NO. 25A312

# In the Supreme Court of the United States

DONALD J. TRUMP,
President of the United States, et al.,
*Applicants,*

– v. –

LISA D. COOK,
*Respondent.*

On Application for a Stay of the Injunction Issued
by the United States District Court for the District of Columbia

**BRIEF OF COLORADO AND 22 STATES
AS AMICI CURIAE IN SUPPORT OF RESPONDENT**

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## INTEREST OF AMICI CURIAE

In 1935, Congress decided the president should only be allowed to dismiss Federal Reserve Board governors "for cause" and rejected a proposal that would have had the governors serve at the president's discretion. That decision has allowed the Board to focus on the mission Congress gave it: ensuring the long-term economic prosperity of the United States. And just as ordinary Americans have benefitted from the Board's efforts, so too have the States.

Amici here, the States of Colorado, Arizona, California, Connecticut, Delaware Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Rhode Island, Vermont, Washington, and Wisconsin and the District of Columbia thus have a strong interest in the Board's continued independence. The President's attempt to dismiss Governor Lisa Cook without due process over disputed allegations of mortgage improprieties and his request that this Court allow him to do so immediately by granting a stay threatens to undermine that independence. As explained below, granting the President's application will strip the Board of its independence, harm the Amici's economic stability, and undermine the rule of law.

## SUMMARY OF THE ARGUMENT

The President's request for a stay asks the Court to confirm that he has unchecked power over the Board despite what Congress intended when it thoughtfully created a governance structure that would promote this country's long-term economic success. Granting his request will undermine the Board's

independence. His arguments to the contrary are inconsistent with the rulings he asks this Court to issue.

If the President's application is granted, the States will likely suffer substantial harm from the Board's diminished independence. The resulting increased market uncertainty would increase the risk in the States' careful budgeting processes. And when inflation and unemployment increase, so too will the States' costs, forcing the States to make difficult choices about which services they can afford to provide their citizens.

Further, granting a stay of the injunction will erode the rule of law. On the merits, the President's arguments would give him the freedom to ignore Congress's intent while leaving the judicial branch powerless to intercede. And granting the stay on any other basis—even if this matter is ultimately decided in Governor Cook's favor—will still allow the President to subvert Congress's intent, regardless of whether his actions were lawful. That cannot be an appropriate outcome in a country governed by the rule of law.

## ARGUMENT

### I. The President's broad interpretation of his authority to remove a Board governor "for cause" is inconsistent with and threatens to undermine the Board's independence.

As the central bank of the United States, the Federal Reserve System (the "Federal Reserve") impacts everyone, from national and global financial markets relying on the financial stability of the United States, to everyday individuals seeking to take out a mortgage. These impacts flow from the Federal Reserve's five key

functions: (1) conducting the nation's monetary policy, (2) promoting the stability of the financial system, (3) promoting the safety and soundness of individual financial institutions, (4) fostering payment and settlement system safety and efficiency, and (5) promoting consumer protection and community development. *See* Fed. Rsrv. Sys., *The Fed Explained: What the Central Bank Does* 1 (2021), https://coag.gov/app/uploads/2025/10/the-fed-explained.pdf.

The Federal Reserve's governing body, the Board, has a statutory mandate to "promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates." 12 U.S.C. § 225a. To achieve these goals, however, Congress recognized that the Board needed some amount of independence so that its focus would be on the country's long-term financial stability instead of short-term political expedience. *See PHH Corp. v. CFPB*, 881 F.3d 75, 78 (D.C. Cir. 2018) (en banc) (explaining that the Federal Reserve's independence insulates it from political self-dealing and enables it to pursue the public interest in the nation's economic stability), *abrogated on other grounds by*, *Seila Law LLC v. CFPB*, 591 U.S. 197 (2020); Cook's Opp'n at 4; Former Treasury Sec'ys, Fed. Reserve Bd. Chairs & Gov'rs, Council of Econ. Advisers Chairs, & Economists Br. at 6 ("Former Sec'y's Br."). Among the measures Congress enacted to give the Board a measure of independence (and central to this matter) is Congress's determination that Board governors should only be removed from office by the president "for cause." 12 U.S.C. § 242; Gary Richardson & David W. Wilcox, *How Congress Designed the Federal Reserve to Be Independent of Presidential Control*, 39 J. of Econ. Perspectives 221, 225–28 (2025) (discussing the

House proposal where dismissal was at the president's discretion which both the Senate and House rejected in favor of the "for cause" standard).

For the Board to function as Congress intended, however, dismissals of governors for cause must require something more specific than an unreviewable determination left entirely to the president's discretion, as the President argues here. Appl. at 20. Otherwise, "for cause" becomes "for whatever reason the President decides," which is nothing more than termination at the President's discretion—an option Congress rejected. *See* Richardson & Wilcox, *supra*, at 225–28.

As Governor Cook and other amici argue, "for cause" has a particular meaning in the context of the Federal Reserve's statutes; a Board governor is entitled to due process before they are dismissed for cause; and a Board governor that the president purports to dismiss for cause may—in appropriate circumstances—obtain a preliminary injunction to maintain the status quo, as the district court found was appropriate here. Cook Opp'n at 16, 19–25; *see also* Borchers et al. Br. at 4–14 ("Professors' Br."); Shugerman's Br. at 2–17; Former Gov't Officials & Advisors Br. at 13–22 ("Former Gov't Officials' Br."). Without such protections, the Board would have no independence.

The President insists that the Federal Reserve's independence is not threatened here. Applicant's Reply at 13. His arguments undermine that assertion. Imagine, for example, that a president is dissatisfied with a Board governor for not voting to cut interest rates. Under the President's argument, he could scour everything that governor had ever done and dismiss them "for cause" with no notice

or opportunity to be heard for something as minor as failing to timely pay a parking ticket 20 years prior to joining the Board. And no court could review whether that was a sufficient cause for dismissal.

Further, the President would have this Court hold that the judiciary cannot examine whether the cited "cause" is actually a pretext for a policy-based dismissal even though the President concedes that a policy-based dismissal would not satisfy the for-cause requirement.[1] *Id.* at 14, 18 ("The government agrees that policy disagreement is not 'cause' for a Governor's removal."). Indeed, given that the President sees no role for the judiciary at all with respect to the dismissal of Board governors, he could invent a fictional infraction and dismiss a Board governor, and there would be no recourse.

Accepting the President's broad view of his authority and the limits he would place on the courts' exercise of theirs would render the "for cause" standard meaningless. Granting the stay would invite the President and his successors in office to conjure up any "cause"—real or not—to allow them to dismiss a Board governor who fails to conduct monetary policy according to their preferences. Doing so would undermine the Board's independence.

[1] The President's position suggests that his power is limited and that he could not dismiss a Board governor over policy disagreements. But that limitation is illusory, at best, because the President leaves no path by which a governor could enforce it.

## II. A compromised Board risks higher inflation, higher unemployment, and instability in the economy and financial markets, inflicting significant harm on the States.

As numerous experts have already addressed, a Board stripped of its independence will likely lead to inconsistent monetary policy, higher and more volatile long-term inflation, and swings in unemployment and the markets due to a lack of public trust. *See* Former Sec'y's Br. at 6–17; *see also* Neil H. Buchanan & Michael C. Dorf, *Don't End or Audit the Fed: Central Bank Independence in an Age of Austerity*, 102 Cornell L. Rev. 1, 20 (2016) (discussing the "reasonable balance" the Federal Reserve must keep between inflation and unemployment). These consequences of the Board's loss of independence will harm the States.

States can and do address fiscal challenges from higher inflation, unemployment, and market fluctuations when they arise. But those challenges generally come from an unexpected confluence of events leading to an economic downturn, like the end of the dot-com bubble or the subprime mortgage crisis. They typically do not—and should not—come about because a president decides to unlawfully disrupt the careful scheme Congress created for one of the pillars of the American economy. And that the States can and must respond to economic challenges does not mean this Court should increase the likelihood that they will need to do so when those increased risks are avoidable by enforcing Congress's design for the Federal Reserve.

Take, for example, the States' responsibility to be good stewards of their taxpayers' resources and the States' financial health as embodied in the balanced budget requirements that apply in nearly every State. *E.g.*, Colo. Const. art. X, § 16;

Minn. Const. art. XI, § 5; Nev. Const. art. 9, § 2(1); Or. Const. art. IX, § 2; D.C. Code § 1-204.42(a)(1); Mass. Gen. Laws ch. 29, §§ 1, 6E; Wash. Rev. Code § 43.88.055; *see also* Nat'l Ass'n of State Budget Officers, *Budget Processes in the States* 48, Table 9 (2021), https://coag.gov/app/uploads/2025/10/NASBO-2021-Budget-Processes-in-the-States.pdf ("NASBO Budget Report"). Every year (or two years, depending on the jurisdiction), States pass budgets intended to carry them through a specific fiscal period. *See FY 2026 State Budget Status*, Nat'l Conf. of State Legislatures (July 7, 2025), https://www.ncsl.org/fiscal/fy-2026-state-budget-status (on file with the Colorado Attorney General's Office).

Because these budgets are forward-looking, States necessarily create them based on predictions about future economic conditions, including inflation, unemployment, and general market conditions. *See, e.g.*, Haw. Rev. Stat. §§ 37-111, 112(a); Off. of Ill. Governor, Illinois State Budget Fiscal Year 2026 at 163–83 (2025), https://coag.gov/app/uploads/2025/10/Ill-Fiscal-Year-2026-Budget.pdf; N.Y. State Div. of the Budget, Your Family Is My Fight: FY2026 NYS Enacted Budget Financial Plan at 7–9 (2025), https://coag.gov/app/uploads/2025/10/NY-fy26fp.pdf (projecting and considering inflation and unemployment rates for 2026 budget); Or. Dep't of Admin. Srvs., Oregon Economic and Revenue Forecast at 2–9 (2025), https://coag.gov/app/uploads/2025/10/OEA-Forecast-0925.pdf. Each State then extrapolates its expected future revenue from that data and decides how best to use those funds to benefit its citizens, which requires considering the anticipated costs of the services the State wants to provide.

The volatility that the loss of the Federal Reserve's independence will inject into this country's economy will likely negatively impact the States' careful budgeting processes. Fundamental metrics on which those budgets rely—the rate of inflation and level of unemployment, for instance—will be more volatile, increasing the uncertainty regarding how much money a State will have to spend, how much the services a State provides will cost, and how a State will maintain its budget.[2] Further tying States' hands is that many of them generally cannot engage in the kind of deficit spending that occurs on the federal level. NASBO Budget Report at Table 9 (Under what Circumstances Can the State Carry Over a Deficit, and What Actions (if any) Are Required by Statute or Constitution to Address the Deficit in the Subsequent Budget Cycle?), Table 10 (Debt Limits).

The harms the States face do not end with the passage of their budgets. In general, a low and stable inflation rate allows individuals "to make sound decisions regarding saving, borrowing, and investment." *See What Is Inflation, and How Does the Federal Reserve Evaluate Changes in the Rate of Inflation?*, Bd. of Governors of the Fed. Rsrv. Sys. (Aug. 22, 2025), https://www.federalreserve.gov/faqs/economy_14419.htm (on file with the Colorado Attorney General's Office) ("When households and businesses can reasonably expect inflation to remain low and stable, they are

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[2] Already this year, some States have faced challenges in passing budgets due to "slowing revenues, rising spending pressures, and big budget gaps," as well as looming questions "about the fiscal impact of potential federal policy changes." *See* Liz Farmer, *States Tread Carefully With Budgets as Gaps and Revenue Uncertainty Loom*, Pew Rsch. Ctr. (July 10, 2025), https://www.pew.org/en/research-and-analysis/articles/2025/07/10/states-tread-carefully-with-budgets-as-gaps-and-revenue-uncertainty-loom (on file with the Colorado Attorney General's Office).

able to make sound decisions regarding saving, borrowing, and investment, which contribute to a well-functioning economy and the well-being of all Americans."). Conversely, higher inflation results in higher costs for everyone: higher costs of goods, higher interest rates for borrowing, and a higher cost of living. States are not immune from these pressures and will be harmed by them as their costs increase. *See* Justin Theal & Sheanna Gomes, *Elevated Inflation Raises Risk of Fiscal Stress for States*, Pew Rsch. Ctr. (Jan. 11, 2023), https://www.pew.org/en/research-and-analysis/articles/2023/01/11/elevated-inflation-raises-risk-of-fiscal-stress-for-states (on file with the Colorado Attorney General's Office) ("[R]ising costs are driving up spending on payroll, infrastructure, and other major areas of state budgets. They also are disrupting tax revenue trends through slowing consumer demand, rising wages, and increased stock market volatility.").

Consider one small example: a construction project to build a new highway that will take three years to complete. A State uses its best estimates for what its materials and labor costs will be during the life of the project, including a contingency amount for unexpected events when deciding how much money to appropriate. In year three, however, as the project nears completion, inflation spikes, the public's loss of faith in the Federal Reserve renders it unable to bring inflation under control, and material costs increase far beyond the State's estimates and its remaining project budget. At that point, the State has a choice to make: (1) complete the project by taking funds from other spending priorities, (2) complete the project by taking funds

from the State's reserve and weaken the State's financial stability, or (3) abandon the project as it nears completion. In short, there are no good options.

And the States will be required to pick among those options over and over and over again because volatile and increasing inflation will not be limited to a single project or even a single type of service. The inflationary impacts will be felt throughout the wide breadth of services the States provide, chipping away at the funds they have to spend and forcing hard decisions about which services to provide, which services to pare back, and which services to eliminate.

That assumes, of course, the States have that level of flexibility. For example, some States may be constitutionally required to provide a service, like free K–12 education. *See, e.g.*, Colo. Const. art. IX, § 2. And States may have other obligations that they cannot abandon without disastrous financial consequences, like failing to pay their bond obligations or pension benefits. These restrictions only further exacerbate the problems wrought by the economic uncertainty the President's stay application portends.

Beyond inflation, economic weakness in the form of increased unemployment also poses challenges for the States. If unemployment increases, there will be greater demand for certain services the States help fund. Medicaid, for example, is partly funded by the States and helps people with limited income afford medical care. It is also one of the States' most substantial budget items. Cong. Rsch. Serv., IF11686, *Impact of the Recession on Medicaid* (2020) (noting that in fiscal year 2019, Medicaid accounted for an estimated 28.9% of total state spending and was the second-largest

component of state general fund spending); Justin Theal & Riley Judd, *The Share of State Budgets Spent on Medicaid Posts Largest Annual Increase in 20 Years*, Pew Rsch. Ctr. (June 16, 2025), https://www.pew.org/en/research-and-analysis/articles/2025/06/16/the-share-of-state-budgets-spent-on-medicaid-posts-largest-annual-increase-in-20-years (on file with the Colorado Attorney General's Office) (increase in Medicaid costs for states); *see, e.g.*, Off. of Colo. Governor, FY 2025–26 Budget Request at 3 (2024), https://coag.gov/app/uploads/2025/10/Budget-Letter-FY-2025-26.pdf (Medicaid accounted for 36 percent of Colorado's total operating budget in the 2024–25 fiscal year). And when unemployment increases, more people enroll in the program, which drives up the States' costs.[3]

Due to recent changes in federal law that shift more of its program costs to the States, the Supplemental Nutrition Assistance Program ("SNAP") now poses the same risks to State budgets as Medicaid. Lauren Bauer & Diane Whitmore Schanzenbach, *SNAP Cuts in the One Big Beautiful Bill Act Will Significantly Impair Recession Response*, Brookings Inst. (Oct. 8, 2025), https://www.brookings.edu/articles/snap-cuts-in-the-one-big-beautiful-bill-act-will-significantly-impair-recession-response/ (on file with the Colorado Attorney General's

[3] While States may have options to reduce some of these cost increases, they all require other trade-offs, such as reducing benefits or reducing provider reimbursements (and sometimes imperiling the viability of rural healthcare). *See* Colo. FY 2025-26 Budget Request at 15 ("Data also show an increase in the amount of medical services being used by [Colorado] Medicaid enrollees, consistent with trends across the country. This increase in utilization puts added pressure on the state budget, and it is not clear whether these trends are temporary or represent a new normal.").

Office) (noting that changes in the One Big Beautiful Bill Act will shift some SNAP costs to States and likely lead to reduced overall SNAP benefits during economic downturns). In times of increased unemployment, more people participate in SNAP, which will increase what States must pay if they want to help their citizens afford to put food on the table.

There is no reason to inflict on the States the harms that will likely result from undermining the Board's independence as the President seeks to do. Congress structured the Board to reduce the risks of market volatility. This Court should uphold that structure and deny the stay application.

## III. Granting a stay of the preliminary injunction would harm the States by making judicial checks on the President's authority ineffective, undermining the rule of law.

Staying the preliminary injunction would effectively mean that the President can remove Governor Cook immediately and without due process. To be sure, this is exactly what the President and certain amici argue—that Governor Cook is not entitled to due process, that the President has unreviewable discretion to remove a Board governor "for cause," and that Governor Cook is not entitled to equitable relief.[4]

[4] Florida and its amici also argue that Governor Cook made a procedural misstep, that she should have filed a *quo warranto* action under the D.C. Code. *See* Florida's Br. at 2–6. That argument has no merit. *Quo warranto* is the "prerogative writ by which the government can call upon any person to show by what warrant he holds a public office." *Newman v. U.S. ex rel. Frizzell*, 238 U.S. 537, 545–46 (1915); *see also Wallace v. Anderson*, 18 U.S. (5 Wheat.) 291, 292 (1820). It is thus a claim brought "in the name of the United States" against someone who "usurps, intrudes into, or unlawfully holds or exercises . . . a public office of the United States." D.C. Code § 16-3501; *see also Johnson v. Manhattan Ry. Co.*, 289 U.S. 479, 502 (1933) ("[q]uo warranto is addressed to preventing a continued exercise of authority unlawfully

What they seek is nothing less than presidential authority free from the law's constraints because, under their conception of the law, there is no authority that can check whether a president has complied with the statute's "for cause" requirement.

But as members of this Court have recognized, the Court has "long resisted any effort by the other branches to 'usurp a court's power to interpret and apply the law to the circumstances before it.'" *Kisor v. Wilkie*, 588 U.S. 558, 614 (2019) (Gorsuch, J., concurring) (quoting *Bank Markazi v. Peterson*, 578 U.S. 212, 225 (2016)) (internal quotation marks omitted). Indeed, to be a "government of laws . . . every act of government may be challenged by an appeal to law, as finally pronounced by this Court." *United States v. United Mine Workers*, 330 U.S. 258, 308 (1947) (Frankfurter, J., concurring) (internal quotation marks omitted). The President's arguments challenge these foundational concepts of our Constitution and contradict centuries of this Court's precedent. *See Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 167 (1803) (whether an officer "has a legal right" to an office is "a question examinable in a court"); Cook Opp'n at 14–19, 30–36; *see also* Professors' Br. at 4–14; Shugerman's Br. at 2–17; Former Gov't Officials' Br. at 13–22; *see also Wiener v.*

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asserted, not to a correction of what already has been done."); *U.S. ex rel. Noel v. Carmody*, 148 F.2d 684, 685 (D.C. Cir. 1945) (acknowledging that the D.C. Code on quo warranto "leaves the former common-law principles governing the issuance of writs of quo warranto in full force"). Put differently, if the United States believes Governor Cook is unlawfully exercising her office, its remedy is to bring a *quo warranto* action. But Governor Cook could not bring a quo warranto action because she has not been replaced—there is no "usurper" or "intruder." And there is no evidence that Congress, by adopting this historical prerogative writ of the government, sought to preclude other traditional remedies.

*United States*, 357 U.S. 349, 356 (1958); *Humphrey's Ex'r v. United States*, 295 U.S. 602, 632 (1935).

Moreover, it makes little difference that the question before this Court is whether to grant a stay application rather than a final decision on the merits. First, accepting the President's legal arguments regarding his authority as reason to grant the application will effectively act as a final determination on the merits.

Second, granting the application on other grounds will demonstrate that there are no effective checks on the President's authority with respect to Board governors because even if challenged, the President is likely to prevail in the interim. And by the time the case is finally resolved on the merits and the parties' appeals are exhausted, any check on the President's power that the judiciary imposes will result in a pyrrhic victory at best: the President will have achieved his ends by proposing a replacement for Governor Cook who favors the President's preferred policies, thereby subverting Congress's intent regardless of whether the means he used were lawful. Such a result would make a mockery of the rule of law.

## CONCLUSION

The Court should deny the President's application to stay the district court's preliminary injunction.

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October 29, 2025