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August 12, 2025

Via CM/ECF

Jarrett B. Perlow, Clerk of the Court
U.S. Court of Appeals for the Federal Circuit
717 Madison Place, NW
Washington, DC 20439

Re: Response to Rule 28(j) Letter, *V.O.S. Selections, et al. v. Trump, et al.*, Nos. 25-1812, 25-1813

Dear Mr. Perlow:

We write in response to the government's Rule 28(j) letter of August 11, which recounts certain events that took place before the oral argument and states that those events "support our request for a stay if the court affirms."

Setting aside that the government already cited the same events at argument (Oral Arg. 31:57-32:09), making them improper for a Rule 28(j) letter, any stay request is premature when it is not yet known how the Court will rule and it is impossible to evaluate the likelihood of a grant of certiorari or success before the Supreme Court. Certainly, the Court should deny any stay in excess of the shortest period necessary for the government to file a petition for certiorari and a mutually acceptable briefing schedule thereafter. Anything beyond that would unduly prejudice our clients, who face imminent and ongoing irreparable harm to their businesses from the challenged tariffs.

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If the Court is inclined to consider the substance of the letter, there is no basis for its declaration that there is “no substitute” for “the tariffs and deals that President Trump has made.” Even without IEEPA, the President can obtain ex ante authority to enter into trade agreements, see 19 U.S.C. § 4202(a), or submit agreements for congressional approval, including via fast-track procedures, as prior presidents have done, see 19 U.S.C. § 4501 (implementing the U.S.-Mexico-Canada Agreement).

Respectfully Submitted,

/s/ Michael W. McConnell

Michael W. McConnell

*Counsel for Plaintiffs-Appel-
lees*

cc: All counsel of record (via CM/ECF)