IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE DISTRICT OF COLUMBIA

JULIAN RAVEN,
ARTIST & AUTHOR,
CITIZEN BENEFICIARY,
& DEFENDER
OF THE
SMITHSON TRUST

V

THE PRESIDENT
OF THE UNITED STATES
DONALD J. TRUMP

THE U. S. CONGRESS

THE UNITED STATES

JOHN G. ROBERTS, JR.,
IN HIS OFFICIAL CAPACITY
AS CANCELLOR OF THE
SMITHSONIAN INSTITUTION

LONNIE BUNCH III,
SECRETARY OF THE
SMITHSONIAN INSTITUTION

DR. RICHARD KURIN
FORMER SMITHSONIAN
UNDER SECRETARY

SMITHSONIAN
BOARD OF REGENTS,
DEFENDANTS

CASE NUMBER 25-CV-02332 TSC

To the Honorable Tanya S. Chutkan, United States District Judge:

COMES NOW Plaintiff, Julian Marcus Raven, pro se, and respectfully submits this **Amended Complaint** and attendant motions for the Court's consideration. Plaintiff invokes this Court's equitable and constitutional authority to resolve longstanding questions surrounding the Smithsonian Institution's legal status, to remedy continuing breaches of fiduciary duty and unlawful interference with a private charitable trust, and to protect the rights of beneficiaries consistent with the Rule of Law. Respectfully, Plaintiff asks that this matter be set for hearing at the Court's earliest convenience.

PREAMBLE: ON PROPERTY, STEWARDSHIP, THE RULE OF LAW &

THE SMITHSON TRUST

From the first pages of Scripture to the first principles of the American Republic, the idea of **property** appears not as a license to plunder but as a **trust to keep**. That is the thread that runs from Eden, through Moses, past Magna Carta, into Locke, and finally into the Bill of Rights—and it is the thread that binds this case.

I. The First Trust and the First Breach

In the beginning, Adam and Eve were not owners in fee simple; they were **fiduciary trustees**. They were placed "to work and to keep" the garden—charged with care, cultivation, and protection of the Settlor's estate (Gen. 2:15). The **Divine Settlor** set a boundary—the one tree they were not to consume—and then, in His seeming "absence," left the trust to their fidelity (Gen. 2:16–17). Their taking of the forbidden fruit was not mere disobedience; it was the **first**

conversion of trust property—a misuse against the will of the Settlor. With that breach, the long history of human misery born of violated trusts began.

The next chapter of the property's tragedy unfolds with Cain and Abel (Gen. 4). Abel freely returns the "first and finest" of his increase to God; Cain withholds, then rages when favor rests upon faithful stewardship rather than stingy self-keeping. Envy begets violence, and the world learns—too soon—that **greed against trust and gift becomes blood against brother**.

II. Moses and the Codification of Stewardship

The Law of Moses does not invent property so much as **discipline** it. It guards boundaries ("you shall not move your neighbor's landmark," Deut. 19:14); protects possession ("you shall not steal," Ex. 20:15); honors labor and fruit (Deut. 24:19–22); and structures **inheritance** so that families and futures are not erased (Num. 27:1–11; 36:7–9). Even alienation has a limit: the Jubilee returns land to its families and frees the indebted (Lev. 25). In these provisions lie the ancient DNA of **wills, heirship, redemption, and trust-like administration**—the conviction that we are **stewards**, not sovereigns, and that law exists to preserve purpose across generations.

III. Charity, Christendom, and the Grammar of Gifts

The early church radicalized stewardship into charity: "they had all things in common," selling possessions to meet needs (Acts 2:44–45; 4:32–35). As Christian institutions matured, **hospitals, orphan houses, and endowments** (the *xenodochia* and houses of mercy) expressed an idea both legal and moral: **private gifts can be dedicated for public good**, and law should protect those dedications.

In Europe, **Magna Carta (1215)** gave due-process teeth to these intuitions—"no free man shall be… disseised… but by the law of the land" (c. 39)—restraining sovereign seizure and recognizing that a free people require **secure title**. For centuries afterward, Christian norms of conscience and the growing precision of private law worked in tandem: **property made generosity possible; law made generosity durable**.

IV. Locke, the Founding, and the American Settlement

John Locke distilled the moral grammar of property into the political: **life, liberty, and property**. Jefferson translated that triad into **life, liberty, and the pursuit of happiness**, but **property** remained the practical engine of personal freedom and public flourishing. The **Fourth Amendment** protects the home and effects from unreasonable search and seizure; the **Fifth Amendment** forbids deprivation of property without **due process** and forbids takings without **just compensation**. These are not mere technicalities; they are the architecture of stewardship in a Republic. They say, in law, what Scripture said in the story: **what is entrusted for good purposes may not be seized or redirected at will**.

V. Testamentary Gifts and the Voice of the Dead

One of the highest reasons for property rights is **to let the intention of the dead speak with force among the living**. Wills, trusts, and testaments are how a person's purpose outlives their pulse. Courts in equity do more than referee disputes; they **vindicate the settlor's will**, ensuring that trustees, heirs, officers, and outsiders keep faith with the charge. Across generations, **private benefactors "pay it forward,"** and civilization advances when **law keeps their promises**.

VI. James Smithson and the American Trust for Knowledge

Enter **James Smithson, Esq.**—an English scientist who bequeathed his fortune "to found at Washington, under the name of the **Smithsonian Institution**, an establishment for the increase and diffusion of knowledge among men." His bequest was a **private gift for a public good**. When the United States accepted that gift, it accepted **fiduciary duties** to carry out Smithson's will, not to supplant it.

The claims in this amended lawsuit arise from a simple, foundational proposition: **Smithson's property was dedicated in trust**, and that trust must be administered for its stated purpose—**not redirected by convenience, not captured by politics, not treated as spoils**. Where trustees fail, where officers overreach, where non-fiduciaries interfere, and where government power is asserted as if private dedication were a public purse, the law of this nation—indeed, the law of stewardship reaching back to Eden—summons the courts to set the trust aright.

VII. Why the Court's Hand Is Required

The **Fourth and Fifth Amendments** stand precisely to prevent what stewardship forbids: seizure without cause; deprivation without process; the quiet substitution of **will** (of officeholders) for **Will** (of the settlor). The unresolved issues now before the Court concern **one man's dedicated property**—Smithson's—and **one nation's promise** to honor that dedication. If trustees and officers have strayed, the remedy is not to rewrite the purpose but to **restore it**. If **non-trustees** have meddled, they must be restrained. If the line between **public authority** and **private trust** has blurred, it must be redrawn—clearly, lawfully, and in fidelity to the bequest.

VIII. Providence, Vocation, and Standing to Be Heard

Plaintiff did not seek this role; it found him. By providential turns, he encountered a pattern of conduct that **corrupted the property rights of James Smithson** and **imperiled the trust's purpose**. In our tradition, covenants and last wills carry moral weight; the courts of equity are not merely neutral venues but **guardians for absent voices**. To honor Smithson's trust is to honor the very idea that **wealth can be consecrated to the common good**—and that **law will defend that consecration** when memory fades or power tempts.

VIII. The Public Interest and the Smithsonian Crisis Before the Court

Never before has the Smithsonian Institution been subject to such intense national scrutiny. Weekly headlines, exposes, and pundit commentary across every major and minor media platform have placed the Institution at the center of public debate, while forums on social media reveal widespread confusion and outrage over whether the President has any lawful authority to direct its affairs. Though the President is free to voice opinions, he cannot lawfully coerce or threaten this private charitable trust through financial leverage or congressional complicity. This unprecedented surge of academic analysis, political debate, and public outcry underscores the heightened significance of the issues now before this Court. At this crucial juncture, the matter falls squarely to you, the Honorable Judge Chutkan, to clarify the Smithsonian's legal status, to reaffirm constitutional boundaries on executive power, and to safeguard the rights of the trust and of the American people for whose benefit it was established.

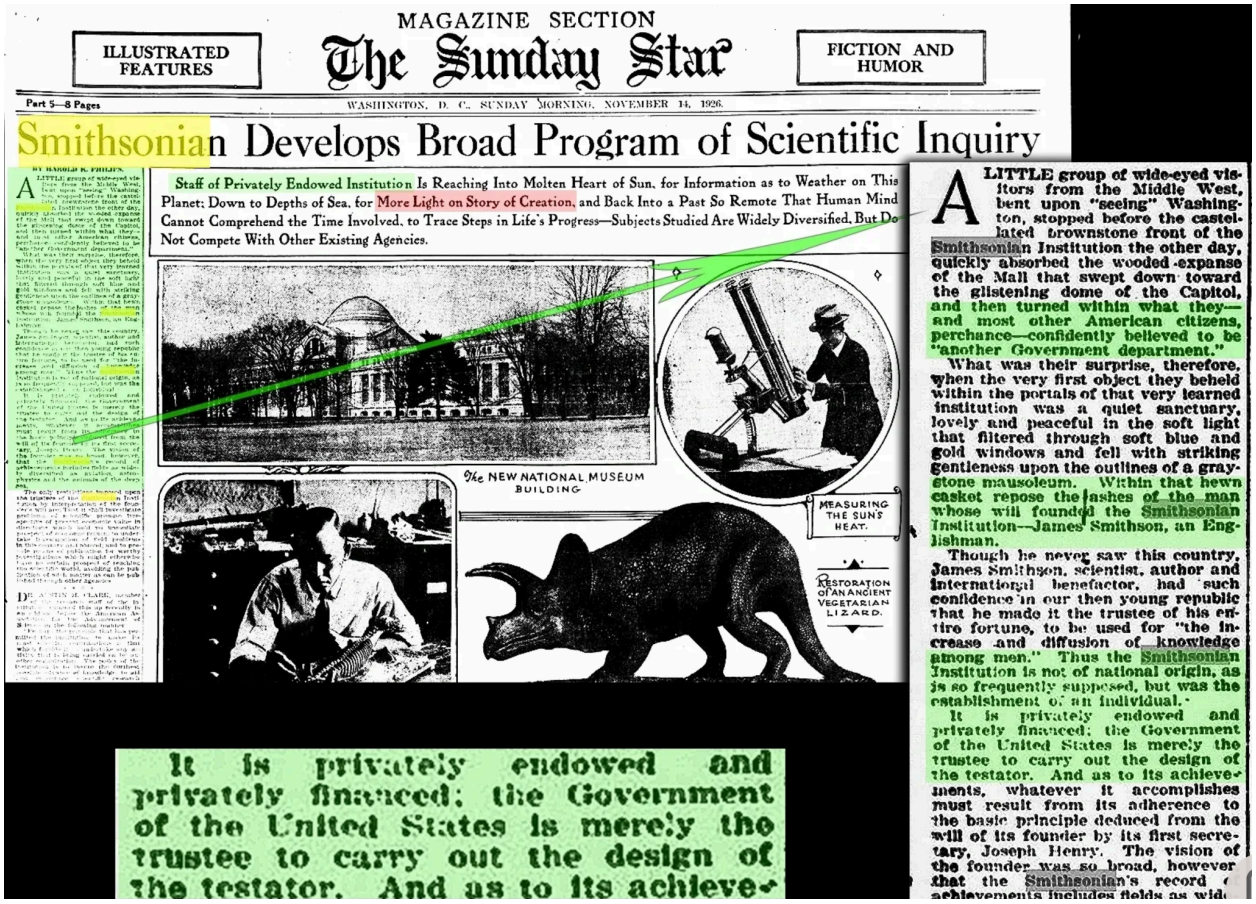
In sum: From Eden's trusteeship and Moses' land laws, through Magna Carta's liberties and Locke's theories, to the Bill of Rights and the American courtroom, **property** is not the enemy of the public good; **faithless stewardship** is. The **Smithsonian** is the legal expression of one man's settled will for the benefit of the many. This suit asks only what stewardship always asks of courts: **restore the terms of the trust, restrain the breaches, and let the donor's voice be heard.**

IX. The Rule of Law

The American legal system has been uniquely anchored in the Rule of Law—understood as the principle that no individual and no government action stands above the law, but rather that all are bound to it equally. This foundational commitment has served as the bedrock of American governance and the framework within which the nation has achieved extraordinary development and progress in a relatively brief span of history, unmatched elsewhere in the world. Such remarkable advancement is only possible when a legal structure exists that restrains the destructive tendencies of human chaos and wickedness while at the same time unleashing the fullest measure of lawful human creativity, ingenuity, and enterprise. To be sure, the system is imperfect, and it has always been operated by imperfect people. Yet by design it has shown the capacity to expand, adapt, and correct itself—even if such corrections take years or even generations to be realized. The greatest engine of American progress has been this constitutional commitment to enshrine the Rule of Law as the nation's ultimate guiding principle, embodied in the willingness of its courts to hear determined litigants and to right entrenched wrongs. Thus, just as it took nearly six decades for Brown v. Board of Education in 1954 to repudiate and undo the catastrophic error of Plessy v. Ferguson in 1896, so too this case presents the Court today with a moment to continue that tradition of correction and renewal.

X. The Smithsonian Enigma

The constitutional and legal crisis that continues to engulf the Smithsonian Institution stems from the unresolved enigma of its identity—a problem documented since the earliest days of its existence and dramatically illustrated in the November 14, 1927, edition of the *Washington Sunday Star*.



MAGAZINE SECTION

ILLUSTRATED FEATURES

The Sunday Star

FICTION AND HUMOR

Part 5—8 Pages

WASHINGTON, D. C., SUNDAY MORNING, NOVEMBER 14, 1926.

Smithsonian Develops Broad Program of Scientific Inquiry

Staff of Privately Endowed Institution Is Reaching Into Molten Heart of Sun, for Information as to Weather on This Planet; Down to Depths of Sea, for More Light on Story of Creation, and Back Into a Past So Remote That Human Mind Cannot Comprehend the Time Involved, to Trace Steps in Life's Progress—Subjects Studied Are Widely Diversified, But Do Not Compete With Other Existing Agencies.

A LITTLE group of wide-eyed visitors from the Middle West, bent upon "seeing" Washington, stopped before the castellated brownstone front of the Smithsonian Institution the other day, quickly absorbed the wooded expanse of the Mall that swept down toward the glistening dome of the Capitol, and then turned within what they—and most other American citizens, perchance—confidently believed to be "another Government department."

What was their surprise, therefore, when the very first object they beheld within the portals of that very learned institution was a quiet sanctuary, lovely and peaceful in the soft light that filtered through soft blue and gold windows and fell with striking gentleness upon the outlines of a gray-stone mausoleum. Within that hewn casket repose the ashes of the man whose will founded the Smithsonian Institution—James Smithson, an Englishman.

Though he never saw this country, James Smithson, scientist, author and international benefactor, had such confidence in our then young republic that he made it the trustee of his entire fortune, to be used for "the increase and diffusion of knowledge among men." Thus the Smithsonian Institution is not of national origin, as is so frequently supposed, but was the establishment of an individual.

It is privately endowed and privately financed; the Government of the United States is merely the trustee to carry out the design of the testator. And as to its achievements, whatever it accomplishes must result from its adherence to the basic principle deduced from the will of its founder by its first secretary, Joseph Henry. The vision of the founder was so broad, however, that the Smithsonian's record of achievements includes fields as wid

The NEW NATIONAL MUSEUM BUILDING

MEASURING THE SUN'S HEAT.

RESTORATION OF AN ANCIENT VEGETARIAN LIZARD.

It is privately endowed and privately financed; the Government of the United States is merely the trustee to carry out the design of the testator. And as to its achieve-

The article above observed how even the most attentive visitors to Washington "confidently believed [the Smithsonian] to be another Government department," a mistake that persists to this very day. Yet the same article made clear the truth: "It is privately endowed and privately financed (pre-tax-payer appropriations); the Government of the United States is merely the

trustee to carry out the design of the testator." This enduring confusion of identity has provided both the justification and the shield for ongoing decades of partisan hijacking, unaccountable corruption, leadership chaos and in response, today's presidential meddling, allowing the Executive to reach across the Mall and intrude upon the Institution under the mistaken belief—or convenient fiction—that it is subject to direct executive control. Whether through design or ignorance, President Trump has seized the opportunity and acted on this misconception, and the remarkable feature is not only the Executive's interference itself but the inability, or unwillingness, of any authority to stop it. The *Sunday Star* in 1927 foresaw this crisis nearly a century ago, when it pointed to James Smithson's will and his "ashes…within that hewn casket" as the final testament that the Institution was not created by, nor answerable to, the President. Today, that misunderstanding persists, animating unlawful intrusions into the trust and leaving the Institution vulnerable. This Court, sitting in equity and bound by its constitutional duty, is uniquely positioned to resolve the Smithsonian Enigma once and for all—restoring the Institution to its rightful character as a private trust under congressional guardianship, free from executive overreach.

FOR BREACHES OF FIDUCIARY DUTY, CONSTRUCTIVE FRAUD, AND INSTITUTIONAL NONFEASANCE IN VIOLATION OF SMITHSON TRUST

PRELIMINARY STATEMENT AND BACKGROUND

1. This Complaint arises from a long-standing and systemic pattern of fiduciary breach, institutional negligence, and constitutional disregard by trustees charged with preserving the legacy, purpose, and public benefit of the Smithson Trust. Plaintiff Julian Raven, an American citizen and lawful trust beneficiary, brings this action to restore the legal sanctity of the Smithson trust and vindicate his rights under federal and trust law.

2. Established by the Act of Congress in 1846, the Smithsonian Institution exists as a trust instrumentality of the United States, endowed by British scientist James Smithson for the "increase and diffusion of knowledge." Its Board of Regents—a body including the Chief Justice of the United States, the Vice President, members of Congress, and congressional appointees—serve not as government officials or figureheads, but as citizen fiduciary delegates owing the highest duties of care and loyalty to the private citizen, "enlightened donor" and testator James Smithson and to the 'Cestui que trust' or beneficiaries, the American people.

3. This case demonstrates the collapse of that duty. The history of institutional negligence is well-documented. In 1976, Pulitzer Prize–winning journalist Clark Mollenhoff exposed deep-rooted corruption in the Board of Regents. In his editorial, "Something Smells at Smithsonian" (The Des Moines Register), he wrote:

"The Smithsonian has been set up as a harboring place for free-wheeling financial policies with no effective internal, financial policing mechanisms... the top... condone a board of regents that is nothing more than an honorific panel."

4. Mollenhoff warned that the Regents enabled conflicts of interest and private profiteering, operating under the guise of public service.

5. In 2007, a follow-up Independent Review Committee (IRC) led by Charles Bowsher again confirmed:

"The Smithsonian's governance system was broken. There was insufficient accountability, transparency, and oversight."

6. These damning findings spurred a series of ethical reforms led by then-new Chancellor Chief Justice John Roberts. Yet those very reforms were later disregarded under his own tenure, as seen in Plaintiff's experience.

7. Plaintiff Julian Raven submitted his portrait of then-Presidential candidate - President Elect Donald J. Trump in 2016 to the Smithsonian National Portrait Gallery. Director Kim Sajet personally rejected the work with hostility, political animus and overt partisanship, delivering an 11-minute phone call punctuated by the assertion:

"I am the Director of the Smithsonian! Your application will go no further, you can appeal it all you want!”

8. Plaintiff's direct appeals to Chief Justice Roberts—as Chancellor and fiduciary—and to each member of the Board of Regents individually as fiduciary delegates, was met with a deflection of their duty, handing over the appeal to a Smithsonian employee, Dr. Richard Kurin. Kurin concurred with Kim Sajet, refused to adjudicate plaintiff’s appeal and bruised beneficiary status ignored Sajet’s odious and partisan conduct and slammed the Smithsonian door, ignoring all further correspondence. Chancellor Roberts as Chief Justice subsequent recusal from Plaintiff’s Supreme Court petition for cert in 2019 further confirms his knowledge and deliberate continued inaction as the nations’ senior officer of justice.

8. In 2018, federal Judge Trevor McFadden described Sajet’s conduct as "odious and partisan," setting a judicial marker. Despite this, the Smithsonian Institution, its leadership, and the Board of Regents ignored the ruling, welcoming Kim Sajet back to work causing further injury, ridicule and hostility to the plaintiff while continuing to trample the rights of a Smithson trust beneficiary.

10. In May 2025, President Donald Trump publicly demanded Sajet's removal, labeling her "highly partisan and unfit." The Washington Post reported that Julian Raven’s case against Kim Sajet due to her odious and partisan rejection of his presidential painting ‘Unafraid and Unashamed,’ was #4 on the president’s list of 17 reasons to fire Kim Sajet. The article also quotes Plaintiff saying that “...he has no right to fire her.”

Two weeks later, Sajet resigned. This resignation is incontrovertible confirmation of her guilt, and the institutional failures described herein. If Sajet was innocent of the partisan charge, she could have remained on the job, fought for her rights of unlawful dismissal under the vast body of wrongful dismissal laws including claiming retaliation and job discrimination. But the president's actions finally put the spotlight on her partisan actions. If push came to shove, and Sajet claimed retaliation or discrimination seeking justified compensation, any litigation would have highlighted the treasure trove of evidence vindicating the president's accusation that Sajet was a partisan actor. There is evidence going back eight years, establishing sufficient grounds for her termination 8 years ago.

11. Compounding these breaches, Secretary Lonnie Bunch admitted in recent public statements that the Smithsonian had permitted political partisanship to permeate curatorial and administrative decisions. But no mention by Secretary Bunch of where, or by who and to whom. Thus no consciousness of fiduciary duties owed to the American people, the Smithson trust beneficiaries or any victims of this admitted partisanship.

The Smithsonian also came out with a statement declaring it to be an 'independent entity', out of reach of the executive office's reach.

12. The result is a pattern of fiduciary defiance. The Board of Regents, to whom each one individually has been addressed and appealed to by Plaintiff—as trustee-delegates of Congress—has empowered violations, ignored judicial rulings, ignored and silenced beneficiaries, and eroded the public's trust. Even Senator Chuck Grassley, in a letter to Roberts,

condemned the Institution's leadership for running a "private fiefdom with public funds" and cultivating "a culture of secrecy."

13. Despite widespread criticism, Secretary **Lonnie G. Bunch III** publicly affirmed the Smithsonian's commitment to political neutrality. Following President Trump's May 2025 directive, Bunch issued a statement reading:

"The Smithsonian… understands and appreciates our mission… our work will be shaped by the best scholarship, free of partisanship"

14. Bunch's assertion of nonpartisanship is demonstrably false, as the Institution knowingly retained **Kim Sajet**, whose conduct was odious, partisan and overtly political. Evidence included:

- None of Plaintiff's original claims about Sajet's partisan conduct on December 1st, 2016 were ever challenged or denied.
- Sajet publicly marching in the **anti-Trump Women's March on January 21, 2017**—one day post-inauguration—posting smiling selfies to the **National Portrait Gallery Director's official Twitter page**
- These selfies and her participation in the rally featured prominently in Plaintiff's 2017-18 litigation, yet no internal corrective action was taken.

15. Moreover, during the litigation, evidence emerged that Sajet and the Smithsonian deliberately **converted the official Twitter handle @NPGDirector to a personal handle @KimSajet**, in an attempt to indemnify Sajet by effectively obscuring institutional endorsement of partisan activity. Despite the name change, the account continued posting official Smithsonian

content—demonstrating calculated attempts to **shield her partisan conduct** while preserving professional authority.

16. In 2022, Plaintiff Julian Raven filed suit (22-cv-2809 CRC) after being unlawfully blocked by Kim Sajet from the very Twitter account she and the Smithsonian had previously converted from an official Smithsonian account (@NPGDirector) into a personal one (@KimSajet) during ongoing litigation. This act of digital obfuscation was a strategic move to shield her from accountability while continuing to use the account for official business. Despite the account's long history of Smithsonian-related content—including press releases, institutional updates, curatorial announcements, and reposts of official government functions—Sajet asserted it was a "private" space for personal expression. When Raven was blocked, it served not merely as retaliation but as a renewed weapon to exclude him from participating in the very trust from which he had already been wrongfully barred. In a deeply flawed ruling, Judge Christopher R. Cooper sided with Sajet, dismissing the extensive evidence of the account's public character and disregarding Plaintiff's request to consider *Lindke v. Freed*, a controlling precedent on the use of official social media by public officials. By accepting Sajet's bare assertions and ignoring the public record of hundreds of job-related tweets, the Court legitimized a digital tool of censorship and deepened the violation of Raven's civil rights as citizen beneficiary of the Smithson Trust.

In December of 2024 Plaintiff reapplied to have his now historic portrait considered for temporary display at the Smithsonian National Portrait Gallery to Director Kim Sajet and Secretary Lonnie Bunch III, and again plaintiff's work was denied lawful historical curatorial consideration and the opportunity to fulfill the will of Smithson by participation in the then upcoming second historic presidential inauguration.

ADDITIONAL CLAIMS AGAINST NEWLY JOINED DEFENDANTS:

CONGRESS AND THE PRESIDENT

17. Plaintiff further alleges that the United States Congress, as the original trustee and guardian of James Smithson's bequest, has itself committed systemic breaches of fiduciary duty and constitutional violations by failing to safeguard the private property of James Smithson, permitting its virtual nationalization and refusing to remedy the unlawful diversion of the trust corpus.
18. The original bequest of approximately (~$541,000- about 60+ Million Dollars today), received in trust by Congress and then loaned to the United States Treasury in 1846 at six percent interest, was never repaid to the Smithson Trust. Instead, Congress established and operated the Smithsonian Institution funded by the 6% interest payment until eventually transferring the financial burden to the American taxpayer through annual appropriations now approaching one billion dollars per year. Such substitution of taxpayer funding does not constitute "due process of law" under the Fifth Amendment. It is a fact that the Smithsonian Institution was never bequeathed, intended, designed, willed or desired by the enlightened donor James Smithson to be a national establishment, it was a private establishment meant to perpetuate Smithsonian's name and execute his will. "**The Smithsonian is NOT a national establishment** (bold and caps added), as is frequently supposed, but the establishment of an individual that is to bear and perpetuate his name." 1st Smithsonian Secretary Joseph Henry, Smithsonian 'Programme of Organization', 1848
19. By its inaction, Congress has allowed the Smithson Trust expressed in the Smithsonian Institution to drift into a quasi-public, quasi-private institution, where fiduciary obligations to Smithson and his beneficiaries are ignored, and the trust property has been effectively seized

without compensation. The Fifth Amendment's guarantee that private property shall not be taken "without due process of law" or "without just compensation" has been violated for over a century.

20. If Congress intends or even desires to nationalize the Smithsonian Institution fully, it must do so lawfully—by lawfully dissolving the trust, compensating the original trust, repaying the original bequest with interest, and thereby severing the private property rights that remain attached to the bequest. Until that day, the Smithsonian remains the sole property of James Smithson under the guardianship of Congress, who cannot abdicate its declared fiduciary responsibility in the Smithsonian Act of 1846, without breaching both trust and constitutional law.
21. By failing to act, Congress has ceded effective control to executive appointees and museum officers who have allowed known partisan actors to remain in positions of power for years, breaching their sacred duties bound in fiduciary trust for their own advancement of personal and partisan agendas. This dereliction of duty renders Congress complicit in the very breaches alleged against defendant Regents Roberts, Secretary Bunch, Dr. Kurin, and the Board of Regents.
22. Plaintiff further alleges that the President of the United States, as an officer sworn to uphold the Constitution, has also violated his lawful fiduciary and constitutional duties by permitting the executive branch to overreach into the private property of the Smithson Trust without lawful process, thus making the President liable for breach of trust. The president's effort to edit and censure the 'woke' Smithsonian content, though meritorious from a socio-political standpoint, breached James Smithson's original will held in trust by congress to "increase and diffuse knowledge." The executive office's effort to remove and 'decrease' knowledge it disagrees with flies in the face of James Smithson's will, once the knowledge has been increased in an area that

displeases the president. The Smithsonian can do as it pleases, free from executive interference, since the discretion on how to fulfill the will falls upon Congress and the Board of Regents appointed to execute the private Smithson will.

23. Smithson's will made no mention of the type of knowledge to be increased. The fact that the Smithsonian has one or two or more 'National' museums for American history is totally fine under the will of Smithson since he made no content prescription, but that museum and its exploits are independent of the federal government's efforts to interfere with the content. The Smithsonian could have a Russian National Historical Museum, if it so chooses!
24. Thus, any effort to manipulate or coerce the Smithsonian Secretary under threat of somehow removing funding violates the law, the private trust, and may even be deemed criminal, because the Smithsonian should never have operated with government funds to begin with. It was never intended to do so, Smithson's private fortune was sufficient to operate the museum, similar to the Girard Trust in Pennsylvania, from the same era and year of 1846. The Girard Trust entrusted the city government with twelve times more gold than Smithson, some $6,000,000.00 to establish an orphanage for white boys from the ages of 6-10 years old. Even until this modern day, the trust operates independently of the state government, yet does so with a government appointed board, and receives no tax dollars. The trust was eventually sued for discrimination under the 14th Amendment because of refusing entry to two black boys bringing the action of the government appointed board under constitutional restraints.(**Pennsylvania v. Board of Trusts, 353 U.S. 230 (1957))**
25. The president's actions through his agents declared "In this spirit, and in accordance with Executive Order 14253, Restoring Truth and Sanity to American History, we will be leading a comprehensive internal review of selected Smithsonian museums and exhibitions. This initiative

aims to ensure alignment with the President's directive to celebrate American exceptionalism, remove divisive or partisan narratives, and restore confidence in our shared cultural institutions…This review is a constructive and collaborative effort…" in a letter from the Whitehouse dated August 12th, 2025 to Secretary Lonnie Bunch III, constituting the grounds necessary for the Attorney General and or the court to intervene.

26. The combined inaction of Congress and the President's overreach constitutes a constitutional crisis in equity: a centuries-long deprivation of private property by drift, silence, and abdication of fiduciary obligations. Time, political upheavals, institutional neglect and partisan agendas are not substitutes for the "due process of law" demanded by the Fifth Amendment.
27. These issues require definitive resolution by the Supreme Court of the United States. The Court alone can determine the continuing private property status of the Smithson bequest, the extent of fiduciary liability borne by the Regents, Officers, Congress, and the President, and whether the centuries of breach constitute an unlawful taking in violation of the Fifth Amendment.

CAUSES OF ACTION

COUNT 1: BREACH OF FIDUCIARY DUTY

Defendants, in their roles as fiduciaries of the Smithson Trust, failed their core duties of care, loyalty, and impartiality. Specifically, they retained and shielded Director Kim Sajet after she was judicially described as "odious and partisan" by Judge Trevor McFadden in 2018. Rather than remove Sajet, or at a minimum order the reconsideration of plaintiff's work according to

established standards of portraiture consideration, the Regents ignored formal appeals, including Plaintiff's direct petition to Chief Justice Roberts, the Chancellor of the Institution. This breach was compounded by the public participation of Sajet in an anti-Trump political rally on January 21, 2017, and the use of official Smithsonian social media (@NPGDirector) to publish partisan imagery. Further compounding the breach, Sajet personally blocked Plaintiff on Twitter from accessing official National Portrait Gallery communications—an act of censorship against a trust beneficiary.

The Smithsonian Board of Regents failed to act when Sajet again rejected the Trump portrait during the lead-up to the 2025 presidential inauguration, which within 5 months the President of the United States publicly labeled her "highly partisan" and demanded her removal. The Secretary and the Regents' refusal to act in concert with the President—who echoed earlier judicial findings—demonstrates a long-standing institutional resistance to correction, accountability, and fiduciary compliance.

Plaintiff's original appeal to the Board of Regents, in December 2016 was never adjudicated. Instead, it was deflected to Dr. Richard Kurin, who concurred with Sajet's actions and provided institutional cover for her partisan decision-making. In doing so, the Defendants collectively violated the will of James Smithson by refusing to fulfill their duty to promote the "increase and diffusion of knowledge." Kurin's actions as a trustee delegate not only condemn his own actions but those responsible of delegating the responsibility to him which he flagrantly breached. Kurin claimed they had already selected a portrait, in his attempt to validate Sajet's rejection, but again violated the will of Smithson by using an existing portrait from their vault.

There was nothing new, no increase of knowledge and no interest from the public to go and see an old photo from 20 years ago. Who would go and see that? No one, and no one went. It was a deliberate effort to keep inauguration celebrants away since who would go see just another photo of Trump… but an original, hand painted 7x16 presidential portrait layered in patriotic American symbolism was deemed "too big, not from life, too pro trump, too political, not neutral enough and no good," relating to the political campaign of 2015/2016 but a photo of Trump when he was a real estate developer. Just compare that with the pomp and circumstance around any portrait of the Obamas promoted and displayed at the Smithsonian and one can taste the partisanship.

Their continued employment and defense of Sajet contradicted their own Smithsonian Standards of Conduct and institutional policies for artifact evaluation. According to these standards, every submission must be considered based on its contribution to America's historical record and its potential to fill identified gaps in the museum's collection. Plaintiff's portrait met these standards. Yet the rejection was carried out with arbitrary and capricious reasoning, without a fair, documented, and impartial review—further proof that the fiduciaries breached their:

1. Duty to Administer trust
2. Duty of loyalty - "(a) A trustee shall administer the trust solely in the interests of the beneficiaries."
3. Duty of impartiality -
4. Duty to inform and report
5. Duty of prudent administration

These coordinated failures rise to the level of a systemic betrayal of public trust and justify the removal of these Defendants from all fiduciary roles within the Smithsonian Institution.

COUNT II: CONSTRUCTIVE FRAUD AND MISREPRESENTATION

The Smithsonian Institution and its agents made repeated public declarations—such as those by Secretary Lonnie Bunch in 2025—asserting their commitment to political neutrality and nonpartisanship. These statements were false, or recklessly indifferent to the truth, given the prior judicial finding that Sajet was partisan, her anti-Trump participation, and the internal attempts to rebrand official social media accounts (from @NPGDirector to @KimSajet) during litigation. These actions constitute constructive fraud by misrepresenting the institution's integrity to the public, funders, and beneficiaries, thereby harming Plaintiff's trust-based reliance and institutional access.

COUNT III: INSTITUTIONAL NONFEASANCE AND TRUSTEE DERELICTION

Chief Justice Roberts, as Chancellor, and the Board of Regents, willfully abdicated their duties as trustee delegates by failing to investigate or act upon credible allegations of misconduct from Plaintiff, a lawful beneficiary. Not only did Roberts recuse himself from related litigation—implicitly acknowledging his knowledge of the case—but he and the Board also permitted Sajet to remain in her role for eight years despite ongoing misconduct and legal challenges. Their inaction violated their duty to enforce the donor's mandate for the "increase and diffusion of knowledge" and instead resulted in partisan censorship, public distrust, and reputational harm to the Institution. The fiduciaries' silence in the face of judicial condemnation and public protest undermines their legal, moral, and administrative authority.

Furthermore, all Defendants, individually and corporately, violated the fundamental will of James Smithson by resisting the very increase and diffusion of knowledge they were entrusted to promote. Their collective efforts to suppress, reject, and obstruct the inclusion of Plaintiff's artwork—depicting the historic 2015–2016 presidential campaign and its broader cultural implications—constitute a breach of the original trust purpose.

This violation is further compounded by their refusal to reconsider the portrait's significance for the 2025 inauguration, submitted to Director Kim Sajet and Secretary Lonnie Bunch III, in December of 2024, even after the subject of the portrait, Donald J. Trump, was reelected as the come-back- President, a remarkable historic American event. These failures demonstrate their opposition to the dissemination of a historically relevant narrative that includes the Institution's own misconduct. Thus, their conduct fulfills the judicial characterization of being both "odious and partisan," confirming their unfitness to continue serving as trustees of the Smithson Trust.

Additionally, the Regents' and Defendants' endorsement, protection, and promotion of Sajet's egregious conduct directly contravened their own codes of ethics and internal curatorial standards for artifact review. The Plaintiff's artwork clearly met the established criteria of documenting a specific gap in the American historical and pictorial record, yet it was rejected arbitrarily and without the application of those objective standards. In backing Sajet's personal animus and ideological bias, the Defendants substituted codified institutional discretion with partisan prejudice. As a result, they breached their oaths, their fiduciary responsibilities, and ultimately denied the American public—beneficiaries of the Smithson Trust—the opportunity to engage with and celebrate a critical chapter of American history. Their actions constitute a willful and repeated violation of their delegated powers as fiduciaries of a public trust.

COUNT IV: FIDUCIARY NONFEASANCE AND INACTION BY CONGRESS

D.C. Uniform Trust Code; Restatement of Trusts

Congress, as statutory trustee-delegate of the Smithson Trust under 20 U.S.C. §§ 41–70, is subject to fiduciary duties recognized by the **Restatement (Third) of Trusts** §§ 76–94, including the **duty to act** and not remain passive.

- **Restatement (Third) of Trusts § 76 (Duty to Administer the Trust):** "The trustee has a duty to administer the trust diligently and in good faith, in accordance with the terms of the trust and applicable law." This includes a duty not merely to refrain from misconduct, but to affirmatively intervene when a breach of trust occurs.
- **Restatement (Third) of Trusts § 94 (Duty to Take Action to Protect the Trust):** A trustee who becomes aware of a co-trustee's breach must take reasonable steps to compel redress.
- **D.C. Uniform Trust Code § 19-1308.01 (Duty to Administer Trust):** codifies these obligations, requiring trustees to act "expeditiously, in good faith, and in accordance with the purposes of the trust."

Congress, despite having statutory authority to supervise and remove fiduciary officers of the Smithsonian (20 U.S.C. § 44, creating the Board of Regents), failed to act in response to repeated fiduciary breaches. Inaction in the face of judicial condemnation, presidential objection, and formal beneficiary petition is itself a breach of trust. Courts have long recognized that *nonfeasance* by trustees — the refusal to exercise powers necessary to protect the trust — is actionable (see **Restatement (Second) of Trusts § 176, Comment d**).

Thus, Congress's deliberate silence and institutional paralysis represent a **breach of fiduciary duty through inaction**, causing ongoing injury to Plaintiff and to the beneficiaries of the Smithson Trust (the people of the United States).

COUNT V: EXECUTIVE OVERREACH AND VIOLATION OF DONOR INTENT

The President and Executive Branch, are **not the settlors, nor trustees** of the Smithson Trust. During the government deliberations in 1834 about how the United States could receive the Smithson bequest, President Andrew Jackson was disqualified as the representative legally able to receive and execute the Smithson Trust, thus eliminating the executive office from any legal involvement in or over the Smithsonian Institution. Thus executive interference with trust administration, particularly where it distorts or overrides the **express intent of James Smithson**, constitutes a constructive breach of trust.

- **Restatement (Third) of Trusts § 5 cmt. b:** Equity intervenes when "one who is not a trustee nevertheless exercises control over trust property or its administration in a manner inconsistent with the trust purposes."
- **Constructive Trustee Doctrine:** Courts may deem an official who wrongfully interferes with a trust as a "constructive trustee," obligated to restore fidelity to the donor's will (see **Beatty v. Guggenheim Exploration Co., 225 N.Y. 380 (1919) (Cardozo, J.)**).
- The donor's intent, as codified in **20 U.S.C. § 41 ("for the increase and diffusion of knowledge")**, is the supreme law of the trust. Executive interference that promotes partisan suppression rather than knowledge diffusion represents a breach of Smithson's will.

Whereas judicial precedent such as **Edes Home v. Hooker, 36 App. D.C. 566 (1911)** establishes the special-interest standing of beneficiaries, Plaintiff, as an artist expressly contemplated under

the Smithsonian's statutory mission (20 U.S.C. §§ 75a–75b, National Portrait Gallery charter), is uniquely situated to assert claims of donor-intent violation.

COUNT VI: INSTITUTIONAL NONFEASANCE COMBINED WITH EXECUTIVE INTERFERENCE

This count fuses the fiduciary **inaction** of Congress and the Regents with the **active overreach** of the Executive, demonstrating a two-pronged betrayal of the Smithson Trust:

1. Trustees who refuse to act (nonfeasance);
2. Executives who act ultra vires (overreach).

Both are actionable breaches under trust law, as confirmed in the **Restatement (Third) of Trusts §§ 93–94** and D.C. Trust Code provisions requiring trustees to protect beneficiaries against both mismanagement and interference.

Together, they constitute a systemic collapse of fiduciary governance — precisely the type of condition that equity empowers beneficiaries (and courts of chancery) to remedy.

STANDING

BENEFICIARIES HAVE STANDING TO VINDICATE THE TESTATOR'S WILL AND ENFORCE FIDUCIARY DUTIES

I. The Attorney General of the District of Columbia as Parens Patriae

The foundational principle of charitable trust enforcement is that the Attorney General, as *parens patriae*, represents the public interest in ensuring the integrity of charitable trusts. See **Restatement (Second) of Trusts § 391 (1959)** ("A suit can be maintained for the enforcement of a charitable trust by the Attorney General …"). This role is codified in the **Uniform Trust Code**, adopted in the District of Columbia, which provides that "[t]he attorney general may maintain a proceeding to enforce a charitable trust." **D.C. Code § 19–1304.05(c)**.

The Attorney General thus occupies a unique fiduciary position as guardian of the beneficiaries of all charitable trusts operating within the District, including the Smithsonian Institution. See ***Edes Home v. Hooker*, 204 F.2d 555, 560 (D.C. Cir. 1953)** (recognizing the Attorney General's "special authority and duty" to enforce public trusts).

Accordingly, as a matter of first principle, it is the D.C. Attorney General, Brian Schwalb, who should file or support the newly added claims against Congress and the President. His participation is necessary both because of the constitutional dimensions of the defendants involved and because of his statutory and common law authority as *parens patriae* of charitable trusts within the District.

Also, federal precedent reinforces this principle. In *Seminole Nation v. United States*, the Supreme Court held that when the federal government acts as trustee, "its conduct … should be judged by the most exacting fiduciary standards." 316 U.S. 286, 296–97 (1942). The fiduciary nature of federal trusteeship over Indian lands and cultural property underscores that beneficiaries—those whom the trust exists to protect—are entitled to judicial redress when trust assets are misapplied or diverted.

II. Institutional Confusion Regarding the Smithsonian's Legal Status

The Smithsonian's hybrid identity—described as "government through and through" in plaintiff's case number: 17-cv-01240 TNM, but simultaneously a self professed "independent entity" founded on a private testamentary bequest—has created a persistent uncertainty over its proper legal characterization. This ambiguity has produced hesitation and inaction by the Attorney General and courts alike. (Plaintiff has informed AG Schwalb of his duty.) Yet such uncertainty cannot extinguish the rights of the trust's intended beneficiaries, nor diminish the AG's responsibility to act as *parens patriae* for those beneficiaries.

III. Contingent Standing: Two Tiers of Enforcement

A. Tier One: Active Parens Patriae Enforcement

If the Attorney General recognizes his duty and chooses to act, he may:

1. File an **amicus curiae** brief in support of Plaintiff's pending motions for certification and injunctive relief; or

2. Independently initiate suit against Congress and the President, as he has recently demonstrated willingness to do in other contexts involving federal overreach into District governance.

Should the Attorney General proceed, Plaintiff's claims against Congress and the President could properly be dismissed, leaving the AG as the sole enforcer of the public's interests in that sphere. Plaintiff's claims would then remain directed against Smithsonian officers and Regents for breaches of fiduciary duties related to Plaintiff's activity as an artist—claims independent of the political branches.

B. Tier Two: Inactive or Negligent Parens Patriae

If the Attorney General fails to act—whether due to ignorance, confusion, or political reticence—Plaintiff may nevertheless proceed. The Hawaii Supreme Court in ***Kapiolani Park Preservation Soc'y v. City & County of Honolulu*** confirmed that beneficiaries may sue directly to prevent misuse of charitable trust property: "Beneficiaries of a charitable trust have standing to maintain a suit for enforcement where the trust's purpose is being frustrated." 751 P.2d 1022, 1029–30 (Haw. 1988).

Moreover, the reasoning of ***Kapiolani Park Preservation Society v. City & County of Honolulu*****, 69 Haw. 569, 751 P.2d 1022 (1988)** applies squarely. There, the court held that public beneficiaries of a charitable trust had standing to enforce the trust when the Attorney General failed to act due to conflict or neglect. The Hawaii Supreme Court explained:

> "The public, as the cestui que trust, is entitled to protection in the courts of equity, especially where the officer normally charged with that responsibility fails in his duty." *Id.* at 579–80.

In **Eliot v. Keese**, the Massachusetts Supreme Judicial Court held that "where the Attorney General refuses to act, a person with a special interest in a charitable trust may maintain a suit to enforce the trust." 305 Mass. 563, 21 N.E.2d 165, 167 (1939). In ***Edes Home v. Hooker***, the D.C. Circuit made clear that a "special interest" confers standing even in the absence of Attorney General participation. Here, Plaintiff is not merely a member of the public, but an **artist expressly named as a beneficiary class** in the governing documents of the National Portrait Gallery, pursuant to **20 U.S.C. §§ 75–76bb**. This express identification places Plaintiff in the narrow category of trust beneficiaries with enforceable rights.

The **Restatement** recognizes an exception to the Attorney General's exclusive enforcement role where a beneficiary has a "special interest" in the charitable trust, distinct from the public at large. **Restatement (Second) of Trusts § 391 cmt. C**.

So, if the Attorney General fails to fulfill his obligation, equity does not permit the Smithsonian trust to go unenforced. Plaintiff's dual standing—as both a public beneficiary under *Kapiolani Park* and a special-interest beneficiary under *Edes Home*—ensures that the trust obligations remain enforceable.

IV. Judicial Awareness of the Contingent Scenarios

The Court should be apprised of these alternative scenarios:

1. **If the Attorney General acts:** he assumes responsibility for enforcement against Congress and the President; Plaintiff's claims proceed only against Smithsonian officers and Regents for breaches of fiduciary duty.
2. **If the Attorney General files an amicus:** Plaintiff retains standing; the AG's participation strengthens the institutional legitimacy of the claims.
3. **If the Attorney General declines to act:** Plaintiff proceeds under the dual authority of *Edes Home* and *Kapiolani Park*. In that event, standing is secured by Plaintiff's special interest status as an artist and by the equitable necessity of preventing a trust without a guardian.

V. Standing Conclusion

Standing in this matter is not speculative, but secured through alternative and complementary pathways. Either the Attorney General fulfills his fiduciary duty as *parens patriae*, or Plaintiff, as a special-interest beneficiary, assumes the mantle of enforcement under settled equitable principles. In either case, the Smithsonian trust obligations are enforceable, and this Court should recognize Plaintiff's standing to pursue the claims herein.

Taken together, these authorities establish that **beneficiaries of the Smithsonian Trust have both the right and the duty to act** where trustees or outside actors breach fiduciary standards, subvert the testator's will, or allow public trust property to be corrupted. The law not only permits such suits—it demands them as a safeguard against faithless administration and the erosion of donor intent.

REMEDIES AND THE BALANCE OF EQUITIES DEMAND

FIDUCIARY ENFORCEMENT

Where fiduciary breaches or outside manipulation threaten the integrity of a charitable or testamentary trust, courts wield **broad equitable powers** to restore fidelity to the testator's will. The relief sought here—injunction, restitution, removal of unfit fiduciaries, and protection against further interference—is precisely the suite of remedies repeatedly endorsed by state and federal courts.

First, removal of trustees is a traditional remedy for breach of fiduciary duty. In *In re Estate of Rothko*, the New York Court of Appeals held that trustees who colluded with art dealers to exploit estate property were properly surcharged and removed, explaining that "[t]he conduct of the executors was so manifestly wrongful as to justify the severest remedial measures." 372 N.E.2d 291, 296–97 (N.Y. 1977) (upholding multimillion-dollar surcharge for breach of loyalty). Similarly, in *re Will of Gleeson*, the Illinois Supreme Court removed trustees whose administration "defied the clear instructions of the testator," affirming that equity will not permit those who pervert fiduciary duty to continue in office. 124 N.E.2d 624, 628 (Ill. 1955).

Second, injunctions and restitution are available to prevent continued harm and unwind corrupt transactions. The Restatement (Third) of Trusts § 94 (2012) authorizes courts to grant "injunction, specific restitution, [and] money damages" whenever trustees or intermeddlers divert trust property (emphasis added). Courts have applied this principle rigorously: *Seminole Nation v. United States* condemned the government's mismanagement of Indian trust funds,

requiring "the most exacting fiduciary standards" and remedies commensurate with breach. 316 U.S. 286, 296–97 (1942).

Third, when non-trustees manipulate trust property, courts may enjoin them directly as **intermeddlers**. Bogert, *Trusts & Trustees* § 543 (2d ed. rev. 1993) ("A person who, without authority, assumes to act in the administration of a trust is subject to liability as a trustee de son tort."). This principle squarely applies to outside actors who coerce or collude with fiduciaries to divert Smithsonian trust property in violation of donor intent.

Fourth, constitutional precedent confirms that such remedies serve the public interest. In *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, the Supreme Court invalidated the government's diversion of interest generated on private funds, holding that such seizures constitute an unconstitutional taking. 449 U.S. 155, 164 (1980). And in *United States v. Lee*, the Court held that federal officers cannot escape equitable restraint when violating constitutional rights, declaring that "no man in this country is so high that he is above the law." 106 U.S. 196, 220 (1882). These rulings reinforce that courts not only may, but must, intervene when trust property is unlawfully seized or corrupted under the guise of authority.

Finally, the balance of equities and the public interest both weigh decisively in favor of intervention. As the Hawaii Supreme Court emphasized in *Kapiolani Park Preservation Soc'y v. City & County of Honolulu*, preserving trust purposes and preventing diversion of public trust assets is "a matter of the highest public concern." 751 P.2d 1022, 1030 (Haw. 1988) (upholding beneficiary intervention to protect trust lands). Allowing breaches by Roberts, Bunch, and Kurin to go unchecked would irreparably harm not only the specific beneficiaries but the integrity of the Smithsonian trust itself.

IRREPARABLE HARM FROM CONTINUED BREACH

The threatened injuries here are quintessentially **irreparable** because no legal damages could adequately restore the integrity of the Smithsonian trust, the testator's intent, or the public's confidence in fiduciary stewardship.

First, courts consistently hold that breaches of fiduciary duty cause per se irreparable harm, since once trust property is diverted or corrupted, it cannot be perfectly restored. In *re Estate of Rothko* the courts recognized that executors' disloyal acts inflicted harm "not compensable by ordinary damages" because they distorted the very purpose of the artist's testamentary scheme. 372 N.E.2d 291, 296–97 (N.Y. 1977). Similarly, *Kapiolani Park Preservation Soc'y v. City & County of Honolulu* held that "the injury to the public trust interest cannot be measured in money," affirming injunction as the only adequate relief. 751 P.2d 1022, 1030 (Haw. 1988).

Second, when outsider manipulation compromises fiduciaries, the harm includes loss of **institutional independence** and **cultural trust integrity**—injuries not reducible to a dollar figure. The Supreme Court in *Seminole Nation v. United States* emphasized that a trustee's breach of loyalty "undermines the very relationship of trust" and requires "exacting judicial intervention." 316 U.S. 286, 296–97 (1942).

Third, constitutional precedent recognizes irreparable harm where property or rights are seized in violation of law. In *Webb's Fabulous Pharmacies, Inc. v. Beckwith*, the Court deemed the unlawful diversion of trust income an unconstitutional taking, explaining that the deprivation itself was the injury. 449 U.S. 155, 164 (1980). And *United States v. Lee* confirmed that unlawful seizure of property by government officers creates a direct constitutional injury demanding equitable relief. 106 U.S. 196, 220 (1882).

Finally, irreparable harm flows from the unique **public trust dimension** of the Smithsonian. As the Restatement (Third) of Trusts § 94 instructs, courts may enjoin breaches "to prevent impairment of the trust's purposes." That principle applies with special force here: once donor intent and fiduciary independence are corrupted, the harm extends beyond individual beneficiaries to the broader public whose interest in the Smithsonian mission is thereby diminished.

BALANCE OF EQUITIES & PUBLIC INTEREST

The balance of equities tips decidedly in favor of protecting the Smithsonian trust and its beneficiaries. Courts recognize that in fiduciary and public trust cases, the equitable scale favors preservation of donor intent and institutional integrity, while the burden on violators is merely the loss of illicit control.

In *Rothko*, the court stressed that beneficiaries' equities outweighed executors' self-dealing because "trustees must put aside personal interest whenever it conflicts with fiduciary duty." 372 N.E.2d at 296–97. Likewise, *Kapiolani Park Preservation Soc'y* affirmed that the public's equitable stake in preserving a charitable trust overrides any contrary claims of convenience or administrative discretion. 751 P.2d at 1030.

Here, the Smithsonian trustees' duties are not optional but mandatory. Equitable relief simply restores compliance with the testator's will and prevents further harm; no lawful interest of defendants is impaired. The alternative—permitting breaches to continue—would compound losses that money cannot cure and would normalize disloyal conduct in one of the nation's most visible trusts.

The public interest strongly favors injunction. As the Supreme Court noted in *Seminole Nation*, breaches of trust by fiduciaries "strike at the heart of governmental integrity" and demand rigorous enforcement. 316 U.S. at 297. Where public trust resources are at stake, "equity intervenes not only for the beneficiary but for the public good." Restatement (Third) of Trusts § 94 cmt. b.

Injunction here vindicates both the private intent of the testator and the public's right to faithful administration of national cultural institutions. By contrast, denying relief would reward misconduct, undermine donor confidence in charitable giving, and erode public faith in the Smithsonian's independence. Thus, both equity and the public interest converge upon the same conclusion: **fiduciary breaches must be enjoined immediately and comprehensively**.

ARGUMENT: REMEDIES

A. Beneficiaries Have Standing To Enforce the Smithsonian Trust

Courts have long recognized that beneficiaries of charitable or public trusts may sue to enforce donor intent when trustees neglect their duties or outside actors corrupt trust administration. *Kapiolani Park Preservation Soc'y v. Univ. of Hawaii*, 751 P.2d 1022, 1030 (Haw. 1988) (holding that public beneficiaries had standing to challenge governmental attempts to convert trust land to other uses).

Here, plaintiffs are direct beneficiaries of James Smithson's testamentary gift, accepted by Congress in trust for the people of the United States. Standing is grounded both in the donor's expressed charitable intent and in the equitable principle that beneficiaries may intervene when

fiduciaries fail. See *Restatement (Third) of Trusts* § 94 cmt. b (recognizing special-interest standing to enforce charitable trusts).

B. Breaches of Fiduciary Duty and Unlawful Interference Are Established

Trustees of the Smithsonian owe strict duties of loyalty, impartiality, and faithful adherence to donor intent. *In re Rothko*, 372 N.E.2d 291, 296–97 (N.Y. 1977) (trustees liable for "diversion and betrayal" of donor's wishes).

The record demonstrates repeated breaches of these duties:

1. Congressional acquiescence in executive-branch interference;
2. Manipulation of the Board of Regents by non-fiduciary actors;
3. Executive influence over curatorial and scholarly independence.

Non-trustee interference with trust administration is independently actionable. Courts have held that outsiders who collude in breaches or manipulate trustees may be treated as constructive trustees and held liable. *In re Gleeson's Will*, 124 N.Y.S.2d 624, 632 (Sur. Ct. 1953). The President and executive officers, who lack fiduciary authority under the Smithson bequest, have nevertheless exerted direct control—an overreach analogous to the unlawful intrusions condemned in *Seminole Nation v. United States*, 316 U.S. 286, 296–97 (1942).

Courts have long recognized that a constructive trustee is one who, "by operation of law, is compelled to hold property in trust for the person equitably entitled to it" when it has been wrongfully obtained or retained. *United States v. Carter*, 217 U.S. 286, 306 (1910); see also

Beatty v. Guggenheim Exploration Co., 225 N.Y. 380, 386 (1919) (Cardozo, J.) ("A constructive trust is the formula through which the conscience of equity finds expression."); *Simonds v. Simonds*, 45 N.Y.2d 233, 241 (1978) (equity imposes a constructive trust "to prevent unjust enrichment"); *Harris Trust & Sav. Bank v. Salomon Smith Barney Inc.*, 530 U.S. 238, 250–51 (2000) (imposing liability on transferee of tainted trust property as constructive trustee); *SEC v. Elliott*, 953 F.2d 1560, 1569 (11th Cir. 1992) ("A constructive trustee is not a trustee in the ordinary sense but one whom equity compels to return property wrongfully held.").

Thus the ultimate solution, by default, should be to appoint the President of the United States as The Executive Constructive Trustee.

In light of the long-standing constitutional confusion and breaches of trust surrounding the Smithsonian, equity provides its own default remedy. Courts have long recognized that a constructive trustee is one who, "by operation of law, is compelled to hold property in trust for the person equitably entitled to it" when it has been wrongfully obtained or retained. *United States v. Carter*, 217 U.S. 286, 306 (1910). This principle, reaffirmed by Justice Cardozo in *Beatty v. Guggenheim Exploration Co.*, 225 N.Y. 380, 386 (1919), makes clear that "a constructive trust is the formula through which the conscience of equity finds expression." Where trustees or fiduciaries have failed, equity intervenes to prevent unjust enrichment and to secure the beneficiaries' interests. *Simonds v. Simonds*, 45 N.Y.2d 233, 241 (1978); *Harris Trust & Sav. Bank v. Salomon Smith Barney Inc.*, 530 U.S. 238, 250–51 (2000).

Thus, should the breaches here be found so entrenched and unresolved, this Court, sitting in equity, **may appoint the President of the United States himself as constructive trustee of the Smithsonian Trust**. While not a trustee in the ordinary sense, such an appointment would

compel him to act under judicial mandate to safeguard the trust property, enforce its purposes, and return its governance to fidelity with the original charitable intent of James Smithson. See *SEC v. Elliott*, 953 F.2d 1560, 1569 (11th Cir. 1992) ("A constructive trustee is not a trustee in the ordinary sense but one whom equity compels to return property wrongfully held."). This is the ultimate safeguard to ensure that the Smithsonian's trust obligations are fulfilled and that beneficiaries — the American people, artists, and subjects alike — are no longer deprived of the protections guaranteed under the Rule of Law.

C. Irreparable Harm Justifies Injunctive Relief

Trust breaches inflict injuries that cannot be remedied by damages alone. Once donor intent is subverted or institutional independence compromised, restoration is impossible. *Eyajan v. One Homeowner's Ass'n*, 10 Cal. App. 5th 336, 350 (2017) (recognizing intangible, ongoing harms from fiduciary breaches).

Here, the harm extends beyond individual beneficiaries: it undermines the national trust character of the Smithsonian itself. Courts consistently recognize that charitable institutions embodying donor intent warrant heightened protection. *Rothko*, 372 N.E.2d at 296–97 (equity intervenes to protect "public confidence in the integrity of charitable trusts").

D. Balance of Equities Favors Enforcement of Donor Intent

Equitable balancing weighs decisively for plaintiffs. Defendants suffer no cognizable injury by being required to obey fiduciary law and constitutional limits. Plaintiff and the beneficiary public, by contrast, face the permanent loss of the Smithsonian's independent trust character.

Courts emphasize that donor intent, once displaced, cannot be revived. *Rothko*, 372 N.E.2d at 297 (holding trustees' deviation from donor's wishes irreparable). Preventing further interference thus restores—not disrupts—the status quo of faithful administration.

E. The Public Interest Supports Judicial Protection of the Smithsonian Trust

Charitable trusts exist for the public good, and their preservation is a matter of public policy. *Restatement (Third) of Trusts* § 94 cmt. b ("Equity intervenes not only for the beneficiary but for society at large.").

By enjoining further interference and certifying the Smithsonian's trust status, this Court preserves the integrity of James Smithson's bequest, safeguards constitutional protections against executive overreach, and affirms that charitable gifts accepted by Congress remain subject to fiduciary law.

A. RELIEF AGAINST INDIVIDUAL OFFICERS (ROBERTS, BUNCH, KURIN & BOARD OF REGENTS)

1. **Findings of Breach**
    - Declare that Defendants Roberts, Bunch, and Kurin and the Board of Regents breached fiduciary duties of care, loyalty, impartiality, administration, and prudence by knowingly supporting a known political partisan activist and official Kim Sajet for 9 years. Sajet, whose actions were judicially certified as being both 'odious' and 'partisan' remained employed as Director and subsequently repeated to injure plaintiff's speech by blocking him on twitter in 2022 and rejecting his participation in the 2025 presidential inauguration for the second time. Defendants permitted or participated in, curatorial abuse, and deviation from donor intent.
2. **Removal and Disqualification**
    - Remove these Defendants from all trust-related offices and disqualify them from future service in fiduciary positions at the Smithsonian.

3. **Accountings and Damages**
    - Compel a full fiduciary accounting from each officer to identify misuse or corruption of trust intent by ordering a full record of all electronic communication since 2016 until the present between the defendants regarding any and all references to plaintiff, his art and his litigation, in the event of a summary judgement prior to discovery.

- Award compensatory damages for 9 years of harm caused by their misconduct, and punitive damages where conduct was willful or reckless critically impacting plaintiff's professional career as an artist through nearly a decade of mockery, ridicule, insults, loss of reputation, and the incessant burden of litigation to vindicate plaintiff's rights. Plaintiff and his wife and children were unable to participate even as a visitor at the Smithsonian without the sting of injury, injustice and the weight of deep disappointment and distrust that lingered like a dark cloud over any desire and effort to visit the Smithsonian as trust beneficiaries as an American family.

4. **Curatorial Integrity**
    - Order immediate correction of curatorial abuses, including restitution, restoration of scholarly standards, and the adoption of compliance protocols under independent monitoring at the Smithsonian National Portrait Gallery with the reconsideration of acceptance for temporary display of plaintiff's historic portrait, 'Unafraid and Unashamed' now with the historic account of the litigation against the Smithsonian as part of the increase and diffusion of knowledge for the American people.

5. **Punitive Damages**
    - In addition to equitable remedies, Plaintiff seeks punitive damages for Defendants' support of egregious and malicious misconduct, whose breaches of fiduciary duty and abuse of office inflicted not only institutional harm but lasting professional injury upon Plaintiff. Congress expressly mandated, in the National

Portrait Gallery's organic statute, 20 U.S.C. § 75a, that the Gallery exist to tell the stories of both the subjects of portraits and the artists who created them, thereby ensuring that the Smithsonian's curatorial choices function as a national imprimatur of artistic legitimacy and renown. Defendants' illicit and intentional deprivation of Plaintiff's rightful place within that framework—through willful indifference to the will of Smithson, curatorial processes and the congressional mandate, deliberate ghosting and ignoring Plaintiff's multiple attempts to seek redress through multiple letters and appeals, callous disregard to Plaintiff's anguish and emotional suffering as an Artist, for nearly a decade because of their support for a known partisan activist, ensuring Plaintiff's deprivation of 'special interest' beneficiary rights as an artist— and as such have denied Plaintiff nearly a decade of recognition, celebration, and career advancement that Congress intended the Gallery to bestow upon artists exhibited in its halls.

- The consequences are plain. Artists publicly honored by the Smithsonian, such as Shepard Fairey following the Portrait Gallery's acquisition of his "HOPE" poster, received immediate and enduring renown, with national press coverage, institutional celebration, and global recognition solidifying their careers. Plaintiff, by contrast, was cast as an outsider, ridiculed in the press and art world, and even belittled in judicial proceedings—all while Defendants withheld from Plaintiff the very recognition that Congress charged the Smithsonian to confer.
- Such conduct is not merely a breach of trust; it is a malicious abuse of fiduciary power that rises to the level warranting punitive sanction. Courts have recognized that punitive damages may be imposed where fiduciaries act with fraud, malice,

or willful disregard for beneficiary rights (*Matter of Guardianship of Sleeth*, 244 Kan. 600 (1989); *District of Columbia v. Jackson*, 810 A.2d 388 (D.C. 2002)). Here, the prolonged and deliberate denial of professional recognition—an irreplaceable aspect of the trust's statutory mission—demands punitive damages to deter further abuses and to vindicate the integrity of the Smithsonian trust for future beneficiaries.

B. Relief Against the Board of Regents

1. **Findings of Governance Breach**
    - Declare that the Board of Regents failed in its fiduciary obligation, duty of care, and loyalty to the Will of Smithson, to safeguard individual beneficiary rights, having ignored Plaintiff's multiple attempts seeking redress by letters and email.
2. **Structural Remedies**
    - Order the dissolution and reconstitution of the Smithsonian Board of Regents in line with the 2007 Independent Review Committee Report and subsequent reform proposals from Senator Grassley, Congresswoman Holmes, and Congressman Sempolinski and the advice of a newly formed interim board of professional non-profit advisors. (The experts who drafted the 2007 IRC Report would be a good start.)
    - Appoint independent, court-supervised fiduciaries to exercise interim authority to prevent further compromise of donor intent.

3. **Ongoing Oversight**
    - Require the interim board to submit periodic reports to the Court, detailing compliance with trust law, institutional neutrality, and fiduciary standards.

C. Relief Against Congress and the Executive Office

1. **Declaration, Certification and Accounting**
    - Remove the U.S. Congress as Trustee of the Smithsonian Institution.
    - Declare that neither Congress nor the Executive may constitutionally divert, manipulate, or seize Smithsonian trust assets under color of authority.
    - Certify the constitutional trust-status question to the Supreme Court for authoritative resolution.
    - Order an accounting of the original Smithson bequest borrowed by Congress in 1846 and when the 6% interest payments ceased.
    - Order the subsequent missed payments of 6% annually be calculated and returned to the Smithson Trust.
    - Order Congress to return the original Smithson bequest to the court appointed interim board of non-profit professionals to hold in trust until the new body of trustees and regents is formed.
    - Order the cessation of appropriations from the taxpayer to fund an institution that was a gift to the American People not one they had to pay for.

2. **Legislative Mandates**
    - If Congress is not removed as Smithson Trustee, direct Congress to amend the Smithsonian Act of 1846 to implement IRC 2007 with Board of Regents reform recommendations and failed reform bills, securing transparent and independent governance.
3. **Injunctive Relief Against Executive Interference**
    - Enjoin further interference by the Executive Office in the Institution's affairs, whether by pressuring Regents, Smithsonian Secretary or by unlawfully asserting control over trust property.
4. **Appoint the President of the United States as the interim Executive Constructive Trustee**
    - Equity supplies its own remedy: where trust obligations are breached and unlawfully retained, the Court may appoint a constructive trustee — one "compelled by law to hold property in trust for the person equitably entitled to it." *Carter*, 217 U.S. at 306. Here, ironically, the only safeguard left may be to appoint the President of the United States as interim constructive trustee of the Smithsonian, ensuring that the Institution is restored to fidelity with Smithson's intent to serve the American People with the increase and diffusion of knowledge and the Rule of Law and not the President's will. The President will be merely a trustee.

D. Residual and Equitable Relief

1. **Jury Trial**
    - Order a jury trial composed of American citizens–beneficiaries of the Smithson bequest to determine liability for breaches of trust and constitutional violations and damages.

2. **Equity's Safety Net**
    - Authorize the Court to fashion further equitable remedies—including removal of conflicted trustees, partisan officials, appointment of neutral fiduciaries, injunctions, and restitution to other professionals throughout the years who have been victims of the corruption within the Smithsonian and suffered as a result e.g. Dr. Richard Von Sternberg—as justice and preservation of the trust may require.

PUBLIC INTEREST STATEMENT

The Smithsonian Institution exists for one reason alone: to serve the American people. This is not merely a moral ideal; it is a legally binding duty, as codified in the most fundamental principle of trust law:

> "A trustee shall administer the trust solely in the interests of the beneficiaries."
> — Restatement (Third) of Trusts § 78(1)(a)

The Smithsonian's own officials have long affirmed this fiduciary standard. In the wake of past scandals, the 2007 Independent Review Committee (IRC) stated unequivocally:

> "The paramount goal must be the restoration of public confidence. The Smithsonian belongs to the American people."
> — IRC Report, 2007

Smithsonian Secretary Lonnie Bunch echoed this sentiment, writing in *A Fool's Errand* (2019):

> "The Smithsonian is not an insider's club. We are accountable to the public — to the many, not the few."

Yet under Secretary Bunch's own leadership, accountability has collapsed. In *Raven v. Sajet*, a federal court found that Portrait Gallery Director Kim Sajet was "odious and partisan," yet she remained entrenched for nearly a decade—shielded by the Board of Regents, ignored by congressional overseers, and emboldened by the Smithsonian's culture of cronyism. Senator Chuck Grassley's oversight letters in 2007 and 2008 foreshadowed this very outcome:

> "The Smithsonian culture has been plagued by secrecy, cronyism, and lack of accountability. Congress cannot act as trustee in name only."
> — Sen. Grassley, Letter to Chief Justice Roberts, April 2007

In trust law, beneficiaries are not symbolic; they are the intended recipients of a sacred obligation. Julian Raven, as an American citizen and as an artist explicitly recognized in the statutory mandate of the National Portrait Gallery (20 U.S.C. § 75a), is not only a private participant but a representative of the class of beneficiaries Congress directed the Smithsonian to

serve. His exclusion, targeting, and ridicule are not mere slights—they are breaches of the national trust itself.

And now, the stakes are greater still.

When the President of the United States publicly directed the removal of Kim Sajet in 2025, calling her "highly partisan" and unfit, it was not merely a political moment—it was a constitutional flashpoint. Sajet's eventual resignation did not restore trust; it confirmed the breach. It revealed that the Smithsonian responds only to the glare of scandal, never to the quiet petitions of its beneficiaries.

Worse, the crisis has widened beyond the walls of the Castle. For the first time, the Smithsonian is caught in the crossfire of executive overreach and congressional paralysis. The President has seized upon the Institution as a cultural weapon, while Congress, the statutory guardian of the Smithsonian trust, has abdicated its fiduciary role. The American people—true beneficiaries of James Smithson's bequest—remain in the dark, trusting their government to act faithfully, yet witnessing instead the trampling of the ultimate American value: private property rights.

James Smithson's bequest was private property, devoted by will to a perpetual charitable trust for the benefit of the American people. The Constitution enshrines protections against governmental intrusion upon such property: the Fourth Amendment's shield against unlawful seizure and the Fifth Amendment's guarantee against deprivation without due process. Yet this case illustrates precisely what the Founding Fathers feared most—that unchecked government power would encroach upon liberty by eroding the sanctity of private property placed in trust. The Smithsonian's betrayal proves their wisdom.

The public interest has never been more immediate. Today, the Smithsonian stands exposed in the press, in Congress, and in the Executive Branch. The President has pulled the first thread and more; the courts must now finish the work. The garment of secrecy is unraveling, and the judiciary alone can restore order to the trust by compelling its faithful execution.

> "It is the peculiar province of equity, to compel the execution of trusts."
>
> — *United States v. Nobles*, 30 U.S. 173, 188 (1831)

If not now—when the President himself has attempted to force the removal of a director for conduct long known and judicially documented—then when? If not here—in the charitable trust created by an Englishman for "the increase and diffusion of knowledge among men"—then where?

The Smithsonian belongs to the American people. It is a trust betrayed, but not beyond redemption. This Court must now act—not only to vindicate a wronged artist, but to restore the constitutional principle that the government holds no license to invade the property rights of a private benefactor, nor to trample the liberties of the citizens for whom that gift was made.

CONCLUSION

James Smithson entrusted his fortune to the people of the United States, in perpetuity, to create and sustain an institution "for the increase and diffusion of knowledge." That bequest was accepted by Congress not as a mere appropriation, but as a solemn fiduciary trust.

The record shows that defendants have violated that trust through multiple breaches of both the common law of trust and the constitution, departing from donor intent. Equity does not permit

such breaches to stand. The law of trusts, from *Rothko* to *Kapiolani*, makes clear that beneficiaries may intervene to vindicate a testator's will when fiduciaries fail or outsiders intrude. The Smithsonian is no less entitled to judicial protection than any other charitable trust.

For these reasons, Plaintiff respectfully request that this Court:

1. Declare the Smithsonian Institution a charitable trust governed by fiduciary principles;
2. Enjoin further interference and manipulation by non-trustee actors;
3. Certify the constitutional trust-status question to the Supreme Court of the United States; and
4. Award such other equitable relief as justice and preservation of the trust may require.

The Court's intervention is essential to preserve the independence, integrity, and public confidence in the Nation's foremost trust for knowledge, in fidelity to James Smithson's will and to the law of equity.

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Affidavit of Service

I, Julian Marcus Raven, do hereby swear that a copy of this complete amended complaint was served on Defendants and counsel.

The U. S. Attorney
Attorney Jeanine Pirro
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Sworn this day, August 18th, 2025

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