

## Statement of Leaders of the Bar in Support of the Rule of Law

February 28, 2025

We write as members of the bar—as law school deans, law professors, law firm partners, former judges, and others charged with administration of the law—who believe deeply in the rule of law and the crucial role that it plays in safeguarding our democracy.

During the first weeks of the administration of President Trump, there have been a myriad of executive orders. Some are clearly lawful; some are of questionable legality; and some are undoubtedly unconstitutional. Our focus, though, is not on the desirability or even the legality of these orders. Rather, we write to emphasize that it is the role of the federal courts to decide the legality of a government action and to affirm that all government officials, including the President, must obey judicial decisions.

Presidents from the early days of our Republic have pushed the boundaries of their authority. But virtually without exception, presidents have abided by court orders, even ones with which they strongly disagree.

There are disturbing signs that the administration of President Trump will defy court orders. On several occasions, the administration has proclaimed that the President is not required to comply with court decisions. Even worse, on other occasions, members of the Trump administration have openly defied judicial orders.

Our constitutional structure contemplates that the judiciary will be the last bulwark against executive tyranny. If there is any cornerstone of American constitutional democracy, it is that we are a nation of laws, not of people. Chief Justice John Marshall famously stated in *Marbury v. Madison* (1803) that it “is emphatically the province and duty of the judicial department to say what the law is.” More recently, Chief Justice John Roberts explained: “Our political system and economic strength depend on the rule of law. The rule of law depends, in turn, on Article III of the Constitution and judges and justices appointed and confirmed under it.....[V]iolence, intimidation, and defiance directed at judges because of their work undermine our Republic, and are wholly unacceptable.”

This administration’s suggestion that “judges aren’t allowed to control the executive’s legitimate power” is fundamentally incorrect. As *Marbury v. Madison* held long ago, the Constitution gives judges the authority to decide whether the executive’s exercise of power is legitimate. It is not the executive’s prerogative to decide for himself what is the extent of that “legitimate power.” Nothing is more tyrannical than allowing the executive to be the judge of his own powers, insisting that his authority must be conclusive upon the other branches of government.

President Trump has asserted an unprecedented degree of authority over vast areas of law and government actions. In response to challenges across the nation, federal courts may uphold some of the President’s actions of these early days, but they also will inevitably find

many of his orders and actions to be unlawful or unconstitutional. The President is required to accept those judgments. Our constitutional democracy depends on it.

We call on the President and all in the executive branch to abide by court orders. We urge Congress to play its role under the Constitution in checking abuses of presidential power. And we ask that the courts play their fundamental role in enforcing the Constitution of the United States.

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