

# EMERGING LITIGATION AND ENFORCEMENT TRENDS UNDER THE NEW ADMINISTRATION

05.13.2026



# Panelists

## Panelists



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# Overview of Topics

- 1 Federal Corporate Enforcement Policy Shifts
- 2 Rise of State Enforcement
- 3 Immigration Enforcement & Workplace Raids
- 4 Navigating the SCOTUS “Shadow Docket”

# Federal Corporate Enforcement Policy Shifts

# Shifting Priorities in Federal Corporate Enforcement



Since January 2025, US Dep't of Justice has:

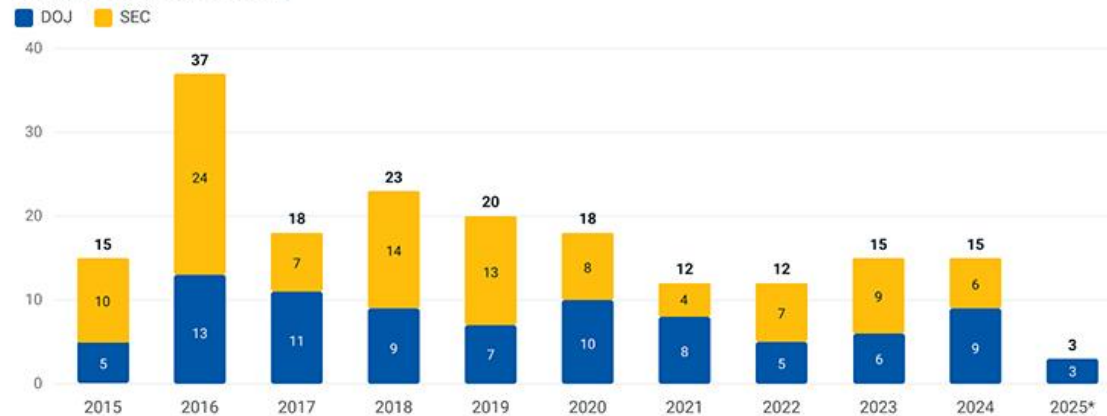
- Paused enforcement of Foreign Corrupt Practices Act (FCPA)

# Shifting Priorities in Federal Corporate Enforcement

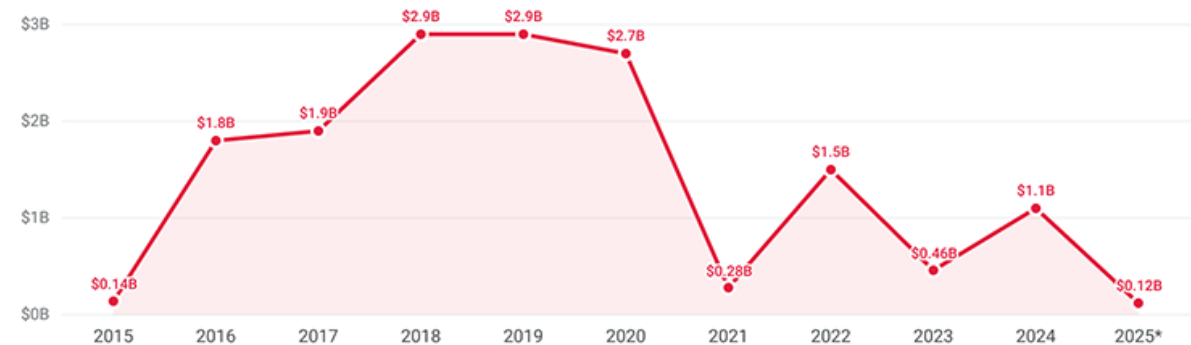
## FCPA Enforcement, 2015–2025

DOJ & SEC corporate resolutions and total penalties

### Corporate Resolutions



### Total Penalties



\*2025 Note: FCPA enforcement paused by executive order on Feb. 10, 2025. SEC FCPA unit reportedly disbanded. YTD figures shown.

Source: *Just Security* (Mar. 10, 2026)

<https://www.justsecurity.org/133481/year-later-fcpa-enforcement-pause/>

# Shifting Priorities in Federal Corporate Enforcement



Office of Public Affairs  
U.S. Department of Justice

PRESS RELEASE

## Former Coal Company Executive Convicted in International Bribery and Money Laundering Scheme

Thursday, February 19, 2026

A federal jury convicted a former vice president of Corsa Coal Corporation (Corsa) for his role in a multi-year scheme to bribe Egyptian government officials in connection with nearly \$140 million in coal supply contracts.

The evidence at trial showed that, between 2016 and 2020, Hobson, who was then a vice president at Corsa responsible for international sales, conspired to and did pay bribes to Egyptian government officials — whom Hobson referred to as “the Team” — in order to win contracts for Corsa to sell coal products to Al Nasr. The bribes were paid through an intermediary in Egypt, who, received more than \$4.8 million in purported sales commissions. In addition to using the corrupt commissions to pay bribes, the intermediary paid Hobson over \$200,000 in kickbacks from the scheme.

# Shifting Priorities in Federal Corporate Enforcement



Since January 2025, US Dep't of Justice has:

- Paused enforcement of Foreign Corrupt Practices Act (FCPA)
- Emphasized "total elimination" policy regarding cartels/TCOs

# Shifting Priorities in Federal Corporate Enforcement



Office of the Attorney General  
Washington, D. C. 20530

February 5, 2025

MEMORANDUM FOR ALL DEPARTMENT EMPLOYEES

FROM: THE ATTORNEY GENERAL 

SUBJECT: TOTAL ELIMINATION OF CARTELS AND TRANSNATIONAL  
CRIMINAL ORGANIZATIONS<sup>1</sup>

Foreign Corrupt Practices Act. The Criminal Division's Foreign Corrupt Practices Act Unit shall prioritize investigations related to foreign bribery that facilitates the criminal operations of Cartels and TCOs, and shift focus away from investigations and cases that do not involve such a connection. Examples of such cases include bribery of foreign officials to facilitate human smuggling and the trafficking of narcotics and firearms.

Money Laundering and Asset Forfeiture. The Criminal Division's Money Laundering and Asset Recovery Section shall prioritize investigations, prosecutions, and asset forfeiture actions that target activities of Cartels and TCOs.

# Shifting Priorities in Federal Corporate Enforcement



Office of Public Affairs  
U.S. Department of Justice

PRESS RELEASE

## Two Mexican Nationals Charged for Bribing State-Owned Energy Officials

Monday, August 11, 2025

An indictment was unsealed today in the Southern District of Texas charging two Mexican businessmen for their roles in an alleged bribery scheme to retain and obtain business related to Petróleos Mexicanos (PEMEX), the state-owned oil company of Mexico, and PEMEX Exploración y Producción (PEP), PEMEX's wholly owned exploration and production subsidiary.

Between at least 2019 and continuing into at least 2021, Rovirosa, Avila, and their co-conspirators allegedly offered to pay and paid bribes in the form of luxury goods, including from Louis Vuitton and Hublot, cash payments, and other valuable items, to at least three PEMEX and PEP officials in exchange for those officials taking certain actions to help companies associated with Rovirosa obtain and retain business with PEMEX and PEP. Those improper advantages helped companies associated with Rovirosa obtain contracts with PEMEX and PEP worth at least \$2.5 million.

# Shifting Priorities in Federal Corporate Enforcement



Since January 2025, US Dep't of Justice has:

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- Shifted white-collar enforcement priorities

# Shifting Priorities in Federal Corporate Enforcement



U.S. Department of Justice

Criminal Division

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*Office of the Assistant Attorney General*

*Washington, D.C. 20530*

May 12, 2025

## MEMORANDUM

**TO:** All Criminal Division Personnel

**FROM:** Matthew R. Galeotti  
Head of the Criminal Division

**SUBJECT:** Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime<sup>1</sup>

The Criminal Division must be laser-focused on the most urgent criminal threats to the country. Therefore, consistent with the enforcement policies and priorities of this Administration, the Criminal Division will prioritize investigating and prosecuting corporate crime in areas that will have the greatest impact in protecting American citizens and companies and promoting U.S. interests.

# Shifting Priorities in Federal Corporate Enforcement



Since January 2025, US Dep't of Justice has:

- Paused enforcement of Foreign Corrupt Practices Act (FCPA)
- Emphasized “total elimination” policy regarding cartels/TCOs
- Shifted white-collar enforcement priorities
  - No more “pure regulatory” prosecutions (BSA/AML violations)
  - No more targeting crypto exchanges for illegal acts of end users
  - Focus on crimes involving misuse of federal funds (esp. healthcare)
  - Focus on crimes involving identifiable victims and actual losses

# Shifting Priorities in Federal Corporate Enforcement



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  - Focus on crimes involving identifiable victims and actual losses
- Scaled back use of corporate monitorships
  - Terminated monitorship of Glencore following billion-dollar FCPA/market manipulation settlement

# Shifting Priorities in Federal Corporate Enforcement



Since January 2026, US Dep't of Justice has:

- Created Department-wide corporate enforcement policy

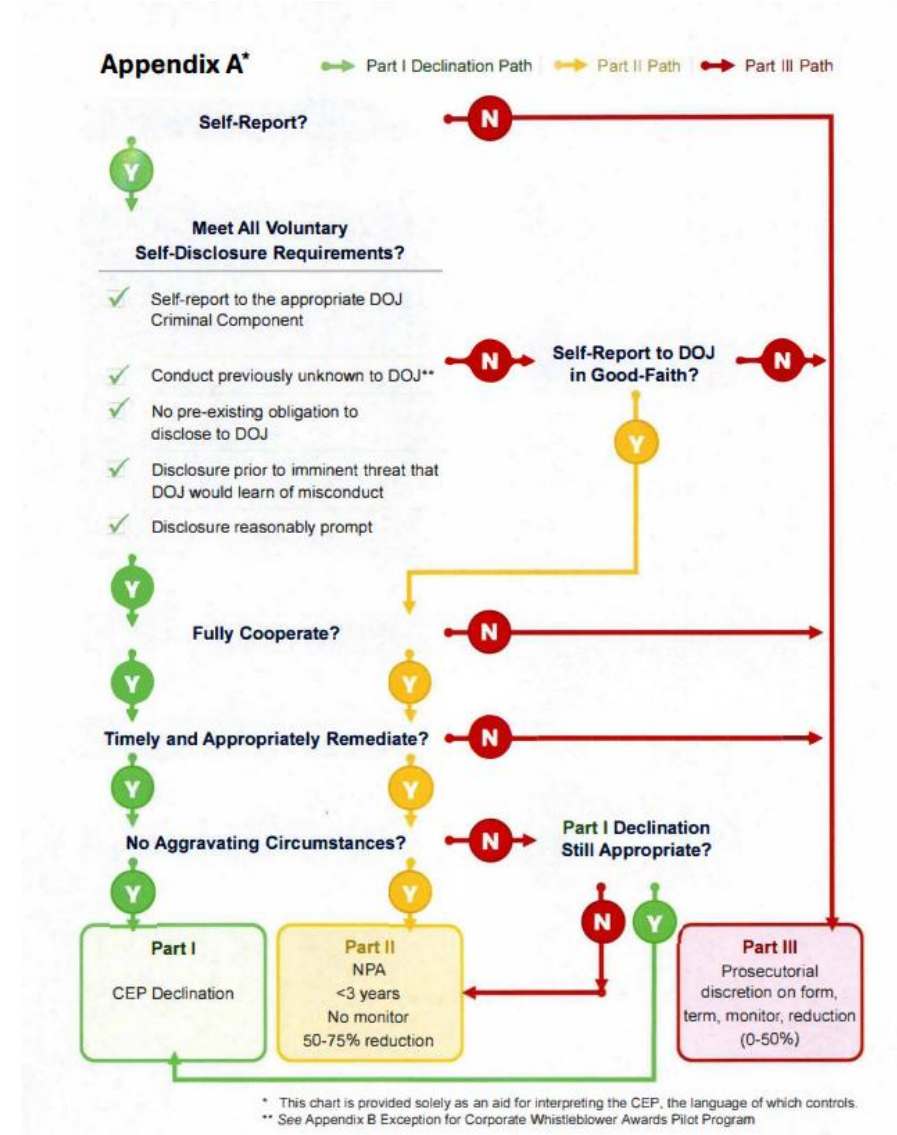
# Shifting Priorities in Federal Corporate Enforcement



PRESS RELEASE

## Department of Justice Releases First-Ever Corporate Enforcement Policy for All Criminal Cases

Tuesday, March 10, 2026



# Shifting Priorities in Federal Corporate Enforcement



Since January 2026, US Dep't of Justice has:

- Created Department-wide corporate enforcement policy
  - Puts premium on early self-reporting to DOJ
  - Requires cooperation and remediation
  - Provides a path to early—and **public**—declination if all conditions met
  - “Near miss” cases still have path to favorable outcomes (NPA, no monitor, lower fine)

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  - “Near miss” cases still have path to favorable outcomes (NPA, no monitor, lower fine)
- Created National Fraud Enforcement Division

# Shifting Priorities in Federal Corporate Enforcement



Office of the Attorney General  
Washington, D. C. 20530

April 7, 2026

MEMORANDUM FOR THE DEPARTMENT OF JUSTICE

FROM: THE ACTING ATTORNEY GENERAL *Paul Blank*

SUBJECT: CREATION OF THE NATIONAL FRAUD ENFORCEMENT DIVISION

- Effective immediately, the Assistant Attorney General for the National Fraud Enforcement Division shall assume operational control of the Criminal Division's Tax Section, the Health Care Fraud Unit, and the Market, Government, and Consumer Fraud Unit, and shall establish the priorities and direct the allocation of resources within them. During this interim period, the existing supervisory chains responsible for the above-named units and section will continue to exercise supervisory authority for their personnel, subject to oversight and direction from the Assistant Attorney General for the National Fraud Enforcement Division.



Office of Public Affairs  
U.S. Department of Justice

PRESS RELEASE

## The Fraud Division Announces Enforcement Actions from Across the Country Representing Nearly \$1 Billion in Fraud

Friday, May 8, 2026

# Rise of State Enforcement

# Vacuum of Federal Enforcement

## States' Role?

### States have their own statutes/regulations regarding:

- Consumer rights (environmental, data/privacy, employment, etc.)
- Market integrity/anti-competitive conduct
- Registration rules/requirements for financial services companies

### State enforcers include:

- Office of Attorney General
- District attorney/State's attorney offices
- Industry-Specific Regulators (Environmental; Financial Services; Employment)

### State incentives for enforcement include:

- Political: governors, attorneys' general, DAs all elected officials appealing to constituencies
- Financial: obtain settlements and monetary fines relating to regulatory violations to off-set federal funding cuts

# Rise of State Enforcement

## Dos and Don'ts

### Don't relax compliance:



- Black letter law is still in force
- Statutes of limitations extend beyond current administration
- Other countries (e.g., UK, France) are increasing anti-corruption efforts

### Do:



- Build state-specific compliance programs
- Monitor AG press releases for enforcement trends

# Immigration, DEI, Non-Competes, and More Workplace Issues

# Worksite Enforcement



- Includes both **audits** (with notice) and **raids** (unannounced, with a warrant)
- DHS and ICE ordered to prioritize worksite enforcement as a means of deterring unauthorized employment – increased funding, increased personnel
- Directing DOJ and DHS to pursue **criminal prosecution** of employers who knowingly hire unauthorized workers.
- Preliminary statistics: I-9 audits are up **significantly** over 2018-2019, Form I-9 errors have been reclassified as substantive – not “paperwork violations”

# Procedures for Responding to Gov't Contact

## Identifying Responsible Persons & Key Steps



- Designate “management representative” (and preferably, a “back up”) to be the only person(s) authorized to talk to government personnel (**Government Liaison(s)**)
- Subpoena? Records? For testimony?
- Warrant?
  - Administrative warrant? – *does not give agents right to enter premises*
  - Judicial warrant? *Signed by a judge/magistrate; identifies scope of areas to be searched and types of evidence subject to seizure*
- **Don't** resist or impede officers | **record** encounters with law enforcement (even using smartphone)

# Procedures for Responding to Gov't Contact

## Identifying Purpose/Scope of Visit



What kind of legal process?

- Subpoena?
  - For records?
  - For testimony?
  - Forthwith production?
- Warrant?
  - Administrative warrant? – *does not give agents right to enter premises*
  - Judicial warrant? – *must be signed by a judge/magistrate; identifies scope of areas to be searched and types of evidence subject to seizure*
- **Don't** physically resist or impede officers | **record** encounters with law enforcement (even using smartphone)

## *In re Sealed Search Warrant Application*

- Government filed for **administrative warrant** allowing ICE agents to enter a specific private business “to search for and seize individuals who might be in the United States unlawfully” and “to investigate a pattern or practice of employing unauthorized aliens”
- Court **denied** the government’s request because it was “styled as an impermissible, non-particularized general warrant” that failed to comply with the Fourth Amendment
- Court’s holdings:
  - “Although the Government bills this search as civil, it is inherently criminal because the owner(s) of the target business face criminal penalties for employing aliens without work authorization.”
  - “The vehicle for obtaining a warrant to search for a person—an alien is a person—is Federal Rule of Criminal Procedure 41(d)(1), not an administrative warrant.”
    - Requires particularized showing of probable cause, and specification of places to be searched/items to be seized
  - “Administrative warrants cannot be used to search for people or investigate criminal violations.”
  - “To uphold the United States Constitution, I must deny the Government’s application for an unrestrained administrative inspection warrant.”

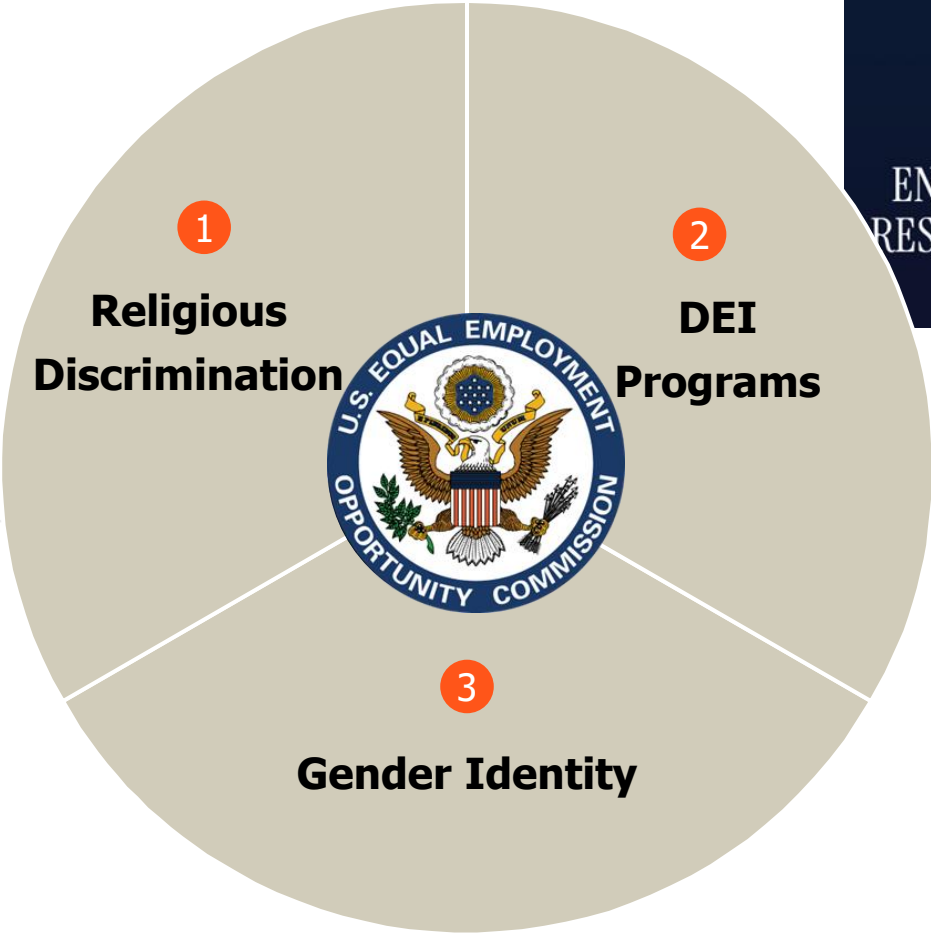


# EEOC – Shifting Priorities, Uptick in Litigation



**Eradicating Anti-Christian Bias**

A Presidential Document by the Executive Office of the President on 02/12/2025



# Other Federal Agencies – Recent Trends

- National Labor Relations Board
  - ❖ Rollback of Biden Eran workplace policy rules
  - ❖ Challenging agency authority, lack of NLRB quorum
- Federal Trade Commission
  - ❖ Rule eliminating non-competes → eliminated
  - ❖ Enforcement actions → active
- Department of Labor
  - ❖ Revoked Executive Order 11246



# Key Compliance Recommendations



Be ready for government agents to arrive at the workplace

- Develop a plan for responding to an audit or raid
- Difference between **administrative** and **judicial** warrants
- Difference between ordinary and **forthwith** subpoenas



Conduct internal I-9 audits



Audit DEI programs and employee handbooks for compliance under the new EEOC posture



Review restrictive covenant practices in light of FTC posture

# Navigating the SCOTUS Emergency/Interim Docket (aka the “Shadow Docket”)

# Emergency/Interim Docket—Overview



## Definitions

- Merits docket: a case that has come to the court on a grant of *certiorari*, following a normal appeals process; full briefing, full argument, full written decision.
- Emergency docket: a case that has come to the court on an emergency basis—typically seeking to stay a lower court ruling; no full briefing, no full argument, light or no reasoning.
  - Historically, the emergency docket has been used rarely.
    - *E.g.*, death penalty cases (last-minute appeals)
    - *E.g.*, elections cases (*Purcell* in 2006—unanimous)
  - Dramatic increase in the last decade

# Emergency/Interim Docket—Statistics



## Applications by federal government

- George W. Bush and Obama Administrations (combined): 8 applications
- First Trump Administration: 41 applications
- Biden Administration: 19 applications in 4 years
- Second Trump Administration (so far): 29 applications, 25 decisions
  - 5 against government
  - 20 for government
- Change in focus—maintaining status quo vs. altering status quo (*e.g., Slaughter* and FTC)
- Four/five cases converted from interim docket to merits docket
  - *Doe/Miot* (our TPS case); *Slaughter* (FTC); *CASA* (injunctive relief); *Cook* (federal reserve)

*Markwayne Mullin, et al., v. Dahlia Doe, et al.*, Nos. 25-1083  
*Trump, et al., v. Miot, et al.*, No. 25-1084



Summary of the Case

- Challenges to the government's termination of Temporary Protected Status designations for Syrians (*Doe*) and Haiti (*Miot*)
- BCLP represents *Miot* Plaintiffs-Respondents
- Haiti TPS representation began over a year ago.
  - Feb. 2025: *Haitian Evangelical Clergy Ass'n v. Trump*, No. 25-cv-1464 (E.D.N.Y.)—victory for Plaintiffs—currently defending our victory in Second Circuit
  - Aug. & Nov. 2025: *Miot v. Trump*, No. 25-cv-1464 (D.D.C.)—victory for Plaintiffs—currently defending our victory in S. Ct.

# *Markwayne Mullin, et al., v. Dahlia Doe, et al., Nos. 25-1083* *Trump, et al., v. Miot, et al., No. 25-1084*



## The Legal Issues

- TPS: Humanitarian relief program for noncitizens present in the U.S. whose home countries have suffered war, natural disaster, or “other extraordinary and temporary conditions”—and, therefore, are not safe to return to. 8 U.S.C. § 1254a.
- Once designated, Secretary of Homeland Security, is supposed to follow specific statutorily prescribed steps to reach a conclusion about whether to extend, re-designate, or terminate.
  - Consult with appropriate agencies of government.
  - Assess country conditions in the foreign state.
  - Determine whether the conditions for designation persist.
  - Publish determination in the Federal Register.
- Haiti: Originally designated for TPS in 2010 (earthquake); redesignated in 2021 (“other extraordinary and temporary conditions” *e.g.*, gang war, violence, disease, food insecurity, lack of healthcare)

# *Markwayne Mullin, et al., v. Dahlia Doe, et al., Nos. 25-1083* *Trump, et al., v. Miot, et al., No. 25-1084*



## Litigating on the “Shadow Docket”

- Our claims:
  - Various violations of the Administrative Procedure Act
  - Violation of 5th Amendment Equal Protection (racial animus, “bare dislike” of Haitians)
- District Court Opinion: Feb. 2, 2026
- Government sought emergency stay in D.C. Circuit Feb. 6—denied Mar 6.
  - Government’s argument was district courts lack jurisdiction to hear TPS challenges under the APA and that the equal protection claim failed on its merits
- Government sought emergency stay/cert in Supreme Court Mar. 11—cert granted Mar. 16
- *Doe* was on a parallel track—government sought emergency stay Feb. 26—cert granted Mar. 16
  - We filed a conditional petition for cert before judgment as prevailing party on Mar. 10
- Supreme Court granted cert and set expedited briefing and argument
  - Merits case argued case on April 29

# Questions



# EMERGING LITIGATION AND ENFORCEMENT TRENDS UNDER THE NEW ADMINISTRATION

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