Nos. 24A884, 24A885, 24A886

IN THE
Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL.,
Applicants,
v.
CASA INC., ET AL.,
Respondents.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL.,
Applicants,
v.
STATE OF WASHINGTON, ET AL.,
Respondents.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL.,
Applicants,
v.
STATE OF NEW JERSEY, ET AL.,
Respondents.

On Applications for Partial Stays of the Injunctions Issued by the United States District Courts for the District of Maryland, the Western District of Washington, and the District of Massachusetts

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BRIEF OF THE RESTAURANT LAW CENTER, NATIONAL ASSOCIATION OF HOME BUILDERS, NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL BUSINESS LEGAL CENTER, INC., NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS, AND NATIONAL APARTMENT ASSOCIATION AS *AMICI CURIAE* IN SUPPORT OF RESPONDENTS

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INTEREST OF AMICI CURIAE[1]

Amici are a collection of trade organizations that represent a wide range of industries and businesses and that regularly advocate for the interests of their members in litigation. *Amici* respectfully submit this brief to provide the Court with important context about the issue currently before it: whether a court may issue a nationwide preliminary injunction to pause the effectiveness and enforcement of a federal action, including as to parties not directly before the court or specifically identified.

Amici and their members have a significant interest in this question. Businesses need federal law to be clear and interpreted consistently in every jurisdiction where they operate and compete. They need fair notice when federal law changes, and time to adapt operations and compliance programs accordingly. And they rely on representative associations of which they are members to support their interests, particularly in court. Indeed, many of these member-businesses lack the financial resources and time to engage in litigation themselves. Nationwide injunctions ably serve each of those needs while minimizing uncertainty, protecting businesses from incurring unnecessary costs, and advancing judicial economy. Accordingly, *Amici* believe that nationwide injunctions are lawful and necessary to effectuate full relief in many cases.

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[1] Pursuant to Supreme Court Rule 37.6, counsel for *amici curiae* state that no counsel for a party authored this brief "in whole or in part," and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person or entity other than *amici*, their members, or their counsel has made a monetary contribution to the preparation or submission of this brief.

The Restaurant Law Center (RLC) is the public policy legal affiliate of the National Restaurant Association and is the only public policy organization created specifically to represent the interests of the foodservice industry in the courts. In the United States, the industry is comprised of over one million restaurants and other foodservice outlets employing over 15 million people—approximately ten percent of the U.S. workforce—and contributing nearly $1 trillion to the national economy. The Restaurant Law Center provides courts with the industry's perspective on legal issues that have the potential to significantly impact its members and their industry, including by highlighting the potential industry-wide consequences of pending cases like this one through regular participation in *amicus* briefs on behalf of the industry.

The National Association of Home Builders (NAHB) is a Washington, D.C.-based trade association whose mission is to enhance the climate for housing and the building industry. Chief among NAHB's goals is providing and expanding opportunities for all people to have safe, decent, and affordable housing. Founded in 1942, NAHB is a federation of more than 700 state and local associations. About one-third of NAHB's approximately 140,000 members are home builders or remodelers, and constitute 80% of all homes constructed in the United States. NAHB is a vigilant advocate in the nation's courts. It frequently participates as a party litigant and *amicus curiae* to safeguard the constitutional and statutory rights and business interests of its members and those similarly situated.

The National Federation of Independent Business Small Business Legal Center, Inc. (NFIB Legal Center) is a nonprofit, public interest law firm established to provide legal

resources and be the voice for small businesses in the nation's courts through representation on issues of public interest affecting small businesses. It is an affiliate of the National Federation of Independent Business, Inc. (NFIB), which is the nation's leading small business association. NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. NFIB represents, in Washington D.C., and all 50 state capitals, the interests of its members.

The National Association of Wholesaler-Distributors (NAW) is an employer and a non-profit, non-stock, incorporated trade association that represents the wholesale distribution industry — the essential link in the supply chain between manufacturers and retailers as well as commercial, institutional, and governmental end users. NAW is made up of direct-member companies and a federation of national, regional, and state associations across 19 commodity lines of trade which together include approximately 35,000 companies operating nearly 150,000 locations throughout the nation. The overwhelming majority of wholesaler-distributors are small-to-medium-size, closely held businesses. As an industry, wholesale distribution generates more than $8 trillion in annual sales volume providing stable and well-paying jobs to more than 6 million workers.

The National Apartment Association (NAA) serves as the leading voice and preeminent resource through advocacy, education, and collaboration on behalf of the rental housing industry. As a federation of 141 state and local affiliates, NAA encompasses over 96,000 members representing more than 12 million apartment homes globally. NAA believes that rental housing is a valuable partner in every community and emphasizes integrity,

accountability, collaboration, community responsibility, inclusivity, and innovation. NAA and its network of affiliated apartment associations seek the fair governmental treatment of multifamily housing organizations, including advocating the interests of the rental housing business community at large in legal cases of national concern.

SUMMARY OF ARGUMENT

Amici's members work hard to comply with the broad array of federal laws and regulations that apply to their businesses. Those laws and regulations cover topics that are as wide-ranging as they are complex—including wages and benefits, working conditions, hiring, labor relations, supply chain and procurement, franchising, marketing and advertising, food safety, agriculture, privacy, payments, taxes, transportation, property rights, and much more. The applicable rules may and often do change, particularly as a result of elections and the recalibration of the role of regulatory agencies.

This case comes to the Court on the Government's application to partially stay nationwide preliminary injunctions pausing enforcement of an Executive Order pending the outcome of litigation challenging that order. Focusing on the question presented—whether nationwide injunctions may issue, and may cover parties not directly before the court or specifically identified to the court—*Amici* support Respondents.

Respondents ably explain in their briefs why nationwide preliminary injunctions are proper in these cases. *Amici* write to emphasize why nationwide injunctions are exceptionally important and practically necessary to fashion effective relief, particularly on a preliminary basis, for businesses attempting in good faith to comply with federal law.

Nationwide injunctions are a lawful, traditional exercise of federal equitable power, especially appropriate in cases involving national policies or regulations that impact businesses and workers across the country. For *Amici*'s members, nationwide injunctions are not only lawful, but essential. Businesses of all stripes, from multinationals to mom-and-pops, operate in or compete across multiple federal jurisdictions simultaneously. For them, a clear and uniform understanding of federal law is critical for business planning, operational stability, and regulatory compliance. If federal law differs across jurisdictions, or changes rapidly—particularly amid a flurry of conflicting court decisions—businesses risk being paralyzed by uncertainty, whipsawed by fast-changing rules, and burdened by unnecessary costs and legal exposure. And if businesses cannot depend on representative associations to defend their interests and secure equitable relief on their behalf—particularly when many of those businesses lack the resources to regularly seek redress in any court, let alone in every jurisdiction where they operate or compete—the uncertainty and cost may become overwhelming.

Continuing the longstanding tradition of allowing organizations to secure nationwide relief from unlawful federal action as applied to their members avoids these immediate consequences. Nationwide injunctions help ensure that businesses can operate efficiently and compete on a level playing field by ensuring that no matter which of the 94 federal district courts or 12 circuit courts grant preliminary relief, there is one binding interpretation of federal law. For businesses and their workers, nationwide injunctions ensure clarity and uniformity.

In addition, continuing to allow organizations to seek nationwide equitable relief on behalf of all their members—including those members not specifically before the court or identified to it—ensures that such equitable relief is effective, particularly where the action being enjoined has nationwide effect. Limiting an injunction to just the named plaintiffs would be illogical when the federal action being challenged was enacted and may be enforced far beyond those plaintiffs. Stated differently: if the government's action was not tailored to address the specific plaintiffs distinct from any others, it would make little sense to tailor the remedy by limiting the injunction to just those plaintiffs, especially where the government action involves a question of national significance that affects millions nationwide. Just as a lawful order is enforceable nationwide, an unlawful one must be unenforceable nationwide.

Nationwide injunctions provide uniform relief that is essential to prevent widespread disruption to businesses that depend on legal clarity and stability. *Amici* urge the Court to reaffirm that nationwide injunctions are a viable tool for fashioning effective relief where necessary, particularly in a preliminary and temporary posture, and that representative organizations may seek and secure such relief on behalf of their members.

ARGUMENT

I. Federal Courts Have Equitable Power To Issue Nationwide Injunctive Relief.

Under Article III of the Constitution "[t]he judicial Power" of the federal courts allows the courts to administer remedies in equity consistent with the principles of equity recognized by the English Court of Chancery. *Vattier v. Hinde*, 32 U.S. (7 Pet.) 252 (1833)

(Marshall, C.J.). This Court has repeatedly emphasized that "breadth and flexibility are inherent in equitable remedies," and that this flexibility is at the core of federal courts' equitable jurisdiction. *Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15, (1971); *accord Armstrong v. Exceptional Child Ctr., Inc.*, 575 U.S. 320, 327 (2015) (Scalia, J.) ("The ability to sue to enjoin unconstitutional actions by state and federal officers is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action, tracing back to England."). Historical practice and early precedents from this Court confirm that nationwide injunctions, including preliminary injunctive relief entered under Federal Rule of Civil Procedure 65, are within the "judicial Power" granted by the Constitution and consistent with federal courts' equitable jurisdiction.

This Court has long explained that "[t]he scope of injunctive relief is dictated by the extent of the violation established, not by the geographical extent of the plaintiff class." *Califano v. Yamaski*, 442 U.S. 682, 702 (1979). "Crafting a preliminary injunction is an exercise of discretion and judgment, often dependent as much on the equities of a given case as the substance of the legal issues it presents." *Trump v. Int'l Refugee Assistance Project*, 582 U.S. 571, 579 (2017) (preserving preliminary injunctions applicable to "respondents and those similarly situated" to them). Indeed, nationwide relief against the enforcement of unlawful federal or state law or policy is not a new phenomenon.

Courts of Appeals have approved nationwide injunctions in many cases involving government action—including in cases like this one arising in the immigration context,

and cases involving federal agency actions brought pursuant to the Administrative Procedure Act (APA). *See, e.g.*, *Career Colls. & Schs. of Tex. v. U.S. Dep't of Educ.*, 98 F.4th 220, 255 (5th Cir. 2024) (explaining that the APA authorizes a reviewing court to issue relief that "is not party-restricted and allows a court to 'set aside' an unlawful agency action"), *cert. granted in part sub nom. Dep't of Educ. v. Career Colls. & Schs. of Tex.*, 220 L. Ed. 2d 375 (2025); *Data Mktg. P'ship, LP v. U.S. Dep't of Lab.*, 45 F.4th 846, 859 (5th Cir. 2022) (same); *Texas v. United States*, 50 F.4th 498, 531 (5th Cir. 2022) (noting that "broad relief is appropriate to ensure uniformity and consistency in enforcement."); *Washington v. Trump*, 847 F.3d 1151, 1166–67 (9th Cir. 2017) (declining to narrow nationwide injunction and noting "the Government has not proposed a workable alternative form of the TRO … that would protect the proprietary interests of the States at issue here while nevertheless applying only within the States' borders"); *Harmon v. Thornburgh*, 878 F.2d 484, 495 n.21 (D.C. Cir. 1989) ("When a reviewing court determines that agency regulations are unlawful, the ordinary result is that the rules are vacated—not that their application to the individual petitioners is proscribed."); *Wirtz v. Baldor Elec. Co.*, 337 F.2d 518, 533, 535 (D.C. Cir. 1963) (per curiam) (maintaining nationwide injunction "on behalf of [plaintiffs] and all other United States manufacturers of electric motors and generators similarly situated").

Nationwide injunctions have no inherent political or policy valence. Federal courts have issued nationwide injunctions to pause actions under both Republican and Democratic presidents. A nationwide injunction halted President George W. Bush's

initiative to streamline procedures under the Endangered Species Act. *Am. Lands All. v. Norton*, 2004 WL 3246687, at *3 (D.D.C. June 2, 2004); *Earth Island Inst. v. Ruthenbeck*, 490 F.3d 687, 699 (9th Cir. 2007), *aff'd in part, rev'd in part on other grounds sub nom. Summers v. Earth Island Inst.*, 555 U.S. 488 (2009). Nationwide injunctions paused President Obama's policies relating to immigration, among other things. *See, e.g.*, *Texas v. United States*, 809 F.3d 134, 187–88 (5th Cir. 2015) (upholding a nationwide injunction, noting that interests in "*uniform*" immigration enforcement meant that "a geographically-limited injunction would be ineffective"), *aff'd by an equally divided Court*, 579 U.S. 547 (2016) (per curiam). Likewise, during the first Trump Administration, federal courts issued nationwide injunctions pausing multiple high-profile policies. *See, e.g.*, *Washington v. Trump*, 2017 WL 462040, at *2 (W.D. Wash. Feb. 3, 2017) (granting temporary restraining order "on a nationwide basis" regarding enforcement of immigration policies); *Karnoski v. Trump*, 2017 WL 6311305, at *10 (W.D. Wash. Dec. 11, 2017) (granting nationwide preliminary injunction enjoining action relating to transgender individuals serving in the military). Nationwide injunctions impacted the Biden Administration, too. *See, e.g.*, *Centro Legal de la Raza v. Exec. Off. for Immigr. Rev.*, 524 F. Supp. 3d 919, 978–80 (N.D. Cal. 2021) (granting nationwide injunction to enjoin immigration rule where "nationwide relief is needed" because plaintiffs "operate throughout the country"); *Feds for Med. Freedom v. Biden*, 63 F.4th 366, 388 (5th Cir.) (upholding a nationwide preliminary injunction because, among other reasons, the thousands of plaintiffs were "spread across every State" and the district court "fear[ed]

that limiting the relief to only those before it would prove unwieldy and would only cause more confusion"), *judgment summarily vacated on other grounds*, 144 S. Ct. 480 (2023).

II. Nationwide Injunctions Are Often Necessary to Provide Adequate Relief From Unlawful Federal Action That Applies Nationwide.

Courts must ensure that the relief they issue is sufficient to remedy the harms alleged. Where federal action has national application, limiting relief to a narrow class of plaintiffs or to a single jurisdiction is often inadequate. And such tailored relief may do more harm than good by creating an unworkable legal patchwork that imposes conflicting obligations on employers who operate and compete across multiple jurisdictions.

Real-world examples demonstrate why nationwide injunctions are particularly necessary for the broad range of industries and employers that *Amici* represent.

Take the Restaurant Law Center's challenge to a Department of Labor regulation that sought to refine how the federal minimum wage applied to tipped workers. The Restaurant Law Center sought a preliminary injunction, arguing that the Department of Labor's conflicting interpretations of wage-and-hour rules regarding tipped workers created uncertainty that only nationwide relief could effectively resolve. *Rest. L. Ctr. v. U.S. Dep't of Lab.*, 66 F.4th 593, 595-96 (5th Cir. 2023). Absent a nationwide injunction, the Restaurant Law Center's impacted members—which operate and compete in every state across the country—faced the untenable position of having to choose between abandoning the tip credit all together, which would have increased labor costs for businesses already working on thin profit margins; or continuing to utilize the tip credit and incur the high costs and significant disruption to comply with the Final Rule. And

without an injunction to protect all of the Restaurant Law Center's members, the Fifth Circuit recognized that they would face irreparable harm in the form of "the nonrecoverable costs of complying with a putatively invalid regulation." 66 F.4th at 597.[2]

Another poignant example is the litigation brought by NFIB and others challenging the Corporate Transparency Act ("CTA"), which required companies to report their beneficial owners, and private identifying information about such owners, to the federal government or face "severe penalties." *Tex. Top Cop Shop, Inc. v. Garland*, 758 F. Supp. 3d 607, 619 (E.D. Tex. 2024). After expressing concern about the law's viability, the district court issued a nationwide injunction. The court acknowledged the view that nationwide injunctions may "curtail the percolation of legal debate among lower courts." *Id.* at 662. But the court also recognized that the CTA and its reporting rule were scheduled to take effect and apply nationwide to roughly 32.6 million companies, and that the organizational plaintiffs included approximately 300,000 individual members across the country. *Id.* at 661–62. Therefore, as the government had conceded, the court concluded that it was not possible to provide meaningful preliminary relief to plaintiffs—whose members operated and competed nationwide—without issuing injunctive relief that applied nationwide. *See id.* at 662.

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[2] *See also Texas v. U.S. EPA*, 829 F.3d 405, 433 (5th Cir. 2016) ("[C]omplying with a regulation later held invalid almost *always* produces the irreparable harm of nonrecoverable compliance costs."); *BST Holdings, L.L.C. v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021) ("compliance and monitoring costs," "diversion of resources," and business and financial effects of a lost employee necessitated by an executive mandate constituted irreparable harm).

NAHB's challenge to the definition of "Waters of the United States" (WOTUS) under the Clean Water Act illustrates that when a nationwide injunction is appropriate and courts instead apply lesser remedies, chaos results. The definition of "WOTUS" has seen significant fluctuation in recent years, and the uncertainty was made worse when different federal courts partially enjoined a 2023 rule revising the definition. A district court in Texas issued a partial injunction that applied in some states, but denied the trade associations' requests for a nationwide injunction, because at least "twenty-five other states have filed complaints and motions for preliminary injunctions against the Rule," such that "[t]he judicial process will benefit from the reasoning and conclusions of other courts weighing in." *Texas v. U.S. EPA*, 662 F. Supp. 3d 739, 758 (S.D. Tex. 2023). A district court in North Dakota issued an order preliminarily enjoining the rule as applied to another 24 states. *See West Virginia v. U.S. EPA*, 669 F. Supp. 3d 781, 819 (N.D. 2023). And in a third suit, brought by the state of Kentucky and other association plaintiffs, the U.S. Court of Appeals for the Sixth Circuit issued an administrative stay pending appeal of a district court's decision denying a request for a preliminary injunction enjoining the rule. *See Kentucky v. U.S. EPA*, 2023 WL 3326102, at *1–2 (E.D. Ky. May 9, 2023). While the stay was in effect, the pre-2015 regulatory regime remained in place.

The conclusion: a disjointed mess. As a result of the multiple lawsuits, the EPA and the U.S. Army Corps now apply the January 2023 rule (as later amended) in 24 states, the District of Columbia, and the U.S. Territories; in the other 26 states, the agencies interpret WOTUS consistent with the pre-2015 regulatory regime. The resulting

confusion created a patchwork of WOTUS enforcement across jurisdictions, which was particularly acute for the interstate construction industry and farmers whose farms cross multiple state lines. The uncertainty was so dire, particularly for regulated entities that were not party to any of the ongoing lawsuits, that the agencies were forced to publish and continually update a map of the United States, explaining the enforcement regime currently underway in each jurisdiction.[3]

III. To Be Effective, Injunctive Relief Must Cover All Affected Association Members, Including Those Not Directly Before Or Identified To The Court.

The Government's stay application appears to interchangeably use the terms "nationwide" and "universal" to apply to injunctions that bar a defendant—in this case the Government—from taking action against individuals who are not parties to the lawsuit in a case that is not brought as a class action. *See, e.g.*, 24A884 Appl. at 2–4; 24A885 Appl. at 2–4; 24A886 Appl. at 1–2. The Government suggests that a proper injunction may only bind parties directly before the court. *See* 24A884 Appl. at 15–28; 24A885 Appl. at 15–21; 24A886 Appl. at 15–28. The Government is incorrect.

First, the Government's suggestion conflicts with this Court's long-settled precedent on associational standing, which allows an organization to assert "standing solely as the representative of its members." *Warth v. Seldin*, 422 U.S. 490, 511 (1975). The doctrine of associational standing is well-established, and this Court has repeatedly

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[3] *See* EPA, *Definition of "Waters of the United States": Rule Status and Litigation Update*, https://www.epa.gov/wotus/definition-waters-united-states-rule-status-and-litigation-update (last updated Oct. 21, 2024).

endorsed the doctrine. *See Hunt v. Wash. State Apple Advert. Comm'n*, 432 U.S. 333, 343 (1977); *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 199 (2023) ("*SFFA*").

This Court's associational standing jurisprudence recognizes that when an association secures injunctive relief, for that relief to be effective it must apply to all affected members, regardless of whether they are individually named in the complaint. *See Warth*, 422 U.S. at 515 (recognizing that an organization may "invoke the court's remedial powers on behalf of its members" to obtain an injunction that "inure[s] to the benefit of those members of the association actually injured"). Indeed, as recently as in the *SFFA* litigation, this Court held that in an associational standing case, "neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." 600 U.S. at 199*; see also Labrador v. Poe ex rel. Poe*, 144 S. Ct. 921, 932 (2024) (Kavanaugh, J., concurring) (explaining that an injunction confined to the "particular plaintiffs" in the case may "still have widespread effect," if, for example, the plaintiff is "an association that has many members").

A contrary rule would undermine the First Amendment rights of associations by effectively requiring disclosure of an association's individual members to determine the individuals to whom relief should be granted. *See, e.g.*, *NAACP v. Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958) (holding that compelled disclosure of association's membership list amounts to "a substantial restraint" upon the exercise of members' right to freedom of association); *Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 616 (2021) (reiterating

that such disclosure creates an unnecessary risk of chilling speech in violation of the First Amendment). Forcing associations to disclose their individual members would create serious practical problems as well. For example, government officials or members of the public who disagree with the association's stance in litigation could target member businesses for harassment, retaliation, or seek to cause financial damage in other ways.

Moreover, the Government's reasoning would render judicial relief practically and administratively unworkable for courts and parties alike, and diminish the value of an organization's reliance on associational standing by stripping it of meaningful remedies. Where a nationwide policy affects an entire industry, relief must be equally broad to ensure compliance and prevent competitive imbalance. As the Fifth Circuit explained in its decision affirming a nationwide injunction to enjoin a COVID vaccine policy, "[t]he Government's position on the scope of the injunction also sits awkwardly with its position on the merits." *Feds for Med. Freedom*, 63 F.4th at 388. On the merits, the Government advocated for "consistency across government in enforcement of this government-wide vaccine policy." *Id.* And on "the scope of the injunction," the Government preferred "piecemeal enforcement, where thousands of plaintiffs' members across the Nation are subject to the district court's injunction, others are given exemptions from vaccination, and only the remainder are subject to the President's mandate." *Id.* The Fifth Circuit reasoned that the Government's position on the injunctive relief "undermine[d] rather than support[ed] the Government's purported interest in consistency across government in enforcement of this government-wide vaccine policy." *Id.* (internal quotation marks

omitted). The Fifth Circuit affirmed the nationwide injunction. *Id.* at 839. So too should this Court, where the alternative would be to require associations to individually list their members—many of whom may live and work in different jurisdictions across the country—to obtain relief on their behalf.

Second, the Government's suggestion that a proper injunction may only bind parties directly before the court conflicts with precedent and history. Traditional equity courts "could grant injunctions that applied to nonparties," such that "the historical practice supports the conclusion that courts have always had the authority to issue equitable relief that encompasses nonparties." Amanda Frost, *In Defense of Nationwide Injunctions*, 93 N.Y.U. L. Rev. 1065, 1080–81 (2018). Indeed, "Article III courts have issued injunctions that extend beyond just the plaintiff for well over a century." Mila Sohoni, *The Lost History of the "Universal" Injunction*, 133 Harv. L. Rev. 920, 924, 1002-05 (2020).

This Court issued such an injunction as early as 1913, "when it temporarily enjoined a federal statute from being enforced not just against the plaintiffs but also against 'other newspaper publishers.'" *Id.* at 924–25 (citing *Lewis Publ'g Co. v. Morgan*, 229 U.S. 288 (1913) and *J. of Com. & Com. Bull. v. Burleson*, 229 U.S. 600 (1913)).

In the years that followed, this Court similarly permitted injunctions barring enforcement of certain laws as to parties not directly before the Court. *See, e.g.*, *Hill v. Wallace*, 259 U.S. 44, 48–49, 72 (1922) (barring enforcement of the Future Trading Act against plaintiff members of the Chicago Board of Trade and non-party members); *Bd. of*

Trade of City of Chi. v. Clyne, 260 U.S. 704, 704–05 (1922) (mem.) (barring enforcement of Grain Futures Act); *Pierce v. Soc'y of Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 530–33, 536 (1925) (affirming "appropriate injunction" categorically barring enforcement of unconstitutional state law, without limiting application to plaintiff parents); *see also, e.g.*, *Hague v. Comm. for Indus. Org.*, 307 U.S. 496, 517 (1939) (opinion of Roberts, J.) (describing as "unassailable" an order barring enforcement of ordinances deemed to violate the First Amendment as to plaintiffs and those acting in concert); *Hines v. Davidowitz*, 312 U.S. 52, 74 (1941) (affirming injunction barring enforcement of a state statute); *Binford v. J.H. McLeaish & Co.*, 284 U.S. 598 (1932) (mem.) (per curiam) (similar); *Mitchell v. Penny Stores*, 284 U.S. 576 (1931) (per curiam) (similar); *cf. Cooper v. Aaron*, 358 U.S. 1, 17 (1958) (reiterating that the State of Arkansas was bound by the Court's holding, in *Brown v. Board of Education of Topeka, Shawnee County, Kansas*, 347 U.S. 483 (1954), that school segregation was unconstitutional). Lower courts issued such injunctions as well, enjoining enforcement of state laws during the first half of the twentieth century. *See* Sohoni, *supra*, at 958–70, 987–91.

IV. Categorically Barring Nationwide Injunctions Risks Serious Harm To *Amici* And Their Members.

Many of *Amici's* members operate in a highly regulated and competitive business environment. They invest heavily to ensure that they comply with all applicable laws, but they require clear, consistent standards to do so effectively. If nationwide injunctions were unavailable, businesses could be subjected to conflicting legal obligations in

different jurisdictions, especially in the early stages of litigation when the need for clarity may be most urgent and important.

A fragmented approach would multiply compliance burdens, disrupt operations, and create significant legal risk. The burdens would fall hardest on small and mid-sized companies—those least equipped to navigate fast-changing and inconsistent legal requirements. And the risk of harm would be particularly acute in situations where the law has recently changed, compliance obligations are imminently in force, and overlapping or inconsistent legal rulings would only exacerbate confusion and uncertainty.

A hypothetical example, which has played out in various forms countless times in recent years, illustrates why nationwide injunctions are so important for *Amici* and their members. Imagine a major new statute or regulation adopted with great fanfare. The administration, seeking to ensure compliance with their preferred policy, makes clear that steep penalties will be swiftly imposed on any business that evades its legal obligations. But many businesses, acting in good faith, have a reasonable basis to question whether the new rules are lawful and, if they are, how they are supposed to comply. So the businesses raise their concerns to a trade association that is dedicated to representing the businesses' interests. The trade association seeks clarity and relief for its members. The administration is steadfast in its view that the rules are both lawful and clear. The trade association then is left with no choice but to sue to enjoin the new rules on behalf of all its members.

Should the trade association burden its members and the judicial system by filing a materially identical lawsuit on behalf of every one of its members in every one of the 94 district courts in the country, then pursue appeals in each of the 12 circuit courts? If it does not, and a nationwide injunction is not available as a form of equitable relief, then the association would be forced to choose the members for which it will seek relief. The association would be put in the untenable position of having to explain to a member operating in District A, where the association did not file a suit, why it must comply with the unlawful rule while a member in District B, where the association obtained a preliminary injunction, does not.

If the association takes the alternative path of 94 lawsuits naming hundreds if not thousands of plaintiffs, rather than pursuing streamlined and speedy resolution in a single forum, both the association's and the courts' finite resources would be drained. Businesses would be forced to choose between taking the risk that being named in the lawsuit will open it up to retaliation or harassment, or foregoing relief entirely. And even if they joined a suit, those businesses that operate or compete across multiple jurisdictions could face disparate obligations depending on the progress of each specific suit. The result could well be different rulings from different jurisdictions—leading to no more certainty than at the outset of the resource-draining efforts to pursue separate litigation nationwide.

No one wins in this scenario. It is bad for associations, their members, the government, and the courts. And it can be easily avoided by reaffirming that district

courts have the power to issue a nationwide injunction that provides relief to all association members.

At a time when businesses are facing real economic challenges, the imposition of additional uncertainty and legal costs would be especially harmful. Uniform legal standards, supported by a nationwide injunction when necessary, are essential to ensuring that businesses can comply with the law without sacrificing operational stability. The prospect of such injunctions helps mitigate the risk of businesses getting whipsawed by conflicting court decisions along the way. The need for consistency is amplified even further when fast-moving litigation is at its early stages and occurs against the backdrop of a likelihood of irreparable harm—precisely when a preliminary injunction or temporary restraining order may be appropriate.

CONCLUSION

For the foregoing reasons, *Amici* respectfully request that this Court deny the emergency requests for partial stays of the district courts' orders.

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Respectfully submitted,

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