

**TRUMP V. CASA, INC. AND THE FUTURE OF NATIONWIDE
INJUNCTIONS**

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ABSTRACT

In Trump v. CASA, Inc., one of the most anticipated U.S. Supreme Court decisions of 2025, the Court intended to end the authority of federal judges to issue so-called “nationwide injunctions.” However, not only did the Court’s opinion not do that, it may have actually opened the floodgates to a new alternative way for plaintiffs to get nationwide relief. For this reason, the lasting influence of the Court’s decision is in doubt. Individuals seeking to challenge government policies that affect people at a national level now have two strategic options: to seek a nationwide injunction claiming it is needed to obtain complete relief, or to file a class action lawsuit seeking certification of the claimants as a national class, and then seek an injunction to protect the class. Thus, although it might be too soon to tell, in the end, the decision in Trump v. CASA, Inc. may turn out to be essentially irrelevant. Yet, this may not be a bad result because otherwise, the executive would be free to enforce unconstitutional policies without an efficient check by the judiciary.

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I. INTRODUCTION

In *Trump v. CASA, Inc.*,¹ one of the most anticipated Supreme Court decisions of 2025, the U.S. Supreme Court ruled that federal courts do not have the authority to issue so-called “nationwide injunctions,”² unless it is necessary to provide complete relief to the parties in the case.³ Evidently, the intent of the Court was to end the use of nationwide injunctions, but, interestingly, not only did the Court’s opinion not do that, it may have actually opened the floodgates to a new alternative way for plaintiffs to get nationwide relief.

II. EXECUTIVE ORDER NO. 14160 AND THE CHALLENGE TO THE JUDICIAL AUTHORITY TO ISSUE NATIONWIDE INJUNCTIONS

On the same day he took office, President Donald Trump issued Executive Order No. 14160, which identifies circumstances in which a person born in the United States will no longer be recognized as an American citizen.⁴ Shortly thereafter, several groups of plaintiffs, including some states, “challenged the [constitutionality of] the Order in Federal District Courts in Maryland, Massachusetts, and Washington.”⁵ Quickly, all three district courts issued preliminary injunctions holding that the executive order was likely unconstitutional, that the plaintiffs were likely to face irreparable harm unless an injunction was granted, and that the equities and public interest decisively favored the plaintiffs.⁶

1. 606 U.S. 831 (2025).

2. Although the Court adopts the term “universal injunctions,” I prefer the alternative term “nationwide injunctions” because it is more accurate. The Trump administration has actually argued that federal judges are trying to take over the whole world, but it seems quite an exaggeration to say that the injunctions issued by federal judges reach jurisdictions outside the United States. See Application for a Partial Stay of the Injunction Issued by the United States District Court for the District of Maryland at 3, *Trump v. CASA, Inc.*, 606 U.S. 831 (2025) (No. 24A884), 2025 WL 817770, at *3 (“Universal injunctions have reached epidemic proportions Courts have graduated from universal preliminary injunctions to universal temporary restraining orders, from universal equitable relief to universal monetary remedies, and from governing the whole Nation to governing the whole world.”).

3. See *CASA*, 606 U.S. at 853. As shall be discussed below, the fact that the Court did not definitively clarify what constitutes complete relief, or exactly whose relief must be complete, is a significant weakness in the Court’s analysis in *Trump v. CASA, Inc.*

4. See Protecting the Meaning and Value of American Citizenship, 90 Fed. Reg. 8449 (Jan. 20, 2025).

5. *CASA*, 606 U.S. at 887 (Sotomayor, J., dissenting).

6. See *CASA, Inc. v. Trump*, 763 F. Supp. 3d 723, 727 (D. Md. 2025); *Washington v. Trump*, 765 F. Supp. 3d 1142, 1153–54 (W.D. Wash.), *aff’d*, 145 F.4th 1013 (9th Cir. 2025); *Doe v. Trump*, 766 F. Supp. 3d 266, 289 (D. Mass.), *aff’d*, 157 F.4th 36 (1st Cir. 2025).

Because the injunction orders banned the enforcement of the executive order anywhere in the United States, the Trump administration eventually filed emergency applications before the U.S. Supreme Court, asking it to stay the lower courts' orders and to find that no federal district court had the authority to issue nationwide injunctions.⁷ However, the administration did not ask the Court to rule on the constitutionality of the executive order or even attempt to argue that the executive order was constitutional.⁸

Addressing only the question raised by the administration, the Court limited the issue to whether federal courts have equitable authority to issue universal injunctions under the Judiciary Act of 1789.⁹ The Court answered the question in a relatively short opinion, staying the injunctions issued by the lower courts.¹⁰ It held that because “the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act” did not recognize a remedy analogous to a nationwide injunction, federal courts have no authority to provide such a remedy unless it is necessary to provide complete relief.¹¹

Three Justices dissented, with two of them filing separate opinions.¹² Justice Sonia Sotomayor argued the result was shameful and, more importantly, that it makes constitutional guarantees meaningless,¹³ while Justice Ketanji Brown Jackson went even further, arguing the

7. See *CASA*, 606 U.S. at 837.

8. See *id.* at 839 (“The applications do not raise—and thus we do not address—the question whether the Executive Order violates the Citizenship Clause [of the Fourteenth Amendment].”). In fact, the issue of the constitutionality of the order was not raised before the Supreme Court until September 2025, several months after the Court issued its decision in *Trump v. CASA, Inc.*, when the government asked the Court to review two cases that had determined that the executive order was likely unconstitutional. See *Barbara v. Trump*, 790 F. Supp. 3d 80, 102 (D.N.H. 2025) (“The Executive Order likely violates the Fourteenth Amendment of the Constitution.”); *Washington v. Trump*, 145 F.4th 1013, 1019 (9th Cir. 2025) (“We conclude that the Executive Order is invalid because it contradicts the plain language of the Fourteenth Amendment’s grant of citizenship.”). Three months after the petition was filed, on December 5, 2025, the Court granted the petition to review the decision in *Barbara*, but apparently did not act on the petition to review *Washington v. Trump*. See Amy Howe, *Supreme Court Agrees to Hear Trump’s Challenge to Birthright Citizenship*, SCOTUSBLOG (Dec. 5, 2025, at 14:20 ET), <https://www.scotusblog.com/2025/12/supreme-court-agrees-to-hear-trumps-challenge-to-birthright-citizenship/> [<https://perma.cc/QZ7H-8ML7>].

9. *CASA*, 606 U.S. at 839.

10. *Id.* at 837–38.

11. *Id.* at 841–42 (quoting *Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 318–19 (1999)).

12. See *id.* at 879 (Sotomayor, J., dissenting); *id.* at 921 (Jackson, J., dissenting).

13. See *id.* at 880 (Sotomayor, J., dissenting).

decision was dangerous and a threat to our constitutional system of government.¹⁴

III. HISTORY AND USE OF NATIONWIDE INJUNCTIONS

Typically, when a court issues an injunction, the injunctive order is only binding on the parties before the court.¹⁵ However, until *Trump v. CASA, Inc.* was decided, it was not uncommon for courts to expand the reach of injunctive orders to enjoin conduct that affected parties outside the particular litigation—including parties in other jurisdictions.¹⁶ Usually, such an expansion was used in cases involving governmental action that could affect people all over the nation, which is why, eventually, orders banning the government from engaging in the challenged conduct anywhere in the United States became known as “nationwide injunctions.”¹⁷ Typical cases involving nationwide injunctions have involved government conduct affecting voting rights, the environment, immigration regulations, and public health concerns.¹⁸

The use of nationwide injunctions to interfere with the government’s implementation of controversial policies is not new, and it is not a political strategy limited to any one side of the ideological spectrum.¹⁹ During the first Trump administration, the District Court for the Eastern

14. *See id.* at 922 (Jackson, J., dissenting).

15. *See id.* at 928 n.2.

16. *See* Mila Sohoni, *The Lost History of the “Universal” Injunction*, 133 HARV. L. REV. 920, 922 (2020) (rebutting the proposition that the universal injunctions are a recent invention and that they violate Article III of the Constitution or the traditional limits of equity as practiced in the federal courts.).

17. *See id.* at 924 n.17.

18. *See, e.g.*, *Washington v. Trump*, 487 F. Supp. 3d 976, 980–81 (E.D. Wash. 2020). In this case, the court granted a nationwide injunction halting the implementation of postal service regulations because, among other reasons, the new regulations were adopted as part of “an intentional effort on the part the current Administration to disrupt and challenge the legitimacy of upcoming local, state, and federal elections,” which would disenfranchise millions of voters throughout the nation. *Id.* at 982–83. The court also found that the implementation of the new regulations had unintended consequences that interfered with many essential governmental functions in the states, such as “collecting fees and taxes, sending pension payments, and enforcing local ordinances, as well as interfering with the provision of critical health care services such as prescription refills, contact tracing, sexually-transmitted infection testing and opioid overdose prevention.” *Id.* at 983. For these reasons, the court concluded that “if there ever were a mandate for the need of a nationwide injunction, it is this case.” *Id.* at 984.

19. *See* Sohoni, *supra* note 16, at 922 (“The Trump Administration and the Obama Administration do not seem to have much in common. But they have had one shared foe: the ‘universal’ injunction. Across both administrations, federal district courts have issued a slew of injunctions blocking the executive branch from enforcing federal laws, regulations, or policies.”).

District of Washington issued a nationwide injunction banning the enforcement of certain regulations related to the U.S. Postal Service because, among other reasons, without the injunction, the voting rights of millions of Americans would have been affected.²⁰ Likewise, during the Biden administration, anti-abortion activists obtained an injunction halting the use of an anti-abortion drug throughout the United States.²¹

Yet, as their use has become more common in recent years, nationwide injunctions have become more controversial.²² Opponents have argued that allowing courts to issue nationwide injunctions invites forum shopping, gives any individual judge the power to veto executive policies, and results in rushed litigation in which appellate courts do not have the benefit of properly litigated and briefed cases.²³ For example, back in 2020, in an opinion concurring with the grant of a stay, Justice Neil Gorsuch expressed his frustration over the use of nationwide injunctions:

[T]he routine issuance of universal injunctions is patently unworkable, sowing chaos for litigants, the government, courts, and all those affected by . . . conflicting decisions. Rather than spending their time methodically developing arguments and evidence in cases limited to the parties at hand, both sides have been forced to rush from one preliminary injunction hearing to another, leaping from one emergency stay application to the next, each with potentially nationwide stakes, and all based on expedited briefing and little opportunity for the adversarial testing of evidence.

. . . By their nature, universal injunctions tend to force judges into making rushed, high-stakes, low-information decisions. The traditional system of lower courts issuing interlocutory relief limited to the parties at hand may require litigants and courts to tolerate interim uncertainty about a rule's final fate and proceed

20. See *Trump*, 487 F. Supp. 3d at 982–85.

21. See *All. for Hippocratic Med. v. FDA*, 668 F. Supp. 3d 507, 560 (N.D. Tex.), *aff'd in part, vacated in part*, 78 F.4th 210 (5th Cir. 2023), *rev'd and remanded sub nom.*, *FDA v. All. for Hippocratic Med.*, 602 U.S. 367 (2024); see also Eleanor Klbanoff, *Federal Judge in Texas Suspends FDA Approval of Abortion Pill*, TEX. TRIB. (Apr. 7, 2023, at 20:06 CT), <https://www.texastribune.org/2023/04/07/texas-abortion-drugs-fda-ruling/> [<https://perma.cc/F6FX-FHHX>] (reporting that a federal district judge issued a ruling suspending FDA approval of mifepristone).

22. See Sohoni, *supra* note 16, at 922–23.

23. See, e.g., *Trump v. CASA, Inc.*, 606 U.S. 831, 855–56 (2025) (noting the government's argument regarding forum shopping, judicial veto power, and rushed litigation).

more slowly until this Court speaks in a case of its own. But that system encourages multiple judges and multiple circuits to weigh in only after careful deliberation, a process that permits the airing of competing views that aids this Court's own decisionmaking process.

. . . The risk of winning conflicting nationwide injunctions is real too. And the stakes are asymmetric. If a single successful challenge is enough to stay the challenged rule across the country, the government's hope of implementing any new policy could face . . . long odds A single loss and the policy goes on ice—possibly for good, or just as possibly for some indeterminate period of time until another court jumps in to grant a stay. And all that can repeat, *ad infinitum*, until either one side gives up or this Court grants certiorari. What in this gamesmanship and chaos can we be proud of?²⁴

In contrast, proponents of nationwide injunction orders contend that courts should be allowed to issue them because they are needed to provide comprehensive relief, particularly when the orders seek to prevent the government from engaging in what is likely unconstitutional conduct that can affect people all over the country.²⁵ They also argue that there are effective ways to address the concern about forum shopping that do not deprive the courts of their authority to issue injunctive orders in cases involving significant public policies.²⁶

Trump v. CASA, Inc. gave the Supreme Court the chance to consider these arguments. In the end, the Court's decision was a victory for those who oppose the use of nationwide injunctions, but it was only a limited victory, based on a weak opinion. More importantly, it may prove to be just a Pyrrhic victory.

24. *Dep't of Homeland Sec. v. New York*, 589 U.S. 1173, 1175–76 (2020) (Gorsuch, J., concurring) (citations omitted).

25. *See, e.g., Washington v. Trump*, 765 F. Supp. 3d 1142, 1153 (W.D. Wash.), *aff'd*, 145 F.4th 1013 (9th Cir. 2025).

26. For example, in 2023, a bill was introduced in Congress “[t]o provide the United States District Court for the District of Columbia with original and exclusive jurisdiction over civil actions with a nationwide effect.” *Stop Judge Shopping Act*, S. 1265, 118th Cong. (2023). This bill would have effectively addressed the issue of forum shopping, yet it apparently never made it out of the Committee on the Judiciary. *See US S1265*, BILL TRACK 50, <https://www.billtrack50.com/billdetail/1623409> [<https://perma.cc/2CY2-XXQH>] (last visited Dec. 14, 2025). For more on the bill, including its text and history, *see id.*; *S.1265 - Stop Judge Shopping Act*, CONGRESS.GOV, <https://www.congress.gov/bill/118th-congress/senate-bill/1265/overview=closed> [<https://perma.cc/D7QR-MV8U>] (last visited Dec. 14, 2025).

IV. THE MAJORITY OPINION IN *TRUMP V. CASA, INC.*

The Supreme Court's opinion in *Trump v. CASA Inc.*, written by Justice Amy Coney Barrett, is ultimately very simple.²⁷ As stated above, it limits the issue to "whether, under the Judiciary Act of 1789, federal courts have equitable authority to issue universal injunctions," and answers it by concluding that because the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act did not recognize a remedy analogous to a nationwide injunction, federal courts do not have the authority to provide such a remedy.²⁸

Justice Clarence Thomas, joined by Justice Gorsuch, wrote a concurring opinion stating that the absence of a historical tradition of issuing nationwide injunctions in equity should have been dispositive.²⁹ However, the majority's analysis did not end by concluding that federal courts have no authority to issue a nationwide injunction.³⁰ Instead, it referenced an exception to its ruling—if the nationwide injunction is necessary to provide complete relief—and also suggested that plaintiffs could achieve the same desired result through a nationwide class action.³¹

Perhaps anticipating the argument that recognizing an exception to the rule makes the majority opinion weak and ineffective, the Court tried to strengthen its conclusion by stating that "the question is not whether an injunction offers complete relief to *everyone* potentially affected by an allegedly unlawful act; it is whether an injunction will offer complete relief to the plaintiffs before the court."³² And this argument will prove to be the key to the future of the opinion's analysis. The majority's view is that nationwide injunctions are allowed only if they are needed to provide complete relief to the parties in the case, while the dissenters' view is that they are allowed if they are needed to provide complete relief to

27. One scholar has argued that the opinion "[r]el[ie]d on a cherry-picked recounting of equity's historical constraints" to hold "that the Judiciary Act of 1789 does not authorize federal courts to give universal injunctions" and that it suffers from "internal inconsistencies," "faulty logical jumps," and an "utter disregard of real-world consequences." Mila Sohoni, *Trump v. CASA and the Future of the Universal Injunction*, SCOTUSBLOG (July 2, 2025, at 13:51 ET), <https://www.scotusblog.com/2025/07/trump-v-casa-and-the-future-of-the-universal-injunction/> [<https://perma.cc/WE2K-2NWV>].

28. *CASA*, 606 U.S. at 839, 841–42, 847.

29. *See id.* at 862 (Thomas, J., concurring).

30. *See id.* at 847 (majority opinion).

31. *See id.* at 849, 852.

32. *Id.* at 852.

anyone affected by the conduct that the plaintiff wants the court to enjoin.³³

The Court's position is clearly stated. However, it is not well supported and concedes that its conclusion is not likely to apply in cases where a state is a plaintiff.³⁴ Faced with this weakness in its own conclusion, the majority simply refused to even try to address the argument.³⁵ The majority also refused to address the possibility that nationwide injunctions might be the only practical way to protect certain groups from unlawful government action.³⁶ Yet, as a practical matter, by pointing out the availability of a class action as a procedural alternative, the opinion suggested an alternative strategy for plaintiffs to pursue.³⁷

Seeing this as another weakness in the majority's opinion, or even as a type of exception that might swallow the rule, Justice Samuel Alito pointed out in his concurring opinion that the Court's opinion "will have very little value if district courts award relief to broadly defined classes," adding that if courts recognize national classes liberally, "the universal injunction will return from the grave under the guise of 'nationwide class relief,' and today's decision will be of little more than minor academic interest."³⁸ This statement might very well prove to be prophetic.

V. THE DISSENTING OPINIONS IN *TRUMP V. CASA, INC.*

Not surprisingly, the dissenting Justices in *Trump v. CASA, Inc.* criticized the majority's analysis by emphasizing the Court's refusal to consider the practical (and political) consequences of the opinion. Justice Sotomayor repudiated the Court's complicity with the Trump administration's "gamesmanship" in asking for a stay that would allow

33. See *id.* at 852; *id.* at 909 (Sotomayor, J., dissenting).

34. *Id.* at 853 (majority opinion).

35. *Id.* at 854.

36. See *id.* at 854–56.

37. See *id.* at 849–50. It should be clear that all Justices agreed that a class action is a possible alternative for plaintiffs seeking national remedies. See *id.* at 850; *id.* at 868 (Alito, J., concurring); *id.* at 869 (Kavanaugh, J., concurring); *id.* at 919–20 (Sotomayor, J., dissenting). Justice Brett Kavanaugh makes this point clear in his concurring opinion by stating that "plaintiffs who challenge the legality of a new federal statute or executive action and request preliminary injunctive relief may sometimes seek to proceed by class action under Federal Rule of Civil Procedure 23(b)(2) and ask a court to award preliminary classwide relief that [is] . . . statewide, regionwide, or even nationwide." *Id.* at 869 (Kavanaugh, J., concurring). Because class actions continue to be an available alternative, some of the Justices also agree that this might lead to the "functional equivalent" of a nationwide injunction. *Id.* at 873. Likewise, Justice Alito not only agrees, but fears that the fact that a class action is an alternative remedy may defeat the goal of the opinion in *Trump v. CASA, Inc.* See *id.* at 867–68 (Alito, J., concurring).

38. *Id.* at 867–68.

it to try to enforce an executive order that three federal district courts had independently found to be presumptively unconstitutional.³⁹ She also warned that the Court's holding renders constitutional guarantees meaningless for the majority of individuals who are subject to the government's unconstitutional policies or conduct.⁴⁰ Finally, she emphasized the fact that the government bore the burden of showing that it would suffer irreparable harm if it was not granted the requested stay, and that the only harm it could show was the inability to implement an unconstitutional executive order.⁴¹

Justice Sotomayor also provided strong support for the argument that the Court's decision was wrong even under the Court's own analysis. This is so because the Court admitted that a nationwide injunction could be justified if the order was needed to provide complete relief to the parties, which was precisely the case according to the three lower courts that had considered the issue.⁴² In this case, as Justice Sotomayor explained, some of the plaintiffs were organizations with almost 700,000 members residing in all fifty U.S. states.⁴³ If the nationwide injunctions had not been granted, individuals in some states would be subject to the executive order, while similarly situated individuals in other states would not. Furthermore, because any of those individuals could travel throughout the country, states would be forced to create different programs for people who were subject to the order and for those who were not.⁴⁴

Justice Jackson went even further and called the opinion "profoundly dangerous" because it "gives the Executive the go-ahead to sometimes wield the kind of unchecked, arbitrary power the Founders crafted our Constitution to eradicate."⁴⁵ In other words, in her opinion, the Court's decision granted the Trump administration's wish to continue doing something that a court had determined violated the Constitution. As Justice Jackson explained, in granting this wish, the Court granted permission for the government to engage in unlawful behavior:

39. *See id.* at 880, 889–90 (Sotomayor, J., dissenting).

40. *See id.* at 880.

41. *See id.* at 891–92. Justice Sotomayor also states this by saying that "the Government now asks this Court to grant emergency relief, insisting it will suffer irreparable harm unless it can deprive at least some children born in the United States of citizenship." *Id.* at 879.

42. *See id.* at 910.

43. *See id.* at 909–10.

44. *See id.* at 910–11.

45. *Id.* at 922 (Jackson, J., dissenting).

To hear the majority tell it, this suit raises a mind-numbingly technical query: Are universal injunctions “sufficiently ‘analogous’ to the relief issued ‘by the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act’” to fall within the equitable authority Congress granted federal courts in the Judiciary Act of 1789? But that legalese is a smokescreen. It obscures a far more basic question of enormous legal and practical significance: May a federal court in the United States of America order the Executive to follow the law?⁴⁶

VI. THE THREAT TO CONSTITUTIONAL PROTECTIONS

Given that the Court’s decision in *Trump v. CASA, Inc.* did not ban the use of nationwide injunctions in all cases, in her dissenting opinion, Justice Jackson asked an interesting question: What is all the fuss about? As she put it:

[O]ne might wonder: Why all the fuss? After all, the majority recognizes that district courts can still issue universal injunctions in some circumstances. It even acknowledges that the lower courts may reimpose the same universal injunctions at issue in *these* cases, if the courts find on remand that doing so is necessary to provide complete relief to the named plaintiffs.⁴⁷

But her conclusion is, as you would expect, that there is more to it than what is at stake for the parties in this particular case. According to her view, even if a nationwide injunction remains a possible remedy in some cases, “from the perspective of constitutional theory and actual practice,” the Court’s approach to the question can lead to disaster.⁴⁸ And that disaster is the fact that the Court has effectively removed the judiciary from the system of checks and balances.⁴⁹ Federal judges are no longer in a position to prevent the executive from continuing to engage in conduct that a judge has concluded violates the Constitution, thereby “permitting unlawful conduct to continue unabated.”⁵⁰

If this is the case, as Justice Sotomayor argues in her dissenting opinion, no right is safe from government infringement.⁵¹ If the president

46. *Id.* at 922–23 (citation omitted).

47. *Id.* at 931 (citation omitted).

48. *Id.*

49. *See id.* at 931–32.

50. *Id.* at 939–40.

51. *Id.* at 880 (Sotomayor, J., dissenting).

were to nationally ban gun ownership or the exercise of a certain religion, for example, a federal judge could not enjoin the enforcement of such an order, other than as it relates to the parties appearing before the judge, leaving the government free to engage in blatantly unconstitutional conduct everywhere else.⁵² Explained this way, it is easy to understand why the dissenters conclude that the Court's opinion "kneecaps the Judiciary's authority to stop the Executive from enforcing even the most unconstitutional policies," which renders constitutional guarantees virtually meaningless.⁵³

In addition, regarding the use of class actions as an alternative, although some commentators argue that it is easier to obtain class certification in a case seeking an injunction than in one seeking financial compensation, it is fair to say that obtaining class certification can take a long time.⁵⁴ As one commentator explains:

The downside to using class actions is that the certification process can take time. If the defendant contests it, class certification can usually happen only after the parties have taken discovery into the criteria – that is, they have produced information concerning whether they qualify as a class or not. For example, the most contentious certification criterion for injunctive classes is usually whether the plaintiffs are "adequate representatives." The defendant will usually want to probe the plaintiffs' honesty, their relationship with the lawyers representing them, and whether there might be any conflicts of interest between the plaintiffs and other class members. For this reason, it is not uncommon for class certification to take months or even years.⁵⁵

52. *Id.*

53. *Id.* at 895. Justice Jackson expressed the same concern in even more colorful language, arguing that "[a] Martian arriving here from another planet would see these circumstances and surely wonder: 'what good is the Constitution, then?' . . . 'Those things Americans call constitutional rights seem hardly worth the paper they are written on!'" *Id.* at 938 (Jackson, J., dissenting).

54. See Brian Fitzpatrick, *The Perils of Using Class Actions as a Replacement for Universal Injunctions*, SCOTUSBLOG (Aug 12, 2025, at 10:39 ET), <https://www.scotusblog.com/2025/08/the-perils-of-using-class-actions-as-a-replacement-for-universal-injunctions/> [<https://perma.cc/T6JE-Q98A>] ("Although some commentators have worried that it will be too difficult to certify class actions, the truth is that it is relatively easy to certify class actions that seek injunctive relief: the certification criteria are less numerous and less demanding than for class actions seeking money damages.")

55. *Id.*

If this is the case, there is good reason to worry that a court cannot issue an injunction to prevent the negative consequences of government conduct it believes is unconstitutional, since implementing such policies can cause significant damage while the parties wait to find out whether the class action is certified.

VII. THE DECISION'S LIMITED IMPACT IN PRACTICE

Clearly, the dissenting judges are worried about the effect of the Court's opinion on the nature of our constitutional system.⁵⁶ Yet, even if the consequences of the decision in terms of constitutional theory seem bleak, perhaps the practical consequences are not as bad because the Court recognized that a nationwide injunction might be justified to provide complete relief to the plaintiffs, and because of the availability of class actions to challenge national governmental policies or executive orders.⁵⁷ In fact, in cases challenging the constitutionality of the birthright citizenship executive order since the decision in *Trump v. CASA, Inc.*, at least two courts have held that a nationwide injunction is justified to provide complete relief, and two others have certified national class actions.⁵⁸

In the first category of these cases, a judge in the District Court for the Western District of Washington issued a nationwide injunction, holding that it was necessary to give the plaintiff states complete relief on their claims.⁵⁹ This decision was later upheld by the Court of Appeals for the Ninth Circuit.⁶⁰ Likewise, after reviewing their claims based on

56. See *Trump v. CASA, Inc.*, 606 U.S. 831, 880 (2025) (Sotomayor, J., dissenting); *id.* at 922 (Jackson, J., dissenting).

57. See Sohoni, *supra* note 27; Fitzpatrick, *supra* note 54.

58. See *Washington v. Trump*, 145 F.4th 1013, 1019 (9th Cir. 2025) (affirming grant of nationwide injunction); *Doe v. Trump*, 157 F.4th 36, 82 (1st Cir. 2025) (affirming in part grant of nationwide injunction); *CASA, Inc. v. Trump*, 793 F. Supp. 3d 687, 694 (D. Md. 2025) (affirming certification of class action); *Barbara v. Trump*, 790 F. Supp. 3d 80, 87 (D.N.H. 2025) (granting certification of class action).

59. *Washington v. Trump*, 765 F. Supp. 3d 1142, 1153–54 (W.D. Wash.), *aff'd*, 145 F.4th 1013 (9th Cir. 2025).

60. *Trump*, 145 F.4th at 1019; see also Edvard Pettersson, *Ninth Circuit Upholds Nationwide Block of Trump Birthright Citizenship Order*, COURTHOUSE NEWS SERV. (July 23, 2025), <https://www.courthousenews.com/ninth-circuit-upholds-nationwide-block-of-trump-birthright-citizenship-order/> [<https://perma.cc/984F-85PF>] (reporting that the Ninth Circuit upheld the district court's nationwide preliminary injunction in a split decision); Zach Schonfeld, *Second Court Blocks Trump's Birthright Citizenship Order Nationwide After Supreme Court Ruling*, HILL (July 23, 2025, at 20:17 ET), <https://thehill.com/regulation/court-battles/5417028-second-court-blocks-trumps-birthright-citizenship-order-nationwide/> [<https://perma.cc/B4GX-6PHD>] (noting that the Ninth Circuit became the second federal appellate court to uphold a nationwide block of the

the analysis in *Trump v. CASA, Inc.*, a district court judge in Massachusetts held that there was no other workable or narrower alternative to a nationwide injunction that would provide the plaintiffs with full relief.⁶¹ The injunction in this case was later affirmed in part by the Court of Appeals for the First Circuit.⁶²

In the second category of cases, judges do not appear to have been persuaded by a need to slow down the class certification process. Proving Justice Alito's words to be prophetic, just weeks after the Supreme Court's decision, district courts issued class certification or "provisional class certification" in at least two different cases.⁶³

So-called "provisional class certification" is how courts address the concern mentioned above regarding how long it can take to certify a class.⁶⁴ Thus, a provisional class certification is actually the equivalent of a preliminary injunction: It is an order of the court certifying a class of plaintiffs while the court decides whether the certification criteria are met, or until the defendant asks the court to decertify the class.⁶⁵ Until that happens, however, the litigation continues as if the plaintiffs' class has been certified, thereby allowing the court to issue injunctive relief.⁶⁶ And since in these types of cases the plaintiffs obviously seek to be certified as a national class, that injunctive relief would be, by its very nature, a nationwide injunction.⁶⁷

In one of these recent cases, a federal district court judge in New Hampshire granted class action status to a lawsuit challenging the birthright citizenship executive order, thereby providing protection to children nationwide, beyond the specific plaintiffs in the case.⁶⁸ Likewise, a month later, a federal judge in Maryland held that "the only way to afford complete relief to the certified class is to enjoin enforcement of the

executive order because a narrower block would fail to provide the States with complete relief).

61. *New Jersey v. Trump*, No. CV 25-10139-LTS, 2025 WL 2816889, at *4 (D. Mass. July 25, 2025), *aff'd in part, vacated in part sub nom.*, *Doe v. Trump*, 157 F.4th 36 (1st Cir. 2025) (order on scope of preliminary injunction).

62. *Doe*, 157 F.4th at 78, 82 (concluding that the plaintiffs are "exceedingly likely" to succeed on the merits).

63. *See, e.g.*, Ella Lee, *Judge Blocks Trump Birthright Citizenship Order After Supreme Court Ruling*, HILL (July 10, 2025, at 11:02 ET), <https://thehill.com/regulation/court-battles/5394339-judge-blocks-trump-order-birthright-citizenship/> [<https://perma.cc/RRP9-Q2WR>].

64. *See Fitzpatrick, supra* note 54.

65. *See id.*

66. *See id.*

67. *See id.*

68. Lee, *supra* note 63.

Executive Order as to each member of the class,” even though it meant that the end result would be a nationwide injunction.⁶⁹

The defendants insist that “the Court should not grant nationwide relief.” They argue that Rule 23 should not “be an end-run around the now for-bidden [sic] universal injunction.” The defendants would have the Court enter a preliminary injunction limited to class members in the District of Maryland.

. . . .

Here, the Court finds that the only way to afford complete relief to the certified class is to enjoin enforcement of the Executive Order as to each member of the class. That relief must include every child in the United States who is subject to the Executive Order. After all, the Executive Order does not target only children born in Maryland; it seeks to deny citizenship to “persons born in the United States.” Anything less than classwide relief would not provide complete relief to the class.⁷⁰

In a third recent case, a federal judge approved class certification for more than 60,000 immigrants from Nepal, Nicaragua, and Honduras with temporary protected status who claim that Secretary of Homeland Security Kristi Noem’s recent orders ending the temporary protected status program were unlawful and motivated by racial animus.⁷¹

In spite of these recent decisions, it might still be too early to tell whether, as Justice Alito fears, district courts will now begin to grant national class status more easily to plaintiffs seeking to challenge national policies or executive orders, thus creating the chance for courts to issue nationwide injunctions even though the Supreme Court’s intent in *Trump v. CASA, Inc.* was to end the practice. What is clear, however, is that, as far as the actions filed challenging the specific executive order

69. *CASA, Inc. v. Trump*, 793 F. Supp. 3d 687, 700 (D. Md. 2025); see also Zach Schonfeld, *Fourth Ruling Blocks Trump Birthright Citizenship Order Nationwide*, HILL (Aug. 8, 2025, at 07:53 ET), <https://thehill.com/regulation/court-battles/5442668-donald-trump-birthright-citizenship-order-blocked/> [<https://perma.cc/7QCC-PAPS>].

70. *CASA*, 793 F. Supp. 3d at 699–700 (citations omitted).

71. Margaret Attridge, *Judge OKs Nationwide Class Action for Immigrants Clinging to Protected Status*, COURTHOUSE NEWS SERV. (Oct. 2, 2025), <https://courthousenews.com/judge-oks-nationwide-class-action-for-immigrants-clinging-to-protected-status/> [<https://perma.cc/Q3RJ-PFAQ>]. To read the court order, see *Nat’l TPS All. v. Noem*, No. 3:25-cv-05687-TLT (N.D. Cal. Oct. 2, 2025) (order granting motion for class certification), <https://www.courthousenews.com/wp-content/uploads/2025/10/tps-v-noem-grants-class-certification.pdf> [<https://perma.cc/JWP5-WSJA>].

on birthright citizenship, *Trump v. CASA, Inc.* did not have the desired effect.⁷² It will also not solve the policy concerns raised by those who oppose allowing judges to issue nationwide injunctions.⁷³ What will happen next remains to be seen.

VII. CONCLUSION

There are two main arguments against the use of nationwide injunctions. The first one is that it results in forum shopping. This is a valid point, but it is a problem that can be easily overcome by adopting legislation that gives exclusive jurisdiction over cases seeking nationwide injunctions in challenges to federal laws, policies, or executive orders to a specific district court.⁷⁴ Such an act could also mandate that such claims be decided by a panel of three judges.

The other argument is that the use of nationwide injunctions leads to “rushed” decision-making, forcing courts to issue decisions without the benefit of proper briefing and enough time to consider the issues.⁷⁵ The validity of this argument is weakened by the fact that the current Supreme Court has made a name for itself deciding unbriefed, consequential cases without explanation through the so-called “emergency relief” docket (or “shadow docket”),⁷⁶ a practice that has drawn widespread criticism from commentators⁷⁷ and even federal

72. See *supra* notes 63–70 and accompanying text.

73. See Sohoni, *supra* note 27 (“[T]he court’s cropped frame is apt, for its decision will not solve many, or perhaps even any, of the policy problems that have ignited so much ire against universal injunctions.”). There is still the potential for forum shopping, for conflicting injunctions in multiple jurisdictions at the same time, for rushed decisions, and for pressure on the Supreme Court’s emergency (“shadow”) docket. See *id.*

74. See *supra* note 26 and accompanying text.

75. See *Trump v. CASA, Inc.*, 606 U.S. 831, 855–56 (2025).

76. See Erwin Chemerinsky, *Why the Shadow Docket Should Concern Us All*, SCOTUSBLOG (Aug. 4, 2025, at 09:53 ET), <https://www.scotusblog.com/2025/08/why-the-shadow-docket-should-concern-us-all/> [<https://perma.cc/N25F-W3UK>] (“In the 2023-24 term, there were 44 matters on the emergency docket. In the 2024-25 term, through June 27 (the last day decisions were released), there were 113 matters on the emergency docket.”). For this reason, as Erwin Chemerinsky states, “[t]he Supreme Court’s emergency docket has taken on great significance in recent weeks as the justices have upheld a number of Trump administration policies, often with no explanation and sometimes implicitly overruling long-standing precedents.” *Id.*

77. See, e.g., *id.* (“[A]ll should be troubled by the manner in which the court has been deciding matters on its emergency docket. It is not too much to ask of the justices to follow long-established procedures for hearing and deciding cases, especially when ruling on important matters with great consequences.”). It has also been pointed out that the Court’s approach to emergency relief is often influenced by a case’s ideological outcome. See Taraleigh Davis, *Is the Emergency Docket Really for Emergencies?*, SCOTUSBLOG (Sep. 16, 2025, at 09:30 ET), <https://www.scotusblog.com/2025/09/is-the-emergency-docket-really->

judges.⁷⁸ Justice Jackson recently criticized the practice as a systemic problem characterized by “a Court that has abandoned legal reasoning in favor of reaching predetermined outcomes, [and] then wrapping those outcomes in enough procedural complexity that nobody can quite pin down what the rules actually are.”⁷⁹ The real-world consequences of such decisions can be significant.⁸⁰

for-emergencies/ [https://perma.cc/B3Y4-NCWZ] (“[T]he court has developed a two-speed system, with ideology and case type influencing the time in which a case is decided.”); see also Richard Zitrin, *The Supreme Court’s “Shadow Docket” Is Empowering Trump’s Agenda*, S.F. Chron. (Nov. 21, 2025), <https://www.sfchronicle.com/opinion/openforum/article/supreme-court-trump-shadow-docket-21194831.php> [https://perma.cc/N4PB-68PW] (“We have a runaway president who repeatedly abuses his authority While many federal judges have intervened to prevent this abuse, tragically, we have a Supreme Court that has repeatedly shunted aside the lower courts and allowed the Trump administration’s conduct.”).

78. See Mike Masnick, *The Judiciary Is Breaking Down: Federal Judges Now Openly Revolt Against SCOTUS Shadow Docket During Live Court Hearing*, TECHDIRT (Sep. 12, 2025, at 13:41 ET), <https://www.techdirt.com/2025/09/12/the-judiciary-is-breaking-down-federal-judges-now-openly-revolt-against-scotus-shadow-docket-during-live-court-hearing/> [https://perma.cc/J3H7-WWNQ] (“We’ve been tracking the growing judicial revolt against the Supreme Court’s shadow docket nonsense, from individual district judges getting snarky in footnotes to anonymous judges speaking to reporters. But what happened Thursday at the Fourth Circuit Court of Appeals crosses into entirely new territory: a full *en banc* panel of federal judges openly criticizing the Supreme Court’s approach during a live oral argument session.”).

79. Mike Masnick, *Justice Jackson Correctly Defines the John Roberts Supreme Court as the Calvinball Court*, TECHDIRT (Aug. 22, 2025, at 10:47 ET), <https://www.techdirt.com/2025/08/22/justice-jackson-correctly-defines-the-john-roberts-supreme-court-as-the-calvinball-court/> [https://perma.cc/QK4A-PRJH]; see also *Nat’l Insts. of Health v. Am. Pub. Health Ass’n*, 145 S. Ct. 2658, 2675 (2025) (Jackson, J., concurring in part and dissenting in part) (“[R]ight when the Judiciary should be hunkering down to do all it can to preserve the law’s constraints, the Court opts instead to make vindicating the rule of law and preventing manifestly injurious Government action as difficult as possible. This is Calvinball jurisprudence with a twist. Calvinball has only one rule: There are no fixed rules. We seem to have two: that one, and this Administration always wins.” (citation omitted) (quoting *CASA*, 606 U.S. at 941 (Jackson, J., dissenting)). The Oxford English Dictionary defines Calvinball as an “[a]ctivity reminiscent of the imaginary game of Calvinball, in not following any discernible rules, or in which individuals act in a self-servingly inconsistent manner.” *Calvinball*, OXFORD ENG. DICTIONARY (June 2025), https://www.oed.com/dictionary/calvinball_n (citation omitted) (on file with the Rutgers University Law Review).

80. For an example of a recent case decided through the emergency (“shadow”) docket and that attracted much attention, see *Noem v. Perdomo*, 222 L. Ed. 2d 1213 (2025). In *Noem*, the Court stayed a lower court’s order banning racial profiling by immigration officials. *Id.* at 1213. Technically, the Court’s order is temporary, but its effect is to allow presumptively unconstitutional racial profiling to continue until the court reviews the whole record, which is likely to take months. See *id.* For commentary on the case, see, e.g., Elie Mystal, *The Supreme Court Just Gave the OK to Racial Profiling*, NATION (Sep. 8, 2025), <https://www.thenation.com/article/society/supreme-court-racial-profiling-la-raids/> [https://perma.cc/5PMJ-EXRE]; Zach Schonfeld, *Supreme Court Lifts Limits on Los*

In *Trump v. CASA, Inc.*, one of the most anticipated decisions out of the Supreme Court in 2025, the Supreme Court held that federal judges do not have the authority to issue nationwide injunctions unless doing so is necessary to provide complete relief to the parties.⁸¹ Yet, because it is not clear how the exception based on the necessity to provide complete relief should be interpreted, and because of the ease with which some courts will grant national class certification, the lasting influence of the Court's decision is in doubt.⁸²

Individuals seeking to challenge government policies that affect people at a national level now have two strategic options: (1) to seek a nationwide injunction, claiming it is needed to obtain complete relief, or (2) to file a class action lawsuit seeking certification of the claimants as a national class, and then seek an injunction to protect the class.⁸³ States seeking to challenge federal government policies, practices, or executive orders will have the first one of these options available.⁸⁴

Although it might be too soon to tell, in the end, the decision in *Trump v. CASA, Inc.* may prove to be so weak and sloppy that it will turn out to be essentially irrelevant.⁸⁵ On this, I agree with Justice Alito, but while he thinks that is a bad thing, I think it is a good result. Otherwise, the executive power would be free to enforce unconstitutional policies without an efficient check by the judiciary.

Angeles-Area Immigration Stops, HILL (Sep. 8, 2025, at 12:13 ET), <https://thehill.com/regulation/court-battles/5491938-supreme-court-immigration-ruling-los-angeles/> [<https://perma.cc/HS7U-ABTQ>]; Mike Masnick, *SCOTUS Says ICE Can Use The Family Guy Skin Color Chart For Arrests (But Won't Explain Why)*, TECHDIRT (Sep. 9, 2025, at 09:26 ET), <https://www.techdirt.com/2025/09/09/scotus-says-ice-can-use-the-family-guy-skin-color-chart-for-arrests-but-wont-explain-why/> [<https://perma.cc/HYE9-R3PM>]; Austin Sarat, *Blind Justice No More: The Supreme Court Has Sanctioned Racial Profiling*, HILL (Sep. 15, 2025, at 09:00 ET), <https://thehill.com/opinion/judiciary/5501392-ice-agents-racial-profiling/> [<https://perma.cc/9P4P-ZTXE>].

81. See *CASA*, 606 U.S. at 861.

82. See Sohoni, *supra* note 27 (discussing “[t]he court’s paucity of guidance on the key yardstick of what makes relief ‘complete’” and arguing that “[b]y eliminating one form of relief while preserving multiple pathways to achieve functionally identical results, the court may have in the end accomplished little”).

83. See *CASA*, 606 U.S. at 849–50, 52.

84. See *id.* at 853.

85. See Sohoni, *supra* note 27 (describing the decision as suffering from “internal inconsistencies,” “faulty logical jumps,” and an “utter disregard of real-world consequences”).