

ECONOMICS, NOT EQUITY: A CASE FOR THE COURT OF INTERNATIONAL TRADE TO RETAIN UNIVERSAL INJUNCTIVE POWER AFTER *TRUMP* *V. CASA*

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INTRODUCTION

President Donald J. Trump’s rise to power has fundamentally changed the United States of America’s role in the global economy.¹ In the past decade, “protectionism,” which is the policy of imposing restrictions on imported goods to protect domestic industries,² has become the favored position of not just President Trump’s Republican Party but also many members of the Democratic Party.³ President Trump, at the beginning of his second term,

1. Natalie Sherman, *A Year On: Four Ways Trump’s Tariffs Have Changed the Global Economy*, BBC (Apr. 2, 2026), <https://www.bbc.com/news/articles/c79j1rd92ypo> [https://perma.cc/4JQG-YNG6].

2. *Protectionism*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/money/protectionism> [https://perma.cc/68U3-H3BC] (last visited Sep. 4, 2026) (defining protectionism as a “policy of protecting domestic industries against foreign competition by means of tariffs, subsidies, import quotas, or other restrictions or handicaps placed on the imports of foreign competitors.”).

3. See Sam Sutton, *Protectionism Is Here to Stay*, POLITICO (Oct. 2, 2024), <https://www.politico.com/newsletters/morning-money/2024/10/02/protectionism-is-here-to-stay-00182118> [https://perma.cc/PH4U-CRKP] (“Walz conceded on Tuesday that [Trump’s protectionist] ‘rhetoric is good.’”); see also James Bacchus, *Trade Policies of Both Parties Ignore What Most Americans Say They Want*, CATO AT LIBERTY (Sep. 4, 2024),

issued sweeping tariffs under the International Emergency Economic Powers Act⁴ (IEEPA) to address the United States' trade deficit and global drug trafficking.⁵ Although the Supreme Court has recently struck down Trump's IEEPA tariffs,⁶ these tariffs and other trade deals have had a significant effect on global trade.⁷ While the United States' trade policy has rapidly changed in the past year, the Supreme Court may have significantly diminished the ability of federal courts to respond to these changes with universal injunctions.⁸ Universal injunctions, also known as nationwide injunctions or non-party injunctions, are judicial remedies that block the implementation and enforcement of federal laws, regulations, and executive orders beyond just the parties in a particular lawsuit.⁹ For example, in *Georgia v. Biden*, the District Court for the Southern District of Georgia enjoined, or blocked, the Biden Administration from enforcing a vaccine mandate for federal contractors and subcontractors.¹⁰ Universal injunctions are rare and

<https://www.cato.org/blog/trade-policies-both-parties-ignore-what-most-americans-say-they-want> [<https://perma.cc/FUG6-ED7N>] (claiming Democrats are “imposing and promising more regressive taxes on the American people in the form of tariffs”).

4. International Emergency Economic Powers Act, 50 U.S.C. §§ 1701–1706.

5. See Brooke Ringel et al., *Federal Circuit Affirms That IEEPA Tariffs Are Unlawful*, KELLEY DRYE & WARREN LLP (Sep. 2, 2025), <https://www.kelleydrye.com/viewpoints/client-advisories/federal-circuit-affirms-that-ieepa-tariffs-are-unlawful> [<https://perma.cc/7KB7-6ZEF>] (categorizing tariffs as global reciprocal and fentanyl-related).

6. *Learning Resources, Inc. v. Trump*, 607 U.S. 229, 255 (2026).

7. See *infra* notes 224–32 and accompanying text.

8. See *infra* Part I.C.1.

9. *Trump v. CASA, Inc.*, 606 U.S. 831, 837 (2025) (defining universal injunctions as “district courts asserting the power to prohibit enforcement of a law or policy against anyone.”); Nino Marchese, *Universal Injunctions No More—How the Federal Judiciary Has Been Fundamentally Changed*, AM. LEGIS. EXCH. COUNCIL (July 9, 2025), <https://alec.org/article/universal-injunctions-no-more-how-the-federal-judiciary-has-been-fundamentally-changed/> [<https://perma.cc/42B8-FT7U>]; Adam Shelton, *The Supreme Court & Universal Injunctions*, INST. FOR JUST. (Jan. 28, 2020), <https://ij.org/cje-post/the-supreme-court-universal-injunctions/> (on file with the *Fordham Urban Law Journal*) (“A universal injunction is simply a court order that prevents the government from enforcing a law against anyone, not just the named plaintiffs. It is all about the parties. Sometimes a universal injunction is a nationwide injunction, as when a court enjoins the federal government from enforcing a law anywhere. But you can have universal injunctions against states and cities too. In either scenario a court is telling the government not to enforce a law against anyone, anywhere.”).

10. 574 F. Supp. 3d 1337, 1357 (S.D. Ga. 2021); see also Laura A. Mitchell, *Judge Blocks COVID-19 Vaccine Mandate Nationwide for Federal Contractors*; OMB Issues Guidance, JACKSON LEWIS P.C. (Dec. 9, 2021), <https://www.jacksonlewis.com/insights/judge-blocks-covid-19-vaccine-mandate-nationwide-federal-contractors-omb-issues-guidance> [<https://perma.cc/93HD-4VPJ>].

extraordinary remedies,¹¹ but became more common in the late twentieth century and increasingly more so in the past decade.¹²

In *Trump v. CASA, Inc.*, the Supreme Court held that universal injunctions likely exceeded the equitable authority of federal district courts.¹³ The decision applied to all district courts, including the Court of International Trade (CIT).¹⁴ The CIT is an Article III court with the same “judicial powers in law and equity” that are exercised by federal district courts and is “authorized to issue money judgments, writs of mandamus, and injunctions.”¹⁵ The CIT has exclusive subject-matter jurisdiction over any civil action against the United States arising out of any federal statute governing trade, customs, and imports.¹⁶ The Trump Administration recently announced new tariffs on grounds different than IEEPA, but these tariffs are still likely to be challenged in the CIT.¹⁷ Moreover, the Trump Administration has challenged the CIT’s authority to impose universal relief in its administration of the IEEPA tariff refunds.¹⁸ The United States’ trade policy is at a major turning point; therefore, the CIT must be able to retain its ability to use universal injunctions so the CIT can provide proper and complete relief to the parties challenging the federal government’s trade policies. If *CASA* limits the CIT’s ability to block potentially unlawful trade policies on a nationwide basis, then American citizens, states, and local governments will continue to be subjected to the economic consequences of the federal government’s trade policies without full access to the judicial remedies that could provide them with complete relief.

11. See *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008); see also *District Court Reform: Nationwide Injunctions*, 137 HARV. L. REV. 1701, 1703 (2024).

12. See Jonathan Y. Ellis et al., *Supreme Court Ends Use of Universal Injunctions*, MCGUIREWOODS (June 30, 2025), <https://www.mcguirewoods.com/client-resources/alerts/2025/6/supreme-court-ends-use-of-universal-injunctions/> [<https://perma.cc/JQ8P-TRZ4>].

13. 606 U.S. at 837; Stephanie Martinez-Ruckman & Amanda Karras, *Supreme Court Rules on Nationwide Injunctions*, NAT’L LEAGUE OF CITIES (July 16, 2025), <https://www.nlc.org/article/2025/07/16/supreme-court-rules-on-nationwide-injunctions/> [<https://perma.cc/6XH8-NQJ9>].

14. *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312, 1340 (Fed. Cir. 2025) (en banc) (per curiam).

15. *U.S. Court of International Trade, 1980–Present*, FED. JUD. CTR., <https://www.fjc.gov/history/courts/u.s.-court-international-trade-1980-present> [<https://perma.cc/UCY2-GMLC>] (last visited Sep. 4, 2026); 28 U.S.C. § 1585.

16. 28 U.S.C. §§ 1581–1582; 1 U.S. CUSTOMS AND INTERNATIONAL TRADE GUIDE § 5.02 (2d ed. 2026).

17. See Gary Clyde Hufbauer, *How Will Trump’s New 15 Percent Tariff Fare in Court?*, PETERSON INST. FOR INT’L ECON. (Feb. 23, 2026), <https://www.piie.com/blogs/realtime-economics/2026/how-will-trumps-new-15-percent-tariff-fare-court> [<https://perma.cc/WXP6-F7Z3>].

18. Petition for Writ of Mandamus, at 2, *In re United States*, No. 26-144 (Fed. Cir. June 2, 2026).

This Note proceeds in three parts. Part I first outlines the history, powers, and jurisdiction of the CIT, then details the development and use of universal injunctions in United States federal courts, introduces the Supreme Court's decision in *CASA*, and describes *CASA*'s impact on the CIT, in addition to the federal judiciary at large. Part II describes the recent Supreme Court and lower court decisions regarding Trump's IEEPA tariffs and lays out the methods the Trump Administration plans to use to keep its tariffs in place. Finally, Part III anticipates the potentially harmful effects *CASA* could have during an already chaotic period for United States trade policy. In turn, this Note argues that the CIT could retain the use of the universal injunction by adopting a broad interpretation of the "complete relief standard," leaning on the CIT's nationwide jurisdiction and specialized subject-matter jurisdiction to exempt the court from *CASA*'s standard, and embracing the need for a unified judiciary on certain matters of foreign affairs.

I. LEGAL BACKGROUND FOR THE COURT OF INTERNATIONAL TRADE AND UNIVERSAL INJUNCTIONS

Understanding how *CASA* restrains the CIT first requires understanding the history of the CIT, its powers and jurisdiction, what the universal injunction is, and how and why *CASA* limited the use of the universal injunction. Part I.A outlines the development of trade dispute adjudication in the United States, starting with the Board of General Appraisers and ending with the creation of the CIT. Part I.B introduces the universal injunction, acknowledges pre-*CASA* debates surrounding the validity of such injunctions, details its historical development through case law, and describes the CIT's use of universal injunctions. Part I.C analyzes the Supreme Court's holding and reasoning in *CASA*, as well as the dissent's arguments, and discusses scholarly and lower court responses. Finally, Part I.D briefly introduces the fundamental legal background behind tariffs in the United States.

A. The Court of International Trade ("CIT")

The CIT is an Article III court, where judges are appointed by the president and confirmed by the Senate,¹⁹ that has exclusive subject-matter jurisdiction over civil actions involving international customs and trade.²⁰ The CIT is the current judicial forum for trade disputes, but customs adjudication in the United States has a long history prior to the creation of the CIT in 1980. Part I.A.1 describes a brief history of trade dispute

19. See *Types of Federal Judges*, U.S. Cts., <https://www.uscourts.gov/about-federal-courts/types-federal-judges> [<https://perma.cc/ACD5-FMLZ>] (last visited Sep. 4, 2026).

20. 28 U.S.C. §§ 251(a), 1581–1582.

adjudication in the United States, leading to the creation of the CIT. Then, Part I.A.2 outlines the CIT's statutory origin, its powers, and its jurisdiction.

1. A Brief History of Trade Adjudication in the United States

The CIT (and United States trade law as a whole) is rooted in the United States Constitution, which compels a single national tariff schedule.²¹ Pre-independence colonial courts “adopted British common law causes of action . . . for assumpsit, an action to secure return of duties wrongfully charged.”²² Post-independence, federal courts continued to oversee this kind of litigation.²³ This oversight continued until Congress passed the Customs Administrative Act of 1890, which established one of the CIT's predecessors: the Board of General Appraisers (the “Board”).²⁴ The Board was a quasi-judicial administrative body within the United States Department of the Treasury with nine general appraisers.²⁵ The Board reviewed decisions by Customs officials concerning the duties paid on imported goods.²⁶ The Board adjudicated, as an administrative tribunal, “disputes over customs valuation of imported goods, tariff classification of the goods, and the rate and amount of duties.”²⁷ Initially, questions of fact and law stemming from Board decisions were reviewed by federal courts of general jurisdiction.²⁸ Eventually, reviews of Board decisions were transferred to the Court of Customs Appeals, which was a court of

21. See U.S. CONST. art. I, § 8, cls. 1, 3; see also Donald C. Pogue, *The United States Court of International Trade*, in *THE LEGITIMACY OF INTERNATIONAL TRADE COURTS AND TRIBUNALS* 182, 183 (Robert Howse et al. eds., 2018).

22. Pogue, *supra* note 21, at 183.

23. Pogue, *supra* note 21, at 183.

24. See *About the Court*, U.S. CT. INT'L TRADE, <https://www.cit.uscourts.gov/about-court> [<https://perma.cc/JR8B-RTH2>] (last visited Sep. 4, 2026); *U.S. Customs Court, 1926–1980*, FED. JUD. CTR., <https://www.fjc.gov/history/courts/u.s.-customs-court-1926-1980> [<https://perma.cc/5UJ4-49ZY>] (last visited Sep. 4, 2026).

25. SAMUEL T. MORGAN & WILLIAM H. MASSON, *MORGAN'S UNITED STATES TARIFF, 1897: CONTAINING TARIFF ACT OF JULY 24, 1897, CUSTOMS ADMINISTRATIVE ACT OF JUNE 10, 1890, WITH A SCHEDULE OF DUTIES ON IMPORTS* 139 (pocket ed. 1897).

26. *Id.*; *U.S. Customs Court, 1926–1980*, *supra* note 24 (“Congress in 1890 established a Board of General Appraisers to decide controversies related to appraisals of imported goods and classifications of tariffs.”).

27. Patrick C. Reed, *The Origins and Creation of the Board of General Appraisers: The 125th Anniversary of the Customs Administrative Act of 1890*, 11 J. FED. CIR. HIST. SOC'Y 91, 92 (2017).

28. MORGAN & MASSON, *supra* note 25, at 143 (“Circuit Court shall give priority to and proceed to hear and determine the questions of law and fact involved in such decision, respecting the classification of such merchandise and the rate of duty imposed thereon under such classification, and the decision of such Court shall be final”); see also Reed, *supra* note 27, at 100.

specialized jurisdiction.²⁹ Although the Board was an administrative unit within the United States Department of the Treasury, it gradually developed into more of a judicial body, functioning more like a court than an administrative board.³⁰

In 1926, the Board was officially renamed the United States Customs Court.³¹ The United States Customs Court underwent more changes over time, including the transfer of administrative support for the United States Customs Court from the Treasury Department to the Justice Department by the Tariff Act of 1930,³² the incorporation of the United States Customs Court within the title governing the judiciary in 1948,³³ and the United States Customs Court's designation as an Article III court under 28 U.S.C. § 251(a).³⁴ The Customs Courts Act of 1970, while not yet establishing the CIT, did assert the United States Customs Court's exclusive jurisdiction over trade matters.³⁵ All of these developments led to the creation of the CIT in 1980.

2. *The Powers and Jurisdiction of the CIT*

Congress, pursuant to its authority under Article III of the Constitution to create federal courts, established the CIT through the Customs Courts Act of 1980 (the "Act").³⁶ The CIT, located in New York City, is composed of nine judges who are appointed by the president with the advice and consent of the Senate.³⁷ No more than five of the nine judges can be of the same political party.³⁸ The Act grants the CIT nationwide jurisdiction, meaning the CIT

29. Reed, *supra* note 27, at 102; *U.S. Court of Customs and Patent Appeals, 1929–1982*, FED. JUD. CTR., <https://www.fjc.gov/history/courts/u.s.-court-customs-and-patent-appeals-1929-1982> [<https://perma.cc/M5BV-TGZV>] (last visited Aug. 30, 2026) ("The Payne-Aldrich Tariff Act (36 Stat. 11, 105) of 1909 provided for a U.S. Court of Customs Appeals to hear all appeals from the Board of General Appraisers (later known as the U.S. Customs Court).").

30. Joseph F. Donohue, Jr., *A Brief History of the U.S. Court of International Trade*, FED. LAW., Feb. 2007, at 30.

31. Act of May 28, 1926, ch. 411, 44 Stat. 669; *see also* Pogue, *supra* note 21, at 184.

32. Tariff Act of 1930, ch. 497, § 518, 46 Stat. 590, 737; *U.S. Customs Court: Legislative History*, FED. JUD. CTR., <https://www.fjc.gov/history/courts/u.s.-customs-court-legislative-history> [<https://perma.cc/DMQ6-H5FS>] (last visited Sep. 7, 2026).

33. Act of June 25, 1948, ch. 646, 62 Stat. 869, 899; *U.S. Customs Court: Legislative History*, *supra* note 32.

34. *U.S. Customs Court, 1926–1980*, *supra* note 24; Pogue, *supra* note 21, at 184 (describing how the U.S. Customs Court became an Article III court).

35. Customs Courts Act of 1970, Pub. L. No. 91-271, 84 Stat. 274 (codified as amended in scattered sections of 28 U.S.C.).

36. 28 U.S.C. § 251(a) ("The court is a court established under article III of the Constitution of the United States."); Customs Courts Act of 1980, Pub. L. No. 96-417, 94 Stat. 1727.

37. *Id.*; *About the Court*, *supra* note 24.

38. 28 U.S.C. § 251(a).

“can and does hear and decide cases which arise anywhere in the nation.”³⁹ The Act also grants the CIT exclusive subject-matter jurisdiction over civil actions concerning international customs and trade, specifically suits against the United States government, its agencies, and its officers.⁴⁰

The CIT has jurisdiction over trade-related disputes coming from many federal agencies, but there are three main types of cases the CIT handles.⁴¹ First, “Customs cases” are appeals from determinations from Customs and Border Protection (CBP) regarding the classification and valuation of a given duty.⁴² Customs cases also involve the review of CBP enforcement actions.⁴³ Second, “Commerce and ITC cases” are reviews of determinations by the Department of Commerce (“Commerce”) and the International Trade Commission (ITC) regarding unfair trade practices such as dumping or countervailing duties.⁴⁴ Finally, and most relevant to this Note, are the CIT’s “‘Residual’ cases,” which include “actions arising out of [United States] law providing for revenue from imports, tariffs, duties fees or other taxes, embargoes, or the administration and enforcement thereof.”⁴⁵ For much of the CIT’s history, cases concerning tariffs occupied a relatively small portion of the court’s docket due to an overall low level of tariffs in the United States.⁴⁶ The CIT’s powers are becoming increasingly relevant as disputes over the federal government’s tariffs grow.

The CIT has “all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.”⁴⁷ The Act explicitly confers on the CIT remedies such as “declaratory judgments, orders of remand, injunctions, and writs of mandamus and prohibition.”⁴⁸ One of the Act’s goals was to “provide a comprehensive system for judicial review of civil actions arising out of import transactions affecting international trade[.]” and key to effectuating this goal was for Congress to equip the CIT “with the tools, including all powers in law and equity, necessary to ensure that those who come before it had full access to the judicial remedies available to litigants in the other federal courts.”⁴⁹ Although the CIT possesses powers

39. *About the Court*, *supra* note 24; 28 U.S.C. § 1581.

40. 28 U.S.C. §§ 1581–1582.

41. Pogue, *supra* note 21, at 187–88.

42. 28 U.S.C. § 1581(a); Pogue, *supra* note 21, at 188 n.39.

43. 28 U.S.C. § 1582.

44. 28 U.S.C. § 1581(c); Pogue, *supra* note 21, at 188 n.39.

45. Pogue, *supra* note 21, at 188 n.39; *see also* 28 U.S.C. § 1581(i).

46. *See* Jane A. Restani, *A Special Year in the Life of the United States Court of International Trade*, 38 GEO. J. INT’L L. 1, 1 (2006).

47. 28 U.S.C. § 1585.

48. 28 U.S.C. § 2643(c)(1).

49. Leo M. Gordon, *United States Court of International Trade 25th Anniversary Celebration Special Session of the Court November 1, 2005*, 38 GEO. J. INT’L L. 5, 6 (2006).

similar to a federal district court of general jurisdiction, most relevant being the ability to issue injunctions, its unique jurisdiction distinguishes it from other courts.

The CIT possesses nationwide jurisdiction and exclusive subject-matter jurisdiction over trade disputes.⁵⁰ Although the Supreme Court remains the final arbiter of all trade disputes,⁵¹ the CIT's specialization in trade matters makes the court uniquely qualified to review executive and agency decisions.⁵² Scholars argue that concentrating trade disputes in the CIT eliminates forum-shopping and jurisdictional splits and creates a predictable system of trade dispute adjudication.⁵³ Beyond its broad remedial powers, the CIT's unique jurisdiction allows the court to be the primary authority for United States trade disputes.

B. The Universal Injunction

A universal injunction, also known as a “nationwide injunction,” prevents a defendant, usually a government defendant, from “implementing a challenged law, regulation, or other policy *with respect to all persons and entities*, whether or not such persons or entities are parties participating in the litigation.”⁵⁴ The mechanics of the universal injunction, as well as its historical use and the longstanding debate over its constitutionality, are key to understanding why the Supreme Court limiting their use may have significant economic consequences. Part I.B.1 briefly details what an injunction is, the key standards that courts often use to assess the validity of injunctions, and the history of the universal injunction in the United States. Part I.B.2 presents the pre-*CASA* debate in the legal community over the constitutionality of, and practical issues with, universal injunctions. Finally, Part I.B.3 describes how the CIT approached injunctive relief prior to the *CASA* decision.

1. Early Universal Injunction Cases

An injunction is an equitable remedy that can either compel a party to take a certain action or forbid a party from taking a certain action.⁵⁵ Injunctions,

50. *About the Court*, *supra* note 24.

51. See ISAAC UNAH, THE COURTS OF INTERNATIONAL TRADE: JUDICIAL SPECIALIZATION, EXPERTISE, AND BUREAUCRATIC POLICY-MAKING 15 (1998).

52. *Id.* at 87.

53. *Id.* at 97.

54. JOANNA R. LAMPE, CONG. RSCH. SERV., R46902, NATIONWIDE INJUNCTIONS: LAW, HISTORY, AND PROPOSALS FOR REFORM 5 (2021) [hereinafter LAMPE, NATIONWIDE INJUNCTIONS], <https://www.congress.gov/crs-product/R46902> [<https://perma.cc/KU4P-NSFE>].

55. *Id.* at 2.

whether universal or otherwise, are extraordinary remedies that should be “no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs.”⁵⁶ This is also known as the complete relief standard.⁵⁷ Still, courts have broad discretion in crafting an injunction’s scope.⁵⁸ As articulated in *eBay Inc. v. MercExchange, L.L.C.*, courts typically apply a four-factor test to determine whether an injunction should be issued, under which a plaintiff must show:

(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.⁵⁹

A district court’s decision to grant or deny injunctive relief is reviewed by federal courts of appeals for abuse of discretion.⁶⁰ Although universal injunctions, in their current form, were not present at the time of the Founding, there is a modern history of federal courts implementing this power.

Universal injunctions have been a rare yet increasingly used remedy for the federal judiciary during the past century.⁶¹ *Lewis Publishing Co. v. Morgan* is one of the earlier uses of a universal injunction by a federal court, and some scholars even point to the case as the first.⁶² In *Lewis Publishing*, two New York newspaper publishers challenged the constitutionality of a mail classification statute which required the disclosure of the names and addresses of newspaper employees to the government and to the public.⁶³ The plaintiffs sought to prevent the enforcement of the statute.⁶⁴ The Supreme Court blocked federal officials from enforcing the statute against

56. *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979); see also LAMPE, *NATIONWIDE INJUNCTIONS*, *supra* note 54, at 35; *District Court Reform: Nationwide Injunctions*, *supra* note 11, at 1703.

57. See *infra* notes 125–26 and accompanying text.

58. *District Court Reform: Nationwide Injunctions*, *supra* note 11, at 1703.

59. 547 U.S. 388, 391 (2006); see also *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

60. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 320 (1982); see also *eBay*, 547 U.S. at 391.

61. See Marchese, *supra* note 9 (“The use of universal injunctions, while used sparingly, has drastically ramped up in frequency throughout the past few decades, specifically during the Trump administration.”).

62. 229 U.S. 288, 297 (1913); see also *Trump v. CASA, Inc.*, 606 U.S. 831, 897 (Sotomayor, J., dissenting); *id.* at 845 n. 7 (majority opinion) (citing *Lewis Publ’g*, 229 U.S. at 288).

63. *Lewis Publ’g*, 229 U.S. at 297–98.

64. *Id.*

both the plaintiff newspapers and other non-party newspaper publishers.⁶⁵ In *Wirtz v. Baldor Electric Co.*, also considered to be one of the first universal injunctions,⁶⁶ the Secretary of Labor appealed from a district court order that set aside his statutory determination of the minimum wage in the electrical motors and generators industry.⁶⁷ The D.C. Circuit stayed the injunction for an additional sixty days but still found that the Secretary of Labor's determination must be struck down.⁶⁸ Federal courts have generally evaluated universal injunctions under the same standards as regular party-based injunctions, namely that the injunctions must be "no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs."⁶⁹ Federal courts' use of universal injunctions has become more common over the past few presidential administrations, in part because of the increasing exercise of presidential power.⁷⁰ It is important to note that, although increasingly used in recent history, universal injunctions are extraordinary remedies,⁷¹ and longstanding criticism of the remedy by both legal scholars⁷² and certain Supreme Court justices⁷³ culminated in the Court's decision in *CASA*.

2. Pre-CASA Scholarly Arguments for and Against the Constitutionality of Universal Injunctions

Prior to the Supreme Court's ruling in *CASA*, the constitutionality of universal injunctions was subject to robust scholarly debates. There have been a number of constitutional and practical criticisms of universal injunctions. First, universal injunctions have been derided for lacking roots

65. Mila Sohoni, *The Lost History of the "Universal" Injunction*, 133 HARV. L. REV. 920, 924–25 (2020); see also *CASA*, 606 U.S. at 898 (Sotomayor, J., dissenting).

66. 337 F.2d 518 (D.C. Cir. 1963); see also *CASA*, 606 U.S. at 844 (describing how "some regard" *Wirtz* as "the first universal injunction"); Shelton, *supra* note 9 (referring to "the first unarguably true nationwide injunction which was issued in 1963 by the U.S. Court of Appeals for the District of Columbia in *Wirtz v. Baldor Electric Co.*"); LAMPE, NATIONWIDE INJUNCTIONS, *supra* note 54, at 8; Sohoni, *supra* note 65, at 943 n. 153.

67. See *Wirtz*, 337 F.2d at 520.

68. See *id.* at 536.

69. *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979).

70. See *District Court Reform: Nationwide Injunctions*, *supra* note 11, at 1706.

71. See *supra* note 11 and accompanying text.

72. See *infra* notes 74–85 and accompanying text.

73. See *Trump v. Hawaii*, 585 U.S. 667, 713 (2018) (Thomas, J., concurring) (suggesting that universal injunctions may not be constitutional at all); *Dep't of Homeland Sec. v. New York*, 589 U.S. 1173, 1175 (2020) (Gorsuch, J., concurring) (critiquing the legality of nationwide injunctions); Shelton, *supra* note 9 (noting Gorsuch's concurrence in *Department of Homeland Security v. New York* as an example of the Supreme Court's pre-*CASA* skepticism of universal injunctions).

in courts of equity at the time of the Founding.⁷⁴ In fact, universal injunctions were nonexistent during the Founding era.⁷⁵ The Judiciary Act of 1789 gave federal courts jurisdiction over “all suits . . . in equity.”⁷⁶ The Supreme Court has long held that jurisdiction over “all suits . . . in equity” means that judicial remedies must have been present in, or analogous to, remedies administered by the English Court of Chancery.⁷⁷ Therefore, because neither the universal injunction, nor an analogous remedy, was present at the time of the Founding, it is not a remedy that federal courts can exercise under the powers granted to them by Congress through the Judiciary Act of 1789.⁷⁸ Similarly, critics bemoan the infrequent use of the universal injunction throughout American history, seemingly exemplifying that universal injunctions are not an inherent power of district courts.⁷⁹

The next criticism of universal injunctions involves Article III standing. Some critics argue that universal injunctions provide relief for non-parties who do not have the standing to sue in federal court.⁸⁰ Specifically, Article III standing requires a plaintiff suing in federal court to demonstrate a

74. *Trump v. CASA, Inc.*, 606 U.S. 831, 842 (“The answer is no: Neither the universal injunction nor any analogous form of relief was available in the High Court of Chancery in England at the time of the Founding.”); LAMPE, *NATIONWIDE INJUNCTIONS*, *supra* note 54 at 7 (“Commentators broadly agree that nationwide injunctions as currently understood did not exist in the pre-Founding English courts of equity, that no nationwide injunctions issued in the early years of the Republic, and that such injunctions have become more common in the last two decades.”); Bradford Mank & Michael E. Solimine, *State Standing and National Injunctions*, 94 NOTRE DAME L. REV. 1955, 1961 (2019) (“federal judges issuing national injunctions in suits against the federal government were virtually unknown until relatively recently.”).

75. *CASA*, 606 U.S. at 842.

76. *Id.* at 841; Judiciary Act of 1789, ch. 20, §11, 1 Stat. 73, 78 (“the circuit courts shall have original cognizance . . . of all suits of a civil nature at common law or in equity[.]”).

77. *Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 319 (1999); *see also CASA*, 606 U.S. at 841 (explaining that the Judiciary Act of 1789 “encompasses only those sorts of equitable remedies ‘traditionally accorded by courts of equity’ at our country’s inception.” (quoting *Grupo Mexicano*, 527 U.S. at 319)).

78. *See CASA*, 606 U.S. at 841; Portia Pedro, *Toward Establishing a Pre-Extinction Definition of “Nationwide Injunctions”*, 91 U. COLO. L. REV. 847, 866 (2020); Marchese, *supra* note 9 (“As it turns out, federal courts never had the authority to issue nationwide injunctions in the first place. There is no lawful basis for them in any federal statutory law or Supreme Court precedent. Instead, this practice of the courts developed slowly in a gray area of American law throughout our nation’s history.”).

79. *See CASA*, 606 U.S. at 844 (“The universal injunction was conspicuously nonexistent for most of our Nation’s history. Its absence from 18th- and 19th-century equity practice settles the question of judicial authority.”); Amanda Frost & Samuel Bray, *One for All: Are Nationwide Injunctions Legal?*, 102 JUDICATURE 70, 72 (2018) (“[B]efore the Founding, at the Founding, and for most of U.S. history—would give remedies only for a party to the case.”).

80. *See LAMPE*, *NATIONWIDE INJUNCTIONS*, *supra* note 54, at 10 (“Professor Morley further states that plaintiffs generally have standing to protect only their own rights, not the rights of others”); Mank & Solimine, *supra* note 74, at 1964.

concrete and particularized injury; therefore, a generalized threat or injury to the broader community cannot establish standing.⁸¹ Article III standing exemplifies how a case or controversy is contained to the parties, and thus, the remedy resulting from the resolution should not focus on non-parties.⁸² If a party cannot obtain standing in the first place, why should the CIT, or any other court, grant them relief?

Universal injunctions also raise a number of practical concerns for federal courts. First, critics argue that universal injunctions encourage forum-shopping because a successful ruling in one jurisdiction will result in nationwide relief; therefore, litigants will attempt to file their claims in courts sympathetic to the universal injunction.⁸³ Second and similarly, critics fear that universal injunctions will encourage politicized judicial decisions by granting judges the ability to single-handedly block the initiatives of a presidential administration of the opposite political party.⁸⁴ Third, some critics argue that universal injunctions will interrupt the development of law by interfering in lower court percolation of legal issues, thus not allowing precedents to arise from lower court decisions.⁸⁵ Many of these criticisms were articulated in the Supreme Court's decision in *CASA*.⁸⁶ Yet, these criticisms are not without detractors.

Many scholars push back against criticisms of universal injunctions and even make affirmative cases for their constitutionality and necessity. First, universal injunctions may have an analogous remedy rooted in Founding-era equitable courts: bills of peace.⁸⁷ Bills of peace were filed by a plaintiff or group of plaintiffs in English courts to settle disputes that would affect the

81. See Mank & Solimine, *supra* note 74, at 1964 (“A plaintiff can only sue in federal court if she demonstrates a concrete and particularized injury and the actual or threatened enforcement of a law. A generalized grievance or a putative threat to the larger community will not itself confer standing on a particular plaintiff. It follows from these premises, so the argument runs, that a court cannot properly award relief to persons not parties to the suit, i.e., those who have not shown that they meet the standing requirements.”); Frost & Bray, *supra* note 79, at 72 (interviewing Professor Samuel Bray, who states “[t]he best argument against the constitutionality of national injunctions is that Article III offers a concept of the judicial power that is defined by the dispute—a judicial resolution of a case or controversy brought by parties. This is why we have standing doctrines . . .”).

82. Mank & Solimine, *supra* note 74, at 1964.

83. See *Trump v. CASA, Inc.*, 606 U.S. 831, 855 (2025) (reciting the government's argument that universal injunctions encourage forum-shopping); LAMPE, NATIONWIDE INJUNCTIONS, *supra* note 54, at 32; *District Court Reform: Nationwide Injunctions*, *supra* note 11, at 1703; Amanda Frost, *In Defense of Nationwide Injunctions*, 93 N.Y.U. L. REV. 1065, 1104 (2018); Pedro, *supra* note 78, at 866; Sohoni, *supra* note 65, at 994.

84. See LAMPE, NATIONWIDE INJUNCTIONS, *supra* note 54, at 2.

85. See *District Court Reform: Nationwide Injunctions*, *supra* note 11, at 1707; Frost, *supra* note 83, at 1107–09; Pedro, *supra* note 78, at 866–67; Sohoni, *supra* note 65, at 994.

86. See *infra* Part I.C.1.

87. See *CASA*, 606 U.S. at 896 (Sotomayor, J., dissenting).

whole community, which would either be in cases where there were numerous parties or where there was a question of general interest.⁸⁸ Scholars note that bills of peace “allowed courts to issue remedies to individuals closely connected and similarly situated to the plaintiff.”⁸⁹ Additionally, beyond universal injunctions and bills of peace, federal courts have a long history of issuing broad equitable remedies that impact non-parties,⁹⁰ such as class actions.⁹¹

Another argument in favor of the legality of universal injunctions is based on who the injunctions bind. The injunctions bind the defendant; that they benefit non-parties should not bear on the legality of the injunctions.⁹² While not specifically addressing the overall legality of universal injunctions, federal courts have ruled that broad remedies like universal injunctions are often necessary to provide complete relief to the plaintiffs.⁹³ The focus of universal injunctions, despite incidentally affecting non-parties, remains on the plaintiff and the defendant of a given case.

There are also practical considerations that scholars raise in favor of universal injunctions. First, scholars argue that universal injunctions are necessary responses to the increasing use of executive action in the face of political gridlock in Congress.⁹⁴ Second, universal injunctions prevent piecemeal solutions to national legal issues.⁹⁵ Finally, scholars suggest that a bright-line rule against universal injunctions will restrain judicial decision-

88. See *id.* (Sotomayor, J., dissenting); see also Christopher Walker, *What Trump v. CASA Means for the Future of Universal Relief in Administrative Law*, YALE J. ON REGUL. (June 29, 2025), <https://www.yalejreg.com/nc/what-trump-v-casa-means-for-the-future-of-universal-relief-in-administrative-law/> [https://perma.cc/MJA4-GY3D].

89. See Frost, *supra* note 83, at 1080–81; LAMPE, NATIONWIDE INJUNCTIONS, *supra* note 54, at 8 (discussing Frost’s scholarship); Sohoni, *supra* note 65, at 940 (describing how some courts viewed universal injunctions as “supercharged bill[s] of peace.”).

90. See Frost, *supra* note 83, at 1081.

91. See *id.* at 1086 (“If class actions are constitutionally permissible, then it would seem that Article III does not prevent federal courts from ordering defendants to cease taking action as it affects individuals who would not have had standing to sue.”); LAMPE, NATIONWIDE INJUNCTIONS, *supra* note 54, at 15 (“Some defenders of nationwide injunctions counter that nationwide injunctions are analogous to class actions, serving many of the same interests and raising some of the same concerns. Some go further, asserting that nationwide injunctions may avoid certain legal concerns unique to class actions.”).

92. LAMPE, NATIONWIDE INJUNCTIONS, *supra* note 54, at 15 (“Some scholars prefer to focus on the government defendant subject to a nationwide injunction rather than the parties and non-parties who benefit from the injunction. Because a nationwide injunction does no more than bind a defendant who is subject to the court’s jurisdiction, they argue, it is a legitimate exercise of the court’s equitable power.”).

93. See *infra* notes 149–53 and accompanying text.

94. See *District Court Reform: Nationwide Injunctions*, *supra* note 11 at 1702, 1707.

95. See Frost, *supra* note 83, at 1098; Ringel et al., *supra* note 5 (detailing how the CIT’s decision in *V.O.S. Selections v. United States* was partially motivated by the desire to avoid piecemeal duty refunds to specific plaintiffs).

making by giving judges less discretionary leeway when fashioning equitable remedies.⁹⁶ Ultimately, prior to *CASA*, universal injunctions were subject to a wide range of scholarly opinions and debates.

3. The CIT's Use of Universal Injunctions

The CIT, like any federal district court pre-*CASA*, has utilized universal injunctions. Congress explicitly granted the CIT the authority to issue injunctive relief in the Customs Courts Act of 1980.⁹⁷ The CIT has its own procedures governing injunctions and restraining orders.⁹⁸ The contents of an injunctive order issued by the CIT must include the reasons why it was issued, state its terms specifically, and describe in reasonable detail the act or acts restrained or required.⁹⁹ Furthermore, the only people whom an injunction can bind are “(A) the parties; (B) the parties’ officers, agents, servants, employees, and attorneys; and (C) other persons who are in active concert or participation with anyone described in Rule 65(d)(2)(A) or (B).”¹⁰⁰ “[A]ctive concert or participation,” although not explicitly permitting universal injunctions, broadens the scope of the injunction beyond merely the parties to the lawsuit.¹⁰¹ The CIT has statutory and court-made rules addressing injunctive relief, but the CIT’s case law provides a clearer view of how the CIT has used universal injunctions.

Prior to *CASA*, the CIT followed the same standards for injunctions as regular district courts. The CIT has used injunctions to afford complete relief for the parties aggrieved.¹⁰² The CIT also applies the four-factor test articulated in *eBay* when deciding whether the use of an injunction is

96. See Frost, *supra* note 83, at 1117 (arguing that “[t]he vast majority of legal decisions, big and small, are based on indeterminate legal standards rather than bright-line, clear-cut rules. If a significant number of federal judges (or state judges, for that matter) are incapable of making reasonable decisions when applying such standards, then our legal system’s problems extend far beyond nationwide injunctions.”); see also Mank & Solimine, *supra* note 74 at 1976 (suggesting that courts avoid bright-line rules when addressing universal injunctions and instead consider a series of factors).

97. See 28 U.S.C. § 2643(c)(1).

98. Ct. Int’l Trade R. 65(d).

99. *Id.* 65(d)(1)(A)–(C).

100. *Id.* 65(d)(2).

101. See Neema Amini, *Extending the Injunction Beyond the Defendant*, AMINI & CONANT, LLP (June 4, 2019), <https://aminiconant.com/extending-the-injunction-beyond-the-defendant/> [<https://perma.cc/45ZB-7U4F>] (“Courts have repeatedly ruled that interpretations of the ‘active concert or participation’ language of Rule 65(d) ‘recognize that the objectives of an injunction may be thwarted by the conduct of the parties not specifically named in its text. The scope of the injunction has no rigid perimeter, and a court may modify an injunction to adapt to changed circumstances.’”).

102. See *Home Prods. Int’l, Inc. v. United States*, 405 F. Supp. 3d 1368, 1372 (Ct. Int’l Trade 2019).

warranted in a given adjudication.¹⁰³ Importantly, the CIT has explicitly extended relief to non-parties before.¹⁰⁴ The CIT's injunctions often take into account the scale of the problem in need of a remedy, like a trade practice that has significant environmental impact.¹⁰⁵ For example, in *Natural Resources Defense Council, Inc. v. Ross*, the plaintiff environmental organizations sought an injunction requiring the federal government to ban the import of fish or fish products from Mexican fisheries that use illegal netting within the range of where the endangered vaquita species lives.¹⁰⁶ The court granted the preliminary injunction, finding that the extinction of the vaquita would cause irreparable harm to the plaintiffs.¹⁰⁷ The CIT's decision affects non-parties because it imposes an import ban on a group of Mexican fisheries, which are not parties to the case, and benefits non-party environmental groups and individuals who have an interest in the survival of the vaquita.¹⁰⁸ Ultimately, prior to *CASA*, the CIT's use of universal injunctions was akin to how regular district courts employed the remedy.

C. *Trump v. CASA*

This Part outlines the Supreme Court's landmark decision in *CASA* to limit federal district courts' ability to use universal injunctions and its broader impact on the federal judiciary. Universal injunctions may have been historically rare, but the use of these remedies has increased in recent decades,¹⁰⁹ and the limitation of such a power may significantly alter how courts approach issues with country-wide implications. Part I.C.1 details the reasoning behind the *CASA* decision, authored by Justice Amy Coney Barrett, and the new standards it imposes on lower federal courts. Part I.C.2 then describes the dissenting argument, authored by Justice Sonia Sotomayor, as well as broader scholarly reactions to the decision. Finally, Part I.C.3 highlights notable examples of how lower federal courts, including the CIT, have responded to *CASA*'s new standards.

103. See *In re Section 301 Cases*, 524 F. Supp. 3d 1355, 1361–62 (Ct. Int'l Trade 2021).

104. *Id.* at 1372 (“the court will temporarily restrain liquidation of any unliquidated entries of merchandise imported from China by any plaintiffs in the Section 301 Cases which are subject to List 3 or List 4A duties.”).

105. See, e.g., *Nat. Res. Def. Council, Inc. v. Ross*, 331 F. Supp. 3d 1338, 1344 (Ct. Int'l Trade 2018) (“To prevent the irreparable harm that would result from the extinction of the vaquita, plaintiffs now move for a preliminary injunction requiring defendants—several United States agencies and officials, and here collectively referred to as ‘the Government’—to ban the importation of fish or fish products from any Mexican commercial fishery that uses gillnets within the vaquita’s range.”).

106. See *id.* at 1350–51.

107. See *id.* at 1369, 1371–72.

108. *Id.*

109. See *supra* note 12 and accompanying text.

1. The Decision's Restrictions on Universal Injunctions and the Complete Relief Standard

CASA concerns challenges to Executive Order 14160 (“EO 14160”), which aimed to end birthright citizenship in the United States in certain situations.¹¹⁰ EO 14160 ordered federal departments and agencies not to recognize the birthright citizenship of persons:

(1) when that person’s mother was unlawfully present in the United States and the father was not a United States citizen or lawful permanent resident at the time of said person’s birth, or (2) when that person’s mother’s presence in the United States at the time of said person’s birth was lawful but temporary (such as, but not limited to, visiting the United States under the auspices of the Visa Waiver Program or visiting on a student, work, or tourist visa) and the father was not a United States citizen or lawful permanent resident at the time of said person’s birth.¹¹¹

Individual, organizational, and state plaintiffs all sought to enjoin the implementation and enforcement of EO 14160.¹¹² In each lower court case, the district court held that EO 14160 was likely unlawful and entered universal injunctions barring the implementation of EO 14160.¹¹³ The plaintiffs argued that EO 14160 violated the Fourteenth Amendment’s Citizenship Clause and Section 201 of the Nationality Act of 1940.¹¹⁴ The government argued that the universal injunctions issued in the district courts should be limited to the parties involved in each case.¹¹⁵ The Supreme Court in *CASA* did not decide the legality of the underlying executive order, but instead focused on the legality of the universal injunctions imposed by district courts at earlier stages of the cases.¹¹⁶

The Court held that universal injunctions likely exceed the equitable authority granted to federal district courts by Congress in the Judiciary Act of 1789, and thus partially stayed the lower court orders with universal injunctions.¹¹⁷ Congress granted federal courts jurisdiction over “all suits . . . in equity[.]”¹¹⁸ According to the Court, the equitable remedies available to federal courts should be those “traditionally accorded by courts

110. *Trump v. CASA, Inc.*, 606 U.S. 831, 838–39 (2025).

111. Exec. Order No. 14160, 90 Fed. Reg. 8449 (Jan. 29, 2025).

112. *See CASA*, 606 U.S. at 838.

113. *See id.* at 839.

114. *See id.*

115. *See id.*

116. *See id.* at 839–40.

117. *See Trump v. CASA, Inc.*, 606 U.S. 831, 841 (2025).

118. *Id.*; *see also* Judiciary Act of 1789, ch. 20, § 11, 1 Stat. 73, 78–79.

of equity” at the time of the country’s Founding.¹¹⁹ The Court found that neither universal injunctions nor any analogous remedy was used in courts of equity at the time of the Founding.¹²⁰ The Court further relied on the fact that universal injunctions were absent for much of American history until the twentieth century.¹²¹ While “equity is flexible,” the Court believed that “[b]ecause the universal injunction lacks a historical pedigree, it falls outside the bounds of a federal court’s equitable authority under the Judiciary Act.”¹²² The Court specifically refutes the comparison between universal injunctions and bills of peace, which “allowed [courts of equity] to adjudicate the rights of members of dispersed groups without formally joining them to a lawsuit through the usual procedures,”¹²³ arguing that bills of peace concern a “small and cohesive” group of people and do not “resolve a question of legal interpretation for the entire realm,” like universal injunctions would.¹²⁴ The Court embraces the complete relief standard, meaning that a court may be able to issue a universal injunction if it is necessary to provide complete relief to the plaintiffs, but notes that complete relief is not universal relief,¹²⁵ and any benefit to non-parties should be incidental.¹²⁶ Absent a stay, the Court found that the universal injunction in this case would cause irreparable harm to the government.¹²⁷ Finally, the Court instructed the lower courts “to ensure that, with respect to each plaintiff, the injunctions comport with this rule and otherwise comply with principles of equity.”¹²⁸

2. *The Dissent and Scholarly Criticisms of CASA*

The dissent, authored by Justice Sotomayor, argues that universal injunctions are appropriate equitable remedies in certain types of cases, such as the constitutional issue in this case.¹²⁹ The dissent argues that, in each of the lower court cases, the district courts appropriately determined that the universal injunction was the remedy that would relieve state plaintiffs of the burdens of the Executive Order.¹³⁰ The dissent has two main arguments.

119. *CASA*, 606 U.S. at 841 (quoting *Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 319 (1999)).

120. *CASA*, 606 U.S. at 842.

121. *Id.* at 844.

122. *Id.* at 846–47 (quoting *Grupo Mexicano*, 527 U.S. at 322, 318–19).

123. *Id.* at 848.

124. *See id.*

125. *See id.* at 851.

126. *See Trump v. CASA, Inc.*, 606 U.S. 831, 852 (2025).

127. *See id.* at 860.

128. *Id.* at 861.

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

130. *See id.* at 889–90.

First, the dissent argues that “universal injunctions are consistent with long-established principles of equity.”¹³¹ This is because, contrary to the majority opinion, the dissent embraces “bills of peace” as analogous to universal injunctive relief and disagrees with the majority’s contention that “bills of peace” were more limited in scope than universal injunctions.¹³² Rather, the dissent views “bills of peace” as sufficiently analogous to universal injunctions because courts granted relief to non-parties when the parties were so numerous that it would be impossible to bring them all before the court.¹³³ The dissent also refers to the modern history of the universal injunction, arguing that federal courts have enjoined enforcement of laws against parties and nonparties for over a century.¹³⁴ Second, even if universal injunctions are only appropriate if they offer complete relief to the parties in the dispute, “each of the lower courts here correctly determined that the nationwide relief they issued was necessary to remedy respondents’ injuries completely.”¹³⁵ The dissent believes that the lower courts’ discretion in imposing universal injunctions in this case should not be disturbed, and that the mandating of narrower injunctions would impose significant burdens on non-parties, who may be forced to become parties to the case in order to receive relief.¹³⁶ Ultimately, the dissent views the majority’s decision not to recognize universal injunctions as depriving the plaintiffs of complete relief and allowing unlawful Executive Branch conduct to continue.¹³⁷

Various legal commentators and scholars echo the dissent’s concerns. One critique involves the *CASA* Court’s endorsement of the complete relief standard.¹³⁸ The Supreme Court left the door open for universal injunctions to be used when they are “necessary to provide complete relief to each plaintiff with standing to sue.”¹³⁹ Some critics argue that allowing non-party injunctive relief to occur through the complete relief standard contradicts the Court’s contention that equitable remedies must be rooted in Founding-era equitable courts, since there is little historical proof of the complete relief

131. *Trump v. CASA, Inc.*, 606 U.S. 831, 891 (2025) (Sotomayor, J., dissenting).

132. *Id.* at 896 (“Bills of peace issued in cases ‘where the parties [were] very numerous, and the court perceive[d] that it [would] be almost impossible to bring them all before the court; or where the question is of general interest, and a few may sue for the benefit of the whole.’” (quoting *Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 832 (1999))).

133. *Id.*

134. *See id.* at 903.

135. *See id.* at 892.

136. *See id.* at 920–21 (Sotomayor, J., dissenting).

137. *See id.* at 910.

138. *See id.* at 851 (majority opinion).

139. *Id.* at 861; *see also* Note, *CASA’s Complete Relief Paradox*, 139 HARV. L. REV. 646 (2025), <https://harvardlawreview.org/print/vol-139/casas-complete-relief-paradox/> [https://perma.cc/KT2D-37PP].

standard being articulated by any court in the Founding era.¹⁴⁰ Some scholars also argue that the Court could have taken a more moderate approach to the issue of universal injunctions, such as requiring special hearings for such injunctions, rather than imposing a broad rule against most uses of universal injunctions.¹⁴¹

Other commentators point toward the practical implications of the Supreme Court significantly limiting the usage of universal injunctions.¹⁴² For example, local governments often have relied on the use of universal injunctions in cases that involve challenges to federal government grants to the local governments.¹⁴³ Moreover, while many of the downstream effects of the *CASA* decision remain uncertain, commentators speculate on a few effects, including greater fragmentation in regulatory enforcement and increased reliance on class action suits.¹⁴⁴ Notably, the Court also did not prohibit federal courts from performing “universal vacatur” of final agency action under the Administrative Procedure Act (“APA”),¹⁴⁵ meaning that universal relief is permitted in at least some statutory contexts.¹⁴⁶ Finally, while the Court takes an aggressive stance against universal injunctions, the decision in *CASA* does not necessarily preclude the existence of any type of

140. See Note, *supra* note 139, at 656–57 (“This tension leads to *CASA*’s complete-relief paradox: *CASA* limited nonparty injunctions by turning to chancery- and Founding-era history, but it bounded those injunctions with a principle that was never articulated during that period of history.”).

141. See Collins and Erman on *Universal Injunctions and Birthright Citizenship in Trump v. CASA*, MICHIGAN LAW (June 30, 2025), <https://michigan.law.umich.edu/news/collins-and-erman-universal-injunctions-and-birthright-citizenship-trump-v-casa> [<https://perma.cc/J55Q-BRJD>].

142. See Marchese, *supra* note 9 (“While this ruling is not an iron-clad ban on the judicial power, the decision substantially curtails the ability of federal courts to issue these injunctions for the foreseeable future.”).

143. See Ruckman & Karras, *supra* note 13.

144. See David Carpenter & Christopher Healy, *Supreme Court Substantially Limits Universal Injunctions* (Trump v. CASA): *Implications for Litigation Against the Government*, SIDLEY AUSTIN LLP (July 17, 2025), <https://www.sidley.com/en/insights/publications/2025/07/supreme-court-substantially-limits-universal-injunctions> [<https://perma.cc/9EQ8-QB32>]; Alex MacDonald & Tanner McCarron, *What Employers Need to Know About the Fate of Wider Relief After Trump v. CASA, Inc.*, LITTLER (Aug. 4, 2025), <https://www.littler.com/news-analysis/asap/what-employers-need-know-about-fate-wider-relief-after-trump-v-casa-inc> [<https://perma.cc/3585-7X4H>].

145. See Ellis et al., *supra* note 12 (on file with the *Fordham Urban Law Journal*) (“[T]he Court’s decision does not foreclose “universal vacatur” of final agency action under the Administrative Procedure Act (APA). The APA authorizes federal courts to “set aside” unlawful agency action.”); 5 U.S.C. § 706 (permitting federal courts to set aside unlawful agency action).

146. Universal vacatur under the APA, although a form of universal relief, is outside of the scope of this Note.

non-party relief.¹⁴⁷ The reactions to *CASA* were not limited to academia. Lower federal courts, including the CIT, quickly responded to the Supreme Court's new standard for universal injunctions.

3. Immediate Lower Court Responses to *CASA*

Some lower federal courts responded to *CASA* by broadly interpreting what constitutes "complete relief." For example, in lower court cases concerning the birthright citizenship executive order at the center of *CASA*, the circuit courts declined to find that the preliminary injunctions issued by district courts were abuses of discretion.¹⁴⁸ In *Washington v. Trump*, a post-*CASA* decision concerning Trump's birthright citizenship executive order, the Ninth Circuit upheld the district court's universal preliminary injunction, finding that the injunction was necessary to provide complete relief for the State plaintiffs.¹⁴⁹ Specifically, the court found that the universal injunction is necessary to provide State plaintiffs complete relief because "States' residents may give birth in a non-party state, and individuals subject to the Executive Order from non-party states will inevitably move to the States."¹⁵⁰

Another post-*CASA* circuit court case concerning the birthright citizenship executive order, *Doe v. Trump*, ruled similarly.¹⁵¹ The court stated that *CASA* did not "suggest that it would be improper for the District Court here to order such an injunction as a means of providing the State-Plaintiffs complete relief."¹⁵² Additionally, the court mentioned how the Supreme Court left the question of the proper scope of complete relief to the lower courts.¹⁵³ Thus, despite the Supreme Court's express disapproval of universal injunctions,¹⁵⁴ lower courts have broadly interpreted the Supreme Court's complete relief standard as permission to continue to use universal injunctions in certain cases with national implications, like immigration issues.

Lower courts' permissive application of the complete relief standard has not been cabined to solely immigration cases. For example, in *Jackson*

147. See *Collins and Erman on Universal Injunctions and Birthright Citizenship in Trump v. CASA*, *supra* note 141 ("[T]he contours of *CASA*'s prohibition on universal injunctions are not entirely clear. As noted, the opinion says that a federal injunction may do no more than is required to provide complete relief to the parties before the federal court. However, it does not say that an injunction may never benefit a nonparty."); see *Trump v. CASA, Inc.*, 606 U.S. 831, 851–52 (2025).

148. See *CASA*, 606 U.S. at 851, 861, 910, 920–21; *infra* notes 149–53.

149. See 145 F.4th 1013, 1038 (9th Cir. 2025).

150. *Id.*

151. See 157 F.4th 36, 82 (1st Cir. 2025).

152. See *id.* at 81.

153. *Id.*

154. See *Trump v. CASA, Inc.*, 606 U.S. 831, 837 (2025).

Federation of Teachers v. Fitch, which is a case concerning a challenge to the constitutionality of a state statute addressing diversity, equity, and inclusion measures in schools, the court disfavored an injunction of limited geographical and personal scope.¹⁵⁵ The court reasoned that “an injunction limited to the named plaintiffs would likewise be unsatisfying as to granting them complete relief: given the system- and institution-level rules and remedies throughout HB 1193; it would be impracticable, if not impossible, to carve out an injunction that is distinctly limited to the named plaintiffs.”¹⁵⁶ While the full impact of *CASA* is still uncertain a year after the decision, there are examples of lower courts continuing to uphold universal injunctions as necessary to provide complete relief to plaintiffs.

While there is little CIT case law on the subject of post-*CASA* universal injunctions, a judge of the CIT has recently commented on the applicability of *CASA* to the CIT.¹⁵⁷ In an order (“March 4th Order”) directing United States Customs and Border Protection (“CBP”) to refund duties collected from the recently struck down IEEPA tariffs, the CIT argued that *CASA* does not apply to this order for several reasons.¹⁵⁸ First, the court argues that the Customs Courts Act of 1980, not the Judiciary Act of 1789, gives direction to the CIT.¹⁵⁹ Second, the Customs Courts Act of 1980 endowed the CIT with both nationwide geographic jurisdiction and exclusive subject matter jurisdiction over trade disputes.¹⁶⁰ Third, the CIT cites the legislative history of the Customs Courts Act to argue that the CIT was created to ensure uniformity in the field of international trade.¹⁶¹ Finally, because the judge issuing the March 4th Order is the only judge that would hear this case, the court argues that there is no danger of contrary conclusions.¹⁶² Notably, the CIT does not attempt to justify its compliance with *CASA*’s complete relief standard like other federal courts;¹⁶³ rather, the court suggests that it is not limited by *CASA* in any capacity because of the CIT’s unique jurisdiction

155. See 799 F. Supp. 3d 571, 584 (S.D. Miss. 2025).

156. *Id.* at 585.

157. See Order at 2, *Atmus Filtration v. United States*, No. 26-01259 (Ct. Int’l Trade Mar. 4, 2026).

158. Order at 2, *Atmus Filtration v. United States*, No. 26-01259 (Ct. Int’l Trade Mar. 4, 2026).

159. See *id.* at 1–2.

160. See *id.* at 2.

161. See *id.* (“[W]hen establishing this Court, Congress cited ‘[c]onsiderations of judicial economy, and the need to increase the availability of judicial review in the field of international trade in a manner which results in uniformity without sacrificing the expeditious resolution of import-related disputes.’” (quoting 126 CONG. REC. S13344 (daily ed. Sep. 24, 1980) (statement of Sen. Dennis DeConcini))).

162. See *id.*

163. See *Doe*, 157 F.4th at 82, 96 (2025); *Jackson Federation of Teachers v. Fitch*, 799 F. Supp. 3d at 584, 585 (S.D. Miss. 2025).

and its basis in the Customs Courts Act of 1980, not the Judiciary Act of 1789.¹⁶⁴ It is important to note that the March 4th Order by the CIT is not the final word on the matter, as the government recently sought an appeal from the Federal Circuit.¹⁶⁵ Moreover, contrary to the findings of the March 4th Order, the Federal Circuit had previously remanded a CIT injunction to comply with *CASA*.¹⁶⁶

In its appeal of the CIT's March 4th order, the government argues that the CIT's injunction was "plainly unlawful" under *CASA*.¹⁶⁷ First, the government contends that "complete relief" can only be given to the plaintiffs seeking refunds, not non-parties.¹⁶⁸ Second, the government disputes the CIT's contention that it was exempt from *CASA*, referring to how the CIT was created with "all the powers in law and equity of, or as conferred by statute upon, a district court of the United States" under the Judiciary Act of 1789.¹⁶⁹ Therefore, like a district court, the government argues that the CIT cannot wield universal injunctions.¹⁷⁰ Furthermore, the government cites to the Federal Circuit's recognition of *CASA*'s applicability to the CIT.¹⁷¹ The final adjudication of this appeal is pending and will likely take months for there to be a final resolution,¹⁷² but the Federal Circuit's decision may have significant implications for whether and how the CIT is bound by *CASA*. With commentary from scholars and rulings from federal district courts, the government, and the CIT itself on the varying implications and applications of *CASA*, there is substantial ground to analyze how *CASA* may limit the CIT in its ability to issue remedies in trade disputes.

D. An Introduction to Tariffs, Constitutional/Statutory Background

CASA's holding will affect how courts approach major legal issues. One such issue is the Trump Administration's new tariff policies.¹⁷³ A tariff is a

164. See Order, *supra* note 158, at 2.

165. Maryam Mahboob, David M. Schwartz & Aaron C. Mandelbaum, *Trump Administration Appeals CIT's IEEPA Tariff Refund Order*, THOMPSON HINE (June 3, 2026), <https://www.thompsonhinesmartrade.com/2026/06/trump-administration-appeals-cits-ieepa-tariff-refund-order/> [https://perma.cc/2A36-B34S].

166. See *infra* notes 211–12.

167. Petition for Writ of Mandamus, *supra* note 18, at 2.

168. See *id.* at 32 (citing *Trump v. CASA, Inc.*, 606 U.S. 831, 851 (2025)).

169. *Id.*; 28 U.S.C. § 1585.

170. See Petition for Writ of Mandamus, *supra* note 18, at 32.

171. See *id.* at 32–33.

172. See Dyana Mardon, Cameron A. Secord & Robert L. Soza, *The U.S. Government Appeals IEEPA Tariff Refund Order—What Importers Need to Know Now*, JACKSON WALKER (June 17, 2026), <https://www.jw.com/news/insights-ieepa-refund-order/> [https://perma.cc/4N6B-CMB2].

173. CHRISTOPHER T. ZIRPOLI, CONG. RSCH. SERV., R48435, CONGRESSIONAL AND PRESIDENTIAL AUTHORITY TO IMPOSE IMPORT TARIFFS 1 (2026) ("The report notes how recent

duty imposed on the importation of foreign merchandise.¹⁷⁴ The power to issue tariffs stems from Article I, § 8 of the United States Constitution, which grants Congress the power to “To lay and collect Taxes, Duties” and provides that “all Duties, Imposts and Excises shall be uniform throughout the United States[.]”¹⁷⁵ Congress also has the power “[T]o regulate Commerce with foreign Nations.”¹⁷⁶ Modern usage of tariffs by the federal government has declined in the past few decades and tariffs are usually imposed to protect domestic industries or to promote foreign policy interests.¹⁷⁷

Congress gave the United States International Trade Commission (“USITC”) the power to set tariff rates in the Harmonized Tariff Schedule of the United States (“HTS”).¹⁷⁸ The president does not possess the inherent constitutional powers to impose tariffs during peacetime.¹⁷⁹ Although Congress has the constitutional power to set tariff rates, Congress has frequently authorized the president, via statute, to adjust tariff rates in response to foreign relations or national security issues.¹⁸⁰ This delegation of authority is partially motivated by the president’s ability to negotiate with foreign governments to achieve congressional goals.¹⁸¹ Post-World War II, the United States’ use of tariffs has largely diminished.¹⁸² However, in the past decade, there have been two significant increases in the United States’ tariff rates, each during the first and second Trump Administrations.¹⁸³ Although not reaching the heights of the tariff rate during the Trump

U.S. Supreme Court developments might foreshadow stricter approaches to judicial review of the President’s tariff authorities and action.”).

174. *Tariff*, BLACK’S LAW DICTIONARY (2d ed. 1910), <https://thelawdictionary.org/tariff/> [<https://perma.cc/SN8X-JLTC>].

175. U.S. CONST. art. I, § 8, cl. 1.

176. *Id.*; CHRISTOPHER CASEY, CONG. RSCH. SERV., IF11030, U.S. TARIFF POLICY: OVERVIEW (2025).

177. *See* CASEY, *supra* note 176.

178. *Id.*; *see Harmonized Tariff Schedule*, U.S. INT’L TRADE COMM’N, <https://hts.usitc.gov/> [<https://perma.cc/A3VE-C8SG>]; *About Harmonized Tariff Schedule (HTS)*, U.S. INT’L TRADE COMM’N, https://www.usitc.gov/tariff_affairs/about_hts.htm [<https://perma.cc/U7TB-2RST>].

179. *See* ZIRPOLI, *supra* note 173, at 2.

180. *See* CASEY, *supra* note 176; *see also* ZIRPOLI, *supra* note 173, at 1.

181. *See* CASEY, *supra* note 176.

182. *See* Anshu Siripurapu & Noah Berman, *What Are Tariffs?*, COUNCIL ON FOREIGN REL. (Apr. 1, 2025), <https://www.cfr.org/backgrounders/what-are-tariffs> [<https://perma.cc/8653-3XL4>] (“After World War II, however, tariffs largely fell out of favor in advanced economies because they often lead to reduced trade, higher prices for consumers, and retaliation from abroad.”).

183. *See Tracking the Economic Effects of Tariffs*, THE BUDGET LAB (Mar. 2, 2026), <https://budgetlab.yale.edu/research/tracking-economic-effects-tariffs#:~:text=Before%20the%202025%20tariff%20announcements,ultimately%20be%20returned%20to%20importers> [<https://perma.cc/6LVB-YL7K>].

Administration, the Biden Administration also exhibited protectionist tendencies, signaling that the previous era of uninhibited free trade may be over for the foreseeable future.¹⁸⁴

The CIT has exclusive jurisdiction over civil actions arising out of a number of tariff-related statutes.¹⁸⁵ The Supreme Court has recently reaffirmed that the CIT has exclusive jurisdiction over actions arising out of modifications to the HTS and acts concerning import treatment.¹⁸⁶ Meanwhile, the Federal Circuit has exclusive jurisdiction over appeals of CIT decisions.¹⁸⁷ Courts, notably the Federal Circuit, generally do not interfere with the president's exercise of delegated tariff authority except in instances of clear statutory misconstruction.¹⁸⁸ Generally, judicial precedent has given the president significant leeway in imposing tariffs, notwithstanding the recent IEEPA tariffs being struck down by the Supreme Court.¹⁸⁹ The CIT's caseload of tariff-based disputes has been relatively low compared to other cases since the court's creation.¹⁹⁰ However, this low caseload is poised to change with the continuing disputes over Trump's tariffs and the likely refunds of the now-struck-down IEEPA tariffs.¹⁹¹ With a tariff-based caseload rapidly growing on the CIT's docket, it is important that the scope of the CIT's remedial authority is abundantly clear to both the court itself and the parties involved in these disputes.

184. See Pierre Lemieux, *Biden's Protectionism: Trumpism with a Human Face*, CATO INST. (2022), <https://www.cato.org/regulation/fall-2022/bidens-protectionism-trumpism-human-face> [https://perma.cc/C8YU-NY9H] ("Still, Biden has kept many of Trump's protectionist measures and has even added to them.").

185. See 28 U.S.C. § 1581; see also ZIRPOLI, *supra* note 173 ("Parties claiming that the President has exceeded the scope of his statutory authority to impose tariffs sometimes have standing to challenge those tariffs in the CIT, which generally has exclusive original jurisdiction over such lawsuits.").

186. See *Learning Res., Inc. v. Trump*, 607 U.S. 229, 240 n.1 (2026); see also Ryan Shaw, *The Supreme Court Empowered a Specialty Court to Decide the Fate of Trump's Trade Agenda*, YALE J. ON REGUL. (Mar. 19, 2026), <https://www.yalejreg.com/nc/the-supreme-court-empowered-a-specialty-court-to-decide-the-fate-of-trumps-trade-agenda/> [https://perma.cc/2N4V-EKTC].

187. ZIRPOLI, *supra* note 173, at 4.

188. See ZIRPOLI, *supra* note 173, at 4–5 (citing *Maple Leaf Fish Co. v. United States*, 762 F.2d 86 (Fed. Cir. 1985)).

189. See *id.* at 27.

190. See Restani, *supra* note 46.

191. See Lydia Wheeler & Linda Radnofsky, *The Tiny Court at the Center of a Massive Scramble to Get Tariff Money Back*, WALL ST. J. (Mar. 5, 2026), https://www.wsj.com/politics/policy/the-tiny-court-at-the-center-of-a-massive-scramble-to-get-tariff-money-back-3e139afd?gaa_at=eafs&gaa_n=AWETsqcnfmat23k9YiANKi9qsYj-mur7ybM5KWCDzQW8gBVAuzenDAqEU1HmwOAtE%3D&gaa_ts=69bc2ec5&gaa_sig=w849q1A2SBSY1hPfm7RAIKwpJU1GEBf5VN139Xv1YBUcOENsFTApKQQP_qquv1t4_UB9GF6q_r86wcDTxxWzw%3D%3D (on file with the *Fordham Urban Law Journal*).

II. IEEPA TARIFFS, *CASA*, AND IMPLICATIONS FOR THE CIT

With the legal foundations behind the CIT and universal injunctions set up, this Note pivots to analyzing the recent changes to how courts should approach universal injunctions. Specifically, Part II assesses how *CASA* impacts the rapidly changing legal landscape involving tariffs and trade law as a whole. Part II.A introduces the Trump Administration's attempt to impose sweeping global tariffs by invoking IEEPA. Then, Part II.B outlines how legal challenges to the IEEPA tariffs proceeded through the CIT and the Federal Circuit, resulting in the Federal Circuit remanding the CIT's injunction back to the CIT to comply with *CASA*. Part II.C details why the Supreme Court struck down the IEEPA tariffs while avoiding addressing *CASA* in that decision. Part II.D describes the various statutory provisions that the Trump Administration may use to justify future tariffs, which are likely to face significant legal opposition. Finally, Part II.E focuses on how *CASA*, and the Federal Circuit's remand of the CIT's universal injunction, could potentially constrain future CIT responses to tariff-based disputes.

A. The Trump Administration's Tariffs Invoked Under the International Emergency Economic Powers Act (IEEPA)

At the beginning of his second term in office, President Trump issued several executive orders that imposed tariffs on various countries based on claimed authority under IEEPA.¹⁹² IEEPA grants the president the ability to exercise certain powers “to deal with any unusual and extraordinary threat, which has its source in whole or substantial part outside the United States, to the national security, foreign policy, or economy of the United States, if the President declares a national emergency with respect to such threat.”¹⁹³ The national emergency must be declared for the purposes of IEEPA, and not for any other reasons, under the National Emergencies Act of 1976.¹⁹⁴ The “authorities” the president can employ during the national emergency include the powers to “investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition . . . importation or exportation of . . . any property in which any foreign country or a national thereof has any interest by any person, or with respect to any property, subject to the jurisdiction of the United

192. See WILLIAM F. BURKHART & KEIGH E. HAMMOND, CONG. RSCH. SERV., R48549, PRESIDENTIAL 2025 TARIFF ACTIONS: TIMELINE AND STATUS RESEARCH 2–3 (2026).

193. 50 U.S.C. § 1701(a); see also CHRISTOPHER CASEY ET AL., CONG. RSCH. SERV., R45618, THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT: ORIGINS, EVOLUTION, AND USE 10 (2026).

194. See 50 U.S.C. § 1701(b); CASEY ET AL., *supra* note 193, at 10–11.

States[.]”¹⁹⁵ IEEPA had not been invoked to justify the imposition of tariffs prior to the second Trump Administration.¹⁹⁶

State and private plaintiffs quickly challenged Trump’s IEEPA tariffs in court on statutory and constitutional grounds.¹⁹⁷ Courts have historically upheld presidents’ uses of emergency powers, especially regarding national security.¹⁹⁸ However, plaintiffs quickly cast doubts on the legality of the IEEPA tariffs.¹⁹⁹ Challenges were filed in the District Court for the District of Columbia²⁰⁰ and the Court of International Trade.²⁰¹ Later, the Supreme Court ruled that the District Court for the District of Columbia did not have jurisdiction over these challenges.²⁰² What is relevant to this Note are the remedies available to the CIT post-*CASA*, so the next subsection will trace the development of the challenges to the IEEPA tariffs from the CIT to the Supreme Court.

B. *V.O.S. Selections*—CIT and Federal Circuit Decisions on the IEEPA Tariffs

In *V.O.S. Selections, Inc. v. United States*, a pre-*CASA* decision regarding Trump’s IEEPA tariffs, the CIT ruled that IEEPA does not delegate the power to the President of the United States to impose tariffs.²⁰³ President Trump issued two types of tariffs based upon his claimed authority under

195. 50 U.S.C. § 1702(a)(1)(B).

196. See Dennis Hranitzky, Adam Wolfson, & Fritz Scanlon, *Client Alert: Supreme Court Strikes Down IEEPA Tariffs—What Importers Need to Know About Recovering Refunds*, QUINN EMANUEL URQUHART & SULLIVAN, LLP (Feb. 23, 2026), <https://www.quinnemanuel.com/the-firm/publications/client-alert-supreme-court-strikes-down-ieepa-tariffs-what-importers-need-to-know-about-recovering-refunds/> [<https://perma.cc/8EV2-WDZE>] (“President Trump was the first President ever to use IEEPA as a basis for imposing tariffs. Other statutes that President Trump and prior Presidents have used as bases for imposing tariffs are subject to express procedural and substantive limitations.”).

197. Will Scobey, *IEEPA Tariffs Challenged in Supreme Court*, NAT’L AGRIC. L. CTR. (Oct. 16, 2025), <https://nationalaglawcenter.org/ieepa-tariffs-challenged-in-supreme-court/> [<https://perma.cc/2CXG-D29Q>] (“On April 14, 2025, a group of five businesses filed suit in the Court of International Trade (CIT), challenging the reciprocal tariffs instituted by President Trump following the declared national emergency.”).

198. David Lawder, *Trump Stretches Trade Law Boundaries with Canada, Mexico, China Tariffs*, REUTERS (Feb. 3, 2025), <https://www.reuters.com/business/trump-stretches-trade-law-boundaries-with-canada-mexico-china-tariffs-2025-02-02/> (on file with the *Fordham Urban Law Journal*).

199. See Wheeler & Radnofsky, *supra* note 191.

200. See *Learning Res., Inc. v. Trump*, 784 F. Supp. 3d 209, 215 (D.D.C. 2025), *vacated*, 607 U.S. 229 (2026).

201. See *V.O.S. Selections, Inc. v. United States*, 772 F. Supp. 3d 1350, 1364–65 (Ct. Int’l Trade 2025).

202. See *Learning Res., Inc. v. Trump*, 607 U.S. 229.

203. See 772 F. Supp. 3d at 1358.

IEEPA: Worldwide and Retaliatory tariffs,²⁰⁴ and Trafficking tariffs.²⁰⁵ President Trump declared a number of national emergencies to justify these tariffs, mainly addressing the United States' trade deficit and global drug trafficking.²⁰⁶ The CIT held that there was no statutory authority in IEEPA for the president to issue these tariffs because the language "regulate importation" in IEEPA cannot be read to include the power to tariff.²⁰⁷ The CIT vacated and permanently enjoined the tariff executive orders, stating that the universal injunction was necessary because the Constitution mandates that "[A]ll Duties, Imposts and Excises shall be uniform throughout the United States,"²⁰⁸ and therefore the universal injunction is unquestionably narrowly tailored relief.²⁰⁹ Again, it must be noted that *CASA* had not been decided yet, so the CIT did not attempt to comply with *CASA*'s complete relief standard.

The Federal Circuit's affirmation of the CIT's decision, however, came after *CASA* was decided. In *V.O.S. Selections, Inc. v. Trump*, the Federal Circuit affirmed the CIT's decision regarding the merits of the case, finding that "IEEPA's grant of presidential authority to 'regulate' imports does not authorize the tariffs imposed by the Executive Orders[.]"²¹⁰ However, the Federal Circuit vacated the CIT's universal injunction²¹¹ and instructed the CIT, on remand, to consider whether its grant of the universal injunction comports with the standards in *CASA* and the four *eBay* factors.²¹² The Federal Circuit's vacatur of the CIT's injunction highlights a major implication of *CASA*: the CIT may be limited in its ability to issue universal relief in the face of tariffs with nationwide effects. After the Federal Circuit's remand of the CIT's universal injunction, the CIT asserted that it was not subject to *CASA*'s restrictions in a different case regarding tariff refund, discussed below.²¹³

In the State Plaintiffs-Appellees Briefs for the Federal Circuit's decision in *V.O.S. Selections*, the plaintiffs argued the Supreme Court in *CASA* "cast

204. See *id.* at 1364; see also Timothy Hruby et al., *Court of International Trade Sets Aside Presidential IEEPA Tariffs and Federal Circuit Postpones Nationwide Injunction*, BLANK ROME LLP (June 2, 2025), <https://www.blankrome.com/publications/court-international-trade-sets-aside-presidential-ieepa-tariffs-and-federal-circuit> [https://perma.cc/QH5H-S3YR].

205. See *V.O.S. Selections*, 772 F. Supp. 3d at 1363; Hruby et al., *supra* note 204.

206. See Hruby et al., *supra* note 204; *V.O.S. Selections*, 772 F. Supp. 3d at 1362–64.

207. *V.O.S. Selections*, 772 F. Supp. 3d at 1383.

208. *Id.*; see also U.S. CONST. art. I, § 8, cl. 1.

209. See *V.O.S. Selections*, 772 F. Supp. 3d at 1383.

210. *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312, 1318 (Fed. Cir. 2025).

211. See *id.* at 1339.

212. See *id.* at 1340.

213. See Order, *supra* note 158.

no doubt on the propriety of relief that may incidentally benefit nonparties when it is necessary to afford complete relief to a party.”²¹⁴ Specifically, it was contended that a universal injunction was necessary to provide complete relief to the plaintiffs because they imported both goods directly and through third-party vendors, who pass the cost of tariffs onto the States through price increases, which the States cannot recover even if the third-party vendors ultimately receive refunds.²¹⁵ The plaintiff-appellees also contended the universal scope of the CIT’s injunction comports with the Constitution’s requirement that “all Duties, Imposts and Excises shall be uniform throughout the United States.”²¹⁶ Although the Federal Circuit ultimately remanded the CIT’s injunction to comply with *CASA*, the state plaintiff-appellees’ contentions echo similar arguments made in other cases remanded to several generalized district courts post-*CASA*.²¹⁷

C. Learning Resources—The Supreme Court Strikes Down the IEEPA Tariffs

Litigation over Trump’s IEEPA tariffs culminated in *Learning Resources, Inc. v. Trump*, where the Supreme Court held that the president does not have the authority to issue sweeping tariffs under IEEPA.²¹⁸ The Supreme Court agreed with the lower courts that the words “regulate” and “importation” in IEEPA do not grant the president the authority “to impose tariffs on imports from any country, of any product, at any rate, for any amount of time.”²¹⁹ Consequently, the Supreme Court struck down the tariffs issued under IEEPA.²²⁰ The Supreme Court did not directly address the validity of the CIT’s initial universal injunction, nor did the Court discuss *CASA*’s effect on the CIT. However, the Supreme Court made a few statements in the decision that could be instructive in determining how *CASA* may impact the CIT’s jurisdiction and remedial powers.

While *V.O.S. Selections* first arose out of the CIT, the case it was combined with at the Supreme Court level, *Learning Resources, Inc. v. Trump*,²²¹ came out of the United States District Court for the District of

214. States Plaintiffs-Appellees’ Brief at 57, *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312 (Fed. Cir. 2025) (Nos. 25-1812, 25-1813).

215. *See id.* at 57–58.

216. *See id.* at 59; *see also* U.S. CONST. art. I, § 8, cl. 1.

217. *See* *Washington v. Trump*, 145 F.4th 1013, 1038 (9th Cir. 2025); *Doe v. Trump*, 157 F.4th 36, 96 (1st Cir. 2025); *Jackson Fed’n of Tchrs. v. Fitch*, 799 F. Supp. 3d 571, 584 (S.D. Miss. 2025).

218. *See* *Learning Res., Inc. v. Trump*, 607 U.S. 229, 255 (2026).

219. *Id.* at 240.

220. *Id.* at 255.

221. 784 F. Supp. 3d 209 (D.D.C. 2025).

Columbia. The Supreme Court vacated that court's decision and remanded it with instructions to dismiss for lack of jurisdiction.²²² In a footnote, the Supreme Court expressly acknowledges that the case falls "within the exclusive jurisdiction of the CIT."²²³ Although the Supreme Court does not discuss the universal injunction in this decision, it fully acknowledges the CIT's exclusive, and implicitly nationwide, jurisdiction over tariff cases.

D. After *Learning Resources*, Tariffs Are Still Not Going Anywhere

Trump's IEEPA tariffs were struck down in *Learning Resources*, but the administration's vision of global trade is not going away.²²⁴ The now-vacated IEEPA tariffs resulted in significant changes in global trade, including declining import cargo volume,²²⁵ rising prices,²²⁶ and harms to the economies of both large²²⁷ and small²²⁸ port cities. Specifically, studies show a high rate of "tariff incidence," which is a term that describes how the costs of tariffs are split between foreign exporters and domestic importers.²²⁹ Studies show a high pass-through of costs onto United States import prices due to the tariffs.²³⁰ Even with the IEEPA tariffs being struck down by the

222. See *Learning Res., Inc.*, 607 U.S. at 255.

223. *Id.* at 240 n.1.

224. See Ana Swanson, *Trump's Tariff Goes into Effect at 10 Percent, Not the 15 Threatened*, N.Y. TIMES (Feb. 24, 2026), <https://www.nytimes.com/2026/02/24/us/politics/trump-tariffs-global-trade.html> (on file with the *Fordham Urban Law Journal*).

225. See *Declining Import Cargo Volume Expected to Continue in 2026*, NAT'L RETAIL FED'N (Dec. 8, 2025), <https://nrf.com/media-center/press-releases/declining-import-cargo-volume-expected-to-continue-in-2026> [<https://perma.cc/KX7Z-CSEG>] ("Amid the impact from tariffs and ongoing trade policy uncertainty, year-over-year declines in import cargo volume seen at the nation's major container ports in recent months are expected to continue in 2026, according to the Global Port Tracker report released today by the National Retail Federation and Hackett Associates.").

226. See Ana Swanson & Sydney Ember, *Americans are Paying the Bill for Tariffs, Despite Trump's Claims*, N.Y. TIMES (Feb. 12, 2026), <https://www.nytimes.com/2026/02/12/business/economy/americans-pay-tariffs-trump-fed.html> (on file with the *Fordham Urban Law Journal*); Mary Amity et al., *Who Is Paying for the 2025 U.S. Tariffs?*, FED. RSRV. BANK OF N.Y. LIBERTY ST. ECONS. (Feb. 12, 2026), <https://doi.org/10.59576/lse.20260212> [<https://perma.cc/669N-ZF63>].

227. See, e.g., Ana Swanson, *How Trump's Trade War Has Whipsawed the Port of L.A.*, N.Y. TIMES (June 19, 2025), <https://www.nytimes.com/2025/06/19/business/economy/trump-tariffs-la-port.html> (on file with the *Fordham Urban Law Journal*).

228. See Lori Ann LaRocco, *Trump's Trade War Taking Biggest Toll on Nation's Smaller, Secondary Ports from California to Gulf Coast*, CNBC (July 21, 2025), <https://www.cnbc.com/2025/07/21/trumps-tariffs-take-biggest-toll-on-nations-smaller-secondary-ports.html> [<https://perma.cc/PW7P-6TX9>].

229. Amity et al., *supra* note 226.

230. See *id.*; see also Ana Swanson, *The Effects of Tariffs, One Year into Trump's Trade Experiment*, N.Y. TIMES, (Feb. 2, 2026), <https://www.nytimes.com/2026/02/02/business/trump-tariffs-one-year->

Supreme Court, the main cause for concern for industries is the unpredictability of the government's approach to tariffs.²³¹ The Supreme Court may have struck down Trump's IEEPA tariffs, but the impacts of those tariffs still hit United States industries and importers during the period between the issuance of the tariffs and the Supreme Court's final decision.²³²

Learning Resources did not end Trump's tariff regime. There are a few statutes that expressly delegate tariff authority to the Executive Branch: Section 232 of the Trade Expansion Act of 1962, Sections 122, 201, and 301 of the Trade Act of 1974, and Section 338 of the Tariff Act of 1930.²³³ Days after the Supreme Court's decision in *Learning Resources*, Trump announced new global tariffs of 15% under Section 122 of the Trade Act of 1974.²³⁴ These new global tariffs were not a significant change from the average effective tariff rate pre-*Learning Resources*.²³⁵ Section 122 of the Trade Act allows the president to limit imports to address balance-of-payments issues.²³⁶ However, lawsuits have already been filed against the Trump Administration's invocation of Section 122, with some state plaintiffs arguing that the government has not met Section 122's statutory requirements.²³⁷

The Trump Administration is also invoking Section 301 to keep its tariff regime intact. On March 16, 2026, it announced investigations into the "unfair trade practices" of about 60 countries under Section 301 of the Trade Act of 1974.²³⁸ Under Section 301, if the United States Trade Representative finds that "an act, policy, or practice of a foreign country . . . violates, or is

later.html#:~:text=Tariffs%20have%20pushed%20up%20prices,falling%20prices%20in%20previous%20months (on file with the *Fordham Urban Law Journal*).

231. Michel Martin, *How Trump's Tariffs Will Affect U.S. Ports*, NPR, (Aug. 4, 2025), <https://www.npr.org/2025/08/04/nx-s1-5486788/how-trumps-tariffs-will-affect-u-s-ports> (on file with the *Fordham Urban Law Journal*).

232. See *V.O.S. Selections, Inc. v. United States*, 772 F. Supp. 3d 1350 *passim* (Ct. Int'l Trade 2025).

233. See ZIRPOLI, *supra* note 173, at 9.

234. *US Tariffs: What's the Impact on Global Trade and the Economy?*, J.P. MORGAN GLOB. RSCH. (July 24, 2026), <https://www.jpmorgan.com/insights/global-research/current-events/us-tariffs> [<https://perma.cc/AKG5-G242>].

235. See *id.* ("[W]e estimate that December's realized average effective tariff rate under the Section 122 tariff schedule would have been little changed at 8.8%, instead of the 9.4% actually observed. We also estimate that the static (2024 weights) average effective tariff rate will decline to 13.1% under the new regime, from 15.3% previously").

236. See 19 U.S.C. § 2132.

237. See Complaint at ¶¶ 5–7, *Oregon v. Trump*, No. 26-01472 (Ct. Int'l Trade Mar. 5, 2026); Amy Howe, *The Remaining Questions After the Supreme Court's Tariffs Ruling*, SCOTUSBLOG, (Mar. 17, 2026), <https://www.scotusblog.com/2026/03/the-remaining-questions-after-the-supreme-courts-tariffs-ruling/> [<https://perma.cc/BG92-3NQZ>].

238. See *US Tariffs: What's the Impact on Global Trade and the Economy?*, *supra* note 234; see also Howe, *supra* note 237.

inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement” or “is unjustifiable and burdens or restricts United States commerce[,]” the United States may be able to issue tariffs to remedy these practices.²³⁹ Like the Section 122 tariffs, the Section 301 tariffs have already been challenged in court.²⁴⁰ Evidently, challenges against the Trump Administration’s trade policies are not going away post-*Learning Resources*, and so far the CIT has been the forum for such challenges.²⁴¹

E. The Implications of *CASA* on the CIT

CASA intersects with *Learning Resources* because the lower court cases in the IEEPA dispute discussed whether it was proper for the CIT to use a universal injunction to block the IEEPA tariffs. No higher court has explicitly held that *CASA*’s holding constrains the CIT’s ability to use universal injunctions. Yet, both the Federal Circuit and the CIT have taken different approaches in addressing *CASA*’s effect on the CIT. In *V.O.S. Selections v. Trump*, the Federal Circuit vacated and remanded the CIT’s universal injunction back to the CIT to determine whether its grant of the universal injunction complies with the standards articulated in *CASA*.²⁴² This remand seemed to be an implicit acknowledgment by the Federal Circuit that *CASA* does control the CIT to some extent. However, in line with what the Supreme Court articulated in *CASA*,²⁴³ the Federal Circuit left the determination of whether the scope of CIT’s original universal injunction was proper to the CIT itself.²⁴⁴

There are conflicting statutory perspectives on how *CASA* may constrain the CIT. One could argue, as at least one judge of the CIT has, that the CIT’s statutory origins preclude *CASA* from applying to the court.²⁴⁵ Specifically, in the March 4th Order, the judge argues that the CIT receives its legal direction from the Customs Courts Act of 1980, not the Judiciary Act of 1789, and therefore the question of whether federal courts have the equitable authority to issue universal injunctions does not apply to the CIT.²⁴⁶ Additionally, the judge argued that the CIT’s nationwide jurisdiction and exclusive subject matter jurisdiction shield the CIT from *CASA*’s holding.²⁴⁷

239. 19 U.S.C. § 2411; *see also* Howe, *supra* note 237.

240. *See infra* note 255.

241. *See* *Learning Res., Inc. v. Trump*, 607 U.S. 229, 240 n.1 (2026).

242. *See* *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312, 1339–40 (Fed. Cir. 2025).

243. *See* *Trump v. CASA, Inc.*, 606 U.S. 831, 862 (2025).

244. *See* *V.O.S. Selections*, 149 F.4th at 1339–40.

245. *See* Order, *supra* note 158, at 2.

246. *See id.*

247. *See id.*

Finally, in the legislative history of the Customs Courts Act, Congress cited the need for judicial uniformity and the “expeditious resolution of import-related disputes[]” as justifications for the creation of the CIT.²⁴⁸ However, the text of the Customs Courts Act of 1980 does not completely divorce the CIT from the Judiciary Act of 1789. As the government has argued in the appeal of the IEEPA tariff refunds, the Customs Courts Act of 1980 granted the CIT “all the powers in law and equity of, or as conferred by statute upon, a district court of the United States.”²⁴⁹ While not explicitly invoking the Judiciary Act of 1789, this provision of the Customs Courts Act of 1980 appears to acknowledge that the CIT takes some legal direction,²⁵⁰ in terms of powers in law and equity, from prior statutes governing United States district courts.²⁵¹ In light of this apparent statutory and precedential gray area, litigants may want clarity on whether and how *CASA* limits the CIT.

**F. *CASA* Preventing the CIT from Utilizing Universal Injunctions
Would Drastically Limit the Effectiveness of the Court at a Critical
Period in Trade Law**

The lack of statutory and precedential clarity for the scope of *CASA*’s application to the CIT could pose significant barriers to the efficient adjudication of trade disputes. Although the Supreme Court decisively declared that the Trump Administration’s IEEPA tariffs were illegal,²⁵² the time between the imposition of the tariffs and the striking down of the IEEPA tariffs was long enough for the tariffs to have significant consequences on the United States’ economy.²⁵³ As the Trump Administration vows to continue imposing global tariffs,²⁵⁴ new legal disputes are bound to arise, and some have already begun.²⁵⁵ If *CASA* does in fact limit how the CIT can

248. *See id.*; *see also* U.S. CONST. art. I § 8, cl. 1 (“all Duties, Imposts and Excises shall be uniform throughout the United States”).

249. 28 U.S.C. § 1585.

250. *See id.*

251. *See id.*

252. *See* *Learning Res., Inc. v. Trump*, 607 U.S. 229, 255 (2026).

253. *See* sources cited *supra* notes 225–31.

254. *See US Tariffs: What’s the Impact on Global Trade and the Economy?*, *supra* note 234.

255. *See supra* note 237 and accompanying text; *see also* Steve Kopack, *Small Businesses Sue Trump Administration to Stop Latest Wave of Tariffs on 60 Trade Partners*, NBC NEWS (July 24, 2026), <https://www.nbcnews.com/business/economy/small-businesses-sue-trump-latest-tariffs-rcna589110> [<https://perma.cc/X9F7-GVA3>] (private plaintiffs challenging Section 301 tariffs); Paul Wiseman & Mae Anderson, *25 States Sue over Trump’s New Tariffs, Calling Them ‘Pretext’ to Replace His Old Ones*, ABC NEWS (Aug. 3, 2026), <https://abc7ny.com/story/25-states-sue-trumps-new-tariffs-calling-pretext-replace-old-ones/19620694/> [<https://perma.cc/A5JZ-VM33>] (state plaintiffs challenging Section 301 tariffs).

issue universal injunctive relief, as the Federal Circuit seems to think,²⁵⁶ then several issues may arise.

First, *CASA* limiting the CIT's use of the universal injunction is taking the court in a direction that Congress did not seem to intend. Congress's stated purpose for creating the CIT was to consolidate trade matters into a single court to ensure uniformity and efficiency in trade adjudication.²⁵⁷ *CASA* represents a disruption to this intended uniformity by treating the CIT like a generalized district court and ignoring the CIT's unique characteristics that may make non-party remedies more appropriate in the CIT than they would be in a typical district court dispute.²⁵⁸ Piecemeal decision-making and geographical limits contradict the very nature of the CIT,²⁵⁹ and due to the multi-jurisdictional nature of many trade disputes, could significantly hamper the ability of the CIT to provide proper relief to prevailing parties.²⁶⁰ Congress explicitly granted the CIT nationwide jurisdiction and subject-matter jurisdiction over civil actions concerning international customs and trade, specifically suits against the United States federal government, its agencies, and its officers.²⁶¹ When drafting the Customs Courts Act of 1980, Congress sought to equip the CIT with all the tools "necessary to ensure that those who come before it had full access to the judicial remedies available to litigants in the other federal courts."²⁶² While this does not necessarily include the universal injunction, due to its murky constitutional history, it does speak to the idea that the CIT is the premier authority on trade disputes in the United States, and therefore must have the tools needed to properly adjudicate such cases.²⁶³

Second, on a practical level, it will be difficult for the CIT to properly adjudicate the likely influx of tariff-related cases into the court's docket without, at a minimum, the option of exercising universal injunctive relief. The lack of clarity about the proper scope of the CIT's use of universal injunctions can lead to appeals and delays in the final disposition of each relevant case.²⁶⁴ For example, before the Supreme Court struck them down,

256. See *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312, 1339–40 (Fed. Cir. 2025).

257. See Order, *supra* note 158, at 2.

258. See Order, *supra* note 158, at 1–2.

259. See *About the Court*, *supra* note 24; Gordon, *supra* note 49.

260. See *Trump v. CASA, Inc.*, 606 U.S. 831, 910 (2025); *supra* notes 143–44.

261. See 28 U.S.C. §§ 1581–1582.

262. Gordon, *supra* note 49, at 6.

263. *Id.*

264. See Ari Hawkins, *White House Faces Thousands of Lawsuits as It Tries to Slow-Walk Tariff Refunds*, POLITICO (Mar. 3, 2026), <https://www.politico.com/news/2026/03/02/businesses-ready-battle-white-house-tariff-refunds-00808048> (on file with the *Fordham Urban Law Journal*) (showing how many cases were filed seeking refunds of the IEEPA tariffs, despite the uncertainty about how the refunds

the IEEPA tariffs continued to impact importers and American consumers for nearly an entire year after the Federal Circuit remanded the CIT's universal injunction.²⁶⁵ Consequently, many of the negative economic effects stemming from the IEEPA tariffs were a result of widespread uncertainty regarding the legality of the tariffs and the final result of the related litigation.²⁶⁶ Should the CIT emphatically be prohibited from utilizing universal injunctions, then the uncertainty surrounding the adjudication of future challenges to the federal government's tariff policies will be increased. Hypothetically, if state plaintiffs succeed in arguing that the Trump Administration did not meet the statutory requirements to impose tariffs under Section 122,²⁶⁷ it would be impractical to enjoin the enforcement of those tariffs solely against parties to the lawsuit.²⁶⁸ Complete relief would not be achieved; in fact, an injunction that benefits non-parties would be necessary for the proper adjudication of the case.²⁶⁹ Lawsuits regarding trade, duties, and customs naturally implicate a wide range of parties and non-parties like few other legal issues. Therefore, *CASA* limiting the CIT's use of universal injunctions will have numerous legal and functional implications for the court. The significant and rapid developments in the United States federal government's trade policies, and subsequent legal challenges, make the CIT's ability to utilize broad remedies, like the universal injunction, more important than ever in the CIT's history.

III. RESOLUTION: AVENUES FOR CONTINUED USE OF UNIVERSAL INJUNCTIONS BY THE CIT

Significant changes in the United States federal government's trade policy will certainly continue despite the Supreme Court striking down the IEEPA tariffs.²⁷⁰ What is not certain, however, is whether *CASA* has limited the CIT's ability to utilize universal injunctions as a remedy in future challenges

will be issued); Dietrich Knauth, *Twenty-Four US States File Lawsuit to Stop Trump's Latest Global Tariffs*, REUTERS (Mar. 5, 2026), <https://www.reuters.com/legal/government/twelve-us-states-announce-lawsuit-stop-trumps-latest-global-tariffs-2026-03-05/>

[<https://perma.cc/RZH5-D75U>] (showing how legal challenges to the administration's tariffs are not slowing down).

265. See sources cited *supra* notes 224–31.

266. See Martin, *supra* note 231.

267. See Complaint, *supra* note 237.

268. Cf. *Jackson Fed'n of Tchrs. v. Fitch*, 799 F. Supp. 3d 571, 584–85 (S.D. Miss. 2026) (finding that an injunction regarding DEI policies in schools would be “impracticable” to apply solely to the named plaintiffs).

269. See *Washington v. Trump*, 145 F.4th 1013 (9th Cir. 2025); *Doe v. Trump*, 157 F.4th 36 (1st Cir. 2025); *Jackson Fed'n of Tchrs. v. Fitch*, 799 F. Supp. 3d 571 (S.D. Miss. 2026).

270. See *Learning Res., Inc. v. Trump*, 607 U.S. 229, 255 (2026).

against the government's trade policies. There are several reasons why the CIT should retain universal injunctions. First, Part III.A argues that the CIT could broadly read the complete relief standard, as some generalized federal courts have done since the *CASA* decision. Second, Part III.B argues that *CASA* may not apply to the CIT at all because of the CIT's unique history and jurisdiction. Finally, Part III.C contends that the CIT's retention of the universal injunction is important to ensuring uniformity in trade law.

A. The CIT Should Liberally Read the Complete Relief Standard

This section argues for the CIT working within *CASA*'s framework to retain the ability to use universal injunctions, assuming *arguendo* that *CASA*'s standards do apply to the CIT. First, this section argues that the CIT should follow the route some generalized federal courts have taken after *CASA* and liberally read the complete relief standard to allow universal injunctions in certain situations. Then, this section looks at both the legal and practical benefits of the CIT operating within *CASA*'s holding while still utilizing universal injunctions.

The CIT can accept *CASA*'s applicability but still maintain its ability to issue universal injunctions by liberally reading the complete relief standard.²⁷¹ In practice, this would mean that the CIT finds that in certain trade matters it would be difficult to provide complete relief to the plaintiffs without judicial remedies extending to non-parties. Several federal district courts have adopted generous readings of *CASA*'s complete relief standard for cases involving immigration and education.²⁷² In such cases, the federal courts found that imposing limitations on the geographical or personal scopes of injunctive remedies would fail to provide complete relief to the plaintiffs in each case.²⁷³ Specifically, the courts noted the impracticality of limited injunctive relief to solely the parties in the cases, or solely to a single jurisdiction, due to the wide-reaching scope of the government actions being enjoined.²⁷⁴ Furthermore, the Supreme Court in *CASA* left the question of the proper scope of injunctions to lower courts.²⁷⁵

The CIT's adjudication of trade-related disputes would be a natural fit for such generous readings of the complete relief standard. Many trade disputes, especially those concerning far-reaching federal government policies such as tariffs, inevitably impact non-parties across the nation.²⁷⁶ For example,

271. *Cf. Liberal Interpretation*, BLACK'S LAW DICTIONARY (12th ed. 2024).

272. *See supra* Part I.C.3.

273. *See id.*

274. *See Fitch*, 799 F. Supp. 3d at 585.

275. *See Trump v. CASA, Inc.*, 606 U.S. 831, 862 (2025).

276. *See generally supra* Part II.D; sources cited *supra* notes 224–31 (highlighting examples of the nationwide impact of the IEEPA tariffs).

should the CIT find a future imposition of tariffs to be illegal, it would be difficult to imagine a scenario where the CIT is able to provide complete relief to the plaintiffs without the injunction against the imposition of such tariffs on non-parties. A liberal reading of the complete relief standard would mean that *CASA*'s holding does apply to the CIT, which is in line with how the Federal Circuit has previously ruled.²⁷⁷ However, at least one judge on the CIT appears to disagree with *CASA*'s applicability to the CIT.²⁷⁸

Nevertheless, the CIT liberally reading the complete relief standard would have two main benefits. First, and most importantly, the CIT could retain its use of universal injunctions for major cases that naturally implicate the complete relief standard. Second, this approach would avoid the potential complications that may result from there being a carve-out of *CASA* for the CIT. Congress expressly granted to the CIT all the powers and remedies of a federal district court.²⁷⁹ *CASA* applies to all federal district courts due to its reliance on the Judiciary Act of 1789's grant of powers to district courts.²⁸⁰ Therefore, the CIT's broad reading of the complete relief standard could be a clean way to retain the use of universal injunctions without outright ignoring *CASA*'s holding.

B. The CIT's History, Nationwide Jurisdiction, and Subject-Matter Jurisdiction Preclude *CASA*'s Application

The CIT's unique history and subject-matter jurisdiction indicate that Congress gave it power to issue universal injunctions, despite *CASA*'s ruling, and shields the CIT from flaws typically attributed to universal injunctions. Similar to the CIT's argument in its March 4th, 2026, Order on IEEPA tariff refunds, the CIT's nationwide geographical scope and exclusive subject-matter jurisdiction over civil actions related to trade preclude *CASA*'s application to the CIT.²⁸¹ Given such broad grants of jurisdiction by Congress to the CIT, it would make sense for the CIT to exercise broad judicial remedies. Beyond the practical inconveniences of treating the CIT the same as a generalized federal court,²⁸² the CIT's unique jurisdictional posture may help the court avoid many of the negative effects attributed to the rise of universal injunctions.

277. See *V.O.S. Selections, Inc. v. Trump*, 149 F.4th 1312, 1339–40 (Fed. Cir. 2025).

278. See Order, *supra* note 158, at 2.

279. See 28 U.S.C. § 1585.

280. See *CASA*, 606 U.S. at 84.

281. See Order, *supra* note 158, at 2.

282. See sources cited *supra* notes 264, 224–31.

First, the CIT does not trace its roots to English courts of equity, like most federal courts do through the Judiciary Act of 1789.²⁸³ Rather, the CIT's predecessors were both quasi-judicial and quasi-administrative bodies, without a clean lineage to Founding era courts.²⁸⁴ Further, Congress created the CIT far more recently than other Article III courts.²⁸⁵ Although the CIT's powers are still traceable to Founding era courts of equity,²⁸⁶ given the court's modern creation, its roots in both the executive and judicial branches, and its nationwide jurisdiction and subject-matter jurisdiction, there are compelling reasons to not base the scope of the remedies available to the CIT solely on what was present in Founding era courts of equity.

Second, the CIT's use of universal injunctions does not result in the negative effects bemoaned by critics of universal injunctions.²⁸⁷ The CIT does not create a risk of forum-shopping²⁸⁸ because it is the exclusive forum for civil actions against the United States arising out of any federal statute governing trade, customs, and imports.²⁸⁹ Similarly, for the risk of politicization,²⁹⁰ the CIT's exclusive subject-matter jurisdiction and statutory mandate that no more than five judges can be of the same political party minimize the risk of politicized decision-making.²⁹¹ Finally, for the impact that universal injunctions may have on lower court percolation and the development of law,²⁹² the CIT is unlikely to interrupt the development of relevant legal doctrines in other jurisdictions because the CIT is the sole arbiter of trade and customs matters.

The CIT has a unique historical and jurisdictional position compared to other Article III courts. The CIT's narrow subject-matter jurisdiction and broad geographical reach naturally implicate broad remedies. With no explicit statutory limitation in the Customs Courts Act of 1980 on the CIT's use of universal injunctions,²⁹³ coupled with the broad jurisdictional grants given to the CIT by Congress, the CIT may have some statutory leeway to preclude *CASA's* application to the court and retain the power to use the universal injunction.

283. See Judiciary Act of 1789, ch. 20, § 11, 1 Stat. 73, 78–79.

284. See *supra* notes 25–30.

285. See Customs Courts Act of 1980, Pub. L. No. 96-417, 94 Stat. 1727.

286. See 28 U.S.C. § 1585.

287. See *supra* Part I.B.2.

288. See *supra* note 83 and accompanying text.

289. See *supra* note 16 and accompanying text; see also *supra* note 50 and accompanying text.

290. See LAMPE, NATIONWIDE INJUNCTIONS, *supra* note 54, at 2.

291. See 28 U.S.C. § 251.

292. See *supra* note 85 and accompanying text.

293. 28 U.S.C. §§ 1585, 2643.

C. The Need for Uniformity in Trade Law

In addition to the CIT's history and subject-matter jurisdiction, there are policy considerations that strongly suggest the necessity of the CIT's ability to issue universal injunctions. The CIT should have the ability to issue universal injunctions to align with Congress's direction regarding the need for uniformity in trade adjudication.²⁹⁴ The desire for judicial uniformity in certain areas of law, particularly those regarding international issues, has been articulated by federal courts before *CASA*. *Banco Nacional de Cuba v. Sabbatino* asserts that federal courts have a role in foreign affairs.²⁹⁵ In *Sabbatino*, the Supreme Court argues that certain foreign affairs issues are in the "field of judicial competence," and certain federal foreign affairs doctrines will be undermined if states are free to formulate their own interpretations of foreign affairs issues.²⁹⁶ Subsequent cases have affirmed *Sabbatino*'s ruling that the area of international law is governed exclusively by federal law.²⁹⁷ Actions that have foreign policy implications invoke federal question jurisdiction.²⁹⁸ The logic behind these decisions was simple: piecemeal interpretations of law concerning foreign affairs would undermine certain federal policy goals.²⁹⁹ Scholarly commentary on the desirability of uniformity in matters of foreign affairs preceded the aforementioned case law; Philip Jessup remarked that judicial decision-making regarding foreign affairs should be uniform and "not be left to the courts of the several states to pronounce variously on questions of international law."³⁰⁰

The line of case law stemming from *Sabbatino* does not solve the issue facing the CIT regarding universal injunctions; it can, however, be instructive for how courts could prioritize the CIT's goal to ensure uniformity in trade law when crafting remedies for challenges to the federal government's tariff policies. Like Jessup's statement on foreign affairs, trade adjudication should not be left to the courts of several states, or rather the courts of several circuits, to pronounce variously on questions of trade law.³⁰¹ Congress made the CIT the exclusive judicial forum for trade and customs disputes.³⁰² A key purpose of the CIT was to maintain uniformity

294. See Order, *supra* note 158, at 2.

295. See 376 U.S. 398, 424 (1964).

296. See *id.*

297. See *Pacheco de Perez v. AT&T Co.*, 139 F.3d 1368, 1376–77 (11th Cir. 1998).

298. See *Republic of Philippines v. Marcos*, 806 F.2d 344, 353 (2d Cir. 1986).

299. See *supra* notes 295–98.

300. PHILIP C. JESSUP, THE USE OF INTERNATIONAL LAW: FIVE LECTURES DELIVERED AT THE UNIVERSITY OF MICHIGAN, FEBRUARY 27, 28, MARCH 3, 6, AND 7, 1958, at 86 (1958).

301. See *id.*

302. See 28 U.S.C. §§ 1581–1582.

in trade matters.³⁰³ This is substantially different from how district courts take different approaches to varying domestic issues.³⁰⁴

Similarly, disrupting the CIT's need for uniformity in trade law results in piecemeal judicial decisions, which are directly contrary to the stated purpose of the court.³⁰⁵ Having the CIT's remedies vary from party to party, or from jurisdiction to jurisdiction, could result in less expeditious procedures and rulings, jurisdictional conflicts, and inconsistent judicial decision-making.³⁰⁶ An extraordinary remedy like a universal injunction is less problematic for a specialty court like the CIT because the court has the express authority to speak in a unified and nationwide voice on trade disputes.³⁰⁷ Should the CIT not be able to exercise such a broad power on a nationwide basis, a piecemeal approach to trade adjudication may emerge, which would contradict the stated intention of Congress.³⁰⁸

CONCLUSION

The United States has promoted and maintained free trade policies for nearly 75 years.³⁰⁹ The Trump Administration has discarded the United States' longstanding modern policy of free trade in favor of a protectionist trade regime. This significant change in the federal government's approach to trade policy coinciding with the Supreme Court limiting how district courts use universal injunctions has resulted in uncertainty about which remedies the CIT can use when adjudicating present and future challenges to the government's trade policies. Even when these challenges end up being successful, delays in the final adjudication of these cases and the uncertainty

303. See U.S. CONST. art. I, § 8, cl. 1 (“[A]ll Duties, Imposts, and Excises shall be uniform throughout the United States.”); see also Order, *supra* note 158, at 2 (addressing the Customs Courts Act of 1980's legislative history, in which Congress cited the need for uniformity in trade law).

304. See JOANNA R. LAMPE, CONG. RSCH. SERV., LSB10856, WHERE A SUIT CAN PROCEED: COURT SELECTION AND FORUM SHOPPING 3 (2024) (“While all federal courts generally apply the same body of federal law, they may differ in how they interpret those laws A plaintiff may thus consider existing precedents and elect to sue in a court that has interpreted the applicable law in a way that is more likely to benefit her or avoid a court that she knows has interpreted the law unfavorably.”).

305. See *supra* notes 161, 257 and accompanying text.

306. See generally *About the Court*, *supra* note 24; *U.S. Customs Court, 1926–1980*, *supra* note 24.

307. See Order, *supra* note 158, at 2.

308. See *id.*

309. See Alfred E. Eckes, Jr. et al., *History of US Trade Policy*, AM. HIST. ASS'N (June 29, 2018), <https://www.historians.org/resource/history-of-us-trade-policy/> [https://perma.cc/TY4C-K633] (stating how the Reciprocal Trade Agreements Act of 1934 reduced the United States tariff level, which remained low following World War II).

of the legality of the challenged duties can come with significant economic costs.

The CIT must retain its ability to use universal injunctions in order to efficiently and expeditiously provide remedies to prevailing parties in challenges to the government's new tariffs. The history and purpose of the CIT both compel its retention of the universal injunction. One solution is for the CIT to follow an emerging trend among generalized district courts to broadly read *CASA*'s complete relief standard in cases with nationwide implications. Another solution is for the CIT to not be limited by *CASA* at all, standing on the court's nationwide and exclusive subject-matter jurisdiction and relying on its unique position as a unified judicial voice on action concerning trade in the United States.

Trade law in the United States is at a fascinating and critical impasse. It is important for the CIT to retain its ability to exercise broad remedies in the face of broad, nationwide changes in trade policy. Otherwise, uncertainty will reign over stability, efficiency, and legal unity, defying the express purposes of the CIT.