

Historians' Amicus Brief in *Trump v. Slaughter*

Professors Jonathan Gienapp and Andrea Scoseria Katz, represented by Kaplan Martin LLP, filed a brief challenging the removal of a commissioner of the Federal Trade Commission.



Jonathan Gienapp

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The Courts

This case arises from the Trump administration's attempt to remove Commissioners Rebecca Kelly Slaughter and Alvaro Bedoya from the Federal Trade Commission.

Slaughter and Bedoya both challenged their removals, but Bedoya ultimately resigned from his position. On July 17, 2025, the federal district court in Washington,

D.C., ruled in Slaughter's favor and ordered her reinstatement. The Trump administration appealed the decision to the federal court of appeals for the D.C. Circuit and requested an order that would allow Slaughter to be removed from her position while the case proceeds. The D.C. Circuit denied that request on September 2, 2025, after which

the administration filed an emergency application with the U.S. Supreme Court. The Supreme Court issued a temporary order granting the administration's request to remove Slaughter while the case proceeds, followed by an order "staying," or pausing, the district court's reinstatement order until the Court issues its final judgment in the case. At that time, the Court also granted certiorari in the case and requested briefing from the parties.

Historian and member of the Brennan Center's Historians Council on the Constitution Jonathan Gienapp filed an amicus brief in support of Slaughter with Washington University School of Law Associate

Professor Andrea Scoseria Katz. The brief draws on a wealth of recent historical scholarship — including originalist scholarship — to counter arguments that the president possessed unfettered removal power in the early American republic. Rather, Gienapp and Katz explain that limits on the president's removal power are firmly rooted in traditions stretching back to the nation's founding. The brief further demonstrates that presidential removal was not treated as a settled feature of executive power under the Constitution, but instead as a management tool deployed by Congress to ensure an honest and effective administration.