LEGAL UPDATES

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Will *Trump v. CASA* Lead to Increased State AG Multistate Investigations and Litigation?

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On June 27, 2025, in its long-anticipated decision in *Trump v. CASA, Inc.*, the U.S. Supreme Court significantly narrowed the ability of a single federal court to issue "universal" or "nationwide" injunctions—through which enforcement of a federal policy can be halted or blocked across the United States, rather than only as to the parties in the case. More specifically, the 6-3 Court majority held that universal injunctions likely exceed the equitable authority granted to federal courts under the Judiciary Act of 1789.

The underlying case consolidated three lawsuits brought by individuals, organizations, and state governments through their respective state attorneys general (the states) challenging Executive Order (EO) 14160, which, if implemented, would significantly narrow birthright citizenship. In each of the underlying lawsuits, the respective district courts had entered a universal preliminary injunction against enforcement of the EO. In its ruling, the U.S. Supreme Court granted the respective requests and partially stayed each injunction, "but only to the extent that the injunctions are broader than necessary to provide complete relief to each plaintiff with standing to sue." While the majority explained that "'complete relief' is not synonymous with 'universal relief,'" the Court largely left the precise contours of what constitutes "complete relief" to the lower courts to decide in the first instance.

Notably, the Court did not hold in *CASA* that all universal injunctions or other forms of nationwide relief issued by a single judge are prohibited. Instead, it held that such injunctions "likely exceed" courts' equitable authority, while signaling that limited avenues for nationwide relief still exist. For example, the Court acknowledged that many plaintiffs who may have otherwise sought a

universal injunction may be able to seek relief through a class action, to the extent plaintiffs satisfy Rule 23 standards for class certification. This avenue is already being tested in the lower court, with a federal judge on July 10, 2025, certifying a class action lawsuit that included all children impacted by the birthright citizenship EO and issuing a preliminary injunction ordering that EO from taking effect. In addition, the Court suggested that the Administrative Procedure Act (APA) "set aside" mechanism for agency actions deemed arbitrary, capricious, or otherwise contrary to law may still serve as a functional equivalent to a universal preliminary injunction.

Nevertheless, the Court's decision still has a major impact on constitutional and administrative litigation strategy, as it follows a flurry of universal injunctions blocking executive actions ranging from eliminating certain DEI programming to effectively dismantling the Consumer Financial Protection Bureau (CFPB). As the majority recognized in its ruling, in just the first 100 days of the second Trump administration, the district court issued 25 universal injunctions, and by the time of the *CASA* ruling, the White House stated that 40 universal injunctions—about one every four days—had been issued against Trump administration executive actions.

What did *CASA* say about State AG-derived lawsuits seeking nationwide relief?

The *CASA* majority reasoned that defining complete relief is "more complicated" for the states, but "expressly decline[d] to take up these arguments in the first instance." The majority acknowledged the states' argument that "financial injuries and the administrative burdens flowing from citizen-dependent benefits programs" can only be remedied with a nationwide ban, given "cross-border flow" making a "patchwork injunction" impractical. The Court then characterized the federal government's "unsurprising" position that the appropriate relief would be much narrower—such as relief being granted only for children born within the states that brought the lawsuit. In elaborating on what relief may look like going forward, Justice Alito cautioned in his concurrence against future courts "reflexive[ly]" granting states third-party standing, as this would give states "every incentive to bring third-party suits on behalf of their residents to obtain a broader scope of equitable relief than any individual resident could procure in his own suit," which would "undermine today's decision as a practical matter."

The states in the underlying lawsuit quickly seized upon the Court's reasoning in *CASA*, announcing that they intend to argue on remand that nationwide relief is both necessary and appropriate in the birthright citizenship context. For example, Massachusetts Attorney General Andrea Campbell, who co-led the underlying lawsuit brought by the states, characterized the Court's ruling as merely "introduc[ing] additional procedural hurdles," stating, "[W]e look forward to demonstrating why nationwide relief in this case is necessary, as the court has invited us to do." However, the nature of that invitation—and that of the resulting legal arguments—is far from clear. During a July 18 hearing post-*CASA*, one federal district judge sparred with attorneys from the U.S. Department of Justice

(DOJ) over the plain meaning of the *CASA* decision, which, it seems, is not so plain after all. In particular, the judge pointed out that DOJ did not propose in its briefing a potential alternative of limiting an injunction to only people within the states, despite this possibility being explicitly mentioned in *CASA*.

Implications of the *CASA* ruling for State AG enforcement

Time will tell whether a nationwide injunction is granted upon remand and—if the issue returns to the U.S. Supreme Court—ultimately upheld. But either way, there are likely significant consequences for State AG offices which will ripple down to businesses and individuals navigating State AG investigations and enforcement actions in the months to come.

To the extent a universal injunction is ultimately granted for birthright citizenship, State AG offices will almost certainly rely on the same factors as a litigation template to combat federal policies going forward. Here, such factors included "financial injuries and the administrative burdens flowing from citizen-dependent benefits programs." In the longer term, we may expect greater emphasis on state funding or citizenship as a means to establish standing in State AG-driven actions brought against the federal government, in order to ensure a more meaningful chance of widespread relief. In addition, individuals and businesses experiencing a perceived harm by a federal policy may be increasingly incentivized to seek the attention of State AG offices with the potential to secure blanket relief, rather than bring a traditional private lawsuit seeking a universal injunction. As the Democratic Attorneys General Association (DAGA) recently put it, "Democratic state attorneys general were already playing a central role in the legal battle against President Donald Trump's agenda. The Supreme Court has now made it so that they're effectively the only ones who can fight."

And to the extent private litigants lean on State AG offices in this manner, it would only accelerate the current trend in increased litigation brought by states against the federal government. To illustrate, in President Obama's first term, only 25 AG multistate lawsuits were filed against the federal government. This number exploded during President Trump's first term, with a staggering 160 AG multistate lawsuits, and only dipped slightly during President Biden's term with 133. In just the first four months of President Trump's second terms, 30 such lawsuits have already been filed. If new litigation were to continue at that current pace, an eye-popping approximate 480 lawsuits would be filed by early 2029. *See* Dr. Paul Nolette, *Lawsuits vs. the Federal Government*, State Litigation and AG Activity Database, (updated May 25, 2025), available at https://attorneysgeneral.org/multistate-lawsuits-vs-the-federal-government/list-of-lawsuits-1980-present/.

Even if universal relief is not secured by the states in the birthright citizenship case, increased State AG multistate litigation is still likely. To the extent relief was only granted, for example, to the states that were named plaintiffs, some State AGs may be increasingly likely to join future multistate litigation in hopes of securing statewide relief in future cases filed against the Trump administration,

while other State AGs may be more likely to band together in support of the administration through amicus briefs or otherwise. Such increased coordination among State AG offices on these fronts may, in turn, enable these offices to work together more seamlessly on other enforcement, including in traditional multistate investigations and litigation against individuals and businesses. State AG multistate matters are often lengthy, costly, and pose distinct legal challenges for the individuals and businesses being investigated, as they involve navigating multiple states' laws and regulations, particularly in hot-button areas for State AG enforcement such as antitrust, consumer protection, and environmental law.

In addition, increased collaboration among State AG offices may only reinforce another recent trend: State AGs filling in perceived gaps in enforcement by the federal government. For example, following an Executive Order largely halting Foreign Corrupt Practices Act (FCPA) enforcement by the U.S. Department of Justice, California Attorney General Rob Bonta issued a legal advisory in April indicating that his office would take up the mantle of FCPA enforcement for California businesses, explaining that FCPA violations were actionable under California's Unfair Competition Law (CA-UCL). As another example, also in April, Oregon Attorney General Dan Rayfield filed a state securities enforcement action against a leading cryptocurrency exchange following the U.S. Securities and Exchange Commission (SEC) dismissing its enforcement action against Coinbase, asserting that "states must fill the enforcement vacuum being left by federal regulators who are giving up under the new administration and abandoning these important cases."

Contact us

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