IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SUKHBIR SINGH TOOR, *et al.*, Plaintiffs, v. DAVID H. BERGER, Commandant of the Marine Corps, *et al.*, Defendants.	Civil Action No. 22-1004 (RJL)

DEFENDANTS' MEMORANDUM IN OPPOSITION TO PLAINTIFFS' APPLICATION FOR PRELIMINARY INJUNCTION

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INTRODUCTION

The United States Marine Corps serves a unique function in our Nation's national security apparatus, serving as the country's "expeditionary force-in-readiness," prepared to be the first to respond to crises anywhere in the world. In contrast to other Services, the Corps' special function requires Marines to be trained and prepared to serve in especially austere environments with limited external support. Over decades, the Marine Corps has honed its rigorous approach to transforming civilians into Marines and indoctrinating recruits in the unique warrior culture of the Corps to prepare them for this role. The arduous process of "boot camp" is far more than a simple set of drills and instructional modules. Instead, it comprises a suite of measures intended to strip recruits of their individuality and civilian identity, training them to think first and foremost of their membership on a team and identity as a Marine. More than any skill or practice, the Marine Corps has concluded that indoctrinating Marines in this state of mind at the outset of their military career is essential to accomplishing the Marine Corps' mission as the chief expeditionary force of the United States military, tasked with moving quickly to meet the Nation's security needs in dangerous and contingent environments.

Long experience has taught the Marine Corps that one essential measure for accomplishing the Corps' training project is imposing a strict discipline of uniformity. Uniformity during recruit training extends to nearly every area of a recruit's life—their dress, grooming, daily activities, even how they address one another and how they refer to themselves—Marine recruits are prohibited from using the pronoun "I" and instead refer to themselves in the third person as "this recruit." *See* Depot Order 1513.6G ¶ 3034(2), at 3-49.[1] The Corps has concluded that this uniformity is essential for building the kind of unit cohesion and good order and discipline

[1] *Available at* https://www mcrdpi.marines mil/Portals/76/DepO%201513_6G%20Recruit%20Training%20Order%20Ch%201%20%202%20%203%20Searchable_1.pdf.

necessary for accomplishing the mission of the Marines. Indeed, consistent with the importance of building a common foundation for all recruits in the unique culture of the Marine Corps, the Corps has determined that uniform and grooming standards are of even greater importance at recruit training than during later service by Marines.

Plaintiffs are three applicants for accession into the Marine Corps who ask this Court for a preliminary injunction that would set aside the Marine Corps' professional military judgment in favor of their particular requests to deviate from the uniform dress and grooming standards during Marine recruit training in order to accommodate their religious beliefs. Their reasons are no doubt laudable; indeed, the Government does not contest for purposes of this motion that Plaintiffs' request is rooted in sincerely held religious beliefs and that conforming to the discipline of uniformity during recruit training will burden those beliefs. Nonetheless, our legal system has long been wary of claims that would call upon the judiciary to superintend or second-guess the military's assessment of what measures are necessary to further compelling military interests. The Marine Corps has determined that requiring Plaintiffs to conform to a standard of uniformity during recruit training is the least restrictive means to accomplishing the goal of turning these civilians into Marines and, more broadly, to best accomplishing the Marine Corps' mission to defend the national security of the United States. Neither the Religious Freedom Restoration Act nor the Constitution demand more of the Corps. Accordingly, Plaintiffs' motion for preliminary injunction should be denied. They do not show a likelihood of success on the merits, nor irreparable harm that would justify this Court entering affirmative injunctive relief requiring an immediate change in Marine Corps training policy pending a full consideration of their claims on the merits.

BACKGROUND

I. PLAINTIFFS AND THEIR REQUESTED ACCOMMODATIONS

Three Plaintiffs (and the movants on this motion)—Aekash Singh, Milaap Singh Chahal, and Jaskirat Singh—are individuals who seek to enlist in the United States Marine Corps. Statement of Points & Authorities in Support of Application for Preliminary Injunction at 8–11, ECF No. 16-1 ("Mot."). Each has filed a pre-accession request for religious accommodation, the adjudication of which is a pre-requisite to their enlistment under Marine Corps policy. Ex. A, Decl. of Adam Lyle Jeppe ¶¶ 4, 11 ("Jeppe Decl."). Plaintiffs' accommodation requests ask that they be allowed to maintain various practices of their Sikh faith throughout their Marine Corps service, including during recruit training. Each Plaintiff seeks the ability to maintain uncut hair and an unshorn beard, to wear a turban to cover his head, and to wear a *kara* (a steel bracelet) on his wrist. Jeppe Decl. ¶ 11. Plaintiff Milaap Chahal further seeks the ability to keep a *kanga* (a wood comb) under his turban, to wear *kacchera* (white cotton undergarments) under his uniform, and to carry a *kirpan* (a 2.5" steel sword) under his shirt. *Id.*

Each of Plaintiffs' requests went through an extensive administrative process, consisting of review by the Marine Corps Recruiting Command, a chaplain, the Religious Accommodation Review Board, and finally, the Deputy Commandant for Manpower and Reserve Affairs. Jeppe Decl. ¶¶ 11–13; *see also* Exs. C, D, E (reports of Review Boards); Compl. Exs. A, J, Q (Deputy Commandant decision memoranda). The Deputy Commandant thereafter approved Plaintiffs' requests with limitations, including many of the accommodations sought if the Plaintiffs complete recruit training and become initiated as Marines. Jeppe Decl. ¶ 13. As relevant here, however, the Deputy Commandant denied each accommodation with respect to recruit training. He explained that the "Marine Corps has a significant and compelling interest in unit cohesion and

good order and discipline at recruit training," values which are "foundational to mission accomplishment by Fleet Marine Force units." *See*, *e.g.*, Compl. Ex. A ¶ 2(b), (d), ECF No. 1-2. To inculcate these essential values of unit cohesion and good order and discipline, the Marine Corps imposes the "discipline of uniformity" during recruit training, which is intended to foster the "highest level of commitment" among Marines, reminding them that they are "part of a team." Compl. Ex. A ¶ 2(d). "The discipline of uniformity and focus on teamwork begins during recruit training, where the Marine Corps' compelling interest is at one of its highest points." *Id.* The Deputy Commandant further explained that uniformity during recruit training is an essential foundation for a Marine's entire service, as it "break[s] down individuality and train[s] recruits to think of their team first," lessons that recruits will carry with them throughout their service as Marines. *See id.* (referring to recruit training as a "transformative period"). The Deputy Commandant therefore concluded that "limiting exceptions [to uniformity] during this transformative process constitutes the least restrictive means to further the government's compelling interests" in accomplishing the Marine Corps' mission. *Id.*

Plaintiffs have filed administrative appeals of the Deputy Commandant's decision, each of which remains pending. Compl. ¶¶ 32, 34, 37, ECF No. 1.

II. MARINE CORPS RECRUIT TRAINING

Plaintiffs seek to become enlisted Marines, which means the first step in their training would take place at one of two Marine Corps Recruit Depots—either Parris Island, South Carolina or San Diego, California. Jeppe Decl. ¶ 14 & n.9. Marine Corps recruit training is an extraordinarily arduous endeavor, consisting of thirteen weeks in which civilians are transformed into Marines "through a thorough indoctrination into Marine Corps history, customs and traditions, and by imbuing them with the mental, moral and physical foundation necessary for successful

service to Corps and country." Jeppe Decl. ¶ 15. The first ten weeks of training in particular are intended to "strip[]" each recruit "of their individuality in order to provide the necessary foundation to be a U.S. Marine and function as a team." Jeppe Decl. ¶ 17. Indeed, until a recruit has completed the arduous and climactic training exercise known as "The Crucible," they may neither refer to themselves as a "Marine" nor even in the first person, i.e. by using the pronoun "I." Depot Order 1513.6G ¶ 3034(2), at 3-49. Thus, "regardless of ethnicity, religion or background," "everyone desiring to be a Marine often must be willing to give up something" to complete the transformation from civilian to Marine. Jeppe Decl. ¶ 17. "This common sacrifice contributes to the forging of unit cohesion." *Id.*

In order to ensure that this transformation occurs, the Marine Corps requires uniformity in myriad areas—clothes and equipment, personal grooming standards, and customs and courtesies (such as even how Marines and recruits address one another). Jeppe Decl. ¶ 19 & n.11. Plaintiffs' requested accommodations implicate a few of these policies. First, all men at recruit training must receive a "buzz" haircut to the scalp each week for the first ten weeks of recruit training. Jeppe Decl. ¶ 17. Second, all men must shave their face on a daily basis throughout recruit training. *Id.* And third, recruits may wear only standard issue apparel and equipment with limited exception. Jeppe Decl. ¶ 21.

III. PROCEDURAL HISTORY

Plaintiffs Aekash Singh, Milaap Singh Chahal, and Jaskirat Singh filed this lawsuit challenging the Marine Corps' adjudication of their religious accommodation requests. They are joined by a currently serving Marine, Captain Sukhbir Singh Toor, who also challenges the adjudication of his accommodation request, which was approved with limitations. *See* Compl. ¶¶ 18–26. Plaintiffs allege that the Marine Corps' actions violate the Religious Freedom Restoration

Act, the First Amendment, and the Fifth Amendment. Compl. ¶¶ 233–92.

Only the three Plaintiff applicants for accession have filed a motion for preliminary injunction, and their motion concerns only the Marine Corps' resolution of their requests for accommodation at recruit training. Mot. at 1 n.1. Accordingly, throughout this brief, the Government uses the term "Plaintiffs" to refer only to Aekash Singh, Milaap Singh Chahal, and Jaskirat Singh.

LEGAL STANDARDS

I. PRELIMINARY INJUNCTION

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). Such a request involves the exercise of a very far-reaching power that "should be sparingly exercised." *Dorfmann v. Boozer*, 414 F.2d 1168, 1173 (D.C. Cir. 1969) (citation omitted); *Davis v. Billington*, 76 F. Supp. 3d 59, 63 (D.D.C. 2014). The moving party must demonstrate all of the following factors by "*a clear showing*": (1) likelihood of success on the merits; (2) irreparable harm in the absence of preliminary injunctive relief; (3) the balance of equities between the parties tips in favor of the moving party; and (4) preliminary relief serves the public interest. *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997); *Guedes v. Bureau of Alcohol, Tobacco, Firearms & Explosives*, 920 F.3d 1, 10 (D.C. Cir. 2019).

The ordinary purpose of a preliminary injunction is to "maintain a status quo or 'to preserve the relative positions of the parties until a trial on the merits can be held.'" *Sherley v. Sebelius*, 689 F.3d 776, 781–82 (D.C. Cir. 2012) (quoting *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981)). Parties that, instead, "request a mandatory injunction to alter rather than preserve the status quo by compelling . . . the relief they seek in their complaint" face a still higher burden. *See Strait Shipbrokers Pte. Ltd. v. Blinken*, 560 F. Supp. 3d 81, 92 (D.D.C. 2021). Courts should

"exercise extreme caution in assessing such motions" particularly where they are "directed at the United States Government" and generally, courts "should deny such relief unless the facts and law clearly favor the moving party." *Id.* (citations omitted).

II. MILITARY DEFERENCE

Judicial review of claims involving the "complex[,] subtle, and professional decisions as to the composition, training, equipping, and control of a military force" is highly constrained. *Gilligan v. Morgan*, 413 U.S. 1, 10 (1973); *see also, e.g.*, *Rostker v. Goldberg*, 453 U.S. 57, 66 (1981) (applying "healthy deference to legislative and executive judgments in the area of military affairs"); *Winter*, 555 U.S. at 24 ("We 'give great deference to the professional judgment of military authorities concerning the relative importance of a particular military interest.'" (quoting *Goldman v. Weinberger*, 475 U.S. 503, 507 (1986)). Such deference extends to constitutional claims, *see Solorio v. United States*, 483 U.S. 435, 448 (1987); *Mazares v. Dep't of Navy*, 302 F.3d 1382, 1385 (Fed. Cir. 2002); and to claims brought under the APA, *e.g.*, *Cone v. Caldera*, 223 F.3d 789, 793 (D.C. Cir. 2000); *McDonough v. Mabus*, 907 F. Supp. 2d 33, 43–44 (D.D.C. 2012) ("This Circuit . . . has taken a broad view of military expertise to which deference is owed.").

This form of deference also applies in the RFRA context. More specifically, although RFRA compels the application of a statutorily prescribed form of strict scrutiny, it does so against the backdrop of military deference principles. The legislative history of RFRA is clear on this point. *See* S. Rep. No. 103-111, at 12 (1993), *as reprinted in* 1993 U.S.C.C.A.N. 1892, 1901 ("[T]he courts have always extended to military authorities significant deference in effectuating these interests. The committee intends and expects that such deference will continue under this bill [RFRA]."); H.R. Rep. No. 88, 103d Cong., 1st Sess. 8 (1993). In light of this history, courts in this district have articulated a standard in which courts carrying out RFRA's analysis should credit

military assertions and give due respect to the articulation of important military interests when assessing whether a challenged action is the least restrictive means of furthering a compelling interest. *See, e.g.*, *Navy SEAL 1 v. Austin*, No. 22-0688 (CKK), 2022 WL 1294486, at *8 (D.D.C. Apr. 29, 2022), *appeal filed*, No. 22-5144 (D.C. Cir.) (further noting that particular deference is owed "depend[ing] on the degree of military and scientific expertise necessary to make the judgment").

ARGUMENT

Plaintiffs' motion for mandatory preliminary injunctive relief altering the status quo should be denied because (1) Plaintiffs have not shown a sufficient likelihood of success on the merits of their RFRA or constitutional claims, (2) Plaintiffs have not shown that they will suffer irreparable injury in the absence of preliminary relief, and (3) the remaining preliminary injunction factors weigh against Plaintiffs' request.

I. LIKELIHOOD OF SUCCESS ON THE MERITS

A. RFRA

Plaintiffs are unlikely to succeed on the merits of their RFRA claim. "Under RFRA, the Federal Government may not . . . substantially burden a person's exercise of religion, 'even if the burden results from a rule of general applicability.'" *Gonzales v. O Centro Espirita Beneficente Uniao do Vegetal*, 546 U.S. 418, 424 (2006) (quoting 42 U.S.C. § 2000bb–1(a)). "The only exception recognized by the statute requires the Government to satisfy the compelling interest test—to 'demonstrat[e] that application of the burden to the person—(1) is in furtherance of a compelling governmental interest; and (2) is the least restrictive means of furthering that compelling governmental interest.'" *Id.* (quoting 42 U.S.C. § 2000bb–1(b)). As the Marine Corps has found, and as discussed in greater detail below, requiring Plaintiffs to comply with uniform

and grooming policies during recruit training furthers the compelling interests of mission accomplishment, unit cohesion, and good order and discipline, and is the least restrictive means of furthering those interests.

1. Uniformity during recruit training furthers compelling Government interests.

The Marine Corps has articulated at least three related compelling interests relevant to the challenged policies at recruit training: mission accomplishment, unit cohesion, and good order and discipline. Jeppe Decl. ¶ 27. Each of these interests satisfies the compelling interest prong of the RFRA analysis. To begin, that the Marine Corps has a compelling interest in the accomplishment of its mission to protect the United States can scarcely be denied. As the Supreme Court has observed, "[f]ew interests can be more compelling than a nation's need to ensure its own security." *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v. O'Brien*, 391 U.S. 367, 381 (1968) ("We think it also apparent that the Nation has a vital interest in having a system for raising armies that functions with maximum efficiency and is capable of easily and quickly responding to continually changing circumstances."); *Committee for GI Rights v. Callaway*, 518 F.2d 466, 476 (D.C. Cir. 1975) (stressing the importance of "the readiness and efficiency of our military forces"). And unit cohesion and good order and discipline are essential components of accomplishing the Marine Corps' mission. Jeppe Decl. ¶ 22. Therefore, they too readily satisfy the compelling interest test. *See, e.g.*, *Singh v. McHugh*, 185 F. Supp. 3d 201, 222 (D.D.C. 2016) ("There can be no doubt that military readiness and the unit cohesion and discipline of the Army officer corps constitute highly compelling government interests.").

As the Marine Corps has explained, these compelling interests—unit cohesion, good order and discipline, and the accomplishment of the Marines' important national security mission—depend on the shared identity as "Marines" that is forged in basic training. That transformation

from civilian to Marine depends on the imposition of various uniform and grooming standards during recruit training, including the requirement that all men have their hair cut to the scalp each week for the first ten weeks of recruit training, that all men shave daily, and that all recruits wear only standard issue uniform apparel. Indeed, the Marine Corps imposes the "discipline of uniformity" during recruit training because the "substantial sacrifices" that uniformity entails "are designed to demonstrate the level of sacrifice, teamwork, and unity of effort that is expected of all Marines once they have earned the title." Jeppe Decl. ¶ 24. Marine Corps religious accommodation policy therefore recognizes that "[u]niformity plays an integral role in the Transformation" from civilian into Marine that is a "common and essential foundation for" service in the Corps. *Id.* (quoting MCO 1730.9 ¶ 3(d)). Applying military expertise derived from decades of experience and fine-tuning, the Marine Corps has concluded that uniformity—including of "clothes and equipment, personal grooming standards, customs and courtesies, and how recruits are trained to think, move, and communicate"—is a "tried and proven Marine Corps training method that fosters the psychological transformation from individual to Marine." *See* Jeppe Decl. ¶ 19; Jeppe Decl. ¶ 20 ("The Marine Corps recruit training process has been created to push recruits to the point where they care more about the unit's mission than themselves. It is that transformation that requires the temporary sacrifice of individual identity in favor of mission accomplishment."). In short, uniformity is essential to accomplishing the fundamental goal of recruit training: "build[ing] basic Marines." Jeppe Decl. ¶ 23.

The Marine Corps determined that permitting the deviations from uniformity requested by Plaintiffs would undermine these compelling government interests. As explained, the discipline of uniformity is essential in transforming each and every recruit from a civilian into a Marine. In order to ensure that recruit training produces Marines capable of accomplishing the Corps'

mission—including that it so operate in transforming not just Plaintiffs but others in their training cycle into Marines—the Marine Corps concluded it is necessary to "limit[] exceptions during this transformative process." Compl. Ex. A ¶2(d). Indeed, Colonel Jeppe has explained that he is not aware of any similar religious accommodation being granted during recruit training. Jeppe Decl. ¶ 27. Whether a recruit wishes to wear a cross, a yarmulke, a hijab, or any other religious item, let alone a secular article of great importance to them—all must conform to the standard of uniformity. *Cf. Goldman*, 475 U.S. at 512 (Stevens, J., concurring) ("The interest in uniformity, however, has a dimension that is of still greater importance for me. It is the interest in uniform treatment for the members of all religious faiths.").

2. Denial of Plaintiffs' requested accommodations during recruit training is the least restrictive means of furthering the Government's compelling interests.

It is the Marine Corps' professional judgment that maintaining its uniform grooming and attire standards during recruit training is the least restrictive means of furthering the Government's compelling interests here. As explained above, that judgment is entitled to deference.

The Marine Corps assesses that uniformity during recruit training is essential to building basic Marines and, thus, to accomplishing the vital mission of the Marine Corps. The Corps has concluded that permitting the kind of substantial deviations from uniformity that Plaintiffs seek here would seriously undermine that interest. *See supra*. The Marine Corps policy therefore satisfies RFRA's "least restrictive means" test, which asks only whether an alternative approach would serve the Government's interests as well as the one chosen. *See Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 731 (2014) (examining whether alternative served stated interest "equally well"); *Kaemmerling v. Lappin*, 553 F.3d 669, 684–85 (D.C. Cir. 2008) (rejecting RFRA and constitutional challenges against DNA Act, where "[a]ny alternative method of identification would be less effective" in accomplishing the government's compelling interests). The Marine

Corps thus determined that alternative measures—such as requiring that Plaintiffs maintain their unshorn hair in a conservative fashion, *see* Mot. at 30—would not adequately ensure the occurrence of the essential transformation at recruit training from civilian into Marine.

This analysis was also informed by the broader need to "limit[] exceptions" to uniformity during recruit training, Compl. Ex. A ¶ 2(d); thus, the Marine Corps reasonably considered the aggregate effect of granting not only Plaintiffs' requested accommodation, but similar requests that could arise. Permitting exceptions could undermine the entire training group's feeling of "common sacrifice that contributes to the forging of unit cohesion." *See* Jeppe Decl. ¶ 17. Moreover, granting these exceptions could open the door to still more requests for accommodation from other recruits. *See* Compl. Ex. L, MCO 1730.9 (providing that one relevant consideration in deciding accommodation requests is "[w]hether or not accommodations of similar nature have been granted in the past within the unit and the cumulative impact of repeated similar accommodations"); *see also* Jeppe Decl. ¶ 10. Although the Government must conduct an individualized assessment of any accommodation request, such analysis of potential aggregate effects is appropriate. *Cf. Qualls v. Rumsfeld*, 357 F. Supp. 2d 274, 286 (D.D.C. 2005) ("In evaluating the harm to the [Navy], the court must consider the aggregate harm of all these possible claims, 'looking at the total effect of such cases.'"); *Bors v. Allen*, 607 F. Supp. 2d 204, 212 (D.D.C. 2009) (considering harm through the lens of the "potential cumulative effect").

Finally, the Court's analysis of the least restrictive means prong should also be informed by the Marine Corps' adjudication of Plaintiffs' overall requests for religious accommodation throughout their anticipated service in the Marine Corps. That adjudication saw the Corps *grant* nearly all of Plaintiffs' requested accommodations with limitations should they complete recruit training and be initiated as Marines. *See* Compl. Exs. A, J, Q. Thus, the Corps has not denied

Plaintiffs' requests in blanket fashion or failed to consider with specificity the particular interests that Marine Corps uniform and grooming policies serve. The Corps has instead granted as much accommodation as possible without eroding its compelling interests. But "uniform and grooming standards take on a greater importance at recruit training than during later service by Marines" and accordingly, denying accommodation for this initial phase of Plaintiffs' anticipated service is the least restrictive means to further the Corps' compelling interests. Jeppe Decl. ¶ 24; *see also* Compl. Ex. L, MCO 1730.9 ¶ 3(d) ("[u]niformity plays an integral role" in recruit training in particular). Indeed, the fourth Plaintiff who is currently serving as a Marine, Captain Toor, complied with the uniformity requirement during his initial training and has since received the benefit of various accommodations. *See* Compl. ¶ 19.

3. Plaintiffs' arguments fail to undermine the Marine Corps' RFRA analysis.

Plaintiffs raise various objections to the foregoing analysis, contending that the Marine Corps is incorrect in concluding that uniformity is necessary to advance the Corps' compelling interests and that, in any event, denial of Plaintiffs' requested accommodations during recruit training is not the least restrictive means of advancing the Government's compelling interests. Plaintiffs' arguments miss the mark, failing to apply the appropriate level of deference to military judgments and advancing erroneous comparisons to other policies and practices.

To begin, Plaintiffs' argument that uniformity does not advance compelling Government interests ignores that the military is entitled to great deference in assessing whether a particular military interest is in fact compelling and whether a particular practice furthers that interest. As the Supreme Court has explained, "when evaluating whether military needs justify a particular restriction on religiously motivated conduct, courts must give great deference to the professional judgment of military authorities concerning the relative importance of a particular military

interest." *Goldman*, 475 U.S. at 507. That is consistent with the broader rule permeating numerous areas of the law, which dictates that "[o]rderly government requires that the judiciary be as scrupulous not to interfere with legitimate [military] matters as the [military] must be scrupulous not to intervene in judicial matters." *Orloff v. Willoughby*, 345 U.S. 83, 94 (1953) (referring to the Army); *see also Austin v. U.S. Navy SEALs 1-26*, 142 S. Ct. 1301, 1302 (2022) (Kavanaugh, J., concurring) (in case involving preliminary injunction arising from RFRA claims regarding Navy COVID-19 vaccination policy, observing that a partial stay was warranted because the district court had "in effect inserted itself into the Navy's chain of command, overriding military commanders' professional military judgments," and because "even accepting that RFRA applies in this particular military context, RFRA does not justify judicial intrusion into military affairs in this case").

Plaintiffs' assertions, Mot. at 28, that the Marine Corps' compelling interests are "simply not implicated" by the enforcement of uniformity in grooming and dress during recruit training fly in the face of these binding principles of military deference. *See Winter*, 555 U.S. at 24–25 (such "professional military judgments" are entitled to "great deference"); *Goldman*, 475 U.S. at 507; *see also id.* at 512 (Stevens, J., concurring) ("Because professionals in the military service attach great importance to that plausible interest [in uniformity], it is one that we must recognize as legitimate and rational even though personal experience or admiration for the performance of the 'rag-tag band of soldiers' that won us our freedom in the Revolutionary War might persuade us that the Government has exaggerated the importance of that interest."). Nor should the Court credit Plaintiffs' assessment of whether various alternative approaches, such as requiring Plaintiffs to wear their unshorn hair in a conservative fashion, would further the Marine Corps' interests just as well. *See* Mot. at 30. The Marine Corps has determined they will not, and the Marine Corps is

entitled to substantial deference in light of its long experience and informed judgment about what measures are necessary and appropriate for turning civilians into Marines.

Plaintiffs also attack the Marine Corps' analysis as not rooted in a rationale related to health and safety. Mot. at 27 (citing MCO 1730.9 ¶ 4(d)(2)(b)). Here, Plaintiffs simply misconstrue the relevant military policies. Plaintiffs cite a provision of Marine Corps religious accommodation policy providing that a religious accommodation that has been previously granted may be suspended if there exists an "imminent threat to health and safety." Compl. Ex. L, MCO 1730.9 ¶ 4(d)(2)(b). That is not the standard for whether an accommodation should be granted in the first place. Instead, consistent with RFRA, accommodations must be granted only where they would not erode *any* compelling government interest and where denial would not be the least restrictive means to advance the compelling interest. Jeppe Decl. ¶¶ 8–10. It is reasonable that a more restrictive standard would apply to the suspension of a religious accommodation where the Marine Corps' administrative process had already determined that such an accommodation is otherwise warranted. But RFRA's standard for granting an accommodation, not the Marine Corps' standard for rescinding one, applies here, and so Plaintiffs' contention that threats to health and safety are greater during active-duty service than during recruit training is simply inapposite. *See* Mot. at 27.

Plaintiffs commit the lion's share of their brief to comparisons to a number of Marine Corps practices and policies, as well as practices and policies of other military Services, arguing that these examples undermine uniformity during recruit training and demonstrate that such uniformity is not in fact necessary to Marine Corps recruit training. Plaintiffs are mistaken.

First, Plaintiffs contend that more permissive policies regarding accommodation of Sikh practices in the U.S. Army and U.S. Air Force, as well as various foreign militaries, undermine the

Marine Corps' interests in uniformity during recruit training. Mot. at 28. As Colonel Jeppe explains, however, the Marine Corps has judged that distinct training measures are necessary and best suited to ensure that the Corps' expeditionary mission is accomplished. That is because the Marine Corps is unique from other Services in that "the entire operating forces of the Marine Corps are specifically organized, equipped, and trained for expeditionary service," which requires the ability to "respond quickly to a broad variety of crises and conflicts across the full spectrum of military operations anywhere in the world." Jeppe Decl. ¶ 25. Thus, this case is far different from *Holt v. Hobbs*, 574 U.S. 352 (2015), for example, where the Supreme Court held the defendant had "failed to show . . . why the vast majority of States and the Federal Government" permitted beards at prisons beyond the length permitted in that case. 574 U.S. at 368. The Marine Corps' rationale for adopting a distinct approach to recruit training is rooted in its expertise and judgment as to how best to create a Marine Corps unit to carry out its singular expeditionary mission. This Court should not accept Plaintiffs' invitation to second-guess those reasoned judgments, consistent with principles of military deference discussed above.

Second, Plaintiffs point to recent changes to Marine Corps policy permitting more tattoos than previously allowed. Mot. at 18. This policy arose out of a recognition that a substantial number of people in this country have tattoos and that tattoos effect a physical change that, at best, is extremely difficult to alter. Jeppe Decl. ¶ 32(a). Marine Corps policy with respect to tattoos thus does not reflect a lack of concern with uniformity; rather, it reflects the Marine Corps' assessment that strictly prohibiting tattoos would erode the very compelling interests that uniformity during recruit training is intended to advance—accomplishment of the Marine Corps mission. RFRA does not require the military to adopt a practice that would *erode* a compelling government interest merely because it pursues a separate practice that *advances* that same interest.

Compare Navy SEAL 1, 2022 WL 1294486, at *12 (Navy medical exemptions from COVID-19 vaccination did not undermine denial of religious exemptions because medical exemptions "in fact serve[] the military's interest in maintaining the health of individual servicemembers and force readiness broadly"), *with Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1877 (2021) (law triggers strict scrutiny under Free Exercise Clause where it "prohibits religious conduct while permitting secular conduct that undermines the government's asserted interests in a similar way").

Third, Plaintiffs assert that policies regarding the hairstyles that female Marines may maintain during their service undermines the Marine Corps' interest in uniformity at recruit training. Mot. at 18, 25. Plaintiffs' example is inapposite. To begin, there is no exception as to men—all are required to shave their heads and beards upon arrival at recruit training and throughout the first ten weeks. Jeppe Decl. ¶ 17. Plaintiffs have accordingly failed to show that the Marine Corps permits any deviation from uniformity as to male recruits similarly situated to them. That the Marine Corps permits modest differences for women with regard to grooming, including by not requiring women to shave off all of their hair in order to access into the Corps, does not justify the far broader exception to uniformity that Plaintiffs' demand. Female grooming standards are tightly circumscribed as to what lengths and styles are permitted, far from the Plaintiffs' request to maintain fully unshorn hair. *See* Compl. Ex. V. at 1-14–1-17 (setting forth various regulations on what length and styles of hair are permitted). RFRA does not require the Marine Corps to accede to Plaintiffs' requested accommodation merely because the Corps maintains different standards between the sexes that are tightly circumscribed and which are intended to instill broad uniformity as to each sex.

Fourth, Plaintiffs point to medical exemption policies with respect to Pseudofolliculitis Barbae ("PFB"), a medical condition disproportionately affecting African-American men the

treatment of which often requires waivers from shaving requirements. Here too, Plaintiffs cite an inapposite comparator. Most significantly, the Marine Corps does not permit recruits with PFB to commence recruit training with a waiver from shaving requirements. Ex. B, Decl. of Captain Josephine Nguyen ¶ 4 ("Nguyen Decl.") (even an applicant with PFB that has received a medical waiver to enlist "must shave upon arrival at Recruit Training"). Instead, such waivers could issue at the earliest *during* recruit training, if PFB of sufficient severity presents during training that requires treatment in the form of a no-shave waiver. Nguyen Decl. ¶ 5. Moreover, persons with PFB cannot access to the military *at all* absent a medical waiver. The Department of the Navy's Medical Bureau has explained that such waivers are unlikely to be given where an applicant has "painful or extensive scarring in the face, head, or neck areas that would preclude mobility or the wearing of a gas mask or other protective gear." Nguyen Decl. ¶ 4.

Recruits with PFB therefore do not receive the same accommodation that Plaintiffs seek here—the right to start Marine recruit training with a beard and keep it throughout. This case is therefore different from the various medical beard cases that Plaintiffs cite as comparators to theirs. *See* Mot. at 26. Even as to recruits that could be issued a medical waiver to shave during the course of boot camp, Plaintiffs miss the mark in comparing that scenario to theirs. Medical waivers are issued in order to ensure readiness of the force by seeing that each and every recruit and Marine is most able to carry out their duties. Withholding such waivers therefore could erode the Government's compelling interest in the health of Marine recruits. RFRA does not require the Marine Corps to adopt measures damaging to its compelling interests because of separate measures that advance those interests. That is why, for example, courts have upheld the military's COVID-19 vaccination mandate against RFRA challenges, despite the availability of medical waivers from vaccination. *See Navy SEAL 1*, 2022 WL 1294486, at *12 (Navy medical exemptions from

COVID-19 vaccination did not undermine denial of religious exemptions because medical exemptions "in fact serve[] the military's interest in maintaining the health of individual servicemembers and force readiness broadly"); *but see U.S. Navy SEALs 1-26 v. Biden*, 27 F.4th 336, 352 (5th Cir. 2022) (denying partial stay of preliminary injunction regarding vaccination mandate and reasoning that medical exemptions from vaccination rendered mandate underinclusive), *partial stay granted sub nom.*, *Austin v. U.S. Navy SEALs 1-26*, 142 S. Ct. 1301 (2022) .

Finally, Plaintiffs rely heavily on *Singh v. McHugh*, 185 F. Supp. 3d 201 (D.D.C. 2016), in which another judge of this Court overruled the Army's denial of accommodations for a Sikh man seeking to enroll in his university's Reserve Officers' Training Corps ("ROTC") program. But the circumstances of that case are a far cry from those presented by Plaintiffs' motion. Perhaps most significantly, the relief sought in that case, allowing the plaintiff to enroll in the ROTC program at his university, "would not require the Army to guarantee him a commission, or even a contract." *Singh*, 185 F. Supp. 3d at 232. The relief sought here is far more intrusive, asking this Court to affirmatively enjoin the Marine Corps, at the outset of this lawsuit, to alter the time-tested manner in which it trains all recruits and to irretrievably modify the essential first step that these individuals are to take in carrying out their contract of enlisted service. Moreover, the *Singh* court faced an evidentiary record demonstrating the Army "routinely grants soldiers exceptions to its grooming and uniform regulations." *Singh*, 185 F. Supp. 3d at 224. No such practice exists as to Marine Corps recruit training. To the contrary, a strict adherence to dress and grooming uniformity is an essential component of the Marine Corps' approach to recruit training. *See*, *e.g.*, Jeppe Decl. ¶ 24; *id.* ¶ 27 ("Indeed, to the best of my knowledge, the USMC has never before permitted the sort of broad religious exceptions to the uniformity requirements during recruit training that are

sought here."). The *Singh* court also considered evidence that other Sikh men had successfully served in the Army having received similar accommodations to the ones the plaintiff sought. *Singh*, 185 F. Supp. 3d at 227. No such evidence of similar accommodations exists here for initial recruit training. Indeed, although Plaintiff Captain Toor is serving in the Corps, he *did not* receive the accommodation that Plaintiffs seek during his initial training. Instead, he, like every other individual trying to become a Marine, chose to temporarily give up these essential parts of his identity in order to successfully complete the transformative process of basic screening and training. *See* Compl. ¶ 19.

B. Plaintiffs Are Not Likely to Succeed on Their Constitutional Claim.

Plaintiffs also argue that they are likely to succeed on their claims arising from the First and Fifth Amendments to the Constitution. Specifically, Plaintiffs contend that strict scrutiny applies under the doctrines of those constitutional provisions and the challenged Marine Corps decisions fail that test. The Court need not address these constitutional claims separately however. If Defendants prevail on Plaintiffs' RFRA claim by meeting the statute's standard of strict scrutiny, then they necessarily prevail on the constitutional claims as well. Put simply, even accepting Plaintiffs' contention that strict scrutiny applies under the Constitution, their claims fail for the same reasons as their RFRA claim, *see supra* Part I.A: the Marine Corps' decision furthers a compelling government interest and is the least restrictive means of furthering that interest.

In any event, Plaintiffs are wrong that the Marine Corps' denials of their requested accommodations trigger strict scrutiny under either the First or Fifth Amendments. Instead, rational basis review applies, and the Marine Corps' actions readily hurdle that low bar.

1. Free Exercise Clause

As to the Free Exercise Clause of the First Amendment, government action is subject to rational basis review when it is "valid and neutral" and "general[ly] applicab[le]," even if it

incidentally affects religious practices. *Kaemmerling*, 553 F.3d at 677. The Supreme Court has emphasized that it "hardly ever strikes down a policy as illegitimate under rational basis scrutiny." *Trump v. Hawaii*, 138 S. Ct. 2392, 2420 (2018). The Marine Corps' uniform and grooming standards during recruit training are just such a neutral and generally applicable rule. They do not single out religion for differential treatment, as all recruits must comply with them, regardless of religious affiliation or lack thereof. *Id.*; *see Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533 (1993) (describing minimum requirement of facial neutrality). And they are implemented to ensure the efficacy of Marine Corps recruit training and the transformative process that this training causes—not to suppress religious belief. As such, Plaintiffs cannot demonstrate that these policies "lack any purpose other than a bare desire to harm" any set of religious beliefs so as to trigger a higher level of scrutiny. *Trump*, 138 S. Ct. at 2420 (cleaned up).

Moreover, the Supreme Court has long recognized that "review of military regulations challenged on First Amendment grounds is far more deferential than constitutional review of similar laws or regulations designed for civilian society." *Goldman*, 475 U.S. at 507. "'[W]hen it comes to collecting evidence and drawing inferences' on questions of national security, 'the lack of competence on the part of the courts is marked.'" *Trump*, 138 S. Ct. at 2419. "'Any rule of constitutional law that would inhibit the flexibility' of the President 'to respond to changing world conditions should be adopted only with the greatest caution.'" *Id.* at 2419–20. Thus, under standards applicable to military decision-making, the Marine Corps' requirements for uniformity at boot camp easily survive rational basis review.

Plaintiffs incorrectly contend that the Marine Corps' uniform and grooming standards are not neutral and generally applicable because of asserted "permitted deviations from uniformity" that purportedly "pose the exact same risks to the government's alleged interests." Mot. at 32.

But for the reasons set forth above, the policies that Plaintiffs point to—policies related to PFB, tattoos, and women's hair—are not in fact apt comparators and do not undermine the Government's interests in any event.

Nor have Plaintiffs pointed to any kind of discretionary exemption procedure that could render suspect the Marine Corps' uniform and grooming policies. *See* Mot. at 33 (citing *Fulton*, 141 S. Ct. at 1879). Indeed, Plaintiffs point to no exceptions regime at all. To the contrary, all Marine Corps recruits must meet the same hair and shaving standards as others in their gender and all recruits may only wear standard issue clothing and equipment. Plaintiffs cite no standardless discretion allowing the Marine Corps to permit deviations from these requirements, let alone one that would treat non-religious persons better than religious persons. *We The Patriots USA, Inc. v. Hochul*, 17 F.4th 266, 289 (2d Cir. 2021) (finding vaccine mandate for healthcare facilities generally applicable, where it "provides for an *objectively* defined category of people to whom the vaccine requirement does not apply"—in that case, those with a medical certification of a preexisting health condition that would make the vaccine detrimental to their health (emphasis added)); *see also Kane v. De Blasio*, 19 F.4th 152, 166 (2d Cir. 2021) (same for vaccine mandate in schools, where the categories of exemptions were *objectively* defined); *Doe v. San Diego Unified Sch. Dist.*, 19 F.4th 1173, 1180 (9th Cir. 2021) (same).

2. Equal Protection

Plaintiffs' equal protection claim also fails under rational basis review. The Due Process Clause of the Fifth Amendment forbids the federal government from "denying to any person the equal protection of the laws." *United States v. Windsor*, 570 U.S. 744, 774 (2013). "But not all allegations of discrimination are created equal." *United States v. Castillo*, 899 F.3d 1208, 1213 (11th Cir. 2018). When the classification does not either infringe fundamental rights or concern a

suspect classification, the classification is subject to a "weaker 'rational basis test [that asks only] whether [the classifications] are 'rationally related to a legitimate governmental purpose.'" *Id.* (quoting *Doe v. Moore*, 410 F.3d 1337, 1346 (11th Cir. 2005)).

Rational basis review applies a "strong presumption of validity" to the government's professed purpose. *Id.* (quoting *Heller v. Doe by Doe*, 509 U.S. 312, 319 (1993)). If the Court determines that the government "*could* have been pursuing a legitimate government purpose," then the Court considers "whether a rational basis exists for the enacting governmental body to believe that the legislation would further the hypothesized purpose." *Id.* (quotations and citations omitted). This is an "abstract" inquiry, as "the government 'has no obligation to produce evidence to sustain the rationality of a statutory classification,' and the complaining party has the burden to 'negat[e] every conceivable basis which might support it.'" *Id.* (quoting *Heller*, 509 U.S. at 320). Unsurprisingly, "[a]lmost every statute subject to the very deferential rational basis standard is found to be constitutional." *Id.* (quoting *Moore*, 410 F.3d at 1346–47).

Plaintiffs assert that the Marine Corps treated them unequally as to similarly situated individuals based on their fundamental right to the free exercise of religion or their membership in a religious group, *see* Mot. at 34–35. That claim is no different from their First Amendment claim and thus fails for the same reasons. *See supra* Part I.B.1. Plaintiffs point to no other fundamental right or suspect class that would trigger a heightened form of scrutiny. Therefore, beyond the First Amendment issues discussed above, rational basis review applies to Plaintiffs' equal protection claim, and the Marine Corps' actions satisfy that standard: The military has a legitimate governmental purpose in establishing a uniform training regimen for individuals training to become Marines. And as set forth above, recruits of all faiths are subject to the same grooming standards for hair, beards, and garments at Marine Corps recruit training. Plaintiffs have failed to

"negat[e] every conceivable basis which might support" the Marine Corps' uniform and grooming policies at recruit training, and therefore have not demonstrated a likelihood of success on their Fifth Amendment equal protection claim

II. PLAINTIFFS DO NOT FACE IRREPARABLE HARM.

Even if this Court is uncertain about the ultimate merits of this case, it should deny Plaintiffs' demand for extraordinary and affirmative preliminary injunctive relief at the outset of this case on the ground that Plaintiffs have failed to establish irreparable harm at this stage. This would allow this Court to consider the legal merits in a more orderly fashion without imposing an immediate change on long-standing Marine Corps training practices.

The D.C. Circuit "has set a high standard for irreparable injury." *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006). The moving party must demonstrate an injury "both certain and great" and "of such *imminence* that there is a 'clear and present' need for equitable relief in order to prevent irreparable harm." *Id.* The injury must also "be beyond remediation," meaning that the possibility of corrective relief "at a later date . . . weighs heavily against a claim of irreparable harm." *Id.* at 297–98; *see also Navajo Nation v. Azar*, 292 F. Supp. 3d 508, 512–13 (D.D.C. 2018). And "[i]n the context of military personnel decisions, . . . the showing of irreparable harm must be *especially strong* before an injunction is warranted, given the national security interests weighing against judicial intervention in military affairs." *Church v. Biden*, ---F. Supp. 3d---, 2021 WL 5179215, at *17 (D.D.C. Nov. 8, 2021) (rejecting service members' assertions of irreparable harm); *Shaw v. Austin*, 539 F. Supp. 3d 169, 183 (D.D.C. 2021) (same, and collecting cases).

Plaintiffs contend simply that they meet the irreparable injury test by alleging violation of constitutional rights. Mot. at 36. But "the mere assertion of a constitutional violation is not

sufficient to establish irreparable injury." *Cal. Ass'n of Priv. Postsecondary Sch. v. DeVos*, 344 F. Supp. 3d 158, 173 (D.D.C. 2018). Rather, "the Court must consider whether the movant has established that it 'is likely to suffer [that] harm'—that is, the constitutional injury—'in the absence of preliminary relief.'" *Id.* (quoting *Winter*, 555 U.S. at 20).

Plaintiffs fail to satisfy this burden. Under the status quo ante, Plaintiffs are civilians and free to exercise their religion as they wish—the Marine Corps has no authority at present to require them to change any behavior at all, let alone a religious practice. Plaintiffs seek not to halt a direct intrusion on religious practice, but to impose a new and significant change in practice on the Marine Corps at the outset of this case before a full assessment of the merits in the ordinary course. This circumstance, therefore, is a far cry from the D.C. Circuit and Supreme Court cases that Plaintiffs cite for the proposition that their alleged constitutional injuries establish an automatic irreparable injury warranting preliminary relief. Those cases instead concerned government action that would directly regulate the plaintiffs and *prevent* them from exercising their constitutional rights. *See Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67–68 (2020) (finding irreparable injury where government action would effectively "bar[]" individuals from practicing their religion); *Mills v. District of Columbia*, 571 F.3d 1304, 1312 (D.C. Cir. 2009) (government conduct that would limit the "right to drive upon the public streets of the District of Columbia").[2]

[2] Plaintiffs also cite three inapposite precedents. Two of those cases do not concern the standard for preliminary relief at all. *See United States v. Batchelder*, 442 U.S. 114 (1979); *King's Garden, Inc. v. FCC*, 498 F.2d 51 (D.C. Cir. 1974). And the third, *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290 (D.C. Cir. 2006), arose under the Establishment Clause. The Circuit reasoned in that case that a different standard applied there in light of the "inchoate, one-way nature of Establishment Clause violations"; under that constitutional provision, "infringement occurs the moment the government action takes place—without any corresponding individual conduct." *See id.* at 302–03.

At most, Plaintiffs can only show that they are presently unable to enlist in the Marine Corps by virtue of allegedly unlawful conditions. That does not establish irreparable injury warranting preliminary relief. The Supreme Court has long held that employment-related harms such as loss of income "fall[] far short of the type of irreparable injury which is a necessary predicate to the issuance of a temporary injunction." *See Sampson v. Murray*, 415 U.S. 61, 91–92 (1974). That is true even where the alleged illegality underlying that injury is a violation of the First Amendment. *See Chaplaincy*, 454 F.3d at 298 (holding, *inter alia*, that loss of opportunity for promotion resulting from alleged Establishment Clause violation was redressable through further proceedings and, therefore, not an appropriate vehicle for preliminary relief). Plaintiffs have not shown why they would not be able to enlist in the Marine Corps under the conditions they seek should they ultimately prevail on the merits of their claims. There is, thus, inadequate irreparable harm to warrant preliminary relief.

Plaintiffs also attempt to bolster their claims of irreparable injury by contending that their enlistment qualification test results or, as to Jaskirat Singh, Delayed Entry Program contract may expire during the pendency of these proceedings. Mot. at 37. That is a far cry from the sort of irreparable scenario that warrants preliminary relief. As noted above, the general rule is that employment-based harm, such as military discharge or delayed promotion, is not irreparable. *See, e.g.*, *Chaplaincy*, 454 F.3d at 297; *Shaw v. Austin*, 539 F. Supp. 3d 169, 183–84 (D.D.C. 2021) ("[E]ven if Plaintiff were to be discharged . . . [t]he discharge could be reversed, and Plaintiff could receive back pay."). That Plaintiffs may ultimately need to once again demonstrate their fitness to access into the Marine Corps does not remotely establish an irreparable harm that would warrant the extraordinary preliminary relief sought here—an immediate and significant change in Marine Corps recruit training requirements before this Court or any court has finally resolved the merits.

III. THE REMAINING FACTORS MILITATE AGAINST PRELIMINARY RELIEF.

The final requirements for obtaining preliminary injunctive relief—the balance of harms and whether the requested injunction will serve the public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). These factors tilt decisively in the Marine Corps' favor here, particularly where Plaintiffs seek mandatory injunctive relief that would not maintain the status quo but instead provide all the relief they seek as to recruit training. *See Strait Shipbrokers*, 560 F. Supp. 3d at 92.

There is, of course, paramount public interest in national defense. *See Winter*, 555 U.S. at 24–26 (vacating preliminary injunction where the balance of equities and public interest, in the context of deference to military judgments, "tip strongly in favor of the Navy"); *North Dakota v. United States*, 495 U.S. 423, 443 (1990) ("When the Court is confronted with questions relating to . . . military operations, we properly defer to the judgment of those who must lead our Armed Forces in battle."). And the Marine Corps has concluded that its interests in accomplishing that national defense mission will be compromised by allowing individuals to commence recruit training under conditions that will not foster the transformation necessary to create Marines. That is a particularly concerning possibility where it may not only undermine the training of these three individuals, but other recruits who may feel a degradation of the "common sacrifice that contributes to the forging of unit cohesion." *See* Jeppe Decl. ¶ 17

Balanced against this significant set of public harms are the private interests of these Plaintiffs in commencing recruit training within their preferred timeframe. To begin, whatever the Court's assessment of the interests these Plaintiffs have asserted, they pale in comparison to the Marine Corps' compelling interests in appropriate training of Marines in order to accomplish the Corps' mission. And in any case, Plaintiffs are not prevented from practicing their religion at all

at present as discussed above. Their request for preliminary relief, therefore, boils down to a fundamentally employment-based issue of when and whether they will be permitted to commence their service in the military. Such employment disputes do not establish irreparable injury, *see supra*; therefore, Plaintiffs have not shown any remotely sufficient balance between their asserted harms and the public interest that would be undermined by granting preliminary relief.

CONCLUSION

For the foregoing reasons, Plaintiffs' motion for preliminary injunction, ECF No. 16, should be denied.

Dated: May 25, 2022

Respectfully submitted,

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