

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

AMERICAN COUNCIL OF LEARNED
SOCIETIES, *et al.*,

Plaintiffs,

v.

ADAM WOLFSON, in his official capacity
as Acting Chairman of the National
Endowment for the Humanities, *et al.*,

Defendants.

Case No. 25-cv-03657

THE AUTHORS GUILD *et al.*,

Plaintiffs,

v.

NATIONAL ENDOWMENT FOR THE
HUMANITIES, *et al.*,

Defendants.

Case No. 25-cv-3923

PLAINTIFFS' STATEMENT OF UNDISPUTED MATERIAL FACTS
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Plaintiffs respectfully submit this Statement of Undisputed Material Facts in support of their Motion for Summary Judgment, as required by Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1. All "Ex. ____" citations refer to exhibits to the contemporaneously filed Declaration of Yinka Onayemi. The below list of facts does not reflect all facts Plaintiffs will

offer in support of their claims at trial, but only those that are material to resolving Plaintiff's motion. Accordingly, Plaintiffs reserve their right to present additional facts at trial.

1. The NEH Act, 20 U.S.C. §§ 951 et seq., provides that “it is the policy of the United States Government to support the exploration of human understanding through the humanities, including the fostering of mutual respect for the diverse beliefs and values of all persons and groups.” 20 U.S.C. § 951(6).

2. The NEH Act declares that “it is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities.” 20 U.S.C. § 951(1).

3. The NEH Act specifies that no “department, agency, officer, or employee of the United States” shall “exercise any “direction, supervision, or control over the policy determination, personnel, or curriculum, or the administration or operation of any [grantee].” 20 U.S.C. § 953(c).

4. NEH funds support grantees' private speech. Ex. 3, Deposition of Michael McDonald (“McDonald Dep.”), at 65:5–16.

5. Prior to January 20, 2025, NEH grant applications underwent expert peer review, evaluation by NEH program officers, and advisory review by the National Council on the Humanities before final award decisions were made. Ex. 26, Deposition of Adam Wolfson (“Wolfson Dep.”), at 23:23–24:14, 41:13–42:20.

6. NEH has historically relied heavily on expert peer-review recommendations and career staff when making grant award decisions. *Id.*

7. Termination of awarded NEH grants historically occurred only in limited circumstances involving grantee noncompliance or material deviation from approved project objectives. Wolfson Dep. at 44:25–47:21.

8. NEH has never before simultaneously terminated hundreds of grants. Wolfson Dep. at 63:22–25.

9. On January 20, 2025, President Trump issued a series of executive orders directing federal agencies to eliminate grant funding associated with Diversity, Equity, and Inclusion (“DEI”) programs, gender ideology, and what the Administration coined “wasteful spending.” E.O. 14151, 90 Fed. Reg. 8339 (Jan. 20, 2025); E.O. 14222, 90 Fed. Reg. 11095 (Feb. 26, 2025).

10. E.O. 14151 required each agency to provide the Office of Management and Budget (“OMB”) a list of all “grantees who received Federal funding to provide or advance DEI, DEIA, or ‘environmental justice’ programs, services, or activities.” E.O. 14151 § 2(b)(ii).

11. Shortly after the inauguration of President Trump, Defendants Justin Fox and Nathan Cavanaugh were contacted, interviewed, and hired by senior members of DOGE. Ex. 1, Deposition of Justin Fox (“Fox Dep.”) at 56:25–57:11; Ex. 2, Deposition of Nathan Cavanaugh (“Cavanaugh Dep.”) at 25:11–15.

12. Senior DOGE official Steve Davis hired Cavanaugh into government. Cavanaugh Dep. at 22:19–25.

13. Senior DOGE officials Anthony Armstrong and Joshua Gruenbaum recruited Fox into government. Fox Dep. at 32:10–23; 51:14–17.

14. Fox and Cavanaugh were hired officially as employees of the General Services Administration (“GSA”) but self-identified as members of the “DOGE Team” during the relevant period. Fox Dep. at 68:7–10; Cavanaugh Dep. at 18:19–19:5.

15. Fox and Cavanaugh belonged to DOGE’s “Small Agencies Team.” Cavanaugh Dep. at 37:9–13; Fox Dep. at 104:11–16.

16. Cavanaugh led the Small Agencies Team. Cavanaugh Dep. at 55:9–15, 91:2–12.

17. Defendant Fox was the Small Agencies Team’s primary operative at NEH. Cavanaugh Dep. at 55:9–15, 91:2–12. Fox followed Cavanaugh’s direction and helped Cavanaugh “with whatever he was working on.” Fox Dep. at 58:20–59:5; 103:14–23.

18. The DOGE Small Agencies Team’s mission was to “reduce certain useless small agencies in the Federal Government,” “find[] efficiencies,” and “terminat[e] grants.” Cavanaugh Dep. at 55:18–22; Fox Dep. at 88:6–17.

19. Cavanaugh was acting on behalf of DOGE and understood the scope of his responsibilities through some combination of Steve Davis’s direction and Cavanaugh’s own intuition. Cavanaugh Dep. at 55:16–22; 56:4–14; 63:14–5; 64:12–65:10; 66:6–17; 161:8–162:13; 239:22–240:11.

20. Davis was “effectively [Cavanaugh’s] manager,” appointed Cavanaugh to lead DOGE’s Small Agencies Team, and initially directed Cavanaugh to focus on NEH. Cavanaugh Dep. at 36:24–37:2; 49:5–8; 49:12–15; 55:9–22; 64:18–65:10; 86:13–22.

21. While detailed to the Small Agencies Team, Cavanaugh reported supposed aggregate agency savings—including grant and contract terminations at NEH—to Davis and DOGE senior leadership on a weekly basis. Cavanaugh Dep. at 80:13–23; 81:24–82:13; 92:23–93:4; 272:20–273:13; *see also* Ex. 36, US-00009509.

22. Prior to joining the Administration, Cavanaugh had no prior government experience. Cavanaugh Dep. at 51:1–4.

23. Prior to joining the Administration, Fox had no experience in government, public grant administration, private grant administration, or reviewing humanities projects for scholarly merit. Fox Dep. at 43:7–44:7.

24. Before DOGE's arrival at NEH, agency staff had begun reviewing grants pursuant to Executive Orders 14151 and 14168 to identify for OMB grants that may conflict with those orders. McDonald Dep. at 138:13–23.

25. NEH Chief Information Officer Brett Bobley directed NEH staff to identify grants issued “from 2021 to the present” based on whether they promoted “environmental justice,” “diversity, equity, and inclusion,” “diversity, equity, inclusion, and accessibility,” or “gender ideology.” Ex. 4, NEH_AR_000001; *see also* Ex. 8, NEH_AR_000005 (Wolfson describing “historical review of NEH’s grants since January 2021”); Wolfson Dep. at 87:21–88:4 (describing “historical review of all grants starting [at] the start of the Biden administration”).

26. NEH staff reviewed all awards made over the preceding four years and rated them “high, medium, or low” in terms of promoting DEI. Ex. 5, NEH_AR_000022; Ex. 6, NEH_AR_000006; McDonald Dep. at 101:7–11.

27. NEH staff rated a grant for a book about Black and indigenous farmers in the rural Midwest as “high” for DEI because it “discusses racial discrimination and land appropriation from Indigenous people, as well as environmental justice.” NEH_AR_000006 at R61. This grant was later terminated. Ex. 25, NEH_AR_0000136.

28. NEH staff rated a grant to named (and Authors Guild member) Plaintiff Nicole Jenkins as “medium” for DEI because it “discusses white supremacy and Black women’s experience of discrimination.” NEH_AR_000006 at R56. This grant was later terminated. Ex. 25, NEH_AR_0000136.

29. NEH staff rated a grant to the American Historical Association as “high” for promoting environmental justice because it “violated the administration's views” on climate

change. McDonald Dep. at 104:13–107:1. This grant was later terminated. Ex. 25, NEH_AR_0000136.

30. Grants that NEH staff determined were at no risk of promoting DEI, environmental justice, or gender ideology were marked as “N/A.” Ex. 5, NEH_AR_000022.

31. Fox and Cavanaugh first met Acting NEH Chairman Michael McDonald and Chair for Programs Adam Wolfson on March 12, 2025. Fox Dep. at 127:20–25.

32. Before the March 12 meeting, Fox searched the public repository at www.grants.gov for all active NEH grant descriptions containing keywords including “gay,” “BIPOC (Black, Indigenous, People of Color),” “indigenous,” “tribal,” “melting pot,” and “equality.” Ex. 9, US-000016154 (“Detection List” tab); Fox Dep. at 229:20–230:17; 236:22–237:10.

33. Fox’s keyword list did not include analogous terms for majority or non-protected groups, including “white,” “heterosexual,” and “Caucasian.” Fox Dep. at 241:21–243:14.

34. Fox labeled his keyword search terms as “Detection Codes” and used them to identify grants he dubbed the “Craziest Grants” and “Other Bad Grants.” Ex. 9, US-000016154 (“Detection List” tab); Fox Dep. at 276:16–277:2.

35. An ACLS member had a grant placed on Fox’s list of “Craziest Grants” or “Other Bad Grants” because it included the term “LGBTQ” in its description. Ex. 9, US-000016154, “NEH Grants (JF)” tab, row 11.

36. The keyword designations and “craziest grant” labels were based entirely on Fox’s and Cavanaugh’s subjective views, without reference to any standard developed by NEH program officers, peer reviewers, or agency attorneys. Fox Dep. at 232:18–233:14.

37. Fox preserved the keyword-based spreadsheet and emailed it from his NEH address to his GSA address on April 3, 2025. Ex. 10, US-000016153.

38. To identify grants for termination, Fox and Cavanaugh focused their review on grants that were awarded during the Biden administration. Ex. 27, NEH_AR_000003 (Cavanaugh sending McDonald “a list of grants that were awarded during President Biden’s administration . . . at NEH” and suggesting that all funds awarded during President Biden’s administration that had yet to be distributed “can presumably be clawed back”); Ex. 28, NEH_AR_000004 (spreadsheet attached to Ex. 27 in which grants uniformly tagged as “Biden Grants”); McDonald Dep. at 372:19–23 (McDonald testifying to his “understanding” from interactions with DOGE that “the presumption was that . . . open grants that were made under the Biden administration needed to be reviewed.”); *id.* at 226:12–227:1 (“Basically, we were looking at the last four years of open grants from the Biden administration. My understanding was we wanted to start afresh, a . . . clean slate . . . as much as possible.”).

39. After the March 12 meeting, Wolfson sent Fox and Cavanaugh the DEI and gender ideology ratings that NEH staff had prepared. Ex. 8, NEH_AR_000005; Fox Dep. at 165:23–166:2.

40. For the 1,162 grants that NEH staff had rated “N/A” for DEI or gender ideology, Fox used ChatGPT “[t]o highlight why [a] grant may relate to DEI” and “to pull out anything related to DEI.” Fox Dep. at 204:20–23; 209:25–210:1; *see also* Fox Dep. at 159:2–11, 193:20–23.

41. Fox submitted each grant description to ChatGPT with the following prompt: “Does the following relate at all to DEI? Respond factually in less than 120 characters. Begin with ‘Yes.’ or ‘No.’ followed by a brief explanation. Do not use ‘this initiative’ or ‘this description’ in

your response.” Ex. 11, US-000062485 (tab “Sheet3”) at C2–C1163; Fox Dep. at 204:20–206:5, 209:25–210:1.

42. Fox believed any grant about a specific “minority group,” meaning any particular “ethnicity, culture . . . race or gender or religion” was DEI. Fox Dep. at 183:14–16; *id.* at 191:19–25.

43. Fox did not instruct ChatGPT on what definition of “DEI” to apply and did not verify what the model understood the term to mean. Fox Dep. at 206:6–8.

44. Fox took no steps to ensure that ChatGPT’s conception of DEI would not discriminate on the basis of race or sex. Fox Dep. at 207:11–15, 209:11–17.

45. ChatGPT classified as DEI a grant to fund a documentary about the Colfax Massacre on the ground that “[t]he documentary explores a historical event that significantly impacted Black civil rights, making it relevant to the topic of DEI.” Ex. 11, US-000062485 (tab “Sheet3”) at I4.

46. Fox believed that the Colfax Massacre grant was properly labeled as DEI—and thus terminated—because “[i]t focuses on . . . a specific race, here being Black.” Fox Dep. at 220:16–18.

47. ChatGPT classified as DEI a grant to fund a biography of Oscar Adams Jr. on the ground that “[t]his biography explores the life and accomplishments of . . . a Black lawyer and jurist.” Ex. 11, US-000062485 (tab “Sheet3”), at I707.

48. ChatGPT classified as DEI a grant to fund a project titled “In the Shadow of the Holocaust: Short Fiction by Jewish Writers from the Soviet Union” on the ground that “[t]his anthology explores Jewish writers’ engagement with the Holocaust in the USSR.” *Id.* at I316.

49. Fox believed that ChatGPT properly classified a grant about violence against women during the Holocaust as involving DEI—and thus slated it for termination—because it was “specifically focused on Jewish cultures” and “the voices of the females in that culture.” Fox Dep. at 191:5–9.

50. ChatGPT classified as DEI a grant awarded to *Authors Guild* named Plaintiff Benjamin Holtzman on the ground that “[t]his book project explores the grassroots activist network that challenged white power in the late 20th century US, highlighting diverse groups joining forces to challenge white supremacists and transform understandings of racism.” Ex. 11, US-000062485 (tab “Sheet3”), at H592.

51. ChatGPT classified as DEI a grant to fund a book on deaths in the Native American boarding school system, because it “sheds light on the dark history of Native American boarding schools, revealing their lethal impact” and “addressing the erasure of lives and the need for awareness in education systems. *Id.* at D638.

52. ChatGPT classified as DEI a grant to the Modern Language Association on the ground that it “aims to align humanities courses with career outcomes for under-served students.” McDonald Dep. at 127:16–20; Ex. 31, US-000061583.

53. ChatGPT classified as DEI a grant to an ACLS member to digitize mid 20th century African American newspapers on the ground that it “contributes to inclusivity by preserving and sharing underrepresented voices.” McDonald Dep. at 121:9–14; Ex. 31, US-000061583.

54. ChatGPT classified as DEI a grant to an ACLS member to digitize and display anatomical flap books, on the ground that it “promot[ed] inclusivity in digitization efforts.” McDonald Dep. at 122:19–25.

55. There is not a single instance in the record where ChatGPT classified a grant as DEI because it involved a white, male, heterosexual, or other majority group. Fox Dep. at 242:20–243:19; Ex. 11, US-000062485 (tab “Sheet3”).

56. For grants that NEH staff had flagged as at risk of promoting DEI or gender ideology, Fox designated all of them as involving DEI. *Compare* Ex. 12, US-000000936 *with* Ex. 6, NEH_AR_000006; *see also* Ex. 30, US-000000839 (email to which Ex. 12 is attached). There is no evidence that NEH leadership ever made a final determination whether those grants actually involved DEI or gender ideology.

57. Fox combined the ChatGPT designations with NEH’s risk designations to produce a spreadsheet identifying 1,057 grants as “DEI.” Ex. 12, US-000000936; Ex. 13, US-000041372; McDonald Dep. at 143:11–18; Ex. 30, US-000000839 (email to which Ex. 12 is attached).

58. The resulting spreadsheet catalogued grants “by DEI involvement and Division” and marked each of the 1,057 “DEI” grants as “Yes” in the column titled “Yes/No DEI?” Ex. 12, US-000000936 (“NEH Grant Summary” tab).

59. The “DEI Rationale” column in the spreadsheet contained either the notation that “NEH identified DEI involvement” or the verbatim rationale that ChatGPT had provided to Fox. Ex. 12, US-000000936 (“NEH Grant Detail” tab); *see also* Ex. 11, US-00006285.

60. It was DOGE’s “decision” whether to terminate any grants, and NEH was limited to making “recommendations.” Ex. 5 at NEH_AR_0000023.

61. Neither McDonald nor anyone else at NEH knew that Fox had used ChatGPT to generate DEI rationales. McDonald Dep. at 117:1–6, 126:9–19.

62. McDonald does not believe using ChatGPT is an appropriate method for identifying grants for termination. McDonald Dep. at 131:12–25.

63. McDonald agreed that the DOGE and NEH grant review process “was specifically to identify grants for potential termination.” McDonald Dep. at 144:6–15.

64. The DEI rationales often made no sense to McDonald and McDonald did not think grants he reviewed at his deposition should have been terminated on the stated bases. McDonald Dep. at 119:3–123:8, 128:21–129:15, 130:1–131:11.

65. Fox and Cavanaugh followed DOGE’s timelines for terminating grants by moving to terminate grants “quickly,” because “[t]he general pacing of DOGE was to try and make decisions and act quickly to avoid Government employees dragging their feet on cancellations.” Cavanaugh Dep. at 134:24–135:4.

66. Fox and Cavanaugh used “pressure tactics” at NEH to execute the terminations as quickly as possible. Cavanaugh Dep. at 170:3–8.

67. Fox falsely represented to McDonald and Wolfson that the White House was making demands regarding the grant terminations. *Id.*

68. On March 31, 2025, Fox emailed McDonald: “We’re getting pressure from the top on this and we’d prefer that you maintain on our side but let us know if you’re no longer interested.” Ex. 15, US-000050717; Fox Dep. at 305:8–17. By “our side,” Fox was referring to him and Cavanaugh. *Id.*

69. On March 31, 2025, Fox sent several emails to McDonald demanding that McDonald contact Fox as soon as possible. Ex. 16, NEH_AR_000010. The urgency Fox conveyed to McDonald in the emails was a fabricated “time pressure tactic” to effectuate the terminations. Cavanaugh Dep. at 169:10–171:5.

70. After speaking with McDonald on March 31, Fox made clear that DOGE—not NEH—would be carrying out the grant terminations. Ex. 17, NEH_AR_000013.

71. For the list NEH staff had marked as “N/A” for DEI, Fox directed McDonald and Wolfson to identify grants that “seem not to conflict with the Administration’s priorities” and DOGE would cancel grants on the list that they did not mark. Ex. 17, NEH_AR_000013.

72. On April 1, 2025, McDonald emailed Fox urging that grants NEH staff had marked “N/A” for DEI not be terminated, stating that “we think these projects are harmless when it comes to promoting DEI.” Ex. 5, NEH_AR_000022.

73. In that same communication, McDonald acknowledged that the decision whether to discontinue funding any project on DOGE’s list was DOGE’s to make. *Id.* at NEH_AR_000023.

74. McDonald recommended that “wherever the ‘DEI Rationale’ on the spreadsheet makes clear that there is no DEI component to the project, there is no justification for canceling the project’s funding and you should allow it to continue.” *Id.*

75. Fox and Cavanaugh rejected McDonald’s recommendation not to terminate grants NEH staff had marked “N/A.” McDonald Dep. at 214:2–6; Cavanaugh Dep. at 180:19–181:9.

76. Fox and Cavanaugh also reviewed approximately 400 Biden-era grants that had not been flagged as DEI by NEH staff or ChatGPT. Ex. 39, NEH_AR_000085; Ex. 32, US-000041206; McDonald Dep. at 225:2–6.

77. Biden-era grants that had not been marked as “DEI” were treated as presumptively “wasteful” and marked for termination unless they “aligned with the [Trump] Administration.” Cavanaugh Dep. at 155:11–13; *see also* McDonald Dep. at 302:21–25; Ex. 17, NEH_AR_000013. DOGE solely made the decision to terminate these additional grants. McDonald Dep. at 155:10–19, 156:10–13, 179:18–180:3, 226:6–11, 229:5–10, 231:21–24.

78. Fox and Cavanaugh permitted McDonald and Wolfson to recommend grants for removal from the termination list subject to two constraints: (i) any grant related to DEI could not

be removed; and (ii) recommendations were limited to grants relating to the American Revolution or those whose termination “would not reflect well” on the Administration. Cavanaugh Dep. at 202:14–20; McDonald Dep. at 238:10–239:4; Ex. 5 at NEH_AR_000023.

79. In total, approximately 40 Biden-era grants were ultimately saved from termination. Ex. 14, US-000061492

80. DOGE terminated over 1,400 grants that had been awarded during the Biden administration. Ex. 25, NEH_AR_0000136; Ex. 39, NEH_AR_000085.

81. Of the grants that were ultimately terminated and kept, McDonald did not approve each specific grant to be terminated and did not know why certain grants had been terminated or kept. McDonald Dep. at 179:1–17, 231:7–232:11, 238:2–239:4, 248:5–19, 249:9–253:11, 253:23–55:11.

82. NEH employees, including senior officers, were not informed about the grant terminations as they were occurring and were unable to prevent grants from being canceled by DOGE or to reinstate them once terminated. Ex. 18, US-000064982; Ex. 19, US-000065114.

83. NEH Chief Information Officer Brett Bobley communicated to Dartmouth-affiliated grantees: “I’m terribly sorry to tell you that DOGE did indeed cancel your award. NEH staff, like myself, didn’t realize it was happening.” Ex. 18, US-000064982.

84. NEH Director of the Division of Research Programs Christopher Thornton communicated to affected grantees that five NEH-JUSFC fellowships had been “terminated by DOGE” and that the termination “was not an agency decision.” Ex. 19, US-000065114.

85. Fox worked with DOGE lawyer Justin Aimonetti to draft termination notices to be sent to grant recipients. Fox Dep. at 288:5–15; McDonald Dep. at 257:12–13.

86. The termination notices stated as a basis for termination that an Executive Order mandated that NEH “eliminate all non-statutorily required activities and functions.” Ex. 20, US-000050608 (citing E.O. 14217, 90 FR 10577 (Feb. 19, 2025)).

87. The Executive Order cited in the termination notices said nothing about NEH. McDonald Dep. at 257:14–25; *see also* E.O. 14217.

88. Fox—not McDonald—inserted the signature “/s/ Michael McDonald” on the termination notices. Ex. 33, Defs.’ Responses to Pls.’ Requests for Admission No. 36; McDonald Dep. at 262:8–263:2; Fox Dep. at 282:20–21; McDonald Dep. at 262:17–21.

89. Fox obtained administrative access to a Microsoft email account and used it to send the termination notices. Fox Dep. at 321:19–23; McDonald Dep. at 163:22–25; Ex. 16 at NEH_AR_000011.

90. Fox sent the termination notices to more than 1,400 organizations and individuals. Fox Dep. at 279:18–280:9; Ex. 22, US-000057526; Ex. 25, NEH_AR_0000136.

91. The termination notices were not sent from an official NEH email address, but from the address grants_notifications@nehemail.onmicrosoft.com. McDonald Dep. at 260:16–261:14; *see, e.g.*, Ex. 35, NEH_AR_000091.

92. McDonald could not recall any other time in his over twenty years at NEH where a person not employed by NEH executed an NEH function in this manner. McDonald Dep. at 243:1–6.

93. Fox began sending termination notices on April 2, 2025—one day short of his first full month in government. Ex. 22, US-000057526; Fox Dep. at 38:11–12; 279:18–280:9; 322:8–14.

94. Every termination notice used substantially the same boilerplate language, was sent during the same window of time, and was sent from the same unofficial email address. Ex. 23, US-000050461; Ex. 25, NEH_AR_0000136. *See also e.g.*, Ex. 37, NEH_AR_000092; Ex 38, NEH_AR_000094.

95. At a meeting with NEH staff on April 3, 2025, McDonald described DOGE as having written and transmitted the terminations, saying that “they said in the notification letter . . . [that] they would not be adhering to the traditional notification processes.” McDonald Dep. at 303:14–18; McDonald Dep. at Ex. 30 (transcript).

96. McDonald described the rationale for the terminations as “because that’s the way DOGE had operated at other agencies and they applied the same methodology here.” McDonald Dep. at 315:23–316:1; McDonald Dep. at Ex. 30 (transcript).

97. McDonald could not answer a question about the number of grants terminated at the April 3 staff meeting, stating that it would be “conjecture” on his part. McDonald Dep. at 312:20–23.

98. The Mass Termination was the largest mass termination of grants in the history of NEH. McDonald Dep. at 66:13–67:12.

99. In total, more than 1,400 active grants—representing over \$100 million in congressionally appropriated funds—were canceled. McDonald Dep. at 66:13–67:12; Ex. 39, NEH_AR_000085.

100. The terminated grants spanned every NEH program and included oral history projects, archival preservation efforts, fellowships, documentary projects, and hundreds of other scholarly projects. Ex. 39, NEH_AR_000085.

101. Shortly after the terminations, Wolfson sent McDonald a text message stating that “it is the case that DOGE cut grants having nothing to do with DEI.” Ex. 34, US-000062916.

102. McDonald responded to Wolfson’s text with a “thumbs up,” which McDonald testified meant that he agreed with Wolfson’s statement. McDonald Dep. at 326:15–19.

103. DOGE posted from its official account on X (formerly Twitter) that “[d]uring the previous administration, the National Endowment for the Humanities (NEH) awarded the following grants to spend taxpayer dollars, all of which have been cancelled (\$163M in overall savings)” before listing five grants explicitly related to LGBTQ+ topics. Post, DOGE (@DOGE), X (May 20, 2025, 3:45 PM) <https://x.com/doge/status/1924944059153670530>.

March 6, 2026

Respectfully submitted,

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