IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

People for the Ethical Treatment of Animals, Madeline Krasno, and Ryan Hartkopf,

Plaintiffs,

v.

Lawrence A. Tabak, in his official capacity as Director of the National Institutes of Health, and Xavier Becerra, in his official capacity as Secretary of the U.S. Department of Health and Human Services,

Defendants.

Civil Action No. 21-cv-2380 (BAH)

NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants respectfully notify the Court of a recent opinion and order issued by the Western District of Wisconsin rejecting a First Amendment claim similar to the one at issue here. *See* Ex. A (*Krasno v. Mnookin*, No. 21-CV-99-SLC, ECF No. 64 (W.D. Wis. Nov. 2, 2022)). In that case, Madeline Krasno (who is also a Plaintiff in the case at bar) challenged the University of Wisconsin-Madison's decision to hide or delete—including through keyword filters—certain comments on animal testing that Ms. Krasno left on the University's social media pages. *See id.* at 11-31. The Court granted summary judgment to the University, concluding in part that, "[r]egardless of the University's imperfect moderation efforts," the "comment threads are nonpublic fora," and that "the University has a legitimate, viewpoint-neutral interest in limiting the comment threads to discussion of or reaction to the specific topic of the University's post." *Id.* at 31-32.

Dated: November 29, 2022

Respectfully submitted,

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/s/ Kuntal Cholera

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