

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

JULIAN RAVEN,

Plaintiff,

V.

Civil Action No. 25-cv-02332 (TSC)

DONALD J. TRUMP, et al.,

Defendants.

**PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS AND IN REPLY ON PLAINTIFF'S MOTION
FOR PRELIMINARY INJUNCTION**

TABLE OF AUTHORITIES

Cases

Agostini v. Felton, 521 U.S. 203 (1997).
Ashwander v. Tennessee Valley Auth., 297 U.S. 288 (1936) (Brandeis, J., concurring).
Bowsher v. Synar, 478 U.S. 714 (1986).
Buckley v. Valeo, 424 U.S. 1 (1976).
Chamber of Commerce v. Reich, 74 F.3d 1322 (D.C. Cir. 1996).
Chaplaincy of Full Gospel Churches v. England, 454 F.3d 290 (D.C. Cir. 2006).
Clinton v. Jones, 520 U.S. 681 (1997).
Cobell v. Norton, 240 F.3d 1081 (D.C. Cir. 2001).
Cohens v. Virginia, 19 U.S. (6 Wheat.) 264 (1821).
Dalton v. Specter, 511 U.S. 462 (1994).
Dong v. Smithsonian Inst., 125 F.3d 877 (D.C. Cir. 1997).
Dugan v. Rank, 372 U.S. 609 (1963).
Elrod v. Burns, 427 U.S. 347 (1976).
Expeditions Unlimited Aquatic Enters., Inc. v. Smithsonian Inst., 566 F.2d 289 (D.C. Cir. 1977).

Forman v. Smithsonian, 271 F.3d 285 (D.C. Cir. 2001).
 Franklin v. Massachusetts, 505 U.S. 788 (1992).
 Gordon v. Holder, 721 F.3d 638 (D.C. Cir. 2013).
 Hooker v. Edes Home, 579 A.2d 608 (D.C. 1990).
 Hurley v. Irish-American Gay, Lesbian & Bisexual Group of Boston, 515 U.S. 557 (1995).
 Kapiolani Park Pres. Soc’y v. City & Cnty. of Honolulu, 751 P.2d 1022 (Haw. 1988).
 Land v. Dollar, 330 U.S. 731 (1947).
 Larson v. Domestic & Foreign Commerce Corp., 337 U.S. 682 (1949).
 League of Women Voters v. Newby, 838 F.3d 1 (D.C. Cir. 2016).
 Legal Services Corp. v. Velazquez, 531 U.S. 533 (2001).
 Metropolitan Washington Airports Auth. v. Citizens for the Abatement of Aircraft Noise, Inc., 501 U.S. 252 (1991).
 Miami Herald Publ’g Co. v. Tornillo, 418 U.S. 241 (1974).
 Mississippi v. Johnson, 71 U.S. (4 Wall.) 475 (1867).
 Mistretta v. United States, 488 U.S. 361 (1989).
 Newdow v. Roberts, 603 F.3d 1002 (D.C. Cir. 2010).
 O’Rourke v. Smithsonian Inst. Press, 399 F.3d 113 (2d Cir. 2005).
 Pursuing America’s Greatness v. FEC, 831 F.3d 500 (D.C. Cir. 2016). Raven v. United States, 334 F. Supp. 3d 22 (D.D.C. 2018).
 Raven v. United States, 334 F. Supp. 3d 22 (D.D.C. 2018).
 Seminole Nation v. United States, 316 U.S. 286 (1942). Shoshone Tribe v. United States, 304 U.S. 111 (1938).
 Shoshone Tribe v. United States, 304 U.S. 111 (1938).
 Swan v. Clinton, 100 F.3d 973 (D.C. Cir. 1996).
 United States v. Jicarilla Apache Nation, 564 U.S. 162 (2011). United States v. Lee, 106 U.S. 196 (1882).
 United States v. Lee, 106 U.S. 196 (1882).
 United States v. Mitchell (Mitchell II), 463 U.S. 206 (1983).
 United States v. Sioux Nation of Indians, 448 U.S. 371 (1980). United States v. White Mountain Apache Tribe, 537 U.S. 465 (2003). Washington v. Reno, 35 F.3d 1093 (6th Cir. 1994).
 United States v. White Mountain Apache Tribe, 537 U.S. 465 (2003).
 Washington v. Reno, 35 F.3d 1093 (6th Cir. 1994).
 West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943). Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7 (2008).
 U.S. 7 (2008). Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952).
 Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952).

Statutes

5 U.S.C. § 702.
 28 U.S.C. § 1254(2). 28 U.S.C. § 1292(b).

Rules

Fed. R. Civ. P. 65(d)(2).

Other Authorities

Restatement (Second) of Trusts § 391.

Smithsonian Institution Archives, Chancellor Warren E. Burger / William W. Warner draft remarks (c. 1971).

INTRODUCTION

Defendants label the Smithsonian Institution a “federal agency” and insist that its status is “long settled.” It is not. Congress accepted James Smithson’s private bequest as a trust, committing itself “for the faithful execution of said trust, according to the will of the liberal and enlightened donor.” The Government’s own authorities reveal fragmentation across statutory regimes (FTCA, § 1498(b), FOIA/PA)—not a unifying rule that extinguishes fiduciary duty or forecloses equitable review.

Worse, Defendants’ agency theory would produce a structural absurdity: a single body—the Smithsonian Board of Regents—composed of the Vice President, the Chief Justice, Members of Congress, and unelected citizen Regents would be exercising Article II executive power. That would collapse the separation of powers. The Supreme Court forbids Congress and its agents from controlling the execution of the laws, bars legislative or judicial officers from wielding executive power outside the Constitution’s appointments framework, and rejects blended mechanisms that evade bicameralism and presentment. See *INS v. Chadha*, 462 U.S. 919 (1983); *Bowsher v. Synar*, 478 U.S. 714 (1986); *Buckley v. Valeo*, 424 U.S. 1 (1976); *Metropolitan Washington Airports*

Auth. v. CAAN, 501 U.S. 252 (1991). The only interpretation that harmonizes the charter with the Constitution is the one the text already supplies: the United States accepted and administers a private charitable trust; officers named as Regents serve as fiduciaries, not as a tri-branch “secret agency.” See 20 U.S.C. §§ 41–42; *Ashwander v. TVA*, 297 U.S. 288, 341 (1936) (Brandeis, J., concurring) (constitutional avoidance canon).

Because the status question is unsettled and the Government’s theory raises, rather than resolves, constitutional doubts, the Court should deny dismissal, grant the injunction, preserve the status quo, and allow trust-law claims to proceed to adjudication.

BACKGROUND

Plaintiff incorporates by reference the factual background set forth in his Preliminary Injunction motion and Amended Complaint. This Memorandum focuses on the dispositive legal questions.

LEGAL STANDARDS

The standards for motions under Rules 12(b)(1), 12(b)(6), and for preliminary injunctive relief under *Winter v. NRDC*, 555 U.S. 7, 20–24 (2008), are well known and not disputed here.

I. STANDING EXISTS UNDER D.C. CHARITABLE-TRUST LAW WHEN THE ATTORNEY GENERAL DECLINES TO ACT

Plaintiff notified the D.C. Attorney General and invited *parens patriae* enforcement; six weeks of silence operates as refusal (Addendum A). Under *Hooker v. Edes Home*, 579 A.2d 608, 612–14 (D.C. 1990), intended beneficiaries in a sharply defined class may sue to restrain extraordinary measures threatening the trust’s purpose. See also Restatement (Second) of Trusts § 391; *Kapiolani Park Preservation Soc’y v. City & Cnty. of Honolulu*, 751 P.2d 1022, 1028–30 (Haw. 1988) (persuasive).

II. SOVEREIGN IMMUNITY DOES NOT BAR EQUITABLE TRUST

ENFORCEMENT

A trustee cannot invoke sovereign immunity to defeat equitable claims by beneficiaries seeking specific relief for breach of fiduciary duty. See *United States v. Lee*, 106 U.S. 196, 208–10 (1882); *Land v. Dollar*, 330 U.S. 731, 738–39 (1947); *Cobell v. Norton*, 240 F.3d 1081, 1108–10 (D.C. Cir. 2001). Trustee status imports fiduciary duties. Where statutes and regulations create fiduciary obligations, the United States may be sued for breach. *United States v. Mitchell (Mitchell II)*, 463 U.S. 206, 226–28 (1983). Equitable officer suits lie where officials act *ultra vires* or contrary to law. *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 689–91 (1949); *Dugan v. Rank*, 372 U.S. 609, 621–22 (1963). And 5 U.S.C. § 702 waives immunity for non-monetary relief beyond formal APA claims. *Trudeau v. FTC*, 456 F.3d 178, 186 (D.C. Cir. 2006); *Chamber of Commerce v. Reich*, 74 F.3d 1322, 1328–29 (D.C. Cir. 1996). Relief may be directed to Executive and Smithsonian officers and Regents by title (Rule 65) rather than to the

President personally. See *Mississippi v. Johnson*, 71 U.S. (4 Wall.) 475 (1867); *Franklin v. Massachusetts*, 505 U.S. 788, 802–03 (1992).

III. THE SMITHSONIAN’S STATUS IS UNRESOLVED, NOT “SETTLED”

Defendants cite disparate, regime-specific holdings: FTCA (*Expeditions Unlimited Aquatic Enters., Inc. v. Smithsonian*, 566 F.2d 289, 296 (D.C. Cir. 1977)); § 1498(b) (*O’Rourke v. Smithsonian Inst. Press*, 399

F.3d 113, 122 (2d Cir. 2005)); and FOIA/Privacy Act (*Dong v. Smithsonian*, 125 F.3d 877, 878–84 (D.C. Cir. 1997) (Smithsonian not an executive-branch “agency” under those statutes)). This patchwork—not a Supreme Court holding—governs, which is why the Government’s own citations concede hybridity rather than finality. See *Forman v. Smithsonian*, 271 F.3d 285, 288–91 (D.C. Cir. 2001).

IV. “SETTLED LAW” IS NOT SETTLED HERE

A. Defendants’ “long settled” refrain collapses under its own authorities.

Defendants declare the Smithsonian’s legal status “long been settled,” then stitch together context-bound lower-court holdings (FTCA; § 1498(b); state-action) as if they resolved the question globally. That is not how precedent works. See *Cohens v. Virginia*, 19 U.S. (6 Wheat.) 264, 399–400 (1821). Their cases point in opposite directions: *Dong* (not an Executive-Branch “agency” for FOIA/PA); *Expeditions* (independent establishment for FTCA); *O’Rourke* (“United States” for § 1498(b)). The mosaic itself proves the question is unsettled. See *Agostini v. Felton*, 521 U.S. 203, 237–38 (1997).

B. “Unique” ≠ “settled.” Rhetorical exceptionalism concedes hybridity, not resolution. Dong states the Smithsonian is not an executive-branch establishment; other statutes treat it as “United States” for limited purposes. See also Forman, 271 F.3d at 288–91.

C. Trustee language cuts against immunity, not for it. A trustee owes fiduciary duties and answers in equity for breach; 5 U.S.C. § 702 provides a waiver for non-monetary relief; officer suits lie for ultra vires acts. See Mitchell II, 463 U.S. at 226–28; Larson, 337 U.S. at 689–91; Dugan, 372 U.S. at 621–22; Trudeau, 456 F.3d at 186; Reich, 74 F.3d at 1328–29; Land v. Dollar, 330 U.S. 731, 738–39 (1947); United States v. Lee, 106 U.S. 196, 208–10 (1882).

D. DOJ overreads Raven I. The 2018 decision addressed primarily the curatorial discretion/government speech, not the Institution’s global legal identity or fiduciary duties.

E. Standing under D.C. trust law. Hooker v. Edes Home controls special-interest standing when the AG declines to act; Restatement (Second) of Trusts § 391 supports beneficiary enforcement.

F. Separation-of-powers and constitutional-avoidance foreclose the Government’s “federal agency” theory. By statute, the Regents include the Vice President, the Chief Justice, three Senators, three Representatives, and nine citizen-Regents. 20 U.S.C. § 42. Treating the Institution as an ordinary executive agency would fuse Articles I, II, and III in one decision making body—contrary to Chadha, Bowsher, Buckley, and MWAA v. CAAN. The charter is properly read, consistent with § 41’s trust recital and Ashwander’s

avoidance canon, as appointing public officers to serve as fiduciary trustees—not as a tri-branch “secret agency.”

V. NARROW INJUNCTIVE RELIEF IS WARRANTED PENDING RESOLUTION OF THE UNSETTLED STATUS QUESTION (WITH APPELLATE CERTIFICATION ACKNOWLEDGED)

Plaintiff acknowledges that certification to the Supreme Court must proceed from the court of appeals under 28 U.S.C. § 1254(2). But that procedural channel does not change the merits reality the Government sidesteps: the Smithsonian’s legal status remains unresolved and decidedly not “settled.” Against that backdrop—and in light of ongoing Executive incursions into Smithsonian content during 2025—equity must preserve the status quo while the Court decides the merits. The Smithsonian bequest is private property placed in trust; the Fourth Amendment forbids unreasonable governmental seizures or incursions on private property, and the Fifth Amendment’s Due Process Clause strictly governs any federal action that alters or commandeers such interests. The Supreme Court’s Indian trust jurisprudence underscores the point: when federal statutes and the trust arrangement create fiduciary obligations, the United States acts as trustee and its conduct is judged by fiduciary standards—not by plenary sovereign prerogative. See *United States v. Mitchell* (*Mitchell II*), 463 U.S. 206, 226–28 (1983); *United States v. White Mountain*

Apache Tribe, 537 U.S. 465, 473–75 (2003); *Seminole Nation v. United States*, 316 U.S. 286, 296–97 (1942); *United States v. Sioux Nation of Indians*, 448 U.S. 371, 415–24 (1980); *Shoshone Tribe v. United States*, 304 U.S. 111, 116–18 (1938); *United States v.*

Jicarilla Apache Nation, 564 U.S. 162, 173–79 (2011). Those cases treat assets held in federal trusteeship as private/beneficial property protected against unlawful federal incursions and subject to constitutional constraints. By parity of reasoning, the Smithsonian's mission and purpose—a private donor's testamentary expression—cannot be refashioned by fresh Executive directives while the status question percolates. Congress's acceptance did not extinguish James Smithson's expressive intent; it enshrined it in a charitable trust dedicated to the “increase and diffusion of knowledge.” That objective carries First Amendment weight as the donor's protected expressive mission that the trustee must faithfully execute.

Why the injunction runs to implementers (not the President), and who it binds.

Courts seldom enjoin the President directly—Mississippi v. Johnson and Franklin v. Massachusetts caution against it—but that doctrine directs, rather than disables, judicial relief: the decree may (and should) run to the officials who carry out the President's will. See Mississippi v. Johnson, 71 U.S. (4 Wall.) 475, 501 (1867); Franklin v. Massachusetts, 505 U.S. 788, 802–03 (1992); Swan v. Clinton, 100 F.3d 973, 977–78 (D.C. Cir. 1996). Accordingly, the Court's order may bind, by title, both (i) Smithsonian officers and Regents with curatorial/administrative authority and (ii) Executive Branch officers who transmit, review, approve, or enforce directives affecting Smithsonian content—consistent with **Fed. R. Civ. P. 65(d)(2)** (binding parties, their “officers, agents, servants, employees, and attorneys,” and those in active concert upon notice). Where such implementation exceeds lawful authority—Youngstown's “Category Three,” when presidential direction is “incompatible with the expressed or implied will of Congress”—courts may restrain implementing officers under the Larson–Dugan ultra

vires exception and the **§ 702** waiver for non-monetary relief. *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637–38 (1952) (Jackson, J., concurring); *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 689–91 (1949); *Dugan v. Rank*, 372 U.S. 609, 621–22 (1963); 5 U.S.C. § 702; see also *Dalton v. Specter*, 511 U.S. 462, 476 (1994) (relief properly directed to subordinate officials), and *Chamber of Commerce v. Reich*, 74 F.3d 1322, 1328–29 (D.C. Cir. 1996) (nonstatutory equitable review to enjoin unlawful executive implementation). This relief is precisely calibrated to the public interest—preserving museum operations and conservation while preventing content-directed alterations traceable to the March 27, 2025 Executive Order until the Court resolves status and duty.

VI. APPLICATION OF THE WINTER FACTORS

Likelihood of success. Shown by the 1846 acceptance-of-trust text, the fiduciary-duty framework, and the *Larson–Dugan* / § 702 path around immunity.

Irreparable harm. The beneficiaries of the Smithsonian charitable trust are the American people. When a charitable trust’s core purpose and donor intent are bent or filtered through transient political direction, the injury to beneficiaries is immediate, intangible, and not compensable by damages. See Restatement (Second) of Trusts § 391 & cmt. (beneficiaries may restrain breaches that threaten the trust’s purpose). Here, the D.C. Attorney General’s six week nonresponse to Plaintiff’s notice (Addendum A) leaves the field to special-interest standing; absent interim relief, no one will protect the res and purpose for the millions of beneficiaries. See *Hooker v. Edes Home*, 579 A.2d 608, 612–14 (D.C. 1990); *Kapiolani Park Pres. Soc’y v. City & Cnty. of Honolulu*, 751 P.2d 1022, 1028–30 (Haw. 1988). Each day of content direction, re-labeling, or exhibit

revision undertaken to satisfy political preference injures (i) beneficiaries' access to the donor-directed message; (ii) the integrity of the trust's expressive output; and (iii) future reliance by donors and visitors who expect Smithsonian scholarship unskewed by executive fiat. Courts treat analogous speech harms as per se irreparable: "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality); accord *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 301 (D.C. Cir. 2006) (likely First Amendment injury "invariably" satisfies irreparable harm). As one among the trust's millions of beneficiaries, Plaintiff personally experiences this harm when Executive direction dictates Smithsonian content; that intrusion is akin to the State dictating the substance of a preacher's sermon or compelling an editor to print the government's line. See *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642–43 (1943) (government cannot prescribe orthodoxy); *Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241, 258 (1974) (no compelled editorial content); *Hurley v. Irish-American Gay, Lesbian & Bisexual Group*, 515 U.S. 557, 573–74 (1995) (no compelled inclusion that alters message); *Legal Services Corp. v. Velazquez*, 531 U.S. 533, 544–49 (2001) (government may not distort private speech in a funded program). The point is precisely what the Institution's own leadership has long recognized: "the Smithsonian has made and will continue to make its most significant research and educational contributions to the needs of the public precisely because it is not an organizational part of the federal government. The Smithsonian is and ever should remain, in my opinion, a center for the independent pursuit of knowledge for its own sake, i.e., basic research under a form of limited federal guardianship." (Smithsonian

Institution Archives, summarizing an undelivered 1971 speech drafted by Assistant Secretary and Pulitzer Prize–winning author William W. Warner for Chancellor Warren E. Burger).

Balance of equities. Tailored relief prevents Executive-driven changes while allowing conservation, safety, and operations.

Public interest. “There is generally no public interest in the perpetuation of unlawful agency action,” and there is a “substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.” *League of Women Voters v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (quoting *Pursuing America’s Greatness v. FEC*, 831 F.3d 500, 511–12 (D.C. Cir. 2016), and *Gordon v. Holder*, 721 F.3d 638, 653 (D.C. Cir. 2013)); accord *Washington v. Reno*, 35 F.3d 1093, 1103 (6th Cir. 1994). That principle fits this case: the March 27, 2025 Executive Order “Restoring Truth and Sanity to American History” places Smithsonian content within an active Executive program—while this Court must decide whether the Smithsonian is administering a private charitable trust bound by fiduciary duty or acting as an ordinary agency. The public interest favors holding the line until status and duty are resolved. Moreover, the record shows intense, ongoing public attention to Executive steering of historical narratives in national institutions—confirming that a status-quo injunction would preserve confidence in the rule of law and prevent irreversible distortion of the trust’s expressive purpose. See also the federal Indian trust cases (e.g., *Mitchell II*, *White Mountain Apache*) recognizing that courts safeguard beneficiaries against trustee overreach. In short, the public interest lies in lawful, fiduciary-compliant administration, not in immediate “policy alignment.” *Newby*, 838 F.3d at 12.

VII. SCOPE OF RELIEF AND RULE 65

Consistent with Mississippi and Franklin, Plaintiff seeks no coercive decree against the President. Any injunctive or declaratory relief shall run to Executive/Smithsonian officers/Regents by title (Rule 65), consistent with 5 U.S.C. § 702.

VIII. CERTIFICATION

The Court may deny dismissal and, if appropriate, certify under 28 U.S.C. § 1292(b) the controlling question—whether the Smithsonian functions as a fiduciary trustee administering a private charitable trust (with duties enforceable in equity) or as an ordinary federal agency shielded by sovereign immunity—for prompt appellate guidance, recognizing any subsequent 28 U.S.C. § 1254(2) certification is by the court of appeals.

CONCLUSION

The Government’s “federal agency” theory is not law; it is a structural impossibility. Treating the Regents as an executive agency would fuse Articles I, II, and III in a single policymaking entity—condemned by *Chadha*, *Bowsher*, *Buckley*, and *MWAA v. CAAN*. The charter’s trust recital and the constitutional-avoidance canon point to the only coherent reading: the United States accepted and administers a private charitable trust; officers named as Regents serve as citizen fiduciary trustees, not as a tri-branch agency. Trustee duties are enforceable in equity; § 702 waives immunity for non-monetary relief; D.C. trust law supplies standing when the Attorney General declines to act. The motion to dismiss should be denied, preliminary injunctive relief

granted to preserve the status quo, and the controlling status question certified for interlocutory review as appropriate.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Julian Raven". The signature is stylized with a large, looping initial "J" and a long, sweeping underline.

Julian Raven, pro se
Monday, September 29th, 2025
714 Baldwin St.,
Elmira, New York
14901
434-221-1676
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Affidavit of Service

I, Julian Marcus Raven, do hereby swear that a full copy of this reply to Defendants Opposition has been served on Defendant's counsel, Attorney Thomas Duffey, via email and regular mail.

THOMAS W. DUFFEY
Assistant United States Attorney
601 D Street, NW
Washington, DC 20530
(202) 252-2510

Monday, September 29th, 2025

Sincerely,



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[PROPOSED] ORDER

Upon consideration of Plaintiff's Motion for Preliminary Injunction, Defendants' opposition, Plaintiff's reply, the record, and for the reasons stated in the Court's memorandum, it is ORDERED that:

1. Scope and Parties. Consistent with *Mississippi v. Johnson*, 71 U.S. (4 Wall.) 475 (1867), and *Franklin v. Massachusetts*, 505 U.S. 788, 802–03 (1992), no coercive relief issues against the President. This Order runs to the Executive officer, the Smithsonian Institution's officers and the Board of Regents, by title, together with their agents, servants, employees, and those in active concert or participation with them who receive actual notice of this Order.

2. Status-Quo Preservation. Pending final judgment or further order, the officials identified in 1 are enjoined from implementing, approving, or enforcing any new exhibit, label, interpretive-signage, or collections-rotation changes at Smithsonian museums that are traceable to Executive Branch directives initiated on or after March 27, 2025, and that materially alter the presentation of contested historical subject matter, unless a contemporaneous, written determination by the responsible museum director shows the change is necessary for conservation, safety, security, or building operations.

3. Record Preservation. The officials identified in 1 shall preserve all documents, emails, texts, drafts, talking points, sign plans, and directives regarding content changes contemplated or implemented since January 1, 2025, including communications with the White House, OMB, Interior, or other Executive components.

4. Reporting. Within 14 days, those officials shall file a report identifying content-related changes implemented or approved since March 27, 2025, stating for each whether the change was (i) conservation/safety/security/operations-driven or (ii) responsive to Executive review or directive; and shall file an updated report every 30 days while this Order remains in effect.

5. Tailoring; Exceptions. Nothing herein bars routine conservation, safety, security, building operations, or temporary closures unrelated to Executive content directives.

6. Security. Given the public-interest character of the relief and Defendants' resources, the Court sets security at \$100 under Fed. R. Civ. P. 65(c).

7. Appellate Posture. The Court acknowledges that any certification to the Supreme Court would proceed from the Court of Appeals under 28 U.S.C. § 1254(2) and finds

this Order appropriate for expedited interlocutory consideration, including 28 U.S.C. § 1292(b) certification of the controlling legal-status question if requested.

SO ORDERED.

Dated: _____, 2025

_____ United States District Judge

ADDENDUM A

Plaintiff's letter to D.C. Attorney General Brian Schwalb (date), inviting parens patriae enforcement of the Smithsonian charitable trust; six-week nonresponse noted.

The Honorable Brian Schwalb

Office of the Attorney General

For the District of Columbia

Patrick Henry Building

400 6th St NW, Washington, DC 20001

Dear Attorney General Schwalb:

I hope and pray you and your family are well.

My name is Julian Raven, artist, author and Smithsonian litigant. Having listened to your inaugural address, I am emailing you to take you up on your invitation to approach your willing listening ear. I too have had counsel throughout my adult life regarding heeding the ratio of ears to mouth as essential to a healthy and happy life. As a fellow Jew, I share in the wisdom handed down through generations of Hebrews, even through St. James from the New Testament who instructed us in the same way to be “quick to listen and slow to speak.”

I write to you in your official capacity as **Parens Patriae** for the District of Columbia to invoke your cooperation in the defense of **James Smithson’s charitable trust**, established by a testamentary gift in 1846 “for the increase and diffusion of knowledge among men.” The Smithsonian Institution exists only because the United States Congress accepted Smithson’s bequest **in trust** and vested fiduciary responsibility in a great American scientist Joseph Henry and a Board of Regents composed of members of all three branches of the federal government and of the public.

This congressionally established ‘independent’ trust instrumentality, has been a source of remarkable legal entity confusion since its founding. Many of the pertinent surrounding facts I include in my attached briefs for your consideration. But for this letter’s sake, I must include this statement to clearly illuminate the nearly two centuries of misunderstanding that persist to this day. That is, that “the Smithsonian is **not**, and has **never** been considered a government bureau, it is a private institution under the guardianship of the government.” **Former U.S. President, Supreme Court Chief Justice and Smithsonian Chancellor William Howard Taft**. And yet in my first lawsuit, federal Judge Trevor McFadden ruled that the Smithsonian is the “government through and through,” granting the private charity full government speech powers and thus depriving me of my 1st amendment guaranteed free-speech rights.

This legal identity enigma — whether charitable trust or government agency — has spawned the fertile soil of unintelligible ambiguity that has permitted and even encouraged repeated encroachments. Today, the most significant threat arises from the Executive itself: presidential overreach into the trust’s governance, unrestrained by congressional oversight, has placed the

Institution in jeopardy of being converted into an instrument of political will rather than donor intent.

As such, you Sir, as *Parens Patriae*, and me as both a public trust beneficiary as an American Citizen and a ‘special interest’ participant in the testamentary trust are both called to be defenders of the Will of James Smithson. This intervention arises when corruption of the donor’s intent has reached a point where the once private property and generous public gift has become a political football and a federal orphan on the field of partisan actors, coercive misappropriations and opportunistic initiatives.

Mr. Attorney General, please forgive me if what I am telling you, you already know. I mean only to apprise you of our duties, lest these fundamental civil rights that are in play are trampled beyond recovery. I am presently in my third federal lawsuit against the Smithsonian Institution. (25-cv-02332 TSC, 22-cv-2809 CRC & 17-cv-01240 TNM) As a politically independent person, and former Trump supporter but ardent supporter of the Rule of Law and of the U.S. Constitution that I am sworn to defend as a naturalized U.S. Citizen, much like yourself as the AG, our common attention and obligation to these matters are inviolable. We may not agree politically on many things, but on these present realities, I am confident we might. With your recent willingness to sue the President and the executive office, I am confident that what I am about to share with you will compel you to Mr. Smithson’s defense.

The office you now hold carries a unique and ancient responsibility that often lies unspoken in modern practice: as *Parens Patriae*, the Attorney General is vested with the duty to safeguard charitable trusts for the benefit of the public. The courts have long recognized that where a trust serves indefinite beneficiaries, no private person (except one with special interest status) may enforce it; only the state, acting through its Attorney General, holds standing to do so. See *Russell v. Allen*, 107 U.S. 163, 167 (1883). This guardianship function is not discretionary but inherent in your role — you are, by law and tradition, the protector of charitable purposes against diversion, abuse, or political capture.

The law of equity provides the remedy in our present predicament. As *Parens Patriae*, you possess the standing and duty to enforce the Smithson trust, whether by independent action under D.C. Code § 19-1304.05(a)(3), or by intervention and amicus support in my pending proceedings. To remain silent would be to concede the permanent corruption of the trust’s charitable character; to act is to reaffirm that the law still protects donor intent and public confidence alike.

The two tip-of-the-spear motions before Judge Tanya Chutkan are for 1. Certification of the unanswered question of federal law regarding the Smithsonian Institution’s legal entity status before the U.S. Supreme Court. This must happen first, to once and for all resolve the mystery and establish the legal grounds necessary to rightly dispel the fog of the elusive enigma. This will ensure Mr. Smithson’s and my civil rights are vindicated. (I have petitioned SCOTUS now

three times for the same answer, and yet because I am a pro se litigant, my question does not carry the legal gravitas necessary to compel the esteemed justices to peer over the bench to look down and afford my miniscule legal status a moment of genuine consideration.) And 2. for an injunction to block the President's present initiatives until the Smithsonian enigma is settled by SCOTUS.

I therefore respectfully urge your office to review the record, to recognize your singular role as guardian of the Smithson trust, and to take appropriate steps to restore and preserve its integrity.

Humbly at your service,



Julian Raven
August, 19th, 2025
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P.s Like in the historic account of Joseph, who after rightly interpreting Pharoah's cupbearer's dream, and seeing him redeemed from his lowly estate in prison, and restored to his rightful status, Joseph implores Pharoah's cupbearer to remember him. Joseph hoped that his service to the cupbearer would bring him vindication and freedom.

I too humbly beseech you, Mr. Attorney General for the District of Columbia, to remember me and include my cause in anything you may decide to do within your capacity as Parens Patriae.

