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CLIENT ALERT

SCOTUS Limits Universal Injunctions

July 2, 2025

AUTHORS

Jeremy Bylund | Joshua Mitchell | Perri Haser

During the past few presidential administrations, those opposing the party in the White House have increasingly convinced district courts to enter nationwide injunctions to preliminarily block executive actions. The United States Supreme Court has repeatedly indicated its skepticism of this procedure,[1] which has provided incentive for forum shopping among other deleterious effects.

On June 27, 2025, the United States Supreme Court curtailed the power of federal district courts to issue so-called "universal" (*i.e.*, nationwide) injunctions. In *Trump v. CASA, Inc.*, the Court considered whether the Judiciary Act of 1789 gave federal courts equitable authority to issue universal injunctions and answered *no*.[2] Justice Barrett, writing for the 6-3 majority, held that preliminary and permanent injunctions may be issued only to the extent necessary and appropriate to provide "complete relief" to parties before the court. So-called "universal injunctions," she wrote, exceeded federal courts' traditional equitable authority and thus were an unavailable remedy. This opinion signals

1 *See Trump v. CASA, Inc.*, __ S. Ct. __, No. 24A884, 2025 WL 1773631, at *5 (U.S. June 27, 2025) (citing cases).

2 The Court contended that although parties typically describe such injunctions as "nationwide injunctions," the term "universal" better captures how these injunctions prohibit "the Government from enforcing the law against anyone, anywhere." *Id.* at *4 n.1. Of course, the Government has little authority to enforce U.S. law extraterritorially—and none to enforce it "universally."

a marked retrenchment of federal courts' recent exercise of equitable powers. Plaintiffs seeking to challenge federal policies that apply nationwide—at least those promulgated by means other than a final agency action—will accordingly need to reconsider previously sound strategies.

TRUMP V. CASA BACKGROUND

At issue in this case were three overlapping nationwide injunctions issued by federal district courts enjoining the Government from enforcing President Donald J. Trump's Executive Order No. 14160 (the "EO"), which purports to interpret the guarantee of birthright citizenship in the Fourteenth Amendment to the U.S. Constitution, excluding groups previously thought to be covered by that guarantee.[3] Plaintiffs—individuals, organizations, and States—sought to enjoin the implementation and enforcement of the EO, alleging that it violated both the Fourteenth Amendment's Citizenship Clause and section 201 of the Nationality Act of 1940.[4] The district courts all enjoined the Government from enforcing the EO—not only against the plaintiffs but against anyone.[5] And in each case, the Court of Appeals denied the Government's request to stay the injunction.[6] The Government filed three nearly identical applications on the Supreme Court's emergency docket seeking to partially stay the universal preliminary injunctions and limit their reach to the parties actually before the district courts.[7]

The Supreme Court granted certiorari on the limited question of whether the Judiciary Act of 1789 gave federal courts equitable authority to issue nationwide injunctions.[8] The Court's majority opinion did not address the merits of the case—whether the EO violates the U.S. Constitution or the Nationality Act,[9] though Justice Sotomayor's dissent focused on that question.[10]

The Court's reasoning delved into a historical reading of the authority of courts at the time of the Founding, both in England and in the United States.[11] The Court held that because equity historically did not recognize nationwide injunctions or "any analogous form of relief," the Judiciary Act did not grant federal courts the authority to issue nationwide injunctions.[12] Further, the Court held, the Government had shown it would suffer irreparable harm absent a stay because when a federal court enters a nationwide injunction against it, that court improperly intrudes on a coordinate branch of the Government and prevents the Government from enforcing its policies against nonparties.[13] The Court therefore stayed the injunctions, but only to the extent that they are broader than necessary to provide complete relief to each plaintiff with standing to sue.[14] The Court instructed the lower courts to determine, in

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3 Exec. Order No. 14160, 90 Fed. Reg. 8353, § 2 (Jan. 20, 2025), https://www.federalregister.gov/documents/2025/01/29/2025-02007/protecting-the-meaning-and-value-of-american-citizenship.

4 *Trump*, 2025 WL 1773631, at *4–5.

5 *Id.* at *5.

6 *Id.*

7 *Id.*

8 *Id.*

9 *Id.*

10 *Id.* at *25–30 (Sotomayor, J., dissenting).

11 *Id.* at *6–14.

12 *Id.* at *6–7.

13 *Id.* at *14–15.

14 *Id.* at *15.

accordance with the Court's opinion, the appropriate scope of injunction that would afford the plaintiffs complete relief in each case.[15]

OPEN QUESTIONS: THE PROSPECTIVE AVAILABILITY OF UNIVERSAL RELIEF

This opinion appears to leave open the possibility that certain extreme circumstances may exist in which nationwide injunctions may be the only remedy able to provide relief. The Court did not express any view on whether Article III would separately limit federal courts' authority to issue nationwide injunctions. *Id*. at *6 n.4 ("We express no view on the Government's argument that Article III forecloses universal relief."). The Court, however, did not provide clear guidance about how, if at all, a plaintiff could make such a showing. Further, Justice Thomas concurred separately to contend that complete relief is a ceiling, not a mandate—but his concurrence was joined only by Justice Gorsuch.[16] Justice Thomas argued that, given the limits on courts' equitable powers and the need to balance relief with justice for the defendant, courts may at times be required to limit relief to something that is less than "complete."[17] Justice Sotomayor also noted in her dissent that there "may be good reasons not to issue universal injunctions in the typical case."[18]

In his solo concurrence, Justice Kavanaugh claimed that the majority's opinion applies only to the equitable relief district courts may provide at the preliminary stage of a case—what he called the "interim before the interim."[19] However, nothing in the majority opinion or its underlying reasoning appears to limit the holding to preliminary injunctions issued by district courts. And given the logic of the majority opinion, Justice Sotomayor argued that the majority opinion had stripped all federal courts, including itself, of the power to issue universal injunctions.[20]

Therefore, litigants would be wise not to rely on the availability of a nationwide injunction either preliminarily or permanently going forward. The safer course, as Justice Jackson warns in her dissent, is that "each affected individual [must] affirmatively invoke[] the law's protection."[21] Those potentially affected by a governmental action must actively monitor infringements upon—and be prepared to take concrete legal actions to protect—their legal interests.

Implications for Litigation

This opinion left open many questions. We offer the following key takeaways for clients who might seek relief against federal action going forward.

1. **Availability of Nationwide Relief in Cases Brought Under the APA**: Litigants may still obtain relief that is not materially distinguishable from a nationwide injunction, at least where the government action is a final agency action, pursuant to the Administrative Procedure Act (the "APA").[22] The APA authorizes courts to

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15 *Id.*

16 *Id.* at *16 (Thomas, J., concurring).

17 *Id.*

18 *Id.* at *34 (Sotomayor, J., dissenting).

19 *Id.* at *19 (Kavanaugh, J., concurring).

20 *Id.* at *32 (Sotomayor, J., dissenting).

21 *Id.* at *51 (Jackson, J., dissenting).

22 *Id.* at *8 n.10.

"hold unlawful and set aside agency action."[23] The Court's opinion expressly excluded APA challenges from its consideration of nationwide injunctions vacating federal agency action.[24] Further, given this Court's skepticism of agency actions,[25] we do not expect that the Court will limit federal courts' ability to curtail them.

2. **Class Actions**: Plaintiffs may still be able to obtain broad protection if able to pursue formal nationwide class action certification under Federal Rule of Civil Procedure 23.[26] To certify such a class, plaintiffs must demonstrate numerosity, commonality, typicality, and adequacy of the named plaintiffs to represent the class.[27] This mechanism will still provide some relief but presents additional, significant barriers as highlighted by Justice Sotomayor's dissent.[28] Litigants should be aware of language seeking to limit this potential remedy; Justice Alito, with whom Justice Thomas joined in concurring, specifically counseled against granting class certification too broadly.[29]

3. **Third-Party Standing**: Third parties, including States and trade groups, may face additional barriers to prove standing and may face increased scrutiny when seeking broad injunctive relief.[30] In *Trump v. CASA*, the Government argued that the State plaintiffs lack third-party standing because their claims rest exclusively on the rights of individuals.[31] The majority opinion did not address this argument, but Justice Alito took up this question in his concurrence, suggesting that he and Justice Thomas, at least, believe associational standing and standing for States may face future hurdles.[32] Justice Alito urged federal courts to apply limitations on third-party standing conscientiously, including against State plaintiffs, especially in cases where the States are not directly subject to the challenged policy and face, at most, collateral injuries.[33]

4. **Expedited Merits Review by the Supreme Court**: Justice Kavanaugh emphasized that parties should now expect the Court to act to determine the legality of major legislative and executive actions[34]—setting aside the fact that the Court declined to consider the underlying merits in this case. But the Court's

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23 5 U.S.C. § 706(2).

24 *Trump*, 2025 WL 1773631, at *8 n.10; *see also id.* at *19 ("in cases under the Administrative Procedure Act, plaintiffs may ask a court to preliminarily 'set aside' a new agency rule") (Kavanaugh, J., concurring).

25 *Compare generally Trump*, 2025 WL 1773631, *with, e.g.*, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 384–412 (2024) (holding that federal courts may not defer to a federal agency's interpretation of the law when deciding whether that agency has acted within its statutory authority).

26 *Id.* at *10; *id.* at *19 (Kavanaugh, J., concurring).

27 FED. R. CIV. P. 23(a).

28 Justice Sotomayor notes that class actions "may provide some relief," but they are "not a perfect substitute for universal injunction." *Trump*, 2025 WL 1773631, at *43 (Sotomayor, J., dissenting).

29 *Id.* at *18 (Alito, J., concurring) ("today's decision will have very little value if district courts award relief to broadly defined classes without following 'Rule 23's procedural protections' for class certification").

30 *Id.* at *4 n.2; *see also id.* at *18 (Alito, J., concurring).

31 *Id.* at *4 n.2 ("The Government . . . argues that the States lack third-party standing because their claims rest exclusively on the rights of individuals." (cleaned up)).

32 *Id.* at *18 (Alito, J., concurring).

33 *Id.*

34 *Id.* at *21 (Kavanaugh, J., concurring).

emergency docket has become increasingly busy in recent years. Plaintiffs in a position to do so should seek to form as broad a coalition as possible to pique the Court's interest and present the merits of cases to the court quickly. Moreover, as this case demonstrates, those plaintiffs should try—if such a thing is possible—to avoid introducing procedural issues that could provide the Court with an offramp from consideration of the substantive merits questions.

If you have any questions regarding this client alert, please contact the following attorneys or the Willkie attorney with whom you regularly work.

Jeremy Bylund	Joshua Mitchell	Perri Haser
202 303 1053	202 303 1232	202 303 1038
jbylund@willkie.com	jmitchell@willkie.com	phaser@willkie.com

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