UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

CHICAGO WOMEN IN TRADES, Plaintiff, v. PRESIDENT DONALD J. TRUMP, DEPARTMENT OF LABOR, ACTING SECRETARY OF LABOR VINCENT MICONE, OFFICE OF MANAGEMENT AND BUDGET, DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET RUSSELL VOUGHT, U.S. DEPARTMENT OF JUSTICE, ATTORNEY GENERAL OF THE U.S. DEPARTMENT OF JUSTICE PAMELA BONDI, Defendants.	Case No. 1:25-cv-02005 Judge: Hon. Matthew F. Kennelly JURY TRIAL DEMANDED

PLAINTIFF'S OPPOSITION TO MOTION FOR INDICATIVE RULING AND PARTIAL STAY

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INTRODUCTION

Citing the recent Supreme Court decision in *Trump v. CASA, Inc.*, 145 S. Ct. 2540 (2025) ("*CASA*"), the government now seeks, by way of its "Motion for Indicative Ruling," ECF No. 119, to limit the scope of this Court's preliminary injunction with respect to the Certification Provision of the January 21, 2025, Executive Order ("J21 EO"). Nothing in *CASA*, however, supports granting the extraordinary relief of a *de facto* motion for reconsideration (by whatever name). The issue the government has raised can be adequately reviewed on appeal, especially as this Court has already addressed it—*i.e.*, whether Plaintiff Chicago Women in Trades ("CWIT") may obtain complete relief without a universal injunction that reaches other Department of Labor ("DOL") grantees and contractors. There is nothing for this Court to reconsider, and this motion should be denied for the following reasons:

First, the government's motion fails to raise any ground for reconsideration allowable under Federal Rule of Civil Procedure 60(b). This alone is sufficient grounds for this Court to deny the motion, and no exceptional circumstances exist to justify granting it.

Second, the injunction this Court entered does not conflict with *CASA*. Though decided before *CASA*, this Court's decision was entirely consistent with *CASA*'s ultimate guidance because the Court undertook the required analysis of whether CWIT could be afforded complete relief without a universal preliminary injunction. After finding that a universal preliminary injunction was necessary to afford complete relief, this Court fashioned relief tailored to CWIT and DOL. In short, *CASA* compels no reconsideration here.

Finally, this Court should also reject the government's alternative request for relief in the form of a partial stay of the injunction. This request is based on the same flawed premise that the Court's order reaching other DOL contractors and grantees contravenes *CASA*. It does not. Having

failed to make any other argument as to why it would be irreparably harmed without a stay, the government has not satisfied its burden of showing that the circumstances justify the granting of a stay.

CWIT respectfully requests that the Court deny the motion for reconsideration and request for partial stay pending resolution on appeal.

FACTUAL AND PROCEDURAL BACKGROUND

I. Scope of Court's Preliminary Injunction Relating to the Certification Provision

On April 15, 2025, this Court entered a preliminary injunction, which among other things, enjoined DOL (but not all Defendants) from requiring "any grantee or contractor to make any 'certification' or other representation pursuant to the Certification Provision (§ 3(b)(iv)) of [the J21 EO])." ECF 69 at 2. The Certification Provision requires grant recipients to certify that they do not "operate any programs promoting DEI [diversity, equity, and inclusion] that violate any applicable Federal anti-discrimination laws." J21 EO § 3(b)(iv)(A)-(B). As this Court found, the government refuses to define DEI or what it considers to be "illegal DEI," while nonetheless requiring grantees to certify that they do not run such "illegal DEI" programs. *See* ECF 68 at 24-25. The Certification Provision covers activities outside of those funded by the government, leading this Court to conclude that it likely infringes upon CWIT's First Amendment rights. ECF 68 at 25.

In enjoining DOL from requiring this certification from all grantees and contractors, this Court gave careful consideration to the scope of the injunction. ECF 68 at 44-48. The J21 EO requires the head of each agency to include in "*every* contract or grant award" a "term" requiring certification that the contractor or grantee does not operate any programs promoting illegal DEI. J21 EO § 3(b)(iv)(B) (emphasis added). Thus, "[t]his means the Certification Provision likely will

be in every contract and grant offered by an agency irrespective of whether the prospective recipient is protected under the injunction." ECF 68 at 46-47.

The Court accordingly found that a universal injunction was "necessary to ensure that CWIT is provided complete relief and to prevent infringement of the First Amendment rights of other grantees and contractors," ECF 68 at 44, and that CWIT was likely unable to obtain complete relief in the absence of such an injunction. *Id*. at 46. The Court also ruled that because CWIT works with other organizations that may also provide what the government deems DEI-related programming, without such a universal injunction, "CWIT will not be able to work with other recipients or sub-recipients unless they also eliminate whatever may be considered as DEI-related efforts." *Id*. Thus, a preliminary injunction limited to CWIT "still would impact any prospective grant recipient who might want to work with CWIT," and any steps required of a prospective grantee would lead to "a strong likelihood that the prospect of such disclosure [of non-grant related advocacy related to DEI] would chill any prospective fund recipient from partnering with CWIT." *Id.* at 47. "In such situations, CWIT would suffer the consequences." *Id.*

II. Filings and Proceedings Following the Entry of the Preliminary Injunction

After this Court entered the preliminary injunction, Plaintiff filed a motion to alter or amend the injunction, which this Court denied on May 7. ECF 73, 74, and 90. Defendants subsequently filed a notice of appeal on July 3. ECF 112. Five days after Defendants noticed their appeal, Defendants filed its motion for an indicative ruling and partial stay. ECF 119. At the hearing on July 15, the Court construed this motion as a motion for reconsideration of the preliminary injunction and ordered a response by July 25. ECF 124.

In its motion, the government limits its request for reconsideration and partial stay to the scope of the universal injunction with respect to the Certification Provision. ECF 119 at 8.

ARGUMENT

I. This Court Should Deny This Motion for Reconsideration Because It Does Not Raise Any Allowable Ground for Reconsideration Under Federal Rule of Civil Procedure 60.

Defendants request an "indicative ruling" under Federal Rule of Civil Procedure 62.1 but fail to identify the rule on which its motion for relief is based. This Court construed Defendants' motion as a motion for reconsideration. Such a motion may be brought under Rule 60(b).

Defendants' motion should be denied because it fails to meet any of the requirements for relief under Rule 60(b), which is "an extraordinary remedy and is granted only in exceptional circumstances." *Eskridge v. Cook Cnty.*, 577 F.3d 806, 809 (7th Cir. 2009) (quoting *McCormick v. City of Chi.*, 230 F.3d 319, 327 (7th Cir. 2000). The government offers no explanation of the "exceptional circumstances" that warrant granting its motion.

Where a motion for reconsideration is not based on any of the specified grounds in Rule 60(b), this Court is well within its discretion to deny the motion. *Banks v. Chi. Bd. of Educ.*, 750 F.3d 663, 667 (7th Cir. 2014). Rule 60(b) delineates six categories of reasons for which this Court may grant relief.[1] Here, the government points to none of them, and the only likely applicable

[1] Fed. R. Civ. Pro. Rule 60(b) provides the following grounds for relief:

> (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:
>
> (1) mistake, inadvertence, surprise, or excusable neglect;
> (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)
> (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
> (4) the judgment is void;
> (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or

category is the catchall for "any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6). And even if the Court's injunction was premised on an error of law (it was not), errors of law do not generally warrant relief, *Banks*, 750 F.3d at 667, especially where, as here, Defendants identify no special circumstances justifying this extraordinary remedy.

Nor could they, because nothing here is exceptional. The grounds for reconsidering the order "must be something that could not have been used to obtain a reversal by means of a direct appeal." *Bell v. Eastman Kodak Co.*, 214 F.3d 798, 801 (7th Cir. 2000) (listing cases with examples where circumstances met the requirements for granting reconsideration under Rule 60, such as a judgment obtained by fraud that was not discovered in time to fix on appeal or an equitable judgment from years ago where changed circumstances make it obsolete, well after the time for an appeal). Indeed, Defendants have already noticed that appeal here, and their dispute as to whether this Court's ruling fully comports with *CASA* can be reviewed as part of their appeal. There is nothing "exceptional" about the holding in *CASA* that merits granting Defendants' motion.

In sum, this Court should deny the government's motion to reconsider because it fails to meet any of the criteria required under Rule 60(b).

II. This Court's Analysis Supporting Its Universal Injunction of the Certification Provision Is Consistent with *CASA*, and There Is Nothing to Reconsider.

Defendants claim that this Court's reasoning in issuing the preliminary injunction conflicts with the Supreme Court's recent guidance in *CASA*. Not so. Though issued prior to *CASA*, this Court's order comports with *CASA*'s holding because this Court carefully considered whether a universal injunction is necessary to provide *CWIT* complete relief.

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(6) any other reason that justifies relief.

In *CASA*, the Supreme Court consolidated three cases in which universal preliminary injunctions were granted and from which the United States filed emergency applications challenging the scope of the injunctions. *CASA*, 145 S.Ct. at 2548. The cases challenged the implementation and enforcement of Executive Order No. 14160, which limited the circumstances under which a person born in the United States is eligible for United States citizenship. *Id.* In each case, the respective district courts concluded the Executive Order was likely unlawful and issued universal preliminary injunctions barring the application of the policy nationwide. *Id.*

In addressing the propriety of universal injunctions, the Court first provided an example of an archetypical case where an injunction could have the practical but "merely incidental" effect of benefiting nonparties, such as in the case of a nuisance suit, and concluded that such an injunction was not overbroad. *Id.* at 2557. In other words, the impact of an injunction on a nonparty is not dispositive as to whether the injunction is overbroad. Here, that other DOL grantees would benefit from an injunction against the government's enforcement and implementation of the DEI certification requirement does not, by itself, mean the scope of the injunction is overbroad.

The *CASA* Court's analysis then turned to whether the injunction in question—which enjoined the government from implementing and enforcing limitations on citizenship against any individuals born in the United States—was consistent with the notion that the remedy provided be no broader than necessary to afford "complete relief *to the plaintiffs before the court.*" *Id*. (emphasis in original). With that principle in mind, the Court held that in the case brought by an individual pregnant plaintiff on behalf of a child, an injunction prohibiting the application of the Executive Order specifically to that plaintiff would provide her complete relief because her child would not be denied citizenship. *Id.* But because a broader injunction applicable to other non-

parties would not provide *the plaintiff in that case* any more complete relief, the broader injunction was beyond the scope of the court's statutory authority under the Judiciary Act of 1789. *Id.*

However, in the challenge to the birthright citizenship Executive Order brought by the States, the Court's conclusion was different. Instead of rejecting the scope of the universal injunction as too broad, the Court declined to take up the arguments as to whether an injunction of that scope was necessary to provide those plaintiffs with complete relief. *Id*. at 2558. Instead, the Court left it to the lower courts to consider that question in the first instance. *Id.* The States had argued that a universal injunction was necessary because the harms to them that would flow from a "patchwork injunction," where different individuals from different states could have different citizenship status, would be unworkable. *Id.* In other words, for the States, who are parties before the Court, it remains possible that only a universal injunction would provide complete relief. *Id.*

Here, the government contends that *CASA* forecloses the scope of the preliminary injunction granted in this case. But *CASA* compels no such result. Here, the Court made specific findings as to why nationwide relief as to DOL contractors and grantees was necessary to provide complete relief *to CWIT*. The Court specifically found that "there is a good chance that CWIT itself will not obtain complete relief with regard to the Certification Provision in the absence of a nationwide injunction." ECF 68 at 46. As this Court explained, CWIT works with other organizations across the country that engage in DEI-related programming, and CWIT's ability to do so would be constrained unless the enforcement of the certification by DOL was enjoined. ECF 68 at 46. In other words, the injunction here is tailored to the parties before the Court—the Plaintiff and DOL.

Defendants criticize this Court's prior analysis as based on hypotheticals of unknown grant recipients wanting to partner with CWIT on some unknown project. Mot at 6. But this harm is far

from hypothetical. Already, at the time of filing the motion for preliminary injunction, CWIT had a historical partner tell CWIT that it was ending the partnership for fear of triggering the Executive Order and losing federal funding. Decl. of Jayne Vellinga ¶ 56, ECF 26-9. In any event, the Supreme Court's opinion in *CASA* did not address the particulars of how to analyze such an injunction that is designed to prevent a repeat of such harm in the future; rather it left it to the trial and circuit courts to consider in the first instance. That is exactly what the Court did here in crafting an injunction that provides CWIT with sufficient and adequate relief. Defendants' disagreement with this Court's findings and rationale is one that is appropriately addressed to the Seventh Circuit in the pending appeal.

III. This Court Should Deny the Request to Partially Stay the Universal Application of the Injunction with Respect to the Certification Provision Pending Appeal.

The government in the alternative seeks a stay as to application of the enjoined Certification Provision against other DOL contractors and grantees. For the same reasons stated in its Memorandum Opinion and Order granting in part the motion for a preliminary injunction, this Court should not stay the application of the preliminary injunction in any respect. In considering the motion for a stay, this Court must consider the following factors: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987).

First, the government falls far short of making a "strong showing" that it is likely to succeed on the merits. The government's argument primarily relies on the same flawed basis as its argument against the universal scope of the preliminary injunction: namely, that it conflicts with *CASA*. But, as explained above, this Court's reasoning regarding the scope of the injunction is

consistent with the Supreme Court's guidance on the issue. This Court has already limited its injunction to DOL not other government agencies—it does not even cover all parties before the Court. Because *CASA* does not speak to the exact parameters for a lawful injunction, it does not support the government's argument here, much less "strongly show" that it will likely succeed on the merits.

Second, the government fails to demonstrate that it will be irreparably harmed. The government relies on essentially the same faulty rationale that a universal injunction "improperly" intrudes on the executive branch's powers. Mot. at 8. But that argument presupposes the current injunction is improper; as explained above, *CASA* does not support that conclusion. Moreover, the government provides no explanation whatsoever as to how it is irreparably harmed by enjoining the implementation and consequent receipt of certifications. According to the government's own arguments, the Certification Provision simply requires certification that the grantees are not breaking the law. *See* ECF 68 at 24. If it is true that the certification requirement addresses only adherence to laws that grantees must already follow, then the lack of certification leads to no irreparable harm.

In contrast, for the same reasons that the Court acknowledged in issuing this injunction, a stay of the injunction would substantially injure CWIT. Even if the injunction were to remain in place as to CWIT and its existing partners, *see* Mot. at 8, as this Court recognized, that still means CWIT likely would not be able to work with any other entity that receives federal funds from DOL, as the required disclosures would chill any prospective partnership. ECF 68 at 46-47. The government argues that this harm is hypothetical, but as described above, it is not (ECF 26-9, ¶ 56), and the preliminary injunction is meant to prevent ongoing and future harm during the pendency of the case. *See Empire Indus. Inc. v. Winsyn Indus., LLC*, 327 F. Supp. 3d 1101, 1117

(N.D. Ill. 2018) (Kennelly, J.) ("[P]art of the purpose of an injunction is to prevent future harm."); *Brightstar Franchising, LLC v. N. Nevada Care, Inc.*, No. 17 C 9213, 2018 WL 4224454 at * 8 (N.D. Ill. Sept. 4, 2018) (granting preliminary injunction, stating "ongoing harm" will "likely continue in the absence of a preliminary injunction"). And the government's proposal to have CWIT name all entities who should be excluded from the stay is, as the government surely knows, an impossible task.

Finally, the public interest weighs strongly in favor of denying the motion for a stay. As this Court found, the certification provision of the challenged Executive Order likely violates the First Amendment. ECF 69, at 1 ¶ 2.

In sum, the government has not carried its burden of showing that it satisfies any of the factors supporting a partial stay.

CONCLUSION

For the foregoing reasons, this Court should deny the Defendants' motion for reconsideration and motion for partial stay.

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Respectfully Submitted,

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