



UNITED STATES DISTRICT COURT
District of Rhode Island

CLERK'S CERTIFICATE AND APPELLATE COVER SHEET
ABBREVIATED ELECTRONIC RECORD

Case Information

Case Caption: **Rhode Island Latino Arts et al** vs. National Endowment for the Arts et al

District Court Number: 1:25-cv-00079-WES-PAS Presiding Judge: **Judge Smith**

Notice of Appeal filed by: **Defendant** Notice of Appeal document number: **36**

Appeal from: **ECF 35 Judgment**

Other information:

Fee status: **Waived**

Pro se case:

Yes ☐

No ☒

Emergency or requires expedition: **No** If yes, reason:

Record Information

Motions Pending

Yes ☐

No ☒

If yes, document #

Other record information:

Related case(s) on appeal:

Certification

I, Hanorah Tyer-Witek, Clerk of the United States District Court for the District of Rhode Island, do certify that the following annexed electronic documents constitute the abbreviated record on appeal in the above referenced case:

Date: **11/17/2025**

HANORAH TYER-WITEK
Clerk of Court

/s/Cherelle Hill

Deputy Clerk

APPEAL

**U.S. District Court
District of Rhode Island (Providence)
CIVIL DOCKET FOR CASE #: 1:25-cv-00079-WES-PAS**

Rhode Island Latino Arts et al v. National Endowment for the Arts et al

Assigned to: Senior District Judge William E Smith

Referred to: Magistrate Judge Patricia A. Sullivan

Cause: 05:551 Administrative Procedure Act

Date Filed: 03/06/2025

Date Terminated: 09/19/2025

Jury Demand: None

Nature of Suit: 440 Civil Rights: Other

Jurisdiction: U.S. Government Defendant

Plaintiff

Rhode Island Latino Arts

represented by **Brian Hauss**

American Civil Liberties Union
Foundation

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Plaintiff

National Queer Theater

represented by **Brian Hauss**
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David Cole
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Lauren Yu
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Scarlet Kim
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Vera Eidelman
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PRO HAC VICE
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Lynette J. Labinger
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ATTORNEY TO BE NOTICED

Plaintiff

The Theater Offensive

represented by **Brian Hauss**
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ATTORNEY TO BE NOTICED

David Cole
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Lynette J. Labinger
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Plaintiff

Theatre Communications Group

represented by **Brian Hauss**
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ATTORNEY TO BE NOTICED

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Vera Eidelman

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*PRO HAC VICE**ATTORNEY TO BE NOTICED***Lynette J. Labinger**

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ATTORNEY TO BE NOTICED

V.

Defendant**National Endowment for the Arts**represented by **Kevin Bolan**

DOJ–USAO

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Email: kevin.bolan@usdoj.gov*LEAD ATTORNEY**ATTORNEY TO BE NOTICED***Defendant****Mary Anne Carter***in her official capacity as Acting Chair of
the National Endowment for the Arts*represented by **Kevin Bolan**

(See above for address)

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
03/06/2025	<u>1</u>	COMPLAINT (filing fee paid \$ 405.00, receipt number ARIDC–2106349), filed by Theatre Communications Group, Rhode Island Latino Arts, The Theater Offensive, National Queer Theater. (Attachments: # <u>1</u> Civil Cover Sheet)(Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025	<u>2</u>	MOTION for Preliminary Injunction (Responses due by 3/20/2025.), MOTION to Expedite (Responses due by 3/20/2025.), MOTION for Temporary Restraining Order filed by All Plaintiffs. (Attachments: # <u>1</u> Supporting Memorandum memorandum of law, # <u>2</u> Affidavit Declaration of Vera Eidelman with exhibits, # <u>3</u> Affidavit Declaration of Marta V. Martinez, # <u>4</u> Affidavit Declaration of Adam Odsess–Rubin with exhibit, # <u>5</u> Affidavit Declaration of Giselle Byrd, # <u>6</u> Affidavit Declaration of Emilya Cachapero)(Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025		Case assigned to Senior District Judge William E Smith and Magistrate Judge Patricia A. Sullivan. (Hill, Cherelle) (Entered: 03/06/2025)
03/06/2025	<u>3</u>	CASE OPENING NOTICE ISSUED (Hill, Cherelle) (Entered: 03/06/2025)
03/06/2025	<u>4</u>	Corporate Disclosure Statement by Rhode Island Latino Arts, National Queer Theater,

		The Theater Offensive, Theatre Communications Group. (Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025	<u>5</u>	MOTION for Vera Eidelman to Appear Pro Hac Vice <i>for all plaintiffs</i> (filing fee paid \$ 100.00, receipt number ARIDC-2106480) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025	<u>6</u>	MOTION for Lauren Yu to Appear Pro Hac Vice <i>for all plaintiffs</i> (filing fee paid \$ 100.00, receipt number ARIDC-2106482) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025	<u>7</u>	MOTION for Scarlet Kim to Appear Pro Hac Vice <i>for all plaintiffs</i> (filing fee paid \$ 100.00, receipt number ARIDC-2106484) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025	<u>8</u>	MOTION for David Cole to Appear Pro Hac Vice <i>for all plaintiffs</i> (filing fee paid \$ 100.00, receipt number ARIDC-2106486) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025		TEXT ORDER granting <u>5</u> Motion to Appear Pro Hac Vice of Vera Eidelman. So Ordered by Senior District Judge William E Smith on 3/6/2025. (Hill, Cherelle) (Entered: 03/06/2025)
03/06/2025		TEXT ORDER granting <u>6</u> Motion to Appear Pro Hac Vice of Lauren Yu. So Ordered by Senior District Judge William E Smith on 3/6/2025. (Hill, Cherelle) (Entered: 03/06/2025)
03/06/2025		TEXT ORDER granting <u>7</u> Motion to Appear Pro Hac Vice of Scarlet Kim. So Ordered by Senior District Judge William E Smith on 3/6/2025. (Hill, Cherelle) (Entered: 03/06/2025)
03/06/2025		TEXT ORDER granting <u>8</u> Motion to Appear Pro Hac Vice of David Cole. So Ordered by Senior District Judge William E Smith on 3/6/2025. (Hill, Cherelle) (Entered: 03/06/2025)
03/06/2025	<u>9</u>	MOTION for Brian Hauss to Appear Pro Hac Vice <i>for all plaintiffs</i> (filing fee paid \$ 100.00, receipt number ARIDC-2106609) filed by All Plaintiffs. (Labinger, Lynette) (Entered: 03/06/2025)
03/06/2025		TEXT ORDER granting <u>9</u> Motion to Appear Pro Hac Vice of Brian Hauss. So Ordered by Senior District Judge William E Smith on 3/6/2025. (Hill, Cherelle) (Entered: 03/06/2025)
03/07/2025		NOTICE of Hearing: Zoom Video Conference set for 3/7/2025 at 04:30 PM before Senior District Judge William E Smith. This is an attorneys only conference. (Simoncelli, Michael) (Entered: 03/07/2025)
03/07/2025		Minute Entry for proceedings held before Senior District Judge William E Smith: Zoom Chambers Conference held on 3/7/2025. Participants: V. Eidelman, B. Hauss, D. Cole, L. Yu, S. Kim, and L. Labinger for the Plaintiffs; B. Wong for the Defendants. (Simoncelli, Michael) (Entered: 03/07/2025)
03/07/2025		TEXT ORDER re <u>9</u> MOTION for Preliminary Injunction, MOTION to Expedite, MOTION for Temporary Restraining Order. Defendants shall file their response by 3/14/2025, and Plaintiffs shall file their reply by 3/17/25. So Ordered by Senior District Judge William E Smith on 3/7/2025. (Simoncelli, Michael) (Entered: 03/07/2025)

03/07/2025		NOTICE of Hearing on <u>2</u> MOTION for Preliminary Injunction: Motion Hearing set for 3/18/2025 at 09:30 AM in Courtroom 3 before Senior District Judge William E Smith. (Simoncelli, Michael) (Entered: 03/07/2025)
03/10/2025	<u>10</u>	DECLARATION of <i>Ann Eilers</i> by All Defendants. (Bolan, Kevin) (Entered: 03/10/2025)
03/11/2025		TEXT ORDER re <u>2</u> MOTION for Preliminary Injunction, MOTION to Expedite, MOTION for Temporary Restraining Order. Defendants shall file their response by 2:00 PM on 3/21/2025, and Plaintiffs shall file their reply by 3/25/25. So Ordered by Senior District Judge William E Smith on 3/11/2025. (Simoncelli, Michael) (Entered: 03/11/2025)
03/11/2025		NOTICE of Hearing on Motion <u>2</u> MOTION for Preliminary Injunction: Motion Hearing reset for 3/27/2025 at 10:00 AM in Courtroom 3 before Senior District Judge William E Smith. (Simoncelli, Michael) (Entered: 03/11/2025)
03/17/2025		NOTICE of Hearing: Video Chambers Conference set for 3/18/2025 at 11:00 AM before Senior District Judge William E. Smith. (Zoom Meeting ID/Passcode provided to counsel of record by email.) (Simoncelli, Michael) (Entered: 03/17/2025)
03/18/2025		Minute Entry for proceedings held before Senior District Judge William E Smith: Zoom Chambers Conference held on 3/18/2025. Participants: V. Eidelman, S. Kim, and L. Yu for Plaintiffs; K. Bolan for the Defendants. (Zoom Video Conference at 11:05 AM.) (Simoncelli, Michael) (Entered: 03/18/2025)
03/21/2025	<u>11</u>	RESPONSE In Opposition to <u>2</u> MOTION for Preliminary Injunction MOTION to Expedite MOTION for Temporary Restraining Order filed by All Defendants. Replies due by 3/28/2025. (Attachments: # <u>1</u> Exhibit Bolan Decl. (and Exs. A–C))(Bolan, Kevin) (Entered: 03/21/2025)
03/25/2025	<u>12</u>	REPLY to Response re <u>11</u> Response to Motion, <i>in Support of Plaintiffs' Motion for Preliminary Injunction</i> filed by All Plaintiffs. (Attachments: # <u>1</u> Affidavit SUPPLEMENTAL DECLARATION OF MARTA V. MARTNEZ, # <u>2</u> Affidavit SUPPLEMENTAL DECLARATION OF EMILYA CACHAPERO)(Labinger, Lynette) (Entered: 03/25/2025)
03/27/2025		Minute Entry for proceedings held before Senior District Judge William E Smith: Motion Hearing held on 3/27/2025 re <u>2</u> MOTION for Preliminary Injunction. Counsel present: V. Eidelman, S. Kim, L. Yu, and L. Labinger for Plaintiffs; K. Bolan for Defendants. V. Eidelman and S. Kim argue their Motion for Preliminary Injunction; Court questions counsel throughout; K. Bolan argues objection to Motion; Court questions counsel throughout; V. Eidelman and S. Kim present rebuttal; Court questions counsel throughout. Court takes motion under advisement. Recess. (Court Reporter D. Veitch in Courtroom 3 at 10:05 AM.) (Simoncelli, Michael) (Entered: 03/27/2025)
04/03/2025	<u>13</u>	MEMORANDUM and ORDER denying <u>2</u> Motion for Preliminary Injunction; denying <u>2</u> Motion to Expedite; denying <u>2</u> Motion for TRO. So Ordered by Senior District Judge William E Smith on 4/3/2025. (Entered: 04/03/2025)
04/08/2025		NOTICE of Hearing: Zoom Chambers Conference set for 4/17/2025 before Senior District Judge William E Smith. Zoom meeting ID/passcode provided to counsel of record by email. (Simoncelli, Michael) (Entered: 04/08/2025)
04/09/2025	<u>14</u>	

		STIPULATION <i>Accepting Service of the Summons and Complaint</i> filed by All Plaintiffs. (Eidelman, Vera) (Entered: 04/09/2025)
04/09/2025		NOTICE of Hearing: Zoom Chambers Conference rescheduled to 4/23/2025 at 02:00 PM before Senior District Judge William E Smith. Zoom Meeting ID/Passcode provided to counsel of record by email. (Simoncelli, Michael) (Entered: 04/09/2025)
04/23/2025		Minute Entry for proceedings held before Senior Judge William E Smith: Zoom Status Conference held on 4/23/2025. Participants: S. Kim, L. Yu, D. Cole, and L. Labinger for Plaintiffs; K. Bolan for Defendants. (Zoom Video Conference at 2:00 PM.) (Simoncelli, Michael) (Entered: 04/23/2025)
04/23/2025		NOTICE of Hearing: Zoom Status Conference set for 5/5/2025 at 02:00 PM before Senior Judge William E Smith. This is an attorneys-only conference, and Zoom ID/Passcode provided to counsel of record by email. (Simoncelli, Michael) (Entered: 04/23/2025)
05/05/2025		Minute Entry for proceedings held before Senior Judge William E. Smith: Status Conference held on 5/5/2025. Participants: V. Eidelman, S. Kim, L. Yu, and L. Labinger for Plaintiffs; K. Bolan for Defendants. Court to issue schedule re: filing of amended complaint and answer, discovery requests, and cross-motions for summary judgment. (Zoom Video Conference at 2:00 PM) (Simoncelli, Michael) (Entered: 05/05/2025)
05/05/2025		TEXT ORDER: Plaintiffs to file an amended complaint by May 12, 2025, and Defendants to file their answer, along with the complete administrative record, by May 27, 2025. Plaintiffs to issue discovery requests to the Defendants by May 12, 2025; Defendants to file their objections to the discovery requests by May 19, 2025; and Plaintiffs to respond to Defendants' objections by May 27, 2025. The objections and responses shall be no longer than 5 pages. Plaintiffs to file their cross-motion for summary judgment by June 30, 2025; Defendants to file their cross-motion for summary judgment and their response to Plaintiffs' cross-motion for summary judgment by July 18, 2025; Plaintiffs to file their reply in support of their cross-motion for summary judgment and response to Defendants' cross-motion for summary judgment by August 1, 2025; and Defendants to file their reply in support of their cross-motion for summary judgment by August 8, 2025. So Ordered by Senior Judge William E. Smith on 5/5/2025. (Simoncelli, Michael) (Entered: 05/05/2025)
05/12/2025	<u>15</u>	AMENDED COMPLAINT against All Defendants, filed by Theatre Communications Group, Rhode Island Latino Arts, The Theater Offensive, National Queer Theater. (Attachments: # <u>1</u> Amended Complaint in Redline)(Eidelman, Vera) (Entered: 05/12/2025)
05/12/2025	<u>16</u>	NOTICE by National Queer Theater, Rhode Island Latino Arts, The Theater Offensive, Theatre Communications Group of <i>Discovery Request</i> (Eidelman, Vera) (Entered: 05/12/2025)
05/19/2025	<u>17</u>	MOTION for Protective Order to <i>Preclude Extra-Record Discovery</i> filed by All Defendants. Responses due by 6/2/2025. (Attachments: # <u>1</u> Exhibit)(Bolan, Kevin) (Entered: 05/19/2025)
05/27/2025	<u>18</u>	RESPONSE In Opposition to <u>17</u> MOTION for Protective Order to <i>Preclude Extra-Record Discovery</i> filed by All Plaintiffs. Replies due by 6/3/2025. (Eidelman,

		Vera) (Entered: 05/27/2025)
05/27/2025	<u>19</u>	ADMINISTRATIVE RECORD filed by Mary Anne Carter, National Endowment for the Arts NOTICE: In order to view this document, you must first log in using your CMECF Filer login.. (Bolan, Kevin) (Entered: 05/27/2025)
05/27/2025	<u>20</u>	ANSWER to <u>15</u> Amended Complaint by Mary Anne Carter, National Endowment for the Arts.(Bolan, Kevin) (Entered: 05/27/2025)
06/04/2025		<p>TEXT ORDER denying in part and granting in part Defendants' Motion for Protective Order, Dkt. No. 17. The NEA's "explanation of its intended action to implement EO 14168," <u>see generally, id.</u> Ex. 1, Dkt. No. 17–1, suggests the Chair will treat a grant application's perceived promotion of "gender ideology," as defined by the EO, as either a disqualifying factor or a factor weighing against approval during the final stage of the application review process. That conclusion is not free from doubt, however, given some (potentially intentional) ambiguity. To address this, the Court will permit the limited discovery reflected in Plaintiffs' three requests for admission, and thus Defendants' Motion for Protective Order is denied in that respect.</p> <p>Although the Court recognizes there is a presumption against discovery in Administrative Procedure Act ("APA") cases, "supplementation of the record may be permissible where there is a 'failure to explain administrative action as to frustrate effective judicial review.'" <u>Olsen v. United States</u>, 414 F.3d 144, 155–56 (1st Cir. 2005) (quoting <u>Camp v. Pitts</u>, 411 U.S. 138, 142–43 (1973)). Answers to the three simple questions posed by Plaintiffs in their requests for admission will facilitate effective judicial review. Answers to Plaintiffs' interrogatories, on the other hand, are not necessary for effective judicial review at this time. Defendants' Motion for Protective Order is therefore granted as to the interrogatories; however, if Defendants' answers to Plaintiffs' requests for admission fail to clarify matters, the Court may revisit this issue.</p> <p>Accordingly, Defendants' Motion for Protective Order, Dkt. No. 17, is DENIED as to Plaintiffs' requests for admission and GRANTED as to Plaintiffs' interrogatories. Answers to the requests for admission must be filed by June 11, 2025, at 5:00 pm. So Ordered by Senior Judge William E. Smith on 6/4/2025. (Simoncelli, Michael) (Entered: 06/04/2025)</p>
06/11/2025	<u>21</u>	NOTICE by Mary Anne Carter, National Endowment for the Arts -- <i>Resps. to Pls.' RFAs</i> (Bolan, Kevin) (Entered: 06/11/2025)
06/30/2025	<u>22</u>	MOTION for Summary Judgment filed by All Plaintiffs. Responses due by 7/14/2025. (Attachments: # <u>1</u> Supporting Memorandum Memorandum of Law in Support of Motion for Summary Judgement, # <u>2</u> Affidavit Supplemental Declaration of Vera Eidelman, # <u>3</u> Affidavit Second Supplemental Declaration of TCG, # <u>4</u> Affidavit Supplemental Declaration of NQT, # <u>5</u> Affidavit Supplemental Declaration of TTO, # <u>6</u> Affidavit Second Supplemental Declaration of RILA)(Eidelman, Vera) (Entered: 06/30/2025)
06/30/2025	<u>23</u>	STATEMENT OF UNDISPUTED FACTS by All Plaintiffs re <u>22</u> MOTION for Summary Judgment . (Eidelman, Vera) (Entered: 06/30/2025)
07/16/2025	<u>24</u>	Cross MOTION for Summary Judgment <i>and Opposition to Plaintiffs' Summary–Judgment Motion</i> filed by All Defendants. Responses due by 7/30/2025. (Attachments: # <u>1</u> Exhibit Bolan Decl. and Exs. A to D)(Bolan, Kevin) (Entered: 07/16/2025)

		07/16/2025)
07/16/2025	<u>25</u>	STATEMENT OF UNDISPUTED FACTS <i>and Response to Plaintiffs' Statement of Facts</i> by All Defendants re <u>24</u> Cross MOTION for Summary Judgment <i>and Opposition to Plaintiffs' Summary–Judgment Motion</i> . (Attachments: # <u>1</u> Exhibit Beattie Decl. and Exs. A & B)(Bolan, Kevin) (Entered: 07/16/2025)
07/16/2025	<u>26</u>	RESPONSE In Opposition to <u>22</u> MOTION for Summary Judgment filed by All Defendants. Replies due by 7/23/2025. (Hill, Cherelle) (Entered: 07/18/2025)
07/18/2025	<u>27</u>	RESPONSE In Opposition to <u>22</u> MOTION for Summary Judgment <i>Statement of Facts and Their Separate Statement of Undisputed Facts</i> filed by All Defendants. Replies due by 7/25/2025. (Attachments: # <u>1</u> Exhibit Beattie Decl. with Exs. A and B)(Bolan, Kevin) (Entered: 07/18/2025)
08/01/2025	<u>28</u>	RESPONSE In Opposition to <u>24</u> Cross MOTION for Summary Judgment <i>and Opposition to Plaintiffs' Summary–Judgment Motion</i> filed by All Plaintiffs. Replies due by 8/8/2025. (Eidelman, Vera) (Entered: 08/01/2025)
08/01/2025	<u>29</u>	RESPONSE IN OPPOSITION by National Queer Theater, Rhode Island Latino Arts, The Theater Offensive, Theatre Communications Group re <u>25</u> Statement of Undisputed Facts, . (Eidelman, Vera) (Entered: 08/01/2025)
08/01/2025	<u>30</u>	STATEMENT OF UNDISPUTED FACTS (<i>Additional</i>) by All Plaintiffs re <u>28</u> Response to Motion. (Attachments: # <u>1</u> Affidavit Second Supplemental Declaration of Vera Eidelman with Exs. 1, 2, 3, 4, 5)(Eidelman, Vera) (Entered: 08/01/2025)
08/01/2025	<u>31</u>	REPLY to Response re <u>26</u> Response to Motion <i>for Summary Judgment</i> filed by All Plaintiffs. (Eidelman, Vera) (Entered: 08/01/2025)
08/08/2025	<u>32</u>	REPLY to Response re <u>28</u> Response to Motion <i>for Summary Judgment</i> filed by All Defendants. (Bolan, Kevin) (Entered: 08/08/2025)
08/08/2025	<u>33</u>	STATEMENT OF DISPUTED FACTS by All Defendants re <u>29</u> Response in Opposition, <u>30</u> Statement of Undisputed Facts. (Attachments: # <u>1</u> Exhibit Suppl. Decl. of Daniel Beattie with Exs. A & B)(Bolan, Kevin) (Entered: 08/08/2025)
09/19/2025	<u>34</u>	MEMORANDUM AND ORDER: Plaintiffs' <u>22</u> Motion for Summary Judgment is GRANTED IN PART and DENIED IN PART; and Defendants' <u>24</u> Cross–Motion for Summary Judgment is DENIED IN PART and GRANTED IN PART. So Ordered by Senior Judge William E. Smith on 9/19/2025. (Simoncelli, Michael) (Entered: 09/19/2025)
09/19/2025	<u>35</u>	JUDGMENT. So Ordered by Clerk of Court on 9/19/2025. (Simoncelli, Michael) (Entered: 09/19/2025)
11/17/2025	<u>36</u>	NOTICE OF APPEAL by Mary Anne Carter, National Endowment for the Arts (No fee paid, USA, Waived by Statute, or IFP.) NOTICE TO COUNSEL: Counsel should register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf/. Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf Appeal Record due by 11/24/2025. (Bolan, Kevin) (Entered: 11/17/2025)

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

RHODE ISLAND LATINO ARTS, *et al.*,

Plaintiffs,

v.

NATIONAL ENDOWMENT FOR THE ARTS,
et al.,

Defendants.

Civil Action
No. 25-cv-79-WES-PAS

NOTICE OF APPEAL

Notice is hereby given that the United States of America, on behalf of all Defendants, appeals to the United States Court of Appeals for the First Circuit from the final judgment that the district court (Smith, J.) entered in favor of the Plaintiffs on September 19, 2020 (ECF No. 35).

Dated: November 17, 2025

Respectfully submitted,

NATIONAL ENDOWMENT FOR THE ARTS;
MARY ANNE CARTER, in her official capacity as Acting Chair of the National Endowment for the Arts,

By their Attorneys

SARA MIRON BLOOM
Acting United States Attorney

/s/ Kevin Bolan

KEVIN BOLAN

Assistant United States Attorney
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CERTIFICATE OF SERVICE

I certify that on November 17, 2025, I filed this document and its attachments through the Court's ECF system, thereby electronically serving all parties of record in this action.

/s/ Kevin Bolan

KEVIN BOLAN

Assistant United States Attorney

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF RHODE ISLAND

RHODE ISLAND LATINO ARTS, ET AL.

Plaintiffs,

v.

1:25-cv-00079-WES

NATIONAL ENDOWMENT FOR THE ARTS,
ET AL.

Defendants.

JUDGMENT

This action came to be heard before the Court and a decision has been rendered. Upon consideration whereof, it is now hereby ordered, adjudged, and decreed as follows:

Pursuant to Fed. R. Civ. P. 58, judgment is hereby entered in accordance with the Court's Memorandum and Order of September 19, 2025.

It is so ordered.

September 19, 2025

By the Court:

/s/ Hanorah Tyer-Witek
Clerk of Court

United States Court of Appeals For the First Circuit

No. 25-2113

RHODE ISLAND LATINO ARTS; NATIONAL QUEER THEATER; THE THEATER
OFFENSIVE; THEATRE COMMUNICATIONS GROUP,

Plaintiffs - Appellees,

v.

NATIONAL ENDOWMENT FOR THE ARTS; MARY ANNE CARTER, in the official
capacity as Acting Chair of the National Endowment for the Arts,

Defendants - Appellants.

CASE OPENING NOTICE

Issued: November 17, 2025

The above-captioned appeal was docketed in this court today pursuant to Rule 12 of the Federal Rules of Appellate Procedure. The above case number and caption (unless modified or amended as reflected in the heading of future court notices or orders) should be used on all papers subsequently submitted to this court. If any party disagrees with the clerk's office's designation of the parties on appeal, it must file a motion to amend the caption with any supporting documentation attached. Absent an order granting such a motion, the parties are directed to use the above caption on all pleadings related to this case.

Appellant must complete and return the following forms to the clerk's office by **December 1, 2025** to be deemed timely filed:

- [Appearance Form](#)
- [Transcript Report/Order Form](#) (Please carefully read the instructions for completing and filing this form.)
- [Docketing Statement](#)

These forms are available on the court's website at www.ca1.uscourts.gov, under "Forms & Notices." Failure to comply with the deadlines set by the court may result in dismissal of the appeal for lack of diligent prosecution. See 1st Cir. R. 3.0, 10.0, and 45.0.

Upon confirmation by the circuit clerk that the record is complete either because no hearing was held, no transcript is necessary, or the transcript is on file, the clerk's office will set the briefing schedule and forward a scheduling notice to the parties.

Unless the appellant was already determined to be in forma pauperis in the underlying district court action, or was determined to be financially unable to obtain an adequate defense in a criminal case, see Fed. R. App. P. 24(a)(3), a filing fee is due within seven days of filing the notice of appeal. An appellant not already determined to be indigent, who seeks to appeal in forma pauperis, must file a motion and financial affidavit in the district court in compliance with Fed. R. App. P. 24. For an appellant not already determined to be indigent, failure to pay the filing fee or file a motion seeking in forma pauperis status with the district court within fourteen days of the date of this notice, may result in the appeal being dismissed for lack of prosecution. 1st Cir. R. 3.0(b).

An appearance form should be completed and returned immediately by any attorney who wishes to file pleadings in this court. 1st Cir. R. 12.0(a) and 46.0(a)(2). Any attorney who has not been admitted to practice before the First Circuit Court of Appeals must submit an application and fee for admission using the court's Case Management/Electronic Case Files ("CM/ECF") system prior to filing an appearance form. 1st Cir. R. 46.0(a). *Pro se* parties are not required to file an appearance form.

Dockets, opinions, rules, forms, attorney admission applications, the court calendar and general notices can be obtained from the court's website at www.ca1.uscourts.gov. Your attention is called specifically to the notice(s) listed below:

- [Notice to Counsel and Pro Se Litigants](#)
- [Transcript Notice](#)

If you wish to inquire about your case by telephone, please contact the case manager at the direct extension listed below.

Anastasia Dubrovsky, Clerk

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

John Joseph Moakley
United States Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210
Case Manager: Ashley C. - (617) 748-9055

United States Court of Appeals For the First Circuit

NOTICE OF ELECTRONIC AVAILABILITY OF CASE INFORMATION

The First Circuit has implemented the Federal Judiciary's Case Management/Electronic Case Files System ("CM/ECF") which permits documents to be filed electronically. In addition, most documents filed in paper are scanned and attached to the docket. In social security and immigration cases, members of the general public have remote electronic access through PACER only to opinions, orders, judgments or other dispositions of the court. Otherwise, public filings on the court's docket are remotely available to the general public through PACER. Accordingly, parties should not include in their public filings (including attachments or appendices) information that is too private or sensitive to be posted on the internet.

Specifically, Fed. R. App. P. 25(a)(5), Fed. R. Bank. P. 9037, Fed. R. Civ. P. 5.2 and Fed. R. Cr. P. 49.1 require that parties not include, or partially redact where inclusion is necessary, the following personal data identifiers from documents filed with the court unless an exemption applies:

- **Social Security or Taxpayer Identification Numbers.** If an individual's social security or taxpayer identification number must be included, only the last four digits of that number should be used.
- **Names of Minor Children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- **Dates of Birth.** If an individual's date of birth must be included, only the year should be used.
- **Financial Account Numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.
- **Home Addresses in Criminal Cases.** If a home address must be included, only the city and state should be listed.

See also 1st Cir. R. 25.0(m).

If the caption of the case contains any of the personal data identifiers listed above, the parties should file a motion to amend caption to redact the identifier.

Parties should exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, national security information, and sensitive security information as described in 49 U.S.C. § 114.

Attorneys are urged to share this notice with their clients so that an informed decision can be made about inclusion of sensitive information. The clerk will not review filings for redaction.

Filers are advised that it is the experience of this court that failure to comply with redaction requirements is most apt to occur in attachments, addenda, or appendices, and, thus, special attention should be given to them. For further information, including a list of exemptions from the redaction requirement, see <http://www.privacy.uscourts.gov/>.

United States Court of Appeals For the First Circuit

NOTICE TO COUNSEL REGARDING MANDATORY REGISTRATION AND TRAINING FOR ELECTRONIC FILING (CM/ECF)

On August 21, 2017, the U.S. Court of Appeals for the First Circuit upgraded its CM/ECF system to NextGen CM/ECF, the latest iteration of the electronic case filing system. Use of the electronic filing system is mandatory for attorneys. If you intend to file documents and/or receive notice of docket activity in this case, please ensure you have completed the following steps:

- **Obtain a NextGen account.** Attorneys who had an e-filing account in this court prior to August 21, 2017 are required to update their legacy account in order to file documents in the NextGen system. Attorneys who have never had an e-filing account in this court must register for an account at www.pacer.gov. For information on updating your legacy account or registering for a new account, go to the court's website at www.ca1.uscourts.gov and select *E-Filing (Information)*.
- **Apply for admission to the bar of this court.** Attorneys who wish to e-file must be a member of the bar of this court. For information on attorney admissions, go to the court's website at www.ca1.uscourts.gov and select *Attorney Admissions* under the *Attorney & Litigants* tab. Bar admission is not required for attorneys who wish to receive notice of docket activity, but do not intend to e-file.
- **Review Local Rule 25.** For information on Loc. R. 25.0, which sets forth the rules governing electronic filing, go to the court's website at www.ca1.uscourts.gov and select *First Circuit Rulebook* under the *Rules & Procedures* tab.

United States Court of Appeals For the First Circuit

ORDER OF COURT

Entered: February 9, 2021

In response to recent disclosures of wide-spread breaches of both private sector and government computer systems, the Court has adopted new security procedures to protect any highly sensitive document (HSD) filed with the Court that, if improperly disclosed, could cause harm to the United States, the Federal Judiciary, litigants, or others.

HSDs are documents containing information that is likely to be of interest to the intelligence service of a foreign government and the use or disclosure of such information by a hostile foreign government would likely cause significant harm to the United States or its interests. Examples of HSDs include unclassified sealed documents involving national security, foreign sovereign interests, criminal activity related to cybersecurity or terrorism, investigation of public officials, and extremely sensitive commercial information likely to be of interest to foreign powers.

The following types of sealed documents, if they do not fall into one of the categories above, typically will not qualify as HSDs: (1) presentence reports and related documents; (2) pleadings related to cooperation in criminal cases; (3) Social Security records; (4) administrative immigration records; and (5) most sealed documents in civil cases.

The designation of a document as highly sensitive is typically made by the district court or originating agency. Documents that have previously been designated by the district court or an agency as highly sensitive will ordinarily be treated in the same manner by this court. See 1st Cir. R. 11.0(c)(1).

If a document qualifies as an HSD as that term is described above, a filer is required to file a motion to treat that document as an HSD. The movant must serve the motion and the proposed HSD on all other parties by mail with proof of service under Fed. R. App. P. 25(d)(1). The motion and each proposed HSD should be conspicuously marked as a “HIGHLY SENSITIVE DOCUMENT” and placed inside an envelope marked “HIGHLY SENSITIVE.” The motion to treat a document as an HSD should be filed contemporaneously with the filing of a motion to seal the document and should be filed in paper format only under the procedures and requirements of 1st Cir. R. 11.0(c). The motion must set forth in detail why the proposed document constitutes a highly sensitive document under the criteria set out in this order, including the specific grounds for asserting that the document contains information that is likely to be of interest to the intelligence service of a foreign government and the use or disclosure of such information by a hostile foreign government would likely cause significant harm to the United States or its interests. Conclusory assertions will not be deemed a sufficient basis for filing a motion to treat a sealed document as an HSD. If a filer believes that a previously filed document in an ongoing case before

the court qualifies as an HSD, a motion to treat the sealed document as an HSD may be filed. There is no need to file such a motion in a closed case.

/s/ Jeffrey R. Howard

Jeffrey R. Howard

Chief Judge

cc:

Kevin M. Bolan

David Cole

Vera Eidelman

Brian Matthew Hauss

Scarlet Kim

Lynette J. Labinger

Lauren Yu

Lauren S. Zurier

United States Court of Appeals For the First Circuit

NOTICE TO ALL CM/ECF USERS REGARDING "NATIVE" PDF REQUIREMENT

All documents filed electronically with the court must be submitted as "native" Portable Document ("PDF") files. See 1st Cir R. 25.0. A **native PDF file** is created by electronically converting a word processing document to PDF using Adobe Acrobat or similar software. A **scanned PDF file** is created by putting a paper document through an optical scanner. Use a scanner **ONLY** if you do not have access to an electronic version of the document that would enable you to prepare a native PDF file. If you fail to file a document in the correct format, you will be asked to resubmit it.