DEMOCRACY 2025

To: Democracy 2025 Partners
From: Democracy Forward
Re: Rebutting the Presumption of Regularity in Immigration-Related Cases
Date: April 1, 2026

The government often relies on a presumption of regularity in litigation, where it asks the court to assume that government officials "have properly discharged their official duties." *United States v. Chem. Found.*, 272 U.S. 1, 15 (1926). Applying this presumption, courts regularly assume that public officials performed their duties completely and lawfully. *See, e.g.*, *id.* (presuming that an officer acted with full knowledge of the facts). They have also applied the presumption to assume that an agency acted reasonably and followed mandatory procedures correctly. *See, e.g.*, *Dep't of Com. v. New York*, 588 U.S. 752, 780 (2019) (presuming that an agency produced a complete administrative record); *INS v. Miranda*, 459 U.S. 14, 18 (1982) (per curium) (presuming that a government delay was reasonable); *Kleindienst v. Mandel*, 408 U.S. 753, 770 (1972) (presuming that the government fairly denied a nonimmigrant visa); *FTC v. Clement Institute*, 333 U.S. 683, 700–01 (1948) (presuming the government acted with objectivity). In essence, the presumption of regularity often functions as a presumption of good faith on the part of the government.[1]

Importantly, however, this presumption is rebuttable. *See Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 174 (2004) ("presumption of legitimacy" for official government conduct is only "a general working principle" and not "a rule of evidence"); *Dep't of Com.*, 588 U.S. at 781-85 (implicitly rejecting presumption of regularity where evidence showed "disconnect between the decision made and the explanation given" for addition of a citizenship question to the census).[2] Litigants who are able to rebut the presumption of regularity may be able to seek additional discovery beyond the administrative record in Administrative Procedure Act (APA) cases, prevail on motions to enforce compliance (when needed), or persuasively ask for enhanced enforcement mechanisms and other associated relief when moving for injunctions, stays, or vacatur. See our Democracy 2025 Resource Center for resources on the breadth of relief, and stay tuned for resources on expanding the administrative record.

There is significant leeway at present to contest a court's application of the presumption of regularity in litigation challenging the second Trump administration's immigration-related policies.[3] While rebutting the presumption turns on the specific facts of an individual case,

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[1] For a more in-depth discussion of the role of "good faith" in the presumption of regularity, see Aram A. Gavoor & Steven A. Platt, *In Search of the Presumption of Regularity*, 74 Fla. L. Rev. 729 (2022).
[2] For additional legal background on the presumption of regularity, see *The Presumption of Regularity in Judicial Review of the Executive Branch*, 131 Harv. L. Rev. 2431 (2018), and Gavoor & Platt, *supra* note 1.
[3] For additional information on the presumption of regularity in the second Trump administration, see Just Security's *The "Presumption of Regularity" in Trump Administration Litigation*, the CATO Institute's The Administration Misleads and Ignores Courts Most Often in Immigration Cases, and Democracy 2025's Compendium of Cases Involving Court Order Noncompliance by the Trump Administration. For an example of a court rejecting the presumption of regularity, including an extensive string cite of cases decided between January 2025 and early August 2025, see *Fed. Educ. Ass'n v. Trump*, 795 F. Supp. 3d 74, 88-92 (D.D.C. 2025), *stay pending appeal denied*, No. 25-5303, 2025 WL 2738626 (D.C. Cir. Sep. 25, 2025).

providing additional background on this administration's pattern of illegal and unconstitutional immigration policies, misrepresentations to the court, and non-compliance with court orders may bolster a legal argument.

This memo provides background information and citations for legal briefs in immigration-related cases to help litigants rebut the presumption of regularity afforded to the government. This information is meant to provide a starting point; litigants should adapt it to the specific case at hand, and to the relevant circuit precedent.

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I. The presumption of regularity is rebuttable with meaningful, relevant evidence.

Whether a court will apply the presumption of regularity in a specific case turns on evidence from the factual and procedural background of the case itself. As such, articulating "clear evidence" of irregularity or bad faith from the specific immigration-related policy or action at issue will be crucial to rebutting the presumption. *See Chem. Found*., 272 U.S. at 14-15 ("clear evidence" that "public officers" have not "properly discharged their official duties" rebuts the presumption of regularity).

The standard for what constitutes "clear evidence" is imprecise. *Compare Fed. Educ. Ass'n v. Trump*, 795 F. Supp. 3d. 74, 89 (D.D.C. 2025) ("clear evidence" standard is "higher than preponderance of the evidence but lower than beyond a reasonable doubt" (quoting *Paracha v. Trump*, No. 04-2022, 2019 WL 5296839, at *2 (D.D.C. Oct. 18, 2019))), *with* Aram A. Gavoor & Steven A. Platt, *In Search of the Presumption of Regularity*, 74 Fla. L. Rev. 729, 757-71 (2022) (acknowledging indeterminacy in the presumption of regularity doctrine and arguing for the lower preponderance standard as more faithful to a textualist interpretation of the APA). Although the standard has been articulated by courts in multiple ways, all of them conclude that "meaningful," relevant evidence can and should persuade courts that the presumption of regularity is inappropriate in specific circumstances. *See, e.g.*, *Nat'l Archives & Records Admin*., 541 U.S. at 174-75 (presumption can be rebutted with a "meaningful evidentiary showing").

II. The administration's pattern of bad faith, illegal conduct, and non-compliance with court orders provides additional support for rejecting the presumption of regularity.

In addition to the specific facts undermining the presumption of regularity in any given case, litigants might find it helpful to point to the administration's overall pattern of bad faith and irregularity in its immigration policy and immigration-related litigation. *See, e.g.*, *Fed. Educ. Ass'n v. Trump*, 795 F. Supp. 3d 74, 88-92 (D.D.C. 2025), *stay pending appeal denied*, No. 25-5303, 2025 WL 2738626 (D.C. Cir. Sep. 25, 2025) (in discussion of whether the presumption should apply, citing multiple cases in which courts found the administration had acted in bad faith and in disregard for the rule of law, misrepresented the facts or the law in legal proceedings, and made unconstitutional arguments).

The administration's pattern of conduct has led at least one court to conclude that the presumption of regularity no longer applies in cases regarding the administration's effort to obtain voter rolls from states, in part because the administration's "conduct rais[es] suspicion" that its true motivation relates to immigration enforcement. *United States v. Oregon*, No. 6:25-cv-01666-MTK, Dkt. 73 at 22 (D. Or. Feb. 5, 2026) ("The presumption of regularity that has been previously extended to Plaintiff that it could be taken at its word—with little doubt about its intentions and stated purposes—no longer holds."). District courts in New Jersey, responding to what they identified as a pattern of non-compliance in immigration habeas cases, reached similar conclusions. *Cartagena Hueso v. Soto*, No. 26-01455, 2026 WL 539271, at *3 (D.N.J. Feb. 26, 2026) ("Sadly, the well-deserved credibility once attached to that distinguished [U.S. Attorney's] Office is now a presumption that 'has been undeniably eroded.'"); *Singh v. Tsoukaris*, No. 26-cv-01531, Dkt. 10 at 2 (D.N.J. Feb. 20, 2026) ("[T]he presumption of regularity and integrity previously and routinely afforded to the Executive branch and the United States Attorney's Office has been undeniably eroded in this jurisdiction and across the country, and this Court will no longer blindly accept statements of fact from Respondents unless they are made under oath by an individual with personal knowledge.").

Indeed, in recent cases, courts have acknowledged the administration's departure from principles of good faith, due process, and accountability. *See, e.g.*, *J.O.P. v. U.S. Dep't. of Homeland Sec.*, No. 25-1519, 2025 WL 1431263, at *10 (4th Cir. May 19, 2025) (Gregory, J., concurring) ("As is becoming far too common, we are confronted again with the efforts of the Executive Branch to set aside the rule of law in pursuit of its goals. It is the duty of courts to stand as a bulwark against the political tides that seek to override constitutional protections and fundamental principles of law, even in the name of noble ends like public safety."); *Abrego Garcia v. Noem*, No. 25-1345, 2025 WL 1021113, at *7 (4th Cir. Apr. 7, 2025) (Wilkinson, J., concurring) ("[T]his is a path of perfect lawlessness, one that courts cannot condone."); *President & Fellows of Harvard Coll. v. U.S. Dep't of Homeland Sec.*, 788 F. Supp. 3d 182, 205 (D. Mass. 2025) ("[T]he Court will not apply any presumption of regularity to conduct that is so unusual and therefore irregular on its face."), *appeal docketed*, No. 25-1627 (1st Cir. July 1, 2025).

A. This administration's repeated pursuit of clearly unlawful or unconstitutional immigration policies is relevant to rebutting the presumption of regularity.

In multiple recent cases related to immigration issues, courts have explicitly noted that not only are the government's actions unlawful, but are so blatantly unlawful as to indicate a disregard for the rule of law or bad faith. *See, e.g.*, *Urquilla-Ramos v. Trump*, ___ F. Supp. 3d. ___, No. 26-cv-00066, 2026 WL 475069 at *1 (S.D.W. Va. Feb. 19, 2026) ("Antiseptic judicial rhetoric cannot do justice to what is happening. . . . The systematic character of this practice and its deliberate elimination of every structural feature that distinguishes constitutional authority from raw force place it beyond the reach of ordinary legal description. It is an assault on the constitutional order. It is what the Fourth Amendment was written to prevent. It is what the Due Process Clause of the Fifth Amendment forbids."); *Gimenez Rivero v. Mina*, ___ F. Supp. 3d. ___, No. 26-cv-66, 2026 WL 199319 at *5 (M.D. Fla. Jan. 26, 2026) ("Judges across the country—the vast majority who have considered this question—have told the Government many

times in the past few months that its interpretation of the law is wrong. This is no partisan stance: judges appointed by every president from Ronald Reagan through Donald Trump have said so." (citations omitted) (collecting cases)); *Diallo v. Joyce*, No. 25-cv-9909, 2025 WL 3718477, at *6 (S.D.N.Y. Dec. 23, 2025) ("The government's actions leading up to this case were not only illegal, they were inhumane. And they aren't unique to this case. This district has been flooded with petitions for relief with similar stories—families ripped apart, and people who pose no danger or risk of fleeing imprison[ment] with no end in sight, flown to far off detention centers for reasons that the government lawyers who appear in court themselves can't explain."); *Rios Porras v. O'Neill*, No. 25-6801, 2025 WL 3708900 at *2 (E.D. Pa. Dec. 22, 2025) ("The law is piled sky high against the Government's position. . . . The Government's hope, presumably, is that if it keeps pushing the boulder of its argument up the hill at least one judge may rule against the weight of the authority."); *Escobar Molina v. U.S. Dep't of Homeland Sec.*, ___ F. Supp. 3d. ___, No. 25-3417, 2025 WL 3465518, at *27 (D.D.C. Dec. 2, 2025) ("Defendants' systemic failure to apply the probable cause standard, including the failure to consider escape risk, directly violates the clear statutory requirements under the INA, and DHS's implementing regulations." (citations omitted)), *appeal docketed*, No. 26-5045 (D.C. Cir. Feb. 5, 2026); *Ziliang J. v. Noem*, No. 25-1391, 2025 WL 1358665, at *2 (D. Minn. Apr. 17, 2025) ("[T]he Court cannot imagine how the public interest might be served by permitting federal officials to flaunt the very laws that they have sworn to enforce."); *New Hampshire Indonesian Cmty. Support v. Trump*, 765 F. Supp. 3d 102, 109 (D.N.H. 2025) ("[T]he Executive Order contradicts the text of the Fourteenth Amendment and the century-old untouched precedent that interprets it."), *aff'd in part, vacated in part, remanded*, 157 F.4th 29 (1st Cir. 2025); Tr. at 13:13-15, *Washington v. Trump*, No. 25-0127, Dkt. 53 (W.D. Wash. Jan. 24, 2025) ("I've been on the bench for over four decades. I can't remember another case where the question presented was as clear as this one is. This is a blatantly unconstitutional order."); *see also* Kyle Cheney, *Hundreds of Judges Reject Trump's Mandatory Detention Policy, With No End in Sight*, POLITICO (Jan. 5, 2026, 5:55 a.m.), https://perma.cc/T3AH-6EA2 ("More than 300 federal judges, including appointees of every president since Ronald Reagan, have now rebuffed the administration's six-month-old effort to expand its so called 'mandatory detention' policy.").

Courts have also regularly held that the administration has pursued immigration policies without following basic procedural requirements, suggesting that the administration's arbitrary and capricious conduct is widespread and pervasive. *See, e.g.*, *Pacito v. Trump*, ___ F.4th ___, 2026 WL 620449, at *27-28 (9th Cir. Mar. 5, 2026) (Secretary of State's termination of cooperative agreements to provide services to already-admitted refugees was arbitrary and capricious because he supplied no rationale and did not consider reliance interests); *State of Ill. v. Fed. Emergency Mgmt. Agency*, 801 F. Supp. 3d. 75, 93 (D.R.I. 2025) (holding that the Department of Homeland Security's (DHS) attachment of immigration-related conditions to federal disaster grants and emergency management programs was arbitrary and capricious because "[b]ased on the limited justifications offered in Defendants' papers and exhibits to this Court, the Court can only conclude that DHS engaged in a wholly under-reasoned and arbitrary process."), *appeal docketed*, No. 25-2131 (1st Cir. Dec. 1, 2025); *Nat'l TPS Alliance v. Noem*, 798 F. Supp. 3d 1108, 1148 (N.D. Cal. 2025) ("[T]here is no factual or legal support for the Secretary's asserted reason for the vacatur.") ("Here, Secretary Noem has not provided any explanation for her

reversal of established practices on TPS decision-making."), *stay pending appeal denied*, No. 25-5724 (9th Cir. Sep. 17, 2025), *application for stay granted*, 146. S. Ct. 23 (2025); *Friends of the Everglades, Inc. v. Noem*, 796 F. Supp. 3d 1234, 1279 (S.D. Fla. 2025) ("Here, there weren't 'deficiencies' in the agency's process. There was no process."), *stayed pending appeal*, No. 25-12873, 2025 WL 2588567 (11th Cir. Sep. 4, 2025); *Coal. for Humane Immigr. Rights v. Noem*, 805 F. Supp. 3d 48, 96, 98 (D.D.C. 2025) (holding that the government's actions "do indeed fail even the 'fundamentally deferential' standard of arbitrary-and-capricious review" because the government's "scattershot legal explanations suffice to render them likely arbitrary and capricious in this preliminary posture"), *stay pending appeal denied*, No. 25-5289 (D.C. Cir. Sep. 12, 2025); *Doe 1 v. Bondi*, 785 F. Supp. 3d 1268, 1284 (N.D. Ga. 2025) ("Defendants have not been able to articulate, clearly or otherwise, any reason why Plaintiffs' SEVIS records were terminated beyond the vague language provided in the notice given through SEVP. . . . Defendants have altogether failed to suggest any lawful grounds for termination of Plaintiffs' SEVIS records."); *Pacito v. Trump*, 768 F. Supp. 3d 1199, 1233 (W.D. Wash. 2025) ("The Agency Defendants provided no explanation whatsoever for these substantive expansions of the USRAP EO. They did not, as is required under arbitrary-and-capricious review, acknowledge, let alone meaningfully consider, the reliance interests of refugees, U.S. citizens, and resettlement nonprofits harmed by their actions."), *stayed pending appeal*, No. 25-1313 (9th Cir. Sep. 12, 2025).

Finally, courts have also recently acknowledged bad-faith lawyering by government counsel in multiple immigration-related cases. *See, e.g.*, *Maldonado Bautista v. Santacruz*, ___ F. Supp. 3d. ___, No. 25-cv-01873, 2026 WL 468284 at *9 (C.D. Cal. Feb. 18, 2026) ("Respondents proffer frivolous arguments that aim to insulate unlawful policies from judicial review while taking positions that seek to bludgeon separation of powers into oblivion."), *appeal docketed*, No. 26-1044 (9th Cir. Feb. 23, 2026); Order, *Cruz Santos v. Baker*, No. 25-cv-18959 at Dkt. 24, at 2 n.1 (D.N.J. Jan. 27, 2026) ("As this Court has observed now on too many occasions, Respondents continue to advance legal positions that are indefensible and illogical. They now claim a lack of clarity when none exists. . . . Respondents blatantly disregarded this Court's Order. . . . This was not a misunderstanding or lack of clarity; it was knowing and purposeful."); *D.B.U. v. Trump*, 781 F. Supp. 3d 1158, 1168 (D. Colo. 2025) ("This sentence [in the government's brief] staggers. It is wrong as a matter of law and attempts to read an entire provision out of the Constitution."), *appeal docketed*, No. 25-1265 (10th Cir. July 8, 2025); *League of United Latin Am. Citizens v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 184 (D. Mass. 2025) ("This argument fails to persuade because it misconceives (and in one instance misrepresents) the Executive Order, Plaintiffs' claims, the law, and the facts.").

B. This administration has repeatedly withheld and misrepresented information to courts in immigration-related matters.

Courts have recently acknowledged multiple instances where the government has withheld information from or misrepresented information to the court in immigration-related cases, which litigants might also wish to outline in order to rebut the presumption of regularity. *See, e.g.*, *D.V.D. v. U.S. Dep't of Homeland Sec.*, 786 F. Supp. 3d. 223, 233 (D. Mass. 2025) ("[T]he Court has repeatedly asked Defendants to weigh in on the particulars of its remedies, and Defendants

have consistently refused . . . [T]he Court again asked Defendants for input on the appropriate length of time to raise a fear-based claim–Defendants again refused to engage."), *appeal terminated and remanded*, No. 25-1393 (1st Cir. Feb. 20, 2026); Order, *Sanchez Puentes v. Garite*, No. 25-cv-00127, Dkt. 17 (W.D. Tex. 2025) (denying the government's motion to extend time to respond to the petitioner's amended petition and listing the ways in which "[r]espondents have not provided the Court with anything useful"); *J.G.G. v. Trump*, 778 F. Supp. 3d 24, 34-35 (D.D.C. 2025) (describing the government's efforts to "evade judicial review while also refusing to provide any helpful information" and "outrun the equitable reach of the Judiciary" through a pattern of "stonewalling," "refus[ing] to answer basic questions about what had happened" and "increasing obstructionism"), *order vacated*, *mandamus granted,* 147 F.4th 1044 (D.C. Cir. 2025); *Abrego Garcia v. Noem*, No. 25-cv-00951, 2025 WL 1095645 at *1 (D. Md. 2025) (finding that Defendants "made no meaningful effort to comply" with the court's order requesting information regarding the whereabouts of Abrego Garcia and failed to answer the court's "straightforward questions").

Courts have also noted multiple instances where the government has not engaged faithfully with either discovery obligations or opposing counsel. *See, e.g.*, *Barco Mercado v. Noem*, 800 F. Supp. 3d 526, 568 (S.D.N.Y. 2025) (criticizing the government's evidentiary showings in response to plaintiff's motions, as its declarations "in substantial measure avoided the thrust of plaintiff's factual showing and offered unpersuasive statistics that concealed more than they disclosed despite the availability to defendants of much more illuminating data"), *appeal withdrawn*, No. 25-2922 (2d. Cir. Mar. 3, 2026); *Abrego Garcia v. Noem*, 348 F.R.D. 594, 599, 601 (D. Md. 2025) (criticizing the defendants' "continued mischaracterization of the Supreme Court's order" and its "willful and bad faith refusal to comply with discovery obligations," including by failing to answer interrogatories and using "vague and unsubstantiated assertions of privilege . . . as a shield to obstruct discovery and evade compliance") ("Defendants have failed to respond in good faith, and their refusal to do so can only be viewed as willful and intentional noncompliance.").

In multiple immigration-related cases, the government provided information to the court that was inadequate or false. *See, e.g.*, *Soriano Neto v. Hyde*, No. 25-00425, 2026 WL 205533 at *3 (D.R.I. Jan. 27, 2026) ("Based on the current record it seems clear that the Court can conclude that the Respondents wilfully violated two of this Court's orders and wilfully misrepresented facts to the Court on January 23, 2026."); *Abrego Garcia v. Noem*, ___ F. Supp. 3d. ___, 2025 WL 3545447 at *7 & n.12 (D. Md. Dec. 11, 2025) (concluding that the government had "defied this Court's orders" by "refus[ing] to prepare and produce a witness with knowledge to testify in any meaningful way" on six separate occasions, and that the latest witness's "lack of knowledge was planned and purposeful"); *id.* at *15 ("Respondents did not just stonewall. They affirmatively misled the tribunal."); *Chicago Headline Club v. Noem*, ___ F. Supp. 3d. ___, 2025 WL 3240782, at *3 (N.D. Ill. Nov. 20, 2025) ("After reviewing all the evidence submitted to the Court and listening to the testimony elicited at the preliminary injunction hearing, during depositions, and in other court proceedings, the Court finds Defendants' evidence simply not credible."), *stayed pending appeal*, No. 25-3023 (7th Cir. Nov. 19, 2025); *id.* at *5 ("While Defendants may argue that the Court identifies only minor inconsistencies, every minor inconsistency adds up, and at some point, it becomes difficult, if not impossible, to believe almost anything that Defendants represent."); Order, *Shinwari v. Hyde*, No. 25-cv-12021, Dkt. 39

(D. Mass. Oct. 20, 2025) (finding that defendants "inaccurately describe[d] the facts" about a warrant, "incorrectly describe[d] the procedural posture of the case," and presented a "different (and decidedly incorrect) recitation of the events"); *Am. Ass'n of Univ. Professors v. Rubio*, 802 F. Supp. 3d 120, 174 (D. Mass. 2025) (rejecting testimony from defendant Acting Director of Immigration and Customs Enforcement (ICE) as "disingenuous, squalid and dishonorable"), *appeal docketed*, No. 26-1141 (1st Cir. Feb. 19, 2026); *L.G.M.L. v. Noem*, 800 F. Supp. 3d 100, 110 (D.D.C. 2025) (granting a preliminary injunction and describing how defendants' prior representations to the court "crumbled like a house of cards" as there was "no evidence before the court" supporting the representations); *D.V.D. v. U.S. Dep't of Homeland Sec.*, 784 F. Supp. 3d 401, 406 (D. Mass. 2025) (granting a preliminary injunction and censuring defendants for giving the court false information "upon which it relied, twice, to the detriment of a party at risk of serious and irreparable harm"), *appeal terminated and remanded*, No. 25-1393 (4th Cir. Feb. 20, 2026); *Sanchez Puentes v. Garite*, 780 F. Supp. 3d 682, 693, 699, 701 (W.D. Tex. 2025) (granting petitioners' petition for a writ of habeas corpus and explaining that respondents did not provide the court "with a single piece of meaningful evidence," "contradict[ed] themselves throughout the entire record," and provided "shoddy affidavits and contradictory testimony); *League of United Latin Am. Citizens v. Exec. Off. of the President*, 780 F. Supp. 3d 135, 187 n.29 (D. Mass. 2025) (finding a "striking" "contradiction between Defendants' factual representations and the facts on the ground").

One court explicitly noted a violation of the duty of good-faith disclosure to the court when the administration placed an attorney on leave after he conceded that the government violated a court order. *See Abrego Garcia v. Noem*, No. 25-1354, 2025 WL 1021113, at *3 & n.4 (4th Cir. Apr. 7, 2025) (Thacker, J., concurring) (noting the administration's decision to place an attorney on leave for ostensible "lack of zealous advocacy" was in tension with a government attorney's duties of candor and to the rule of law).

C. This administration has repeatedly violated court orders in the immigration context.

Finally, this administration has also demonstrated a pattern of violating court orders in immigration-related cases, further undermining the presumption of regularity normally afforded to government parties in litigation. *See, e.g.*, *Rigoberto S. J. v. Bondi*, No. 26-cv-957, 2026 WL 490104 at *2 (D. Minn. Feb. 20, 2026) (describing why the court held Special Assistant U.S. Attorney in civil contempt and imposed a $500/day fine for "continued noncompliance" with court order to release the petitioner in Minnesota and return his property to him), *appeal docketed*, No. 26-1327 (8th Cir. Feb. 25, 2026); *id.* at *2 ("But since the beginning of Operation Metro Surge, the Government has offered that excuse [of understaffing and oversized caseloads] to this Court again, and again, and again (and to other judges in this district again, and again, and again, and again, and again) to excuse its oversights and disobedience of court orders in immigration habeas cases." (footnotes omitted)); *Maldonado Bautista v. Santacruz*, ___ F. Supp. 3d. ___, No. 25-cv-01873, 2026 WL 468284 at *7 (C.D. Cal. Feb. 18, 2026) (entering order to enforce a final judgment due to government's noncompliance and "campaign of illegal action"), *appeal docketed*, No. 26-1044 (9th Cir. Feb. 23, 2026); *id.* at *3 ("One might assume that four separate orders issued by a federal district court interpreting a federal statute would

make clear that enforcing executive policies premised on a contrary legal interpretation is improper. Remarkably, that has not been the case."); *id.* at *10 ("The Court, possibly out of naivete, entrusted Respondents to abide by the law as declared in the Final Judgment. Instead, Respondents choose to privilege an executive interpretation of law over the judiciary's."); *Marco M. v. Bondi*, No. 25-cv-04816, 2026 WL 194406 at *1 (D. Minn. Jan. 25, 2026) ("There has been an undeniable move by the Government in the past month to defy court orders or at least to stretch the legal process to the breaking point in an attempt to deny noncitizens their due process rights."); *Gurjinder Singh v. Bowen*, No. 26-cv-00016, 2026 WL 130587 at *3 (C.D. Cal. Jan. 16, 2026) ("Respondents' continued defiance of valid court orders and its final judgment has resulted in unnecessary, voluminous filings of ex parte temporary restraining orders."); *Abrego Garcia v. Noem*, No. 25-cv-00951, 2025 WL 2062203 at *2 (D. Md. Jul. 23, 2025) (granting further injunctive relief based in part on "Defendants' persistent lack of transparency with the tribunal," history of "disregard[ing] court orders," and "defiance and foot-dragging"); *J.O.P. v. U.S. Dep't of Homeland Sec.*, No. 19-cv-01944, 2025 WL 1513298 at *1 (D. Md. May 28, 2025) (finding that defendants had "utterly disregarded" the court's order requiring defendants to provide a status report on the steps taken to facilitate the return of a plaintiff and stating that defendants had shown "zero effort to comply" with a different court order) ("Defendants not only ignore the requirements of this Court's Orders, . . . but also make no attempt to offer any justification for their blatant lack of effort to comply."); *Pacito v. Trump*, No. 25-cv-00255, 2025 WL 1397613 (W.D. Wash. Apr. 11, 2025) (finding that Defendants had terminated cooperative agreements with resettlement agencies in violation of the preliminary injunction); *id.* at *2 ("The record shows that the Government has not complied with the First Injunction as it applies to individuals conditionally approved for refugee status before January 20, 2025.").[4]

In one recent decision, a court identified 97 court orders that ICE has violated in 66 cases, in a period of less than one month.[5] *T.R. v. Noem*, ___ F. Supp. 3d. ___, No. 26-cv-00107, 2026 WL 555601 at *2 (D. Minn. Feb. 26, 2026); *T.R. v. Noem*, No. 26-cv-00107, 2026 WL 232015 at *1 (D. Minn. Jan. 28, 2026) ("ICE has likely violated more court orders in January 2026 than some federal agencies have violated in their entire existence."); *see also* David J. Bier, *The Administration Misleads & Ignores Courts Most Often in Immigration Cases*, Cato Inst. (Jan. 27, 2026, 4:44 p.m.), https://perma.cc/2M8W-U7KG ("Immigration-related cases also topped Just Security's list of instances where judges have found noncompliance with their orders: 19 of the 31 instances were immigration-related.").

In particular, courts have documented multiple instances where the government has deported or moved individuals despite court orders prohibiting the government from doing so. *See, e.g.*, Order, *Melgar-Salmeron v. Bondi*, No. 23-7792, Dkt. 49 (2d Cir. June 24, 2025) (ordering defendants to facilitate the return of the petitioner who was improperly removed to El Salvador "despite the Government's prior assurance to this Court that it 'would forbear removal'" and in

[4] *See also* Kyle Cheney, *Judges Across the Country Rebuke ICE for Defying Court Orders*, POLITICO (Jan. 30, 2026, 4:00 p.m.), https://perma.cc/X5ZX-EB2V; Kyle Cheney, *DOJ Acknowledges Violating Dozens of Recent Court Orders in New Jersey*, POLITICO (Feb. 18, 2026, 11:02 a.m.), https://perma.cc/K75E-TPDQ.

[5] The appendix listing these cases and orders is available via Westlaw, and is also available as a PDF: https://primarynewssource.org/wp-content/uploads/trorder012826.pdf.

violation of the court's order staying petitioner's removal); *Marroquin de Rodriquez v. Hyde*, No. 25-cv-13210, 2026 WL 220416 at *2 (D. Mass. Jan. 28, 2026) ("Romero's next hearing date was scheduled for January 26, 2026 before the Immigration Court in Maine, where Romero was being held by the assent of both parties, but Romero was moved back to Massachusetts on or about January 23, 2026, without notice and in violation of this Court's Order regarding transfer between districts."); *D.V.D. v. U.S. Dep't of Homeland Sec.*, 786 F. Supp. 3d. 223, 229, 234 (D. Mass. May 26, 2025) (finding the government "flagrant[ly]" violated the court's preliminary injunction "by removing an unknown number of individuals to South Sudan without advanced notice and without an opportunity to demonstrate [Convention Against Torture] eligibility"), *appeal terminated and remanded*, No. 25-1393 (4th Cir. Feb. 20, 2026); *J.O.P. v. U.S. Dep't of Homeland Sec.*, 779 F. Supp. 3d 570, 579-80, 581-82 (D. Md. 2025) (finding that defendants had violated the terms of the settlement agreement by deporting an affected class member and ordering that defendants facilitate his return), *stay pending appeal denied*, No. 25-1519, 2025 WL 1431263 (4th Cir. May 19, 2025), *appeal voluntarily dismissed*, No. 25-1519 (4th Cir. Feb. 27. 2026); *J.G.G. v. Trump*, 778 F. Supp. 3d 24, 34, 54 (D.D.C. 2025) (finding probable cause to hold the government in criminal contempt for its "deliberate or reckless disregard" of a court order barring it from transferring individuals into foreign custody without due process of law and describing that "boasts by Defendants intimated that they had defied the Court's Order deliberately and gleefully"), *order vacated, mandamus granted*, 147 F.4th 1044 (D.C. Cir. 2025).

Courts have also identified instances where the administration has violated settlement agreements and/or consent decrees. *See, e.g.*, *Castañon-Nava v. Dep't of Homeland Sec.*, 161 F.4th 1048, 1060 (7th Cir. 2025) (affirming district court's extension of consent decree due to "multiple instances where Defendants had failed to comply with the Consent Decree while making warrantless arrests" and "the unilateral proclamation by a DHS senior official on June 11, 2025 that DHS would no longer comply with the Consent Decree"); *Ms. L. v. U.S. Immigr. & Customs Enf't*, 787 F. Supp. 3d 1110, 1117-24 (S.D. Cal. 2025) (granting plaintiffs' motion to enforce the settlement agreement after finding that defendants violated several provisions of the agreement requiring legal services to be provided to immigrant class members); *id.* at Dkt. 803 (requesting an explanation as to defendants' one-week delay in curing the breach of the settlement agreement and complying with the court's order) (S.D. Cal. filed June 27, 2025); *id.* at Dkt. 831 (S.D. Cal. filed July 24, 2025) (denying defendants' Rule 60(b) motion seeking temporary relief from a court order and explaining that "Defendants did not comply with the Court's order to reinstate the task order with Acadia").

In multiple instances, the government failed to comply with court orders in immigration-related matters by attempting to skirt or otherwise get around the letter of the orders. Such actions demonstrate a clear lack of a good faith effort to comply, which is also relevant to rebutting the presumption. *See, e.g.*, *State of Ill. v. Fed. Emergency Mgmt. Agency*, No. 25-cv-00206, 2025 WL 2908807 (D.R.I. Oct. 14, 2025) (finding that defendants added new conditions related to immigration enforcement into plaintiffs' grant award letters, doing "precisely what the Memorandum and Order forbids" in a way that is "not a good faith effort to comply with the order"), *appeal docketed*, No. 25-2131 (1st Cir. Dec. 1, 2025); *Nat'l TPS Alliance v. Noem*, 25-cv-01766, 2025 WL 2639214 at *1 (N.D. Cal. Sep. 11, 2025) (granting the plaintiffs' motion for compliance with the court's final judgment and explaining that "[c]ontrary to what the

government argues, the final judgment setting aside agency action went into immediate effect"); Order, *Ms. L. v. U.S. Immigr. & Customs Enf't*, No. 18-cv-0428, Dkt. 864 (S.D. Cal. filed Aug. 22, 2025) (finding that defendants' proposed process for complying with a settlement agreement was "contrary to the spirit and purpose of the Settlement Agreement and this Court's June 10, 2025 Order granting Plaintiffs' renewed motion to enforce that Agreement"); *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. 25-10676, 2025 WL 1323697 at *3, *8 (D. Mass. May 26, 2025) (describing DHS's attempts to "evade" the court's injunction by "ceding control over non-citizens or the enforcement of its immigration responsibilities to . . . the Department of Defense"); *Pacito v. Trump*, No. 25-0255, 2025 WL 1295660, at *2 (W.D. Wash. May 5, 2025) ("The Government's interpretation [of a court order] is, to put it mildly, 'interpretive jiggery-pokery' of the highest order. It requires not just reading between the lines, but hallucinating new text that simply is not there.") (citation omitted), *stay pending appeal granted*, No. 25-1313 (9th Cir. Mar. 25, 2025), *order rescinded* No. 25-0255 (W.D. Wash. May 15, 2025); *Abrego Garcia v. Noem*, 348 F.R.D. 589, 593 (D. Md. 2025) ("Defendants' attempt to skirt this issue by redefining 'facilitate' runs contrary to law and logic."); *see also* Tr. at 6, *Oregon v. Trump*, No. 25-cv-01756, Dkt. 137 (D. Or. Nov. 7, 2025) (quoting Judge Immergut as asking government counsel, "[H]ow could bringing in federalized National Guard in California not be in direct contravention of the TRO I issued yesterday? . . . Aren't defendants simply circumventing my order . . .? . . . Why is this appropriate?").

* * *

The above sources can be a valuable tool to litigants as they consider how to accurately and appropriately convey to the court "clear evidence," *Chem. Found.*, 272 U.S. at 14-15 necessary to rebut the "presumption of legitimacy" in immigration-related cases, *Favish*, 541 U.S. at 174. This need will only become more important as the Trump-Vance administration expands its militarized immigration enforcement operations to more communities around the country. For further resources on how to respond, please see our Litigation Toolkit for Responding to a Federal Immigration Enforcement Surge in Your Community, our Compilation of Sources Resources Regarding the Trump-Vance Administration's Militarization of U.S. Cities, and the Democracy 2025 Resource Center.