NO. 26-12692

IN THE

United States Court of Appeals for the Eleventh Circuit

PRESIDENT DONALD J. TRUMP, DONALD J. TRUMP JR., ERIC TRUMP, THE TRUMP ORGANIZATION, LLC,

Plaintiffs-Appellants,

ALEJANDRO BRITO, DANIEL EPSTEIN,

Interested Parties-Appellants,

v.

INTERNAL REVENUE SERVICE, U.S. DEPARTMENT OF THE TREASURY,

Defendants,

THIRTY-FIVE FORMER FEDERAL JUDGES,

Interested Parties-Appellees.

On Appeal from the United States District Court for the Southern District of Florida, Case No. 1:26-CV-20609, District Judge Kathleen M. Williams

TIME SENSITIVE MOTION FOR STAY OF SANCTIONS ORDER AND FEE PROCEEDING BY APPELLANTS PRESIDENT DONALD J. TRUMP, DONALD J. TRUMP JR., ERIC TRUMP, THE TRUMP ORGANIZATION, LLC, ALEJANDRO BRITO, AND DANIEL EPSTEIN

(Counsel's Information on Inside Cover)

Christopher G. Oprison
Tal Aburos
DLA PIPER LLP (US)
200 South Biscayne Boulevard
Suite 2500
Miami, FL 33131
(305) 423-8522
chris.oprison@dlapiper.com
tal.aburos@dlapiper.com

Rachel A.H. Horton
DLA PIPER LLP (US)
1650 Market Street
Suite 5000
Philadelphia, PA 19103
(215) 656-3300
rachel.horton@dlapiper.com

Josh Halpern
JH Legal PLLC
1100 H Street NW, Suite 840
Washington, DC 20005
(610) 405-5531
jhalpern@jhlegalpllc.com

Counsel for Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Rules 26.1 and 28(a)(1) of the Federal Rules of Appellate Procedure and Eleventh Circuit Rules 26.1-1, 26.1-2, and 26.1-3, counsel for Appellants hereby certify on behalf of Appellants that the following is a full and complete list of the trial judges and all attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this appeal:

1) Aburos, Tal – Counsel for Plaintiffs-Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein
2) Biazzo, Corey J. – *Pro se* Amicus in the District Court
3) Bingham, Lauren C. – Counsel for Amicus in the District Court CREW
4) Bissell, Retired Chief Judge John W. – Appellee and Amicus in the District Court
5) Blanche, Todd – Attorney General, U.S. Department of Justice
6) Boisture, Pooja A. – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations
7) Bonta, Rob – Amicus, Attorney General of California, Lead Signatory for Twenty-Three State Attorneys General Amici
8) Bradley, Conor – Counsel for Appellees Retired Judges Michael Luttig

and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

9) Bridgman, Glenn – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

10) Brito, Alejandro – Appellant and Counsel for Plaintiffs in the District Court

11) Brito, PLLC – Counsel for Plaintiffs-Appellants

12) Brook, Davida – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

13) Brown, Retired Judge Geraldine Soat – Appellee and Amicus in the District Court

14) Cai, Angela – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

15) Carullo, Nick – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

16) Castillo, Retired Chief Judge Rubén – Appellee and Amicus in the District Court

17) Citizens for Responsibility and Ethics in Washington (CREW) – Amicus in the District Court

18) Clemon, Retired Chief Judge U.W. – Appellee and Amicus in the District Court

19) Common Cause – Amicus in the District Court

20) Corp, Ian Michael – Counsel for Plaintiffs-Appellants

21) Cox, Retired Judge Susan E. – Appellee and Amicus in the District Court

22) Debevoise & Plimpton LLP – Counsel for Amicus in the District Court

23) Democracy Defenders Action – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

24) Democracy Forward Foundation – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

25) Denlow, Retired Judge Morton – Appellee and Amicus in the District Court

26) DLA Piper LLP (US) – Counsel for Plaintiffs-Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein

27) Dow, Randy R. – Counsel for Amici in the District Court Twenty-Three State Attorneys General

28) Duncan, Retired Judge David K. – Appellee and Amicus in the District Court

29) Eisen, Norman L. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

30) Epstein & Co. LLC – Counsel for Plaintiffs-Appellants

31) Epstein, Daniel Z. – Appellant and Counsel for Plaintiffs in the District Court

32) Farchadi, Kayvan A. – Counsel for Amicus in the District Court CREW

33) Finnegan, Retired Chief Judge Sheila – Appellee and Amicus in the District Court

34) Fogel, Retired Judge Jeremy – Appellee and Amicus in the District Court

35) Francis IV, Retired Judge James C. – Appellee and Amicus in the District Court

36) Gay, Faith E. – Amicus in the District Court

37) Gelber Schachter & Greenberg, P.A. – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

38) Gertner, Retired Judge Nancy – Appellee and Amicus in the District Court

39) Gleeson, John – Amicus in the District Court

40) Gold, Retired Judge Steven M. – Appellee and Amicus in the District Court

41) Goldgar, Retired Judge A. Benjamin – Appellee and Amicus in the District Court

42) Green, Nicholas R. – Counsel for Amici in the District Court Twenty-Three State Attorneys General

43) Greenberg, Gerald E. – Counsel for Amici in the District Court, Former Government Officials & Public Interest Organizations

44) Grimm, Retired Judge Paul W. – Appellee and Amicus in the District Court

45) Haier, Aaron E. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

46) Halpern, Josh – Counsel for Plaintiffs-Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein

47) Henderson, Retired Judge Thelton – Appellee and Amicus in the District Court

48) Henry, Retired Chief Judge Robert Harlan – Appellee and Amicus in the District Court

49) Hewitt, Jillian – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

50) Holwell, Retired Judge Richard J. – Appellee and Amicus in the District Court

51) Horton, Rachel A.H. – Counsel for Plaintiffs-Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein

52) Hoshijima, Tsuki – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

53) Huvelle, Retired Judge Ellen Segal – Appellee and Amicus in the District Court

54) Internal Revenue Service – Defendant

55) Jasrasaria, Jyoti – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

56) JH Legal PLLC – Counsel for Plaintiffs-Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein

57) Jonas, Stephen A. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

58) Jones III, Retired Judge John E. – Appellee and Amicus in the District Court

59) Joshi, Nandan – Counsel for Amicus in the District Court Public Citizen

60) Keneally, Kathryn – Amicus in the District Court

61) Khan, Ayesha – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

62) Kirn, Harald H. – Counsel for Amici in the District Court Twenty-Three State Attorneys General

63) Klugh, Richard C. – Counsel for Plaintiffs-Appellants

64) Koskinen, John – Amicus in the District Court

65) Lett, Hon. Enjolique A. – U.S. Magistrate Judge

66) Liao, Cynthia – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

67) Luttig, Retired Judge Michael – Appellee and Amicus in the District Court

68) Lynn, Retired Judge Barbara M. G. – Appellee and Amicus in the District Court

69) Mann, Retired Judge Roanne L. – Appellee and Amicus in the District Court

70) Manne, Neal S. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

71) Matz, Retired Judge A. Howard – Appellee and Amicus in the District

Court

72) Michel, Retired Chief Judge Paul – Appellee and Amicus in the District Court

73) Milelli, Rosario – Nonparty

74) Munger Tolles & Olson LLP – Counsel for Amicus in the District Court

75) Nelson, Justin A. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

76) Newman, Lisa – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

77) O'Malley, Retired Judge Kathleen – Appellee and Amicus in the District Court

78) O'Neil, David A. – Amicus in the District Court

79) Ogden, David W. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

80) Olson, Nina – Amicus in the District Court

81) Oprison, Christopher G. – Counsel for Plaintiffs-Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein

82) Owsley, Retired Judge Brian – Appellee and Amicus in the District Court

83) Perryman, Skye L. – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

84) Platkin LLP – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

85) Platkin, Matthew J. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

86) Pro, Retired Judge Philip M. – Appellee and Amicus in the District Court

87) Project On Government Oversight – Amicus in the District Court

88) Public Citizen – Amicus in the District Court

89) Ramanathan, Ravi – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner, and Amici in the District Court 93 Members of the U.S. House of Representatives

90) Rennie, Russell – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

91) Rivero Mestre LLP – Counsel for Appellees Thirty-Five Former Federal Judges, and Amici in the District Court 93 Members of the U.S. House of Representatives

92) Rivero, Andrés – Counsel for Appellees Thirty-Five Former Federal

Judges, and Amici in the District Court 93 Members of the U.S. House of Representatives

93) Roberts, Retired Judge Victoria A. – Appellee and Amicus in the District Court

94) Rothenberg, Gilbert – Amicus in the District Court

95) Savage, Zach – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

96) Scheindlin, Retired Judge Shira A. – Appellee and Amicus in the District Court

97) Selendy Gay PLLC – Counsel for Amicus in the District Court

98) Selendy, Philippe Z. – Amicus in the District Court

99) Shackelford, Jr., Stephen – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

100) Sheehan, Daniel C. – Counsel for Amici in the District Court Twenty-Three State Attorneys General

101) Shih, Daniel J. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

102) Smith, Retired Judge Fern M. – Appellee and Amicus in the District Court

103) Stephens III, Glenn – Requested Intervenor in District Court

104) Stoughton, Corey – Amicus in the District Court

105) Sus, Nikhel S. – Counsel for Amicus in the District Court CREW

106) Susman Godfrey L.L.P. – Counsel for Appellees Retired Judges Michael Luttig and Nancy Gertner

107) Tenjido-Eljaiek, Daniela – Counsel for Appellees Thirty-Five Former Federal Judges, and Amici in the District Court 93 Members of the U.S. House of Representatives

108) The Trump Organization, LLC – Plaintiff-Appellant

109) Thurston, Robin F. – Counsel for Amici in the District Court Former Government Officials & Public Interest Organizations

110) Tinder, Retired Judge John D. – Appellee and Amicus in the District Court

111) Trump Jr., Donald J. – Plaintiff-Appellant

112) Trump, Eric – Plaintiff-Appellant

113) Trump, President Donald J. – Plaintiff-Appellant

114) Ungaro, Retired Judge Ursula – Appellee and Amicus in the District Court

115) United States Department of the Treasury – Defendant

116) Verrilli, Jr., Donald B. – Amicus in the District Court

117) Walsh, Daniel R. – Counsel for Amici in the District Court Former

Government Officials & Public Interest Organizations

118) Ward, Retired Judge T. John – Appellee and Amicus in the District Court

119) Williams, Hon. Kathleen M. – U.S. District Judge

120) Wolf, Retired Judge Mark L. – Appellee and Amicus in the District Court

121) Woodward, Jr., Stanley E. – Associate Attorney General, U.S. Department of Justice

122) Yeakel, Retired Judge Lee – Appellee and Amicus in the District Court

Counsel for Appellant The Trump Organization, LLC certifies that The Trump Organization, LLC has no parent corporation, and that no publicly traded company or corporation holds a 10% or more interest in The Trump Organization, LLC.

No publicly traded company has an interest in the outcome of this appeal.

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INTRODUCTION

This appeal arises from the district court's extraordinary abuse of its sanctions power. In this action, Plaintiffs President Donald J. Trump, Donald J. Trump Jr., Eric Trump, and The Trump Organization, LLC sued the Internal Revenue Service and the Department of the Treasury, pursuant to a congressionally-authorized remedy, over the undeniably unauthorized and illegal disclosure of their confidential tax-return information to the press. After reaching a settlement with the IRS and Treasury, Plaintiffs voluntarily dismissed the action, which the court so-ordered.

After thirty-five former judges moved under Rule 60 to improperly reopen the case, falsely alleging fraud on the court, the court wrongly decided that the President cannot sue the Federal Government in his personal capacity, and that this prohibition somehow extended to his sons, who are private citizens, and his business, which he is no longer running. The court did not cite any law supporting this extraordinary, unjust ruling. Even worse, the court improperly treated the filing of the Complaint as proof of collusion and bad faith, neither of which existed. The court imposed a sweeping, unconstitutional, and unlawful gag order on Plaintiffs and Defendants (together, "Parties"), and their "affiliates," and harsh, improper professional penalties on Plaintiffs' counsel Alejandro Brito and Daniel Epstein ("Attorneys"), all without the legally required notice, evidence, or individualized findings. The order under review is unsupported and rests on error built on error. Exhibit A, Doc.106 ("Sanctions Order").[1] The court misquoted the Supreme Court, misidentified a court and dissenting judge, and repeatedly misattributed legal and news sources. The court's hurried and wrongful use of the coercive sanctions power threatens, among other fundamental tenets of American jurisprudence, the legal profession, the development of the law, and public confidence in the Judiciary. This Court should grant an immediate stay pending appeal.

The theory underlying the Sanctions Order is wrong. President Trump sued in his personal capacity, alongside his sons and The Trump Organization, to vindicate their own statutory rights over the theft and release of their tax information. The IRS and Treasury represented the United States' separate interests. The court wrongly held that Article II collapsed those distinct interests into "one, a fully realized unitary interest," somehow eliminating adversity altogether. Doc.106 at 37-38. That was error. The court then attempted, but failed, to convert that disputed constitutional conclusion into supposed proof that the litigation was collusive, which was not the case. The court incorrectly called the issue "unprecedented," appointed six *amici* to brief it, and devoted nearly thirty pages to resolving it. After all that, the court still declared its conclusion "so obvious and so insurmountable" that

[1] Page references are to the header generated by the district court's e-filing system. References to docket entries, designated by Doc.#, refer to district court docket entries.

advancing a different view warranted a gag order and career-altering punishment of the Attorneys. *Id.* at 38. That, again, was error.

The process was no better than the theory. The court wrongly imposed a punishment that no party requested through a sanctions proceeding that was never lawfully commenced. The Attorneys received no notice their professional standing and ability to practice were at stake. The court failed to identify for Plaintiffs or their Attorneys much of the conduct it erroneously considered contemptuous. No individualized finding established that the Plaintiffs or their Attorneys knowingly made a false statement or acted in bad faith, neither of which actually took place.

Instead, having wrongly concluded that any President's lawsuit against the Government is inherently non-adversarial, the court discarded ordinary adjudicative safeguards. It improperly took judicial notice of press reports and relied on extrarecord research, conjecture about professional relationships, and collective attribution. Based on that improper record, it forbade the President, the Government, and broad categories of associated persons from even referring to the Settlement Agreement—*a sweeping, unconstitutional prohibition, which is a prior restraint that violates the First Amendment, on referencing an issue that is the subject of daily national debate*—referred Mr. Brito to The Florida Bar, barred Mr. Epstein from appearing *pro hac vice* in the Southern District of Florida for one year, and invited volunteer *amici* to seek fees.

A stay would harm no one. The underlying lawsuit was dismissed with prejudice. Defendants declined to oppose relief. Preserving the *status quo ante* would require no party to surrender a right or alter its conduct. Refusing a stay, by contrast, would wrongly leave an unconstitutional speech restraint and career-altering professional sanctions in force while this Court considers an appeal that is overwhelmingly likely to succeed. The public interest favors preserving confidence in careful and neutral judicial decisionmaking—especially where the court imposed sanctions just two days before Attorney General Todd Blanche's confirmation hearing, and through a process bearing the hallmarks of "rushed, high-stakes, low-information" adjudication. *Labrador v. Poe*, 601 U.S. 1110, 1119 (2024) (Gorsuch, J., concurring).

On July 31, 2026, Plaintiffs and their Attorneys (collectively, "Movants") initially filed an expedited motion for a stay. However, the court refused to afford that motion expedited treatment. Doc.120. Briefing will not be complete on that motion *until August 21*, and it is unclear when an order will issue. In the interim, the court's sweeping gag order, which purports to prohibit the Parties and their "affiliates" from referencing the Settlement Agreement, is a continuing affront to the First Amendment. Doc.106 at 47; *Capital Cities Media, Inc. v. Toole*, 463 U.S. 1303, 1304 (1983) (Brennan, J., in chambers). Therefore, it is impracticable to wait for the court to correct its improper, unsupported, and unprecedented sanctions.

Movants respectfully request that this Court stay the district court proceedings pending appeal.

RELEVANT BACKGROUND

A. Long-Running Illegal and Politically Motivated Conduct Precipitated This Action.

Plaintiffs sued the IRS and the Treasury under 26 U.S.C. § 7431 for the unauthorized disclosure of their confidential tax-return information. Doc.1. From 2019 through 2020, former IRS employee-contractor Charles Littlejohn deliberately obtained Plaintiffs' tax returns and disclosed them to left-leaning media. *Id.* ¶¶ 6-7. He obtained his IRS position with the objective of accessing President Trump's tax information, used his government access to target Plaintiffs, and fed the stolen materials to reporters. *Id.* ¶¶ 35-37, 53-58, 65, 67.

The IRS exercised extensive control over Littlejohn's work, access, training, and compliance obligations. *Id.* ¶¶ 22-30. Nevertheless, years of warnings to the IRS about critical data-security deficiencies went unaddressed, allowing Littlejohn to steal vast quantities of confidential taxpayer information, and evade detection for years. *Id.* ¶¶ 32-33, 37-39. The Trump Organization eventually received IRS notices stating that confidential information of **418 affiliated entities** was illegally stolen and released to the press. *Id.* ¶ 84.

Littlejohn pled guilty and received the statutory maximum sentence of sixty months' imprisonment. *Id.* ¶ 35; Doc.106 at 4. The sentencing judge found that

Littlejohn targeted President Trump as part of a three-year criminal scheme, and that he intended to harm at least some of the taxpayers whose information he stole. Doc.1 ¶¶ 71-72. The IRS itself admitted that "it failed to prevent Mr. Littlejohn's criminal conduct and unlawful disclosure," *id.* ¶ 12, when it could and should have done so.

Plaintiffs learned of the specific disclosures at different times. President Trump received notice on January 29, 2024; Donald Trump Jr. and Eric Trump received notices on December 16, 2024; and The Trump Organization received notices between December 2024 and 2026. *Id.* ¶¶ 5, 76, 78, 80, 82.

B. Procedural History Leading to the Improper *Sua Sponte* Sanctions.

On January 29, 2026, Plaintiffs timely filed the Complaint. Doc.1. On April 17, the Parties jointly sought additional time for Defendants to respond, explaining they were negotiating a potential resolution of this action. Doc.40 at 2. On April 24, the court ordered briefing on whether an Article III case or controversy existed, which was clearly the case. Doc.41 at 4. Five days later, it appointed six *amici* from three law firms to address that question. Doc.43.

On May 18, Plaintiffs voluntarily dismissed the action with prejudice. Doc.52. The dismissal extinguished the claims. The court cancelled the jurisdictional briefing deadline and closed the case. Doc.62.

Nine days later, thirty-five former judges moved under Rule 60 to improperly reopen the case, alleging fraud on the court. Doc.63. They sought vacatur of the dismissal or, alternatively, leave to appear as *amici*. They did not seek Rule 11 sanctions, professional discipline, monetary penalties, a bar referral, or an injunction.

On May 29, the court directed Plaintiffs to address "(1) the charges of collusion and whether the Parties are truly adverse; (2) the assertion that the dismissal in this case was premised on deception by the Parties; and (3) the question of whether the case should be reopened because the Court was the 'victim of a fraud.'" Doc.65 at 3. The court did not order Defendants to respond. Nor did the court issue a Rule 11 show-cause order to Mr. Brito or Mr. Epstein, identify any conduct by either Attorney as potentially sanctionable, or disclose that monetary sanctions and restrictions on future speech were under consideration. *See generally id.* Plaintiffs responded. Doc.89.

C. The District Court's Sanctions Order.

On July 13, 2026, the court issued the 56-page Sanctions Order. Doc.106. Remarkably, even though the Settlement Agreement was "not before" it, the court used its own wrongful conclusions about that Agreement to improperly impose sanctions and bar reference to the Agreement by Plaintiffs and other individuals. *Id.* at 47 & n.63.

Each of the court's findings of collusion, improper purpose, and bad faith flowed from a single predicate legal error: that presidential supervision under Article

II supposedly eliminated Article III adversity. *Id.* at 37-38. That is wrong. The court took no evidence supporting its accusation of collusion. It identified no pre-filing settlement, no false allegation, no direction by President Trump controlling Defendants' litigation decisions, and no individualized proof that any Plaintiff, Mr. Brito, or Mr. Epstein knowingly acted improperly. Instead, the court improperly relied on press reports, extrarecord research, regular professional relationships, and speculation about motive. *See, e.g.*, *id.* at 3-9, 31. It also erroneously dismissed the independent claims of Donald Trump Jr., Eric Trump, and The Trump Organization as merely "parenthetical" and deemed, again in error, the claims untimely without addressing when each Plaintiff received notice of the particular disclosures. *Id.* at 22 n.29.

The court entered a sweeping, unconstitutional gag order binding the Parties and broad categories of affiliates, referred Mr. Brito to The Florida Bar, barred Mr. Epstein from seeking *pro hac vice* admission in the Southern District of Florida for one year, and invited *amici* to seek fees. *Id.* at 46-47, 52-53. The impermissibly overbroad injunction prospectively and categorically bars the Parties from "referring to" the Settlement Agreement, as well as "using, offering, admitting, or citing any of its provisions" in any proceeding, the very definition of a prior restraint that violates the First Amendment. *Id.* at 47. The court also purported to bar then-Acting Attorney General Blanche from referencing the Settlement in any official proceeding—while his confirmation as Attorney General was pending and Senators were actively questioning him about it.

The Sanctions Order was riddled with multiple errors. It materially misquoted *Cooter & Gell v. Hartmarx Corp.*, misidentified both the court and dissenting judge in *Keepseagle v. Perdue*, used the wrong docket number for *Jackson v. United States*, gave the wrong citation for *Trump v. Clinton*, cited the syllabus rather than the majority opinion in *Seila Law*, misidentified a Wall Street Journal author and URL, and repeatedly mangled case names, government titles, and source attributions. *Id.* at 10, 15-16, 19, 21 n.27, 25 n.32, 30, 32 n.45, 34, 42.

Movants filed a timely notice of appeal on July 31, 2026, and moved for a stay from the district court. Doc.114. Movants sought expedited consideration, explaining that prior restraints "suppress[] protected speech and petitioning activity that no later appellate ruling can restore." *Id.* at 17. Defendants advised that they would not oppose the motion. On August 1, the court requested that appointed *amici* defend its own *sua sponte* Sanctions Order. Their response is due August 14. Doc.120. The thirty-five former judges defended the improper sanctions, embracing the supposed lack of adversity as the "most crucial[]" predicate for the extraordinary ruling. Doc.117 at 9. The court failed to rule on an expedited basis, wrongly stating that Movants "have not shown good cause for an expedited ruling." Doc.120 at 1.

DISCUSSION

A stay pending appeal is appropriate when the movants show (1) likelihood of success in the appeal; (2) irreparable harm without a stay; (3) a stay will not substantially injure other interested parties; and (4) the public interest supports the stay. *Nken v. Holder*, 556 U.S. 418, 425-26 (2009). When the second, third, and fourth factors favor relief, a movant need present only a "substantial case on the merits." *Garcia-Mir v. Meese*, 781 F.2d 1450, 1453 (11th Cir. 1986); *LabMD, Inc. v. FTC*, 678 F. App'x 816, 819 (11th Cir. 2016). Because that standard is easily satisfied here, this Court should issue a stay.

I. Movants Are Likely to Succeed on Appeal.

The Sanctions Order rests on fundamental legal errors, each one warranting reversal. *First*, its central substantive premise is incorrect: Presidential supervision does not eliminate Article III adversity, especially where the President is suing to vindicate his personal rights. *See United States v. Nixon*, 418 U.S. 683, 693, 696-97 (1974). The court cited no law supporting its erroneous conclusion that the President somehow loses his right to bring suit against the Federal Government in his personal capacity for cognizable injuries that he has suffered, much less that his sons or business lose their right to bring such suit. The very disagreement over an "unprecedented" constitutional question in this case confirms that the Sanctions Order must be reversed. *Second*, the court wrongly tried to supply proof of misconduct through procedures that violated due process, Rule 11, and the Federal Rules of Evidence: inadequate notice, an extrarecord "factual" inquiry, and no individualized findings tied to any Movant's conduct or state of mind. *Third*, the court's resulting injunction compounds those errors by imposing a sweeping, unconstitutional prior restraint on speech and petitioning in proceedings far beyond this case. Because Movants are likely to succeed on the merits, this Court should issue a stay.

A. The District Court's Unprecedented Adversity Theory Is Wrong and, Regardless, Cannot Support Sanctions.

This case presented a concrete statutory dispute between parties with distinct legal and financial interests. A convicted felon illegally stole and disclosed Plaintiffs' confidential tax information through his work for the IRS. The IRS admitted "that it failed to prevent Mr. Littlejohn's criminal conduct and unlawful disclosure." Doc.1 ¶¶ 12, 71-72. President Trump sued in his personal capacity for injury to his own information; Donald Trump Jr., Eric Trump, and The Trump Organization asserted separate claims arising from the illegal disclosures of their information. *Id.* ¶¶ 76-85. Any recovery belonged to those private Plaintiffs—not to the Presidency or the Executive Branch.

Plaintiffs' claims were substantial. The Complaint alleged extensive IRS control over Littlejohn's work, access, supervision, and compliance obligations. *Id.* ¶¶ 7, 22-30. Two courts addressing the same criminal scheme have held that materially similar allegations plausibly established that Littlejohn was an "employee of the United States" under § 7431. *Griffin v. IRS*, 730 F. Supp. 3d 1312, 1318 (S.D. Fla. 2024); *Safe Harbor Int'l LLC v. Booz Allen Hamilton, Inc.*, No. 1:25-CV-00139, 2026 WL 900051, at *11 (D. Md. Apr. 2, 2026). Plaintiffs invoked the remedy Congress supplied and later resolved their claims through settlement with Defendants.

The court clearly erred in holding that presidential supervision made President Trump and the Government "one," rendering the action "non-adversarial, collusive, and jurisdictionally improper." Doc.106 at 37-38. In a personal-capacity action, "the real party in interest is the individual, not the sovereign." *Lewis v. Clarke*, 581 U.S. 155, 162-63 (2017); *see Hafer v. Melo*, 502 U.S. 21, 25 (1991). The Presidency likewise remains distinct from "the individual who happens to be the President." *Clinton v. Jones*, 520 U.S. 681, 701 (1997).

The Supreme Court has recognized adversity between the United States and a President asserting personal interests. *Nixon*, 418 U.S. at 693. That finding is consistent with basic tenets of adversity. *See, e.g.*, *Carson v. Monsanto Co.*, 72 F.4th 1261, 1266 (11th Cir. 2023) (en banc) (asking whether each side has "a real interest in the legal positions" it advances and whether one side actually controls the other or its representation); *United States v. ICC*, 337 U.S. 426, 430-31 (1949) (looking beyond governmental overlap to the concrete dispute regarding "who is legally entitled to sums of money"). Here, private Plaintiffs sought compensation for private injuries, while the IRS and Treasury represented, through the Department of Justice as is the process, the United States' distinct interests in federal law and public funds. Presidential supervision did not merge those capacities.

The court's unprecedented, unsupported theory is untenable as to President Trump, while also being wildly inapplicable as to Donald Trump Jr., Eric Trump, and The Trump Organization, which are private non-governmental parties. None of those private Plaintiffs has ever exercised any authority over the IRS or Treasury. Yet the court wrongly dismissed their claims as "parenthetical," because of shared counsel, family or corporate ties, and a common litigation position. Doc.106 at 22 n.29. That was further error. Article III does not extinguish private statutory rights through association with a President. When Hunter Biden sued the IRS during President Biden's term for alleged unauthorized disclosure of his tax-return information, no court doubted that the controversy was real, much less issued sanctions. *See Biden v. IRS*, No. 1:23-CV-02711 (D.D.C. Sept. 18, 2023). When President Biden's Justice Department indicted and prosecuted the President's son, no judge deemed the case or the proposed settlement collusive, even though the defendant's father supervised the prosecuting Branch. *See United States v. Biden*, No. 23-CR-00061 (D. Del.). Adversity turns on concrete, opposing interests—not a family tree or an organizational chart. The court's opposite holding was legal error.

Once it incorrectly deemed adversity impossible, the court wrongly recast ordinary litigation facts—the timing of settlement, counsel's relationships, attendance at Littlejohn's plea hearing, and the Government's litigation choices—as evidence of collusion. All of that was wrong. None of these facts show a fictitious suit, a pre-filing scheme, or improper purpose.

The court made the same error regarding the statute-of-limitations issue. The Complaint alleged separate discovery dates through 2026, yet the court wrongly treated the attendance of President Trump's counsel at the plea hearing as notice to every Plaintiff of every disclosure. Doc.1 ¶¶ 76-86; Doc.106 at 4-5. Where neither the IRS nor a third party informed a taxpayer of the *specific* disclosures, the taxpayer did not receive notice sufficient to trigger the limitations period. *See Aloe Vera of Am., Inc. v. United States*, 699 F.3d 1153, 1160 (9th Cir. 2012). The court's legal error incorrectly converted disputed defenses into proof of (nonexistent) subjective bad faith.

The Sanctions Order cannot stand because it improperly punishes Movants for advancing a *bona fide* legal position merely because the court disagreed with that position. *See Donaldson v. Clark*, 819 F.2d 1551, 1561 (11th Cir. 1987) (en banc) (Rule 11 protects "doctrinal development, novel legal arguments, [and] cases of first impression"); *Buckler v. MacGregor*, 634 F. App'x 694, 697 (11th Cir. 2015) (sanctions lie only where a claim has "no reasonable chance of success" and "cannot be advanced as a reasonable argument to change existing law"); *Peer v. Lewis*, 606 F.3d 1306, 1311 (11th Cir. 2010) (sanctions are reserved for claims that are "objectively frivolous"). The court's appointment of six *amici* and long, tortured analysis of the adversity issue betray just how far from "obvious" and "insurmountable" the conclusion was. Doc.106 at 9-38, 53 n.69.

The court's unlawful, improper approach, if allowed to stand, which should not take place, would chill advocacy, cripple the adversarial process, and act to halt development of the law. *Buckler*, 634 F. App'x at 697 (explaining that Rule 11 deters "frivolous lawsuits" rather than "novel legal arguments"). The damage to the legal profession is so profound that at least one, self-described as liberal-leaning, Constitutional law professor has publicly declared that he will "refuse to teach" this opinion to his students.[2] A stay must issue.

B. Statutory Remedies Do Not Depend on Who Sits in the White House.

The court's theory also collides with the statute Congress enacted. Section 7431 creates a claim against the United States. The Article III controversy it frames does not depend on who occupies the White House. 26 U.S.C. § 7431(a)(1). The unlawful disclosures occurred—and the Government's liability attached—when the

[2] Robert Schmad, *Liberal Law Professor Breaks with Obama Judge over Trump Lawyer Crackdown: "I Refuse to Teach" It*, Fox News (July 18, 2026), https://www.foxnews.com/politics/liberal-law-professor-breaks-obama-judge-over-trump-lawyer-crackdown-i-refuse-teach.

IRS allowed Littlejohn to plunder Plaintiffs' files. President Trump's subsequent election changed neither the underlying wrong nor the statutory remedy. Section 7431's text and structure confirm that the remedy operates regardless of the officeholder: it redresses unlawful conduct through ordinary judicial review.

Congress knows how to route claims against the Government away from the courts, and how to single out the President, when it wants to. *See, e.g.*, 28 U.S.C. § 2675(a); 5 U.S.C. § 8128(b). Section 7431 does none of those things. It contains no administrative exhaustion requirement and no bar on review. The court supplied a nonexistent presidential carve-out anyway, without ever grappling with the statute's text. On its reasoning, a President tortiously injured inside a federal building would be the one person in America without a remedy. Nothing in Article III compels that unjust result.

C. The District Court Wrongly Imposed Sanctions Without Notice, Evidence, or Individualized Findings.

The sanctions also fail because they wrongly transgressed any sense of fair process. Due process requires "fair notice that [the] conduct may warrant sanctions and the reasons why," together with a meaningful opportunity to defend against the charge. *In re Mroz*, 65 F.3d 1567, 1575-76 (11th Cir. 1995). Rule 11(c)(3) likewise requires a court acting *sua sponte*, where a higher standard applies, to order the particular attorney, firm, or party to show cause as to why "conduct specifically described in the order" violated Rule 11(b). The court did neither.

The court only directed Plaintiffs to respond to allegations of collusion, deception, lack of adversity, and fraud on the court. Doc.65 at 2-3. But it never ordered Mr. Brito or Mr. Epstein to show cause, identified no sanctionable conduct by either lawyer, and gave no notice that professional discipline, a District-wide practice prohibition, monetary sanctions, or a sweeping injunction were under consideration. Nor did it identify many of the grounds later invoked, including counsel's professional relationships, the damages demand, the Compensation Clause, or future use of the Settlement Agreement. *See generally id.*; *see, e.g.*, Doc.106 at 35 (unilaterally addressing Compensation Clause). It was erroneous for the court to impose hugely consequential sanctions on undisclosed grounds. *See Kaplan v. DaimlerChrysler, A.G.*, 331 F.3d 1251, 1256-57 (11th Cir. 2003).

The court filled the evidentiary void with material incapable of proving subjective bad faith. It relied on press reports and independent research to decide disputed questions of motive, intent, internal deliberations, and litigation strategy. Doc.106 at 3 n.3, 7-9, 20-21, 26-27, 29, 33, 36, 43. For example, the court conceded that it could only "surmise" Mr. Epstein's motive. Doc.106 at 31. A court may not surmise or use newspaper articles to build an adverse record of contestable facts. Fed. R. Evid. 201(b); *Shahar v. Bowers*, 120 F.3d 211, 214 (11th Cir. 1997). Nor did the court provide the opportunity under Rule 201(e) to contest those materials. *See Bryant v. Ford*, 967 F.3d 1272, 1275 (11th Cir. 2020).

The Sanctions Order also lacks the individualized findings these sanctions demand. *Sua sponte* Rule 11 sanctions require a "higher standard" that is "akin to contempt." *Kaplan*, 331 F.3d at 1255. Inherent-power sanctions require proof of each person's subjective bad faith. *Purchasing Power, LLC v. Bluestem Brands, Inc.*, 851 F.3d 1218, 1224-25 (11th Cir. 2017). Yet, the court identified no false statement by either Attorney (which did not exist), no knowledge of a pre-filing agreement (which also did not exist), no direction to Government counsel (which did not occur), and no finding concerning what any individual Plaintiff knew or intended. Attributing a collective purpose to every Plaintiff and two Attorneys under these circumstances is error that merits a stay.

D. The Speech Injunction Is an Unconstitutional Prior Restraint and Exceeds Any Sanctions Authority.

The injunction unconstitutionally bars the President, private Plaintiffs, federal officials, and broad categories of associated persons from "referring to" the Settlement Agreement, or "using, offering, admitting, or citing any of its provisions" in any official proceeding. Doc.106 at 47. It is so sweeping that, theoretically, Movants risk violating it merely by appealing it, which underscores how violently the Sanctions Order violates the Constitution. When a court sanctions parties for advancing a legal position and then forbids the speech necessary to challenge that sanction, your very legal system is in danger.

The Sanctions Order is a content-based prior restraint subject to a "heavy presumption" of invalidity. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 70 (1963). Yet, the court here did not make First Amendment findings, identify great and certain harm, or consider a narrower remedy. *See CBS, Inc. v. Davis*, 510 U.S. 1315, 1317 (1994) (Blackmun, J., in chambers). The court also admitted that the Settlement Agreement's validity and enforceability were "not before" it, Doc.106 at 47 n.63, yet it purported to dictate what parties may say about the Settlement Agreement in other tribunals. *See BE&K Constr. Co. v. NLRB*, 536 U.S. 516, 524-25, 532-33 (2002). That is reversible error at least twice over.

Rule 11 also forecloses the injunction. Sanctions must be "limited to what suffices to deter repetition" of the identified misconduct. Fed. R. Civ. P. 11(c)(4). The alleged violation concerned filing the Complaint; this injunction unlawfully attempts to regulate future speech about a later agreement, in unrelated proceedings, by persons never found to have done anything wrong. The Sanctions Order, including the injunction, cannot stand.

II. The Movants Are Suffering Irreparable Harm Right Now.

The Sanctions Order is inflicting constitutional and professional injuries that no later reversal can repair. A stay will mitigate this damage. First, the prior restraint clearly supports a stay because "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Mahmoud* *v. Taylor*, 606 U.S. 522, 569 (2025) (internal quotation marks omitted). The Sanctions Order wrongly restricts the sitting President, the Government, private parties, and counsel from speaking in official proceedings about a matter of obvious public concern during an important period of public debate. Doc.106 at 47. These First Amendment injuries alone require a stay.

Second, the professional sanctions on the Attorneys inflict equally irreparable harm because the court's findings carry an immediate judicial imprimatur. Mr. Brito was referred to disciplinary authorities, tarnishing his reputation, and imposing career-altering consequences no later reversal can fully undo. *See Kleiner v. First Nat'l Bank of Atlanta*, 751 F.2d 1193, 1200 n.14 (11th Cir. 1985) (disciplinary action "portends adverse effects upon counsel's careers and public image"). A stay would suspend the force of those findings and prevent the harm from compounding during appellate review. In addition, the separate one-year *pro hac vice* ban against Mr. Epstein may run its full course before appellate review concludes, making reversal hollow without a stay. Doc.106 at 47.

A stay is warranted to prevent the continuation of irreparable harm. The gag order suppresses protected speech and petitioning *now*. The *pro hac vice* ban restricts counsel's practice *now*. The bar referral inflicts professional stigma and collateral consequences *now*. The fee proceeding is derivative of and intertwined with the wrongful Sanctions Order. Every day the Sanctions Order remains operative expands its dangerous chilling effect on lawyers asked to advocate disputed or politically charged positions.

III. The Public Interest Supports a Stay of the Sanctions Order and Related Proceedings.

The public interest strongly favors suspending the Sanctions Order because it punishes legal advocacy, suppresses speech, improperly disciplines counsel without due process, and restricts Plaintiffs and the Government in future official proceedings. A stay will preserve meaningful appellate review and prevent irreversible harm while this Court considers the appeal.

First, the Sanctions Order threatens the legal profession by turning good-faith advocacy into a disciplinary risk. *Sua sponte* sanctions imposed without notice, admissible evidence, or individualized findings threaten lawyers with the possibility that politically charged arguments exposes them to punishment whenever a court disagrees. The Sanctions Order does nothing to advance the law or to articulate ethical principles for the bar. It is, instead, a rebuke of well-researched, remedial federal litigation—issued because the court disagreed with the theory and its proponents. That threat extends far beyond Movants; it chills advocacy, weakens adversarial testing, and stunts the development of the law. *See Buckler*, 634 F. App'x at 697. A stay prevents that chilling effect from taking root, while this Court reviews and likely reverses the Sanctions Order.

Second, the injunction categorically forbids Movants from even "referring to" the Settlement Agreement, and separately bars any use of its provisions in official proceedings. Doc.106 at 47. That gag order wrongly silences the sitting President, the Government, private parties, and counsel on a matter of obvious public concern at a politically consequential moment—and denies the public the right to hear their views. *See Capital Cities*, 463 U.S. at 1304. The right to petition is "one of the most precious of the liberties safeguarded by the Bill of Rights." *Int'l Brotherhood of Teamsters Local 947 v. NLRB*, 66 F.4th 1294, 1306 (11th Cir. 2023). The decision below unlawfully suppresses public debate, constrains government advocacy, and dictates what future tribunals may hear.

Third, the public has a fundamental interest in sanctions imposed through fair, careful, and neutral procedures. Due process preserves "both the appearance and reality of fairness," and the public conviction "that justice has been done." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980). The proceedings here delivered the opposite: undisclosed theories, baseless accusations of bad faith, and career-altering sanctions—rushed out just two days before then-Acting Attorney General Blanche's confirmation hearing, in an opinion littered with obvious legal, factual, and technical errors. The timing—which some have regarded as "suspicious,"[3] coupled with the opinion's unusual error rate—risks "undermining the public's confidence in the judicial process." *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 864 (1988). The public interest in impartial justice strongly favors a stay while this Court carefully considers the court's errors.

Finally, the stay should extend to the derivative fee proceedings. This Court has pendent appellate jurisdiction over the fee entitlement issue, which is "inextricably intertwined" with the appealable and erroneous Sanctions Order. *See Tillis v. Brown*, 12 F.4th 1291, 1297 (11th Cir. 2021). Here, any fee award rises or falls with the Sanctions Order, and litigating the amount while this Court reviews the predicate, erroneous bad-faith finding would be wasteful.

The public interest decidedly favors a stay of all further proceedings in the district court pending review and reversal by this Court.

CONCLUSION

For the foregoing reasons, Appellants respectfully request that this Court grant a stay of all proceedings pending appeal.

[3] Michael A. Fragoso, *Blanche, Cornyn, and the Weaponization Fund*, National Review (July 22, 2026), https://www.nationalreview.com/bench-memos/blanche-cornyn-and-the-weaponization-fund/.

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Respectfully submitted,

/s/ Christopher G. Oprison
Christopher G. Oprison
Tal Aburos
DLA PIPER LLP (US)
200 South Biscayne Blvd., Suite 2500
Miami, FL 33131
Telephone: (305) 423-8522
chris.oprison@dlapiper.com
tal.aburos@dlapiper.com

Rachel A.H. Horton
DLA Piper LLP (US)
1650 Market St., Suite 5000
Philadelphia, PA 19103
Telephone: (215) 656-3300
rachel.horton@dlapiper.com

Josh Halpern
JH Legal PLLC
1100 H Street NW, Suite 840
Washington, DC 20005
Telephone: (610) 405-5531
jhalpern@jhlegalpllc.com

Counsel for Appellants President Donald J. Trump, Donald J. Trump Jr., Eric Trump, The Trump Organization, LLC, Alejandro Brito, and Daniel Epstein

CERTIFICATE OF COMPLIANCE WITH RULE 32(a)

I hereby certify, on this 12th day of August 2026, that this motion complies with the Type-Volume Limitation, Typeface Requirements, and Type Style Requirements:

1. This motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f) and Eleventh Circuit Rule 32-4, this motion contains 5,200 words.

2. This motion complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft 365 in 14-point Times New Roman.

/s/ Christopher G. Oprison
Christopher G. Oprison

August 12, 2026