m., *see Reuters, US judge orders halt to taxpayer-funded ads featuring Trump*, <https://perma.cc/T2WG-R463>.
 - 32 ads ran on October 12, the latest of which aired at 12:17 p.m. eastern. Does the government dispute that those airings occurred? Is the government aware of any additional airings of these ads after 6:46 p.m. on October 11?
2. What explains the discrepancy between the government's representation that it had "directed [LMD] not to make any additional media buys past October 11," ECF 37 at 5, and the fact that additional ads aired on Monday, October 12?

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Notice of the Order

3. The government represents that its counsel emailed the Court's order to agency counsel at 7:58 p.m. When and how did government counsel become aware of the order?
4. When and how did agency counsel for each of the Defendants become aware of the Court's order?
5. The government represents that DHS provided the Court's order to LMD on the morning of Monday, October 12, but does not state when LMD learned of the Court's order. When and how did LMD become aware of the Court's order?

Actions by Government Counsel After the Order

6. To which agency counsel did government counsel email the Court's order? Was agency counsel for all three defendants notified? When and how did those notifications about the Court's order occur?
7. When government counsel emailed the Court's order to agency counsel, did government counsel also inform agency counsel of the Court's instruction that the Court order "requires immediate attention"?
8. Other than emailing the Court's order to agency counsel, what other efforts were made to contact agency counsel or to confirm receipt of the Court's order? When were those efforts taken?

Actions by Defendants and LMD After the Order

9. In the government's October 12 letter, it represents that Defendants "understand" various aspects of the Court's order. What affirmative steps have Defendants DHS, OMB, and EOP each taken to comply with the Court's order?
10. After becoming aware of the Court's order, what steps, if any, did LMD take in response? When were those steps taken?

Advertisements on YouTube

11. We are also quite concerned that the challenged advertisements and similar propaganda videos remain available on the White House's YouTube channel. As of this filing, several of the challenged advertisements named in the Order remain on the White House YouTube page, including *The Country He Loves* (titled *America Will Never Be a Socialist/Communist Country*) and *Celebrating the American Spirit* (titled *Mount Rushmore*). Does the government plan to remove those ads from the page?
12. On Monday, October 12, the day after the Court issued its order, additional political advertisements appeared on the official White House YouTube channel, including videos entitled: "\$5,000 to Americans," "Every Democrat Voted Against No Tax on Tips," "Man in the Arena," and "President Trump's Second Term: Stephen Miller." Were these advertisements developed, created, or published using the \$20 million apportionment addressed in the Court's order?

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Plaintiffs respectfully request that Defendants address these questions and concerns during tomorrow's status conference.

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Respectfully submitted,

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*Pro Hac Vice Application Forthcoming