ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SAM, INC., et al., Petitioners, v. UNITED STATES DEPARTMENT OF JUSTICE, et al., Respondents.	No. 26-1106 (consolidated with Nos. 26-1130 and 26-1136)

JOINT RESPONSE TO ORDER TO SUBMIT PROPOSED BRIEFING SCHEDULE AND FORMAT

As ordered by the Court on September 9, 2026, the parties make this joint filing to propose a schedule and format for briefing in these consolidated cases.

Petitioners challenge Attorney General Order No. 6754–2026, which transferred certain categories of marijuana from Schedule I to Schedule III of the Controlled Substances Act (CSA). *See* 91 Fed. Reg. 22714 (Apr. 28, 2026) ("Rescheduling Order"). This Court consolidated three distinct petitions for review challenging that action. Petitioners are two states, three non-profit organizations, one trade association for the drug testing industry, three affiliated companies

developing a cannabis therapeutic for Food & Drug Administration (FDA) approval, and two individual doctors.

The parties jointly propose a briefing schedule that would conclude by mid-February, ensuring that oral argument could be heard before the Court's summer recess.

As for briefing format, all eleven Petitioners in these three consolidated cases propose joining a single opening brief and single reply brief. Petitioners request, however, that to have adequate space to address Petitioners' Article III standing—a point that the Government has already indicated it will contest—Petitioners be allowed an additional 2,000 words for their consolidated opening brief and an additional 1,000 words for their reply brief. Petitioners propose that the Government similarly be permitted 2,000 additional words for its responsive brief. The Government does not oppose this request.

I. Briefing Schedule

The parties jointly propose the following schedule:

Filing	**Proposed Due Date**
Petitioners' Consolidated Opening Brief	Tuesday, November 24, 2026
Amicus Briefs in Support of Petitioners	Tuesday, December 1, 2026
Government's Response Brief	Wednesday, January 13, 2027
Amicus Briefs in Support of the Government	Wednesday, January 20, 2027
Petitioners' Consolidated Reply Brief	Friday, February 5, 2027
Deferred Joint Appendix	Friday, February 12, 2027
Final Briefs	Friday, February 19, 2027

The parties have conferred and jointly propose this schedule (i) to allow Petitioners a small amount of extra time to coordinate their consolidated briefs and (ii) to provide additional time for the Government's responsive brief both because the Government's briefing period runs during the Thanksgiving, Christmas, and New Years' holidays and because counsel for the Government has pre-planned international travel scheduled for November 27 through December 13. Even with these accommodations, the proposed schedule is materially shorter than those sometimes entered in complex consolidated agency cases.

Petitioners further request that the Court schedule oral argument as soon as reasonably practicable after the conclusion of briefing. *Cf.* Handbook, pt. IX.A.1, at 48 (oral argument is "[t]ypically" scheduled "a minimum of 45 days after briefing is completed").

II. Briefing Format

All eleven Petitioners in these consolidated cases—SAM, Inc. and the National Drug and Alcohol Screening Association, Inc. (NDASA) in Case No. 26-1106; the States of Indiana and Nebraska in No. 26-1130; and Cannabis Industry Victims Educating Litigators (CIVEL), New Directions Addiction Recovery Services, MMJ International Holdings, Inc., MMJ BioPharma Cultivation, Inc., MMJ BioPharma Labs, Inc., Kenneth Finn, M.D., and Elizabeth B. Stuyt, M.D., in No. 26-1136—have agreed to present their merits arguments in one consolidated brief. Instead of one standard opening brief for each petition, which would consume 39,000 words in aggregate, Petitioners propose a consolidated brief of 15,000 words—that is, 2,000 additional words above the usual default for a single case.

Additional words are necessary to properly address Article III standing for eleven Petitioners. D.C. Circuit Rule 28(a)(7) requires a petitioner in an agency-review proceeding to set forth in its opening brief the basis of its standing. *See SSM Litig. Group v. EPA*, 150 F.4th 593, 596 & n.1 (D.C. Cir. 2025). Circuit rules require the brief to "include arguments and cite evidence establishing by a 'substantial probability' the claim of standing." D.C. Cir. R. 28(a)(7).

Given the different ways in which the Order at issue affects them, the eleven Petitioners here are likely to advance four distinct theories of standing, each of which may require separate development: (i) organizational standing; (ii) associational

standing from underlying member injuries; (iii) sovereign and quasi-sovereign standing; and (iv) traditional individual standing. Given that the Government contested Petitioners' standing at the stay stage, *see, e.g.*, Doc. No. 2181627, at 11-16 (Stay Opp.), resulting in five declarations from Petitioners and about 15 pages of briefing on the issue, Petitioners anticipate that addressing standing for eleven different petitioners in these consolidated cases at the merits stage will require more words than in the typical case involving one or two petitioners.

A standard-length brief ordinarily allots a few hundred words to standing. Petitioners estimate that addressing the government's anticipated challenges to Petitioners' standing will require approximately 2,000 more words than the usual standing section of a single-petitioner brief.

Petitioners therefore request 15,000 words rather than 13,000 for their single, consolidated opening brief. This request is consistent with this Court's practice in consolidated agency-review cases. *See, e.g.*, Order, *Elec. Energy, Inc. v. EPA*, No. 22-1056 (D.C. Cir. Oct. 5, 2022) (Doc. 1967554) (adopting the parties' joint proposal and granting 15,000 words for the parties' joint opening brief in case with two consolidated petitions). Indeed, this Court has granted more than 15,000 words when consolidated petitioners similarly sought enlargement "to address the standing of each of the fourteen Petitioners before the Court." *See* Pet'rs Joint Mot. to Extend Word Count for Briefs, Doc. No. 1846610*, Envt'l Health Trust v. FCC*, No. 20-1025

(consol. with No. 20-1138) (June 10, 2020); Order, *id.* (July 2, 2020) (granting 5,000 additional words for the consolidated opening brief).

Petitioners request that the government similarly be allotted an additional 2,000 words, for 15,000 words total, for its responsive brief. Petitioners believe such an allocation is warranted to permit the government to address standing.

Finally, Petitioners request that their reply brief be allotted 7,500 words, which represents the usual half of the length of the principal brief. *See* FED. R. APP. P. 32(a)(7)(B)(ii); *see also, e.g.*, Order, *Elec. Energy*, No. 22-1056 (granting 7,500 words—half of the joint opening brief length—for the joint reply).

The Government has indicated that it does not oppose Petitioners' requests for additional words as outlined above.

CONCLUSION

The parties jointly request that the Court enter an order adopting the briefing schedule and format set forth above.

October 9, 2026

BRETT A. SHUMATE
Assistant Attorney General

DANIEL AGUILAR
/s/ McKaye L. Neumeister
MCKAYE L. NEUMEISTER
Attorneys, Appellate Staff
Civil Division, Room 7231
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
(202) 305-1754

Counsel for Respondents

Respectfully submitted.

/s/ *Patrick F. Philbin*
Patrick F. Philbin
Chase T. Harrington
T. Zach Horton
TORRIDON LAW PLLC
801 Seventeenth Street NW,
Suite 1100
Washington, DC 20006
(202) 249-6633
pphilbin@torridonlaw.com

Counsel for SAM, Inc., and the National Drug and Alcohol Screening Association, Inc.

/s/ *Patrick Kenneally*
Patrick Kenneally
BURKE LAW GROUP, PLLC
205 N. Michigan Ave, Suite 810
Chicago, IL 60601
(832) 987-2214
patrick.kenneally@burkegroup.law

Connor W. Mighell
BURKE LAW GROUP, PLLC
1000 Main Street, Suite 2300
Houston, Texas 77002
(832) 987-2214
connor.mighell@burkegroup.law

Counsel for Cannabis Industry Victims Educating Litigators, New Directions Addiction Recovery Services, MMJ International Holdings, Inc., MMJ BioPharma Cultivation, Inc., MMJ BioPharma Labs, Inc., Kenneth Finn, M.D., and Elizabeth B. Stuyt, M.D.

/s/ *Cody S. Barnett*
Cody S. Barnett
Zachary B. Pohlman
OFFICE OF THE NEBRASKA ATTORNEY GENERAL
Nebraska Department of Justice 1445 K Street,
Suite 2115 Lincoln, NE 68508
(402) 471-2683
cody.barnett@nebraska.gov

Counsel for Petitioner State of Nebraska

/s/ *Blake E. Lanning*
Blake E. Lanning
OFFICE OF THE INDIANA ATTORNEY GENERAL
302 W. Washington Street
IGCS 5th Floor
Indianapolis, IN 46204
(317) 232-1146
Blake.Lanning@atg.in.gov

Counsel for Petitioner State of Indiana

CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) and D.C. Circuit Rule 32(e)(1) because, excluding the parts of the document exempted by Rule 32(f), this document contains 1,031 words.

This document complies with the typeface requirements of Federal Appellate Procedure Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Word O365 in 14-point, Times New Roman font.

October 9, 2026 /s/ *Patrick F. Philbin*
Patrick F. Philbin

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of October, I caused the foregoing document to be electronically filed with the Clerk and served on the parties using the Clerk's electronic filing system.

October 9, 2026 /s/ *Patrick F. Philbin*
Patrick F. Philbin