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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

JOSEPH KIRCHNER,
Plaintiff,

Case No. _____

vs.

**PETITION IN EQUITY FOR
DECLARATORY JUDGMENT
AND INJUNCTIVE RELIEF**

ALEXANDER ACOSTA, et al.,
Defendants.

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<i>Burns v. Reed</i>	500 U.S. 478, 492-96 (1991)
<i>Clinton v. City of New York</i>	524 U.S. 417, 421-25 (1998)
<i>Crampton v. Zabriskie</i>	101 U.S. 601, 609 (1879)
<i>Ex parte Garland</i>	71 U.S. (4 Wall.) 333, 380 (1866)
<i>Ex parte Young</i>	209 U.S. 123 (1908)
<i>Fairchild v. Hughes</i>	258 U.S. 126 (1922)
<i>Federal Land Bank v. Bismarck Lumber Co.</i>	314 U.S. 95, 100 (1941)
<i>Frothingham v. Mellon</i>	262 U.S. 447 (1923)
<i>Grayned v. City of Rockford</i>	408 U.S. 104, 108-09 (1972)
<i>Gregory v. Ashcroft</i>	501 U.S. 452, 458 (1991)
<i>Holmberg v. Armbrrecht</i>	327 U.S. 392, 397 (1946)

<i>Imbler v. Pachtman</i>	424 U.S. 409, 430-31 (1976)
<i>INS v. Chadha</i>	462 U.S. 919, 935-40 (1983)
<i>Interstate Circuit v. United States</i>	306 U.S. 208, 226-27 (1939)
<i>Kastigar v. United States</i>	406 U.S. 441, 453 (1972)
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<i>Merck & Co. v. Reynolds</i>	559 U.S. 633, 644-45 (2010)
<i>National Railroad Passenger Corp. v. Morgan</i>	536 U.S. 101, 113 (2002)
<i>Norton v. Shelby County</i>	118 U.S. 425, 442 (1886)
<i>Petrella v. Metro-Goldwyn-Mayer, Inc.</i>	572 U.S. 663 (2014)
<i>Powell v. McCormack</i>	395 U.S. 486, 512-16 (1969)
<i>Schick v. Reed</i>	419 U.S. 256, 266-67 (1974)
<i>United States v. Jeffrey Epstein</i>	No. 19-CR-490 (S.D.N.Y. 2019)
<i>United States v. Klein</i>	80 U.S. (13 Wall.) 128, 147-48 (1871)
<i>United States v. Myers</i>	692 F.2d 823, 835-36 (2d Cir. 1982)
<i>Youngstown Sheet & Tube Co. v. Sawyer</i>	343 U.S. 579, 635-38 (1952) (Jackson, J., concurring)

Constitutional Provisions

Provision	Description
U.S. Const. art. I, § 6, cl. 2	Incompatibility Clause
U.S. Const. art. I, § 7	Presentment Clause
U.S. Const. art. II, § 2, cl. 1	Pardon Power
U.S. Const. art. II, § 3	Take Care Clause
U.S. Const. art. III, § 2	Judicial Power
U.S. Const. amend. V	Due Process; Equal Protection Component
U.S. Const. amend. XIV	Due Process; Equal Protection

Statutes

Statute	Description
18 U.S.C. § 1591	Sex Trafficking
18 U.S.C. § 1746	Unsworn Declarations
18 U.S.C. §§ 2421-2424	Mann Act
18 U.S.C. § 3771	Crime Victims' Rights Act
18 U.S.C. §§ 6001-6005	Witness Immunity (Use Immunity)
28 U.S.C. § 547	Duties of U.S. Attorneys
28 U.S.C. § 1331	Federal Question Jurisdiction
28 U.S.C. § 1343(a)(3), (4)	Civil Rights Jurisdiction
28 U.S.C. § 1367	Supplemental Jurisdiction
28 U.S.C. § 1391(b)	Venue
28 U.S.C. § 1391(e)(1)	Venue for Actions Against Federal Officers
28 U.S.C. § 2072(b)	Rules Enabling Act
28 U.S.C. § 2201	Declaratory Judgment Act
42 U.S.C. § 1985(2)	Conspiracy to Obstruct Justice

1

Rules

Rule	Description
Fed. R. Evid. 201(b)(2)	Judicial Notice
Fed. R. Evid. 607	Witness Credibility
Fed. R. Evid. 901	Authentication

2

1 **I. Jurisdiction and Venue**

2 **A. Subject Matter Jurisdiction**

3 1. This Court has subject matter jurisdiction pursuant to:

4 a. **28 U.S.C. § 1331** (federal question jurisdiction) for constitutional violations under
5 Article II and the Fifth Amendment;

6 b. **28 U.S.C. § 1343(a)(3) and (4)** (civil rights jurisdiction) for violations of
7 constitutional rights under color of federal law, and **42 U.S.C. § 1985(2)** (conspiracy to
8 obstruct justice);

9 c. **28 U.S.C. § 2201** (Declaratory Judgment Act) for declaratory relief regarding ultra
10 vires government action exceeding constitutional authority;

11 d. **28 U.S.C. § 1367** (supplemental jurisdiction) over related constitutional and
12 statutory claims arising from common nucleus of operative facts.

13 **B. Personal Jurisdiction**

14 2. This Court has personal jurisdiction over Defendants as follows:

15 a. **Defendant Acosta (Individual Capacity):** This Court has personal jurisdiction over
16 Defendant Acosta because he executed the challenged ultra vires immunity grants
17 while serving as United States Attorney for this District, the constitutional violations
18 arose from his official conduct within this District, and upon information and belief,
19 Defendant Acosta currently resides and conducts business within this District as a
20 member of the Board of Directors of Newsmax, Inc., a corporation headquartered in
21 Boca Raton, Florida.

22 b. **Defendant Attorney General of the United States (Official Capacity):** This Court
23 has personal jurisdiction over the Attorney General in official capacity because official
24 capacity suits are effectively suits against the United States, which is amenable to suit
25 in any federal district court, and because the challenged conduct—continued
26 enforcement of the 2008 immunity grants—occurs within this District through the
27 United States Attorney's Office for the Southern District of Florida.

1 **C. Venue**

2 3. Venue is proper in the Southern District of Florida pursuant to:

3 a. **28 U.S.C. § 1391(e)(1)** (venue for actions against federal officers), which permits
4 venue in any judicial district where a defendant resides, a substantial part of the events
5 occurred, or the plaintiff resides if no real property is involved; and

6 b. **28 U.S.C. § 1391(b)(2)**, because a substantial part of the events giving rise to the
7 claim occurred in this District, including:

- 8 • The ultra vires immunity grants were negotiated and executed in this District
- 9 • Defendant Acosta served as United States Attorney for this District when the
10 constitutional violations occurred
- 11 • Criminal investigations and prosecutions affected by the immunity grants
12 occurred in this District
- 13 • The ongoing enforcement of constitutionally invalid immunity continues to
14 emanate from this District through the United States Attorney's Office

15 **II. INTRODUCTION AND SUMMARY**

16 4. This Petition in Equity challenges the 2008 Jeffrey Epstein non-prosecution
17 agreement's grant of immunity to "unnamed co-conspirators" as ultra vires government
18 action that exceeded all constitutional limits on prosecutorial authority. The immunity
19 grants surpassed even presidential pardon power, violating Article II constitutional
20 hierarchy, separation of powers, due process, and equal protection through systematic
21 wealth-based criminal immunity that exists nowhere in American constitutional law.

22 5. The Constitution establishes clear hierarchy: Article II, Section 2 grants
23 presidents the maximum immunity power through pardons. Established law prohibits
24 presidents from pardoning unnamed persons for unspecified crimes. Prosecutors
25 exercising derivative authority cannot exceed presidential power. The 2008 immunity
26 grants to "unnamed co-conspirators" exceeded presidential authority, making them
27 ultra vires and void ab initio.

28 6. This action seeks equitable relief—declaratory judgment establishing
29 constitutional limits on prosecutorial immunity authority and injunction preventing

1 continued enforcement of void immunity grants. Plaintiff does not seek legal remedies
2 (damages) for personal injury. By removing the unconstitutional barrier (the NPA),
3 Plaintiff enables victims to pursue their own legal remedies if they choose, without
4 forcing them to expose themselves publicly to challenge the structural violation.

5 7. This constitutional challenge demonstrates why Article III's equity jurisdiction
6 matters: any citizen can seek structural relief for constitutional violations without
7 forcing vulnerable populations to expose themselves to re-traumatization, privacy
8 invasion, or retaliation risks. Epstein's victims, many of whom were children when
9 victimized, should not bear the burden of challenging ultra vires immunity grants
10 through public litigation that requires reliving trauma, exposing identities, and facing
11 potential retaliation from powerful individuals who received governmental protection.
12 Equity jurisdiction enables citizens to challenge structural constitutional violations
13 affecting everyone while preserving victim privacy and dignity.

14 8. Traditional standing doctrine creates a cruel dilemma: victims must either
15 publicly expose themselves, relive trauma, risk retaliation, and bear litigation costs to
16 challenge constitutional violations, or remain private and safe while constitutional
17 violations remain unremedied. Article III's equity jurisdiction eliminates this
18 impossible choice by enabling any citizen to challenge structural violations while
19 victims control whether to participate. If Plaintiff succeeds in establishing that the
20 2008 immunity grants exceeded constitutional authority, victims can then pursue
21 individual legal remedies based on established precedent with collateral estoppel effect,
22 or remain private knowing the structural violation has been remedied regardless of their
23 participation.

24 9. The presidential pardon power operates within established limits requiring
25 identified persons, specific offenses, and respect for separation of powers principles
26 established in *Ex parte Garland*, 71 U.S. (4 Wall.) 333 (1866) and *United States v.*
27 *Klein*, 80 U.S. (13 Wall.) 128 (1871). Presidents cannot issue blanket pardons to
28 unnamed persons for unspecified crimes, nor systematically prevent enforcement of
29 federal statutory schemes through pardon authority. Prosecutorial immunity power,
30 derived from Article II prosecutorial discretion, necessarily operates within narrower
31 constitutional limits than presidential pardon authority and cannot grant blanket

1 immunity to unnamed co-conspirators for unidentified crimes that would exceed what
2 presidents could accomplish constitutionally through explicit pardon power.

3 **10.** The 2008 Epstein immunity grants to "unnamed co-conspirators" for
4 unidentified crimes exceeded constitutional pardon power limitations, proving the
5 grants violated constitutional hierarchy and federal statutory mandates through ultra
6 vires government action beyond any constitutional or statutory authority. This action
7 challenges wealth-based criminal immunity that creates two entirely different justice
8 systems in America: ordinary citizens face full criminal prosecution for minimal
9 evidence of criminal association with no immunity consideration regardless of
10 circumstances, while wealthy criminal associates receive systematic immunity through
11 ultra vires governmental action and protection exceeding even presidential pardon
12 authority.

13 **11.** Despite extensive litigation surrounding the 2008 plea deal under the Crime
14 Victims' Rights Act, research reveals no party has ever challenged whether federal
15 prosecutors possessed constitutional authority to grant immunity to unlimited unnamed
16 co-conspirators. This represents unexplored constitutional territory with substantial
17 precedential foundation for ultra vires challenges, requiring judicial determination of
18 fundamental constitutional limits on prosecutorial immunity authority that protects
19 equal justice under law and prevents arbitrary government power.

20 **12.** The 2019 federal indictment's identification of "others known and unknown"
21 as criminal co-conspirators provides definitive mathematical proof that the 2008
22 immunity grants were constitutionally invalid. Federal prosecutors cannot
23 simultaneously claim no federal crimes by co-conspirators in 2008 as immunity
24 justification and prove federal crimes by "others known and unknown" in 2019
25 prosecution evidence. Both positions cannot be constitutionally true, establishing
26 constitutional fraud through ultra vires government action exceeding prosecutorial
27 authority.

28 **13.** Defendant Acosta's immunity grants created constitutionally impermissible
29 two-tiered justice system where wealthy individuals associated with criminal
30 enterprises receive governmental immunity protection while ordinary citizens face full
31 criminal prosecution for identical evidence types, violating Equal Protection Clause

1 through arbitrary wealth-based classifications that have no rational basis in
2 constitutional law and create systematic privilege that ordinary defendants never
3 receive regardless of circumstances.

4 **III. NATURE OF RELIEF SOUGHT**

5 **14. Equitable Relief Only.** Plaintiff seeks exclusively equitable relief:
6 declaratory judgment that the 2008 immunity grants exceeded constitutional authority
7 and are void, and injunctive relief preventing continued enforcement of those grants.
8 Plaintiff does not seek legal remedies (damages) for any personal injury.

9 **15. Waiver of Personal Damages.** Plaintiff explicitly waives any personal
10 damages claims Plaintiff may possess arising from Defendants' ultra vires conduct.
11 This Petition seeks to remove an unconstitutional barrier—not to recover compensation
12 for Plaintiff personally.

13 **16. Preservation of Victims' Claims.** This Petition expressly preserves claims
14 for all individuals with particularized harm from Defendants' constitutional violations,
15 including crime victims denied justice through ultra vires immunity grants. Once this
16 Court declares the NPA void, victims may pursue their own legal remedies with
17 collateral estoppel effect—if they choose. Plaintiff does not purport to represent
18 victims or seek relief on their behalf; Plaintiff seeks only to remove the
19 unconstitutional barrier that currently prevents them from seeking justice.

20 **17. Plaintiff's Purpose.** Plaintiff proceeds as a citizen-petitioner in equity to
21 show that when citizens see constitutional violations, they can do something about
22 them. The structural relief sought benefits all citizens by restoring constitutional limits
23 on prosecutorial authority and ensuring equal justice under law.

24 **IV. STANDING**

25 **A. Article III Equity Jurisdiction Foundation**

26 **18. Constitutional Text Supports Equitable Standing for Structural Relief.**
27 Article III, Section 2 extends the judicial power to "all Cases, in Law and Equity,

1 arising under this Constitution." This language preserves two distinct jurisdictional
2 categories with distinct characters: "Law" providing particularized remedies (damages)
3 for individual harm, and "Equity" providing non-particularized remedies (declarations,
4 injunctions) for structural wrongs. The Framers preserved both categories because
5 each serves an independent constitutional function—legal jurisdiction remediates
6 individual injuries through compensation, while equity jurisdiction corrects structural
7 violations through declarations and injunctions that benefit all persons equally. *See*
8 MEMO A, Section V (historical distinction between Courts of Law and Courts of
9 Equity as separate institutions with distinct constitutional characters).

10 **19. This Complaint Invokes Article III Equity Jurisdiction.** Plaintiff seeks
11 exclusively equitable relief—declaratory judgment that the 2008 immunity grants
12 exceeded constitutional authority, and injunctive relief preventing continued
13 enforcement of constitutionally void grants. These remedies are non-particularized by
14 nature: the declaration that prosecutorial immunity grants exceeded presidential pardon
15 power does not become more or less true depending on whether the person seeking it
16 suffered individual harm from those grants. The injunction against continued
17 enforcement of ultra vires immunity benefits every citizen's interest in constitutional
18 governance operating within enumerated limits—not one specific plaintiff's individual
19 interest in compensation.

20 **20. Requiring Particularized Injury for This Equitable Claim Would**
21 **Contradict the Character of the Relief Sought.** To condition non-particularized
22 relief upon a showing of particularized harm requires Plaintiff to demonstrate
23 something about himself that is irrelevant to the character of the remedy. The
24 constitutional question—whether federal prosecutors possess authority to grant
25 immunity to unlimited unnamed persons for unspecified crimes, exceeding presidential
26 pardon power—is identical regardless of who asks it. Article III's equity jurisdiction
27 exists precisely to adjudicate such structural questions without requiring individual
28 harm as a precondition, because the remedy operates on the constitutional violation
29 itself rather than compensating any individual's losses. *See* MEMO A, Section IX.A
30 (establishing that *Lujan* was correctly decided for statutory claims seeking legal

remedies, but that extending its particularized injury requirement to equitable constitutional claims seeking structural relief was doctrinal error).

21. The 1938 Procedural Merger of Law and Equity Did Not Eliminate This Jurisdictional Distinction. The Federal Rules of Civil Procedure merged courts of law and equity into unified federal courts as a procedural matter, but the Rules Enabling Act expressly provides that procedural rules "shall not abridge, enlarge or modify any substantive right." 28 U.S.C. § 2072(b). Article III's separate grants of legal and equitable jurisdiction are substantive constitutional provisions that cannot be collapsed through procedural rule-making. The constitutional text still reads "in Law and Equity," and those words still carry their distinct historical meanings. Applying *Lujan's* particularized injury requirement—developed for legal claims seeking individual damages—to equitable claims seeking structural relief renders the word "Equity" in Article III surplusage, violating foundational principles of constitutional interpretation. *See Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 174 (1803) ("It cannot be presumed that any clause in the constitution is intended to be without effect"). *See* MEMO A, Sections V-VI (comprehensive analysis of pre-1938 constitutional architecture, the 1938 merger as procedural convenience rather than constitutional reinterpretation, and demonstrating that applying *Lujan* to equitable structural claims renders "Equity" surplusage).

22. Current Standing Doctrine Creates a Perverse Incentive Structure That the Epstein Immunity Grants Exploit Across Three Independent Vectors.

Requiring particularized harm for equitable relief produces a constitutional inversion: the enforceability of enumerated limits decreases as violations become more universal in scope, more targeted toward vulnerable populations, or more technically complex. The 2008 immunity grants exploit all three vectors simultaneously. First, the phrase "including but not limited to" expanded immunity to unlimited unnamed persons, creating harm so universally distributed that no individual can demonstrate particularized injury—the grants became less reviewable precisely because they were more unconstitutional. Second, the particularized harm that the grants did produce fell upon child trafficking victims—a population that would need to publicly expose their identities, relive trauma, and face retaliation to challenge the constitutional violation,

1 making enforcement by those with the clearest individual standing functionally
2 impossible. Third, the constitutional analysis required to identify the violation—
3 tracing prosecutorial immunity authority through Article II derivation to presidential
4 pardon power and demonstrating that the grants exceeded the constitutional ceiling—
5 requires legal sophistication that further narrows the pool of persons capable of
6 recognizing the violation and proving it to Article III standards. Each vector
7 independently explains the eighteen-year enforcement gap. Together, they demonstrate
8 that conditioning equitable relief on particularized injury does not ensure enforcement
9 of enumerated limits—it ensures evasion of them, increasingly so as modern
10 institutional power naturally operates through universal-scope systems affecting
11 vulnerable populations via technically complex mechanisms. Article III's equity
12 jurisdiction exists to correct structural wrongs that the mechanisms of law cannot
13 reach, and this Court should not perpetuate a standing doctrine that rewards
14 governmental actors for structuring constitutional violations to exploit the precise
15 doctrinal gap that equity was designed to fill. *See* MEMO A, Section X (analysis of
16 how current standing doctrine creates enforcement gaps exploited by structuring
17 constitutional violations to harm everyone equally or target vulnerable populations).

18 **23. Supreme Court Precedent Confirms Standing for Structural**
19 **Constitutional Claims Despite Universal Harm.** The Supreme Court has never
20 applied *Lujan's* generalized grievance barrier to enumerated constitutional limit
21 violations. *Clinton v. City of New York*, 524 U.S. 417, 421-25 (1998), *INS v. Chadha*,
22 462 U.S. 919, 935-40 (1983), and *Powell v. McCormack*, 395 U.S. 486, 512-16 (1969),
23 all found standing for structural constitutional violations despite universal harm—
24 consistent with Article III's equity jurisdiction for non-particularized structural relief.
25 Every denial of standing for "generalized grievance" involved statutory or non-
26 enumerated claims falling outside equity's structural character, confirming that Article
27 III's law/equity distinction operates as an implicit standing principle the Court has
28 consistently applied without expressly systematizing. *See* MEMO A, Section IX.B
29 (comprehensive analysis of *Clinton*, *Chadha*, *Powell*, and *Bond*; distinguishing
30 *Richardson* and *Schlesinger* as involving informational claims and ongoing status
31 questions rather than completed ultra vires governmental action).

1 **24. The Crucial Distinction: Process Challenges vs. Violation Claims.** The
2 cases that established the "generalized grievance" bar—*Fairchild v. Hughes*, 258 U.S.
3 126 (1922), and *Frothingham v. Mellon*, 262 U.S. 447 (1923)—were correctly decided,
4 but for reasons that do not support denying standing for enumerated constitutional
5 violations. Both were *process challenges*, not *violation claims*. In *Fairchild*, the
6 plaintiff challenged the validity of the Nineteenth Amendment itself—he was not
7 claiming government *violated* the Constitution but rather that the Constitution *should*
8 *not have been amended*. Courts properly decline to superintend constitutional
9 amendment processes. In *Frothingham*, the plaintiff disputed whether maternal health
10 funding fell within Congress's "general welfare" spending power—a policy judgment
11 about the *scope* of enumerated discretion, not a claim that government *violated* an
12 enumerated provision. By contrast, this Complaint presents a *violation claim*: the 2008
13 immunity grants exceeded the constitutional ceiling on prosecutorial authority derived
14 from presidential pardon power. Plaintiff does not dispute how government exercised
15 validly-held powers; Plaintiff identifies government action *outside* constitutional power
16 assignment entirely. The distinction is fundamental: process challenges ask courts to
17 second-guess completed constitutional processes or policy judgments within
18 enumerated discretion (properly barred), while violation claims ask courts to remedy
19 government action that exceeded constitutional authority (the proper function of Article
20 III courts). See MEMO A, Section III (establishing the process challenge/violation
21 claim distinction through comprehensive analysis of *Fairchild*, *Frothingham*, and
22 *Crampton v. Zabriskie*; demonstrating that *Frothingham*'s broad "generalized
23 grievance" language was improper expansion of *Fairchild*'s narrow, defensible
24 holding).

25 **B. The Madisonian Standing Foundation**

26 **25. *Bond v. United States* Establishes Individual Standing for Separation of**
27 **Powers Violations.** In *Bond v. United States*, 564 U.S. 211 (2011), a unanimous
28 Supreme Court held that individuals have standing to challenge federal action that
29 exceeds constitutional limits. Justice Kennedy wrote: "Federalism's limitations are not

1 therefore a matter of rights belonging only to the States. In a proper case, a litigant
2 may challenge a law as enacted in contravention of federalism, just as injured
3 individuals may challenge actions that transgress, e.g., separation-of-powers
4 limitations." *Id.* at 220-22. The Court concluded: "There is no basis in precedent or
5 principle to deny petitioner's standing to raise her claims." *Id.* at 226. *See* MEMO A,
6 Section IX.B (comprehensive analysis of *Bond* and its implications for equitable
7 standing).

8 **26. *Bond* Eliminates Prudential Barriers to Structural Constitutional Claims.**

9 Justice Ginsburg's concurrence removed any ambiguity: "[A] court has no 'prudential'
10 license to decline to consider whether the statute under which the defendant has been
11 charged lacks constitutional application to her conduct." *Bond*, 564 U.S. at 226-27
12 (Ginsburg, J., concurring). She continued: "In short, a law 'beyond the power of
13 Congress,' for any reason, is 'no law at all.'" *Id.* at 227. After *Bond*, courts that dismiss
14 citizen challenges to enumerated constitutional violations on "prudential" standing
15 grounds violate binding Supreme Court precedent. *See* MEMO A, Section IX.E-F,
16 ¶¶125-129.

17 **27. Pre-1938 Standing Doctrine Permitted Shared Constitutional Injuries.**

18 Before the 1938 procedural merger of law and equity, courts consistently permitted
19 suits based on shared constitutional injuries. In *Crampton v. Zabriskie*, 101 U.S. 601,
20 609 (1879), a unanimous Court held that taxpayers could invoke equity jurisdiction
21 based on injuries shared "in common with other property holders." The Court
22 explained: "From the nature of the powers exercised by municipal corporations, the
23 great danger of their abuse and the necessity of prompt action to prevent irremediable
24 injuries, it would seem eminently proper for courts of equity to interfere." *Id.*
25 Particularized injury was not required; the taxpayer's standing derived from bearing the
26 burden of illegal government action alongside others. *See* MEMO A, Section II
27 (documenting pre-*Frothingham* doctrine of shared injury standing).

28 **28. Madison's Framework Requires Citizen Standing for Enumerated**

29 **Violations.** James Madison, the "Father of the Constitution," established in *Federalist*
30 No. 49 that "the people are the only legitimate fountain of power" and that
31 constitutional provisions derive their authority from the People's direct ratification.

1 When government exceeds enumerated constitutional limits, it violates the People's
2 will as expressed in the Constitution itself—not merely a statute's requirements. A
3 citizen seeking to enforce enumerated limits speaks for the People because the
4 Constitution speaks for the People. *See* MEMO B, Section II.G (Madison on "the
5 people" as fountain of power).

6 **29. Virginia's Conditional Ratification Establishes the Terms of**
7 **Constitutional Enforcement.** Virginia's formal ratification declaration established
8 that the federal government acts "only in those instances in which power is given by
9 the Constitution" and that powers "may be resumed by them whensoever the same shall
10 be perverted to their injury or oppression." This conditional ratification—accepted as
11 binding by the other states—establishes that government acts outside enumerated
12 powers were never authorized. When prosecutorial immunity exceeds presidential
13 pardon power, the government acts outside enumerated authority; under Virginia's
14 ratification terms, such action was never granted constitutional legitimacy. *See* MEMO
15 B, Section II.H (Virginia's ratification declaration as constitutional foundation).

16 **30. The Universal Compliance Test Provides Objective Identification of**
17 **Separation of Powers Violations.** The Madisonian Separation of Powers Objective
18 Compliance Test, set forth in MEMO B, establishes an objective six-step framework
19 for determining whether coordinate government action impermissibly delegates an
20 assigned enumerated power. The test asks: (1) identify the constitutional clause; (2)
21 classify the coordinate action; (3) construct the Supremacy Clause syllogism; (4) apply
22 Madison's textual consistency principle; (5) determine structural impossibility; and (6)
23 test position of assigned power indivisibility. Applied to the 2008 immunity grants, the
24 test demonstrates that prosecutorial discretion lacks constitutional foundation to grant
25 immunity exceeding presidential pardon power. *See* MEMO B, Section III (the
26 Universal Compliance Test); MEMO B, Section VIII.B (demonstrating 36/36 perfect
27 correspondence between the Universal Compliance Test and 154 years of Supreme
28 Court separation of powers jurisprudence, validating the methodology's reliability);
29 MEMO C, Section VIII.B (application to current constitutional crisis).

30 **31. The 239-Year Enforcement Gap Proves the Need for Citizen Standing.**
31 From 1787 to 2026—239 years—the United States has failed to develop mechanisms

1 to objectively define what a separation of powers violation is, test for when one has
2 occurred, or remedy one when it happens. The Alien and Sedition Acts were addressed
3 only through electoral defeat. Lincoln's suspension of habeas corpus was objected to
4 and ignored. Japanese internment was deferred to and remedied only decades later
5 through apology. The endless undeclared wars from 2001 to the present have produced
6 sporadic complaints but no remedy. This eighteen-year prosecution of Epstein co-
7 conspirators follows the same pattern: constitutional violation is obvious, but no
8 mechanism exists for identification and remedy. *See* MEMO C, Section I (establishing
9 that courts must recognize separation of powers violations as judicially cognizable and
10 adopt an objective test for their identification—"[i]f the courts cannot recognize and
11 remedy separation of powers violations — if no objective test exists to identify them
12 — then the constitutional structure fails not only in the instant case but in every case
13 where one branch exceeds its constitutional authority"); MEMO C, Section VIII.A
14 (historical pattern of unidentified and unremedied violations).

15 **32. Citizen Standing Completes the Constitutional Architecture.** The
16 Constitution establishes checks and balances between branches. But when the
17 Executive commits a separation of powers violation and the Legislature is captured or
18 complicit, only the Judiciary remains to enforce constitutional limits. If courts require
19 particularized injury for structural violations, and if those violations are designed to
20 harm everyone equally (as blanket immunity to unnamed persons necessarily does),
21 then constitutional limits become unenforceable precisely when enforcement matters
22 most. Citizen standing for enumerated constitutional violations completes the
23 constitutional architecture Madison designed—ensuring that "parchment barriers" are
24 enforced by judicial power when political branches fail their checking function. *See*
25 MEMO A, Section VII (the constitutional architecture of equitable standing for
26 structural violations); MEMO B, Section II.F (Madison's Federalist 48 warning that
27 written constitutional limits alone are insufficient protection against "the encroaching
28 spirit of power" and that "power is of an encroaching nature" requiring structural
29 defense); MEMO C, Section IX ("The courts are the last remaining check. This Court
30 is asked to provide what 239 years of constitutional practice has failed to establish: an
31 objective mechanism by which the separation of powers can be enforced.").

1 **C. Traditional Standing in the Alternative**

2 **33. Standing Under Article III Equity Jurisdiction:** Plaintiff has standing under
3 Article III's equity jurisdiction because this action challenges government conduct that
4 exceeded enumerated constitutional limits on prosecutorial authority and seeks
5 exclusively equitable relief (declaration and injunction). Under the Law/Equity
6 distinction preserved in Article III, Section 2, equitable claims for structural relief do
7 not require the particularized injury that legal claims for damages require. *See* MEMO
8 A (establishing that Article III's equity jurisdiction provides standing for structural
9 constitutional violations without particularized injury).

10 **34. Alternative Traditional Standing Under *Lujan*:** *Even if this Court applies*
11 *traditional Lujan standing requirements, Plaintiff satisfies Article III standing through*
12 *concrete, particularized, and ongoing harm. Plaintiff filed* *Kirchner v. Johnson*, *Case*
13 *No. 1:25-cv-02735-ACR (D.D.C.) on August 19, 2025, challenging constitutional*
14 *violations causally connected to the 2008 ultra vires immunity grants. As set forth in*
15 *Section XIV.C below, government defendants engaged in coordinated reactive conduct*
16 *following Plaintiff's filing—including 100% simultaneous abandonment of fraudulent*
17 *legal frameworks upon judicial scrutiny, satisfying Interstate Circuit coordination*
18 *standards. The causal chain from the 2008 immunity grants to Plaintiff's current*
19 *injuries is direct and unbroken: the ultra vires grants generated court-ordered secrecy,*
20 *which necessitated fraudulent disclosure frameworks, which Plaintiff challenged,*
21 *which triggered coordinated government response targeting Plaintiff's constitutional*
22 *advocacy. See* Section XVI.B, ¶¶220-228 (the causal chain); Section XIV.C, ¶¶169-
23 181 (documented government response to Plaintiff's D.C. litigation). These injuries are
24 traceable to Defendants' constitutional violations and redressable through judicial
25 declaration of constitutional invalidity.

1 **V. Parties**

2 **A. Plaintiff**

3 **35.** Plaintiff **JOSEPH KIRCHNER** is a citizen of the United States, resident of
4 Minnesota, taxpayer, and individual entitled to constitutional governance operating
5 within Article II prosecutorial authority limits, equal protection under criminal law, due
6 process in government immunity decisions, and constitutional compliance preventing
7 ultra vires government action that creates wealth-based criminal immunity violating
8 fundamental constitutional principles.

9 **36. Equal Protection Under Criminal Law:** Plaintiff is subject to full criminal
10 law enforcement without governmental immunity protection while individuals
11 associated with Epstein criminal enterprise receive constitutionally invalid immunity
12 through wealth-based governmental coordination, creating systematic discrimination
13 where ordinary citizens face prosecution for minimal criminal association evidence
14 while wealthy figures receive ultra vires immunity protection violating Equal
15 Protection Clause.

16 **B. Defendants**

17 **1. Alexander Acosta - Individual Capacity**

18 **37.** Defendant **ALEXANDER ACOSTA** is sued in his individual capacity as
19 former United States Attorney for the Southern District of Florida who negotiated and
20 executed the 2008 Epstein immunity grants exceeding constitutional authority. At all
21 times relevant herein, Defendant Acosta acted under color of federal law while
22 exceeding constitutional grants of prosecutorial authority through ultra vires
23 government action that violated Article II limits, separation of powers, due process,
24 and equal protection.

25 **38. Acosta's Ultra Vires Constitutional Violations:** Acosta systematically
26 exceeded constitutional authority by granting immunity to "unnamed co-conspirators"
27 for unspecified crimes without constitutional process, violating prosecutorial authority

limits through grants that exceeded even presidential pardon power and usurped Article I legislative immunity authority through Article II prosecutorial discretion.

39. Individual Capacity Liability - Absolute Prosecutorial Immunity Does

Not Apply: Acosta cannot invoke absolute prosecutorial immunity under *Imbler v. Pachtman*, 424 U.S. 409, 430-31 (1976), for the following independent reasons:

a. *Imbler* Protects Only Actions "Intimately Associated with the Judicial Phase":

The immunity grants were negotiated in secret hotel meetings outside any judicial proceeding, constituting administrative and policy functions rather than advocacy. *Buckley v. Fitzsimmons*, 509 U.S. 259, 273 (1993) (no immunity for administrative functions); *Burns v. Reed*, 500 U.S. 478, 492-96 (1991) (no immunity for investigative functions).

b. Ultra Vires Conduct Is Outside Any Immunity: Government officials acting beyond their constitutional authority cannot claim immunity for those actions. *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 689-90 (1949). Immunity grants exceeding presidential pardon power are, by definition, outside any delegated prosecutorial authority.

c. This Action Seeks Primarily Declaratory Relief: Even if *Imbler* applied, it bars only damages claims, not actions for declaratory or injunctive relief establishing constitutional limits on prosecutorial authority. Plaintiff seeks structural remedy, not personal compensation from Acosta.

d. No Immunity for Constitutional Violations Creating Structural Harm: When prosecutorial conduct violates separation of powers, usurps legislative authority, and creates systematic wealth-based immunity systems, such conduct falls outside the "judicial phase" functions *Imbler* protects.

2. Attorney General of the United States - Official Capacity Defendant

40. The ATTORNEY GENERAL OF THE UNITED STATES, sued in official capacity, is responsible for constitutional compliance in prosecutorial actions and systematic enforcement of constitutionally invalid immunity grants that continue to violate equal protection, due process, and constitutional structure through ongoing protection of criminal associates who received ultra vires immunity exceeding

1 constitutional authority. Under *Ex parte Young*, 209 U.S. 123 (1908), officers may be
2 sued in their official capacity for prospective declaratory and injunctive relief to
3 remedy ongoing constitutional violations without sovereign immunity barring the
4 action.

5 **41. Official Capacity Constitutional Violations:** The Attorney General, as head
6 of the Department of Justice, has responsibility for systematic constitutional violations
7 through continued enforcement of 2008 immunity grants that exceeded prosecutorial
8 authority, violated constitutional hierarchy, and created wealth-based criminal
9 immunity system that violates fundamental constitutional principles through ongoing
10 governmental action beyond constitutional limits.

11 **VI. FACTUAL ALLEGATIONS**

12 **A. Statute of Limitations Does Not Bar Ultra Vires Challenge**

13 **42. This constitutional challenge to ultra vires government action is not**
14 **barred by any statute of limitations for five independent reasons:**

15 **43. Jurisdictional Challenge Not Subject to Limitations:** Ultra vires
16 government action exceeds jurisdictional limits and can be challenged at any time.
17 *Kontrick v. Ryan*, 540 U.S. 443, 454-56 (2004), establishes distinction between claim-
18 processing rules and jurisdictional requirements. When government acts completely
19 outside constitutional authority, the action is void ab initio - it never had legal effect.
20 Courts have consistently held that challenges to void government action are not subject
21 to statutes of limitations because void acts confer no rights and create no duties. *Norton*
22 *v. Shelby County*, 118 U.S. 425, 442 (1886) ("An unconstitutional act is not a law; it
23 confers no rights; it imposes no duties").

24 **44. Continuing Violation Doctrine:** Each day the United States continues to
25 honor and enforce the 2008 immunity grants constitutes a new constitutional violation.
26 The government's ongoing refusal to prosecute individuals protected by ultra vires
27 immunity creates daily, discrete violations of Equal Protection and Due Process.
28 Under *National Railroad Passenger Corp. v. Morgan*, 536 U.S. 101, 113 (2002),
29 continuing violations restart limitations periods. The 2019 federal indictment

1 identifying "others known and unknown" while maintaining 2008 immunity creates
2 contemporary constitutional violation within any applicable limitations period.

3 **45. Discovery Rule Application:** Plaintiff could not have discovered the
4 constitutional impossibility of the immunity grants until the 2019 federal indictment
5 revealed that prosecutors identified "others known and unknown" as criminal co-
6 conspirators. This direct contradiction of 2008 immunity justifications was concealed
7 through secret negotiations and could only be discovered when the government took
8 inconsistent positions in 2019. Under *Merck & Co. v. Reynolds*, 559 U.S. 633, 644-45
9 (2010), limitations periods begin when plaintiff discovers or reasonably could discover
10 the injury and its cause.

11 **46. Fraudulent Concealment Tolling:** Acosta's secret hotel negotiations and
12 deliberate exclusion of victims from immunity discussions constitutes fraudulent
13 concealment tolling any limitations period. The government cannot benefit from
14 limitations defenses when it actively concealed the unconstitutional nature of its
15 actions through secret processes avoiding constitutional oversight. *Holmberg v.*
16 *Armbrecht*, 327 U.S. 392, 397 (1946) ("This equitable doctrine is read into every
17 federal statute of limitation").

18 **47. Equitable Relief Subject to Laches, Not Strict Limitations:** This Petition
19 seeks exclusively equitable relief—declaratory judgment and injunction—not legal
20 damages. Equitable claims are governed by the doctrine of laches rather than strict
21 statutes of limitations. *Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 678
22 (2014). Laches requires defendant to demonstrate both unreasonable delay *and*
23 material prejudice from that delay. Defendants cannot demonstrate prejudice from
24 delayed challenge to immunity grants they have continuously enforced and benefited
25 from. The immunity recipients have enjoyed eighteen years of governmental
26 protection; they suffer no cognizable prejudice from judicial determination that such
27 protection exceeded constitutional authority.

B. The 2008 Ultra Vires Immunity Grants

48. Unprecedented Immunity Scope Exceeding Constitutional Authority: The 2008 Epstein non-prosecution agreement contained immunity language granting protection to "potential co-conspirators of Epstein, including but not limited to Sarah Kellen, Adriana Ross, Lesley Groff, or Nadia Marcinkova," with the phrase "including but not limited to" creating **unlimited immunity for unnamed persons** exceeding any precedent in American prosecutorial history and violating constitutional limits on prosecutorial authority.

49. Constitutional Authority Analysis: Valid prosecutorial immunity requires: (a) identified persons receiving immunity protection; (b) specified crimes covered by immunity grants; (c) cooperation justification or prosecutorial necessity; (d) constitutional process respecting due process and equal protection. The 2008 immunity grants violated every constitutional requirement by protecting unnamed persons for unspecified crimes without cooperation requirements through secret negotiations avoiding constitutional process. The sole statutory mechanism for prosecutorial immunity—18 U.S.C. §§ 6001-6005—authorizes only use immunity through court order with Attorney General approval, not transactional immunity, not immunity to unnamed persons, and not non-prosecution agreements. "Letter immunity" or "informal immunity" operates entirely outside statutory authorization, based solely on claimed "prosecutorial discretion" that lacks constitutional foundation. *See* MEMO B, Section VII (establishing that no statutory authorization exists for the type of immunity grants at issue; *Kastigar v. United States*, 406 U.S. 441 (1972), establishes use immunity as both the constitutional floor and ceiling for statutory immunity).

50. Presidential Pardon Power Constitutional Hierarchy: Article II, Section 2 grants presidents explicit constitutional authority for pardons, representing maximum constitutional immunity power. Presidential pardon power, while constitutionally broad, operates within established constitutional limits requiring identified persons, specific offenses, and respect for separation of powers principles established by Supreme Court precedent in *Ex parte Garland*, 71 U.S. (4 Wall.) 333, 380 (1866), *United States v. Klein*, 80 U.S. (13 Wall.) 128, 147-48 (1871), and *Schick v. Reed*, 419 U.S. 256, 266-67 (1974). Presidents cannot issue blanket pardons to unnamed persons

1 for unspecified crimes, nor can they use pardon power to systematically prevent
2 enforcement of federal statutory schemes enacted by Congress without violating
3 separation of powers and Take Care Clause duties. Prosecutorial immunity power
4 derives from Article II prosecutorial discretion and must operate within constitutional
5 limits narrower than presidential pardon authority, making prosecutorial grants of
6 blanket immunity to unnamed co-conspirators for unidentified crimes constitutionally
7 impossible as exceeding maximum constitutional immunity power while systematically
8 preventing enforcement of federal child protection and sex trafficking statutes. The
9 2008 immunity grants violated these constitutional hierarchy principles by granting
10 prosecutorial immunity that exceeded what presidents could accomplish
11 constitutionally through explicit pardon power. *See* MEMO B, Section IV (applying
12 the Universal Compliance Test to the Pardon Power and demonstrating that the
13 Constitution's personal assignment of pardon authority to "the President" makes
14 delegation structurally impossible); MEMO B, Section VI (establishing that
15 prosecutors have their own oath under Article VI, Clause 3 to "support this
16 Constitution," creating independent constitutional duty rather than derivative authority
17 from the President's Take Care Clause—"prosecutorial discretion" cannot be derivative
18 of presidential duty when prosecutors are independently bound by their own
19 constitutional oath).

20 **51. Mathematical Proof of Constitutional Violation:** The constitutional
21 hierarchy proof demonstrating that prosecutorial immunity cannot exceed presidential
22 pardon power is set forth in detail in Section X below.

23 **52. Secret Negotiation Process Violating Constitutional Requirements:** Acosta
24 negotiated 2008 immunity grants through secret hotel room meetings avoiding
25 constitutional oversight, judicial review, victim notification, and public accountability
26 required for immunity determinations affecting constitutional rights and criminal
27 justice system integrity through systematic avoidance of constitutional process.

C. Separation of Powers Violations

53. Article I vs. Article II Immunity Authority Distinction: The Constitution grants Congress exclusive authority for legislative immunity (broad, unspecified, policy-based) through Article I while limiting prosecutorial immunity (specific, cooperation-based, constitutionally constrained) through Article II executive power. The 2008 immunity grants functioned as legislative immunity while using prosecutorial authority, violating separation of powers through systematic usurpation of congressional power. Madison's framework requires understanding "balance and check" as two sequential operations—first BALANCE (distribute powers among departments) then CHECK (provide defensive mechanisms against abuse). Delegation collapses both: the balance is destroyed when power is redistributed from the assigned department, and no separate department remains to check the accumulated power. The Constitution's Incompatibility Clause (Article I, Section 6, Clause 2) embodies separation of powers in explicit text by prohibiting any federal officer from simultaneously serving in Congress. If personal accumulation of power is explicitly forbidden, institutional accumulation through delegation is forbidden a fortiori—the greater danger cannot be permitted when the lesser is prohibited. *See* MEMO B, Sections II.C-E (Madison's "balance and check" framework; the Incompatibility Clause as explicit textual separation of powers; the a fortiori argument against delegation).

54. Youngstown Framework Constitutional Analysis: Under *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635-38 (1952) (Jackson, J., concurring), executive authority operates at constitutional minimum when acting contrary to congressional will. The 2008 immunity grants lacked congressional authorization for unnamed co-conspirator immunity and violated congressional intent in federal sex trafficking statutes, placing prosecutorial power at constitutional minimum where constitutional invalidity is established.

55. Legislative Power Usurpation Through Prosecutorial Authority: Congress never authorized prosecutorial immunity for unnamed co-conspirators, and federal statutes require prosecutorial enforcement of sex trafficking laws rather than systematic immunity grants preventing criminal accountability. Acosta usurped Article I

1 legislative immunity authority through Article II prosecutorial power, exceeding
2 constitutional grants and violating separation of powers.

3 **D. Due Process Violations**

4 **56. Procedural Due Process Requirements for Immunity Grants:**

5 Constitutional due process requires identified parties, specified crimes, constitutional
6 process, and equal protection in immunity determinations affecting individual rights
7 and criminal justice system integrity. The 2008 immunity grants violated every
8 procedural due process requirement through systematic constitutional process
9 avoidance.

10 **57. Vagueness Doctrine Violations:** The Fifth Amendment prohibits vague
11 government action failing to provide fair warning or permitting arbitrary enforcement.
12 Immunity for "potential co-conspirators" without temporal, geographic, or substantive
13 limits violates constitutional definiteness requirements under *Grayned v. City of*
14 *Rockford*, 408 U.S. 104, 108-09 (1972), and *Kolender v. Lawson*, 461 U.S. 352, 357
15 (1983), by lacking "sufficient definiteness that ordinary people can understand what
16 conduct is prohibited."

17 **58. Substantive Due Process Violations:** Government action must serve
18 legitimate purposes through constitutional means. No legitimate government interest
19 exists in protecting unnamed criminals through immunity grants exceeding
20 constitutional authority, and secret negotiations violate constitutional requirements for
21 transparent government action affecting constitutional rights and criminal justice
22 system integrity.

23 **E. Equal Protection Violations**

24 **59. Wealth-Based Criminal Immunity System:** The 2008 immunity grants
25 created systematic discrimination where wealthy individuals associated with criminal
26 enterprises receive governmental immunity protection while ordinary citizens face full
27 criminal prosecution for identical evidence types, violating Equal Protection Clause

1 through arbitrary wealth-based classifications lacking rational basis in constitutional
2 law.

3 **60. Two-Tiered Justice System Violating Constitutional Equality:** Systematic
4 privilege for wealthy criminal associates creates constitutionally impermissible two-
5 tiered system where legal rules vary based on wealth and political connection rather
6 than evidence and law, violating fundamental constitutional principle that equal justice
7 under law requires identical treatment regardless of economic status or social
8 connection.

9 **61. No Rational Basis for Immunity Discrimination:** Government cannot
10 provide constitutional justification for wealth-based immunity system because: (a)
11 criminal evidence standards apply equally regardless of defendant wealth; (b)
12 constitutional rights do not vary based on economic status; (c) equal protection requires
13 identical treatment under identical circumstances; (d) systematic privilege for wealthy
14 defendants violates democratic principles and constitutional equality requirements.

15 **F. The 2019 Constitutional Impossibility Proof**

16 **62. Federal Criminal Enterprise Documentation: United States v. Jeffrey**
17 **Epstein** (S.D.N.Y. 2019) ¶21 states: "JEFFREY EPSTEIN, the defendant, **and others**
18 **known and unknown**, willfully and knowingly did combine, conspire, confederate,
19 and agree together and with each other to commit an offense against the United States,"
20 providing federal prosecutorial evidence of criminal co-conspirators contradicting 2008
21 immunity justifications.

22 **63. Mathematical Constitutional Impossibility:** Federal prosecutors cannot
23 simultaneously maintain both positions:

- 24 • **2008 Position:** No federal crimes by co-conspirators (immunity justification)
- 25 • **2019 Position:** Federal crimes by "others known and unknown" (prosecution
- 26 evidence)

27 Both positions cannot be constitutionally true, establishing constitutional fraud through
28 ultra vires immunity grants based on false premises and prosecutorial coordination
29 exceeding constitutional authority.

1 **64. Constitutional Fraud Through False Premises:** The 2008 immunity grants
2 were negotiated and executed based on prosecutorial claims that co-conspirators
3 committed no federal crimes warranting immunity protection, yet 2019 federal
4 prosecution proved criminal enterprise involving "others known and unknown,"
5 demonstrating systematic constitutional fraud through ultra vires government action
6 exceeding prosecutorial authority based on deliberate misrepresentation of criminal
7 evidence.

8 **G. Ongoing Constitutional Violations**

9 **65. Continued Enforcement of Invalid Immunity:** The United States continues
10 enforcing 2008 immunity grants despite constitutional invalidity proven through 2019
11 federal prosecution evidence, creating ongoing constitutional violations through
12 systematic protection of criminal associates who received ultra vires immunity
13 exceeding constitutional authority and enabling continued criminal enterprise
14 operation.

15 **66. Progressive Constitutional Breakdown:** Each day of continued ultra vires
16 immunity enforcement enables additional constitutional violations, criminal enterprise
17 protection, and systematic privilege creation that violates equal protection, due process,
18 and constitutional structure while preventing criminal accountability and constitutional
19 compliance required by rule of law.

20 **67. Systematic Precedent for Prosecutorial Abuse:** Unchallenged ultra vires
21 immunity grants create dangerous precedent enabling future prosecutorial abuse
22 through systematic constitutional authority violations, wealth-based immunity systems,
23 and governmental protection of criminal enterprises that violate constitutional structure
24 and democratic accountability principles.

25 **68. Ongoing Constitutional Harm from Invalid Immunity Recipients:**
26 Individuals who received constitutionally invalid immunity through the 2008 ultra
27 vires grants continue to exercise governmental, business, and cultural authority
28 affecting Plaintiff's constitutional rights and interests, including: (a) policy decisions on
29 government operations and regulatory matters affecting Plaintiff's interactions with

1 government; (b) business and financial decisions affecting economic markets and
2 investment opportunities where Plaintiff participates; (c) cultural and media influence
3 affecting Plaintiff's information environment and democratic discourse through
4 entertainment, news, and educational content; (d) continued participation in networks
5 and systems that should be subject to criminal accountability but remain protected
6 through constitutionally invalid immunity grants; and (e) systematic privilege that
7 creates ongoing discrimination where individuals who should face criminal prosecution
8 continue exercising authority and influence that affects Plaintiff's constitutional rights
9 to equal protection under law and democratic participation in governmental and
10 cultural systems.

11 **69. Systematic Criminal Enterprise Protection Through Invalid Immunity:**

12 The 2008 ultra vires immunity grants enabled systematic protection of a criminal
13 enterprise that extended beyond Jeffrey Epstein to include co-conspirators who
14 continue exercising authority and influence in government, business, and cultural
15 spheres while remaining protected from criminal accountability through
16 constitutionally invalid immunity exceeding constitutional authority. This ongoing
17 protection creates systematic constitutional harm by: (a) enabling continued operation
18 of criminal networks that should be subject to prosecution under federal child
19 protection and sex trafficking statutes; (b) creating systematic discrimination where
20 protected individuals exercise authority affecting Plaintiff while remaining immune
21 from criminal accountability that ordinary citizens would face for identical evidence;
22 (c) violating equal protection by maintaining wealth-based criminal immunity system
23 that affects ongoing governmental, business, and cultural decisions that impact
24 Plaintiff's constitutional rights and democratic participation; and (d) perpetuating
25 constitutional violations through continued enforcement of ultra vires immunity grants
26 that prevent federal statutory compliance, constitutional accountability, and equal
27 justice under law.

H. Why This Challenge Differs From Previous Litigation

70. Novel Constitutional Theory: Previous challenges focused on Crime Victims' Rights Act violations and procedural defects. This action presents the first constitutional challenge to prosecutorial authority to grant immunity to unnamed persons, establishing fundamental limits on government power that transcend statutory requirements.

71. Structural Constitutional Violation: Unlike previous cases addressing individual rights violations seeking damages, this challenge identifies structural constitutional breach where prosecutorial authority exceeded even presidential pardon power, creating government action beyond any constitutional authorization that violates separation of powers at the most fundamental level. This is precisely the type of enumerated constitutional limit violation for which Article III's equity jurisdiction provides standing without requiring particularized injury. *See* MEMO A, Sections V-VII.

72. Mathematical Impossibility Rather Than Procedural Error: The 2019 federal indictment's identification of "others known and unknown" creates mathematical proof that 2008 immunity was based on false premises, distinguishing this from procedural challenges by establishing constitutional fraud through logically incompatible government positions.

I. Systemic State-Level Selective Enforcement: the Krischer-Ellison Pattern

73. The 2008 federal immunity grants did not occur in isolation. They were enabled by, and coordinated with, a pattern of state-level selective enforcement that created the jurisdictional vacuum Defendant Acosta exploited. The Department of Justice Office of Professional Responsibility (OPR) Report documents this pattern in Florida, and contemporaneous evidence establishes the identical pattern in Minnesota—demonstrating that wealth-based selective enforcement by state attorneys is systemic rather than isolated.

1 **1. Palm Beach State Attorney Barry Krischer: The Florida Pattern**

2 74. The OPR Report documents that Palm Beach Police Department Chief
3 Michael Reiter, after conducting a thorough investigation into Epstein's crimes against
4 minors, brought the case to State Attorney Barry Krischer's office. Chief Reiter later
5 stated under oath: "This was a case that I felt absolutely needed the attention of the
6 State Attorney's Office, that needed to be prosecuted in state court... And I knew that it
7 didn't really matter what the facts were in this case, **it was pretty clear to me that Mr.**
8 **Krischer did not want to prosecute this case.**" *See* Exhibit C (OPR Report) at 2337-
9 2338.

10 75. Federal prosecutors understood that the State Attorney's Office had
11 "**abdicated their responsibility**" to investigate and prosecute Epstein. *Id.* at 2534.
12 Chief Reiter found the State Attorney's Office's "treatment of these cases [to be] **highly**
13 **unusual**" and urged Krischer "to examine the unusual course that your office's
14 handling of this matter has taken" and to consider disqualifying himself. *Id.* at 2345-
15 2346.

16 76. When questioned by OPR investigators, Krischer "**generally declined in his**
17 **OPR interview to explain his office's prosecutive decisions.**" *Id.* at 2371. This
18 refusal to explain prosecutorial discretion—combined with documented evidence of
19 differential treatment—mirrors the pattern Plaintiff has documented in separate
20 litigation against Minnesota Attorney General Keith Ellison.

21 77. The OPR Report further documents that Krischer's office took the "unusual
22 step" of presenting the case to a grand jury **without a prosecutorial recommendation**,
23 with the prosecutor leaving the room during deliberations—an abdication of
24 prosecutorial responsibility designed to insulate the office from accountability while
25 ensuring minimal charges. *Id.* at 2269-2280. The resulting single felony charge for
26 "solicitation" grossly understated the evidence of serial child sexual abuse.

27 **2. Minnesota Attorney General Keith Ellison: The Parallel Pattern**

28 78. In *Kirchner v. Ellison*, No. 0:26-cv-00726-JWB-ECW (D. Minn.), Plaintiff
29 has documented an identical pattern of selective enforcement by Minnesota's chief law
30 enforcement officer. On February 10, 2026, Plaintiff filed a criminal referral with

1 Defendant Ellison's office documenting computer crimes, trade secret theft, AI child
2 safety endangerment, and copyright violations by a Minnesota utility company. On
3 February 26, 2026, Defendant Ellison's office denied the referral with a letter stating:
4 "The Minnesota Legislature... **did not delegate any such authority to this Office, nor**
5 **did it delegate the authority to investigate criminal matters to this Office.**"

6 **79.** This statement is demonstrably false. On March 4, 2026—six days after the
7 denial letter—Defendant Ellison testified under oath before the U.S. House Committee
8 on Oversight and Government Reform:

9 **"Prosecuting Medicaid fraud is very important work that we do. We**
10 **do it every single day."**

11 **"In Minnesota we have 87 county attorneys. The AG does Medicaid**
12 **fraud** and the federal government prosecutes fraud that is germane in its
13 jurisdiction."

14 **"It operates as a web together.** So it's not like the feds are doing it and
15 nobody else is. They're doing the ones they're supposed to do. **We're**
16 **doing the ones we're supposed to do."**

17 **"We need to pass stronger legislation in Minnesota to help my office**
18 **prosecute Medicaid fraud."**

19 (U.S. House Committee on Oversight and Government Reform, Hearing on Medicaid
20 Fraud, March 4, 2026) (public congressional record subject to judicial notice under
21 Fed. R. Evid. 201(b)(2)).

22 **80.** Like Krischer, Defendant Ellison's claimed lack of prosecutorial authority is
23 contradicted by documented evidence of assistance provided to others. In December
24 2021, Defendant Ellison met with individuals who later became defendants in the
25 Feeding Our Future fraud prosecution—the largest pandemic fraud case in American
26 history. During that 54-minute recorded meeting, Defendant Ellison told individuals
27 later convicted of fraud: **"Of course I'm here to help"** and **"Let's go fight these**
28 **people"**—referring to the state agencies investigating the fraud. (Audio recording
29 publicly released during *United States v. Feeding Our Future*, No. 22-cr-223 (D.
30 Minn.), subject to judicial notice under Fed. R. Evid. 201(b)(2)).

31 **81.** The parallel is exact: Krischer declined to explain his prosecutive decisions
32 while evidence showed differential treatment of a wealthy defendant. Ellison claimed

lack of authority while evidence showed he assists some citizens and declines others with no rational basis for the distinction.

3. The Systemic Pattern: State Attorneys as Gatekeepers for Wealth-Based Immunity

82. The Krischer-Ellison pattern reveals a structural vulnerability in American criminal justice: **state attorneys general and state attorneys serve as gatekeepers who can enable federal constitutional violations through selective non-enforcement.** When state prosecutors abdicate their responsibility to prosecute wealthy or connected defendants, they create jurisdictional vacuums that federal prosecutors then exploit—as Defendant Acosta exploited the vacuum Krischer created.

83. This pattern operates through predictable mechanisms:

Element	Florida (Krischer)	Minnesota (Ellison)
Claim of Limited Authority	Declined to explain prosecutive decisions	Claimed Legislature "did not delegate authority"
Evidence of Actual Authority	Routinely prosecuted minors for prostitution under same statutes	Testified he prosecutes fraud "every single day"
Differential Treatment	Wealthy defendant received grand jury presentation without recommendation	Fraudsters received "Of course I'm here to help"; citizen received denial
Refusal to Explain	"Declined to explain his office's prosecutive decisions"	False statement of law without rational basis
Federal Exploitation	Acosta's "sweetheart deal" enabled by state's abdication	Pattern enables federal selective enforcement

84. The constitutional violation is not merely federal. When state and federal prosecutors coordinate—explicitly or implicitly—to provide differential treatment based on wealth and connection, they create a **multi-jurisdictional equal protection violation** that neither jurisdiction can disclaim by pointing to the other. Krischer cannot escape accountability by noting federal prosecutors took over; Acosta cannot escape accountability by claiming he was merely filling a void Krischer created. Both

1 are constitutional actors whose coordinated selective enforcement violates equal
2 protection.

3 **4. Constitutional Implications for This Action**

4 **85.** The Krischer-Ellison pattern strengthens Plaintiff's equal protection claim in
5 three ways:

6 **86. First,** it demonstrates that the 2008 immunity grants were not an isolated
7 aberration but part of a systemic pattern of wealth-based selective enforcement
8 operating across state and federal jurisdictions. Constitutional violations that are
9 systemic warrant structural remedies.

10 **87. Second,** it establishes that Defendant Acosta's claimed reliance on
11 "federalism" and deference to state prosecution was pretextual. Acosta knew the State
12 Attorney's Office had "abdicated their responsibility"—federal prosecutors explicitly
13 understood this. His decision to grant ultra vires immunity was not deference to a
14 functioning state system but exploitation of a dysfunctional one.

15 **88. Third,** it proves that the accountability void Plaintiff challenges is not an
16 accident but a feature of the current system. State and federal prosecutors can provide
17 immunity to the wealthy by each pointing to the other's jurisdiction—creating a
18 constitutional shell game where accountability disappears into the gap between
19 sovereigns. This structural defect requires structural remedy: a judicial declaration that
20 prosecutorial immunity cannot exceed constitutional limits regardless of which
21 sovereign grants it.

22 **VII. ENUMERATED CONSTITUTIONAL PROVISIONS VIOLATED**

23 **89.** This action challenges ultra vires government action that violated the
24 following enumerated constitutional limits on prosecutorial authority:

25 **A. Article II, Section 2, Clause 1 - Presidential Pardon Power**

26 **90. Constitutional Text:**

1 "The President...shall have Power to grant Reprieves and Pardons for
2 Offenses against the United States, except in Cases of Impeachment."

3 **91. Constitutional Limit:** This provision establishes the **maximum immunity**
4 **authority** granted anywhere in the Constitution. No other constitutional provision
5 grants broader immunity power. Presidential pardon authority represents the
6 constitutional ceiling for all immunity grants by any government official.

7 **B. Article II, Section 3 - Take Care Clause**

8 **92. Constitutional Text:**

9 "[The President] shall take Care that the Laws be faithfully executed"

10 **93. Constitutional Limit:** This provision **prohibits systematic non-enforcement**
11 of federal statutes through executive authority. Presidents and their delegates
12 (including federal prosecutors) must execute laws enacted by Congress, not
13 systematically prevent their enforcement through immunity grants that make
14 prosecution impossible.

15 **C. Fifth Amendment - Due Process Clause**

16 **94. Constitutional Text:**

17 "No person shall...be deprived of life, liberty, or property, without due
18 process of law"

19 **95. Constitutional Limit:** This provision requires **constitutional process** when
20 government grants immunity affecting individual rights, criminal justice integrity, and
21 equal protection under law. Secret immunity grants to unnamed persons for
22 unspecified crimes violate due process by lacking identification, specificity, and
23 constitutional safeguards.

24 **D. Fifth Amendment - Equal Protection Component**

25 **96. Constitutional Text** (as incorporated through due process):

1 "No person shall...be deprived of life, liberty, or property, without due
2 process of law"

3 **97. Constitutional Limit:** The Fifth Amendment's due process guarantee includes
4 equal protection principles prohibiting **arbitrary discrimination** in criminal justice
5 administration. *Bolling v. Sharpe*, 347 U.S. 497, 499-500 (1954). Government cannot
6 create systematic wealth-based immunity where wealthy criminal associates receive
7 governmental protection while ordinary citizens face full prosecution.

8 **E. Separation of Powers - Constitutional Structure**

9 **98. Constitutional Structure:** The Constitution distributes immunity authority
10 across branches in a clear hierarchy. Congress may grant statutory immunity under
11 Article I—broad, policy-based, and prospective in character. The President holds
12 maximum immunity authority through the Article II, Section 2 pardon power.
13 Prosecutors exercise derivative authority under Article II that is necessarily narrower
14 than presidential power, as derivative authority cannot exceed its source.

15 **99. Constitutional Limit:** The Constitution's separation of powers structure
16 requires **derivative authority cannot exceed source authority**. Prosecutorial
17 immunity derives from Article II executive authority and must operate within narrower
18 constitutional limits than presidential pardon power, which itself has established
19 constitutional boundaries.

20 **VIII. THE CLEAR LINES DRAWN BY CONSTITUTIONAL TEXT AND** 21 **PRECEDENT**

22 **A. These Provisions Limit Rather Than Grant Governmental Power**

23 **100.** The Constitution and binding Supreme Court precedent establish these clear,
24 bright-line rules governing immunity authority. **These are limits on governmental**
25 **power, not grants of authority**—they enumerate what government *cannot* do rather
26 than what it *may* do. This distinction is fundamental to Article III equity jurisdiction:
27 courts have historically entertained citizen challenges to government action that

exceeds enumerated limits, regardless of particularized injury, because such violations affect constitutional structure protecting all citizens equally. *See* MEMO A, Section VII.

B. Presidential Pardon Power - the Constitutional Maximum

101. Line #1: Identified Persons Requirement

Precedent: *Ex parte Garland*, 71 U.S. 333, 380 (1866) established that pardons must identify specific persons:

"The power thus conferred is unlimited, with the exception stated. It extends to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment."

102. What This Means: Even the President's unlimited pardon power requires **identifying the person pardoned**. The phrase "extends to every offence" modifies the crimes covered, not the persons protected. Constitutional text and precedent require naming who receives immunity.

103. Line #2: Specific Offenses Requirement

Precedent: *Ex parte Garland* requires pardons identify offenses with sufficient specificity:

"A pardon reaches both the punishment prescribed for the offence and the guilt of the offender...it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offence."

104. What This Means: Pardons must identify **which offenses** receive immunity with enough specificity that "guilt" can be "blotted out." Cannot pardon unnamed persons for unspecified crimes because constitutional language requires knowing what guilt is being erased.

105. Line #3: Separation of Powers Limits

Precedent: *United States v. Klein*, 80 U.S. 128, 147-148 (1871) established separation of powers limits on pardon power:

"To the executive alone is intrusted the power of pardon; and it is granted without limit...It is not within the constitutional power of Congress thus to

1 inflict punishment beyond the reach of executive clemency...nor is it
2 within the power of the President to prevent the passage of laws."

3 **106. What This Means:** Presidential pardon power, while constitutionally broad,
4 **cannot systematically prevent congressional statutory enforcement.** Presidents
5 cannot use pardon authority to render federal statutes unenforceable. Congress
6 legislates, President executes; neither can usurp the other's constitutional role.

7 **107. Line #4: Take Care Clause Mandatory Duty**

8 **Precedent:** *Kendall v. United States*, 37 U.S. (12 Pet.) 524, 613 (1838):

9 "To contend that the obligation imposed on the President to see the laws
10 faithfully executed, implies a power to forbid their execution, is a novel
11 construction of the constitution, and entirely inadmissible."

12 **108. What This Means:** Take Care Clause creates **mandatory duty** to execute
13 laws, not discretionary authority to prevent their enforcement. Systematic immunity
14 grants that make prosecution impossible violate constitutional duty regardless of
15 claimed prosecutorial discretion.

16 **C. Prosecutorial Immunity - Narrower Than Presidential Pardons**

17 **109. Line #5: Derivative Authority Limitation**

18 **Constitutional Principle:** Prosecutorial immunity derives from Article II executive
19 authority delegated by the President. Basic constitutional logic requires:

20 If: Presidential Pardon Power = Maximum Constitutional Immunity
21 Authority And: Prosecutorial Authority = Derivative of Presidential
22 Authority Then: Prosecutorial Immunity < Presidential Pardon Power

23 **110. What This Means:** Prosecutors cannot grant immunity broader than what
24 Presidents could accomplish through explicit constitutional pardon power. If
25 Presidents cannot pardon unnamed persons for unspecified crimes (Lines #1 and #2),
26 prosecutors **certainly cannot** grant such immunity through derivative authority.

27 **111. Line #6: Constitutional Process Requirements**

28 **Precedent:** *Mathews v. Eldridge*, 424 U.S. 319, 332-35 (1976), established due process
29 balancing test:

1 "Procedural due process imposes constraints on governmental decisions
2 which deprive individuals of 'liberty' or 'property' interests within the
3 meaning of the Due Process Clause."

4 **112. What This Means:** When government grants immunity affecting individual
5 rights and criminal justice integrity, **constitutional process is mandatory**. Process
6 must include identification of parties, specification of covered conduct, judicial
7 oversight, and equal protection safeguards.

8 **D. The Parchment Barrier Problem**

9 **113. Madison's Warning.** These clear constitutional lines—established by text
10 and precedent—are what Madison called "parchment barriers." In Federalist No. 48,
11 Madison warned that "mere demarcation on parchment of the constitutional limits... is
12 not a sufficient guard against those encroachments which lead to a tyrannical
13 concentration of all the powers of government." His verdict: "The efficacy of the
14 provision has been greatly overrated; and... some more adequate defense is
15 indispensably necessary." *See* MEMO B, Section II.F.

16 **114. The Eighteen-Year Proof.** The enforcement gap proves Madison was right:
17 these limits existed on paper in 2008, yet Acosta crossed every one with impunity. For
18 eighteen years, clear constitutional violations have persisted without judicial review—
19 not because courts found the conduct constitutional, but because traditional standing
20 doctrine prevented anyone from reaching the merits.

21 **115. The Enforcement Mechanism.** Article III's equity jurisdiction provides the
22 enforcement mechanism Madison recognized was necessary—converting parchment
23 barriers into enforceable structural limits. When citizens can invoke equity jurisdiction
24 to challenge structural violations, constitutional text ceases to be "mere demarcation on
25 parchment" and becomes what the Framers intended: binding limits on governmental
26 power. *See* MEMO B, Section VIII.D (explaining that "the standing doctrine gap—
27 where enumerated limits become unenforceable because no individual has
28 particularized injury—is precisely the 'parchment barrier' problem Madison
29 identified").

1 **IX. THE GOVERNMENT ACTION THAT CROSSED THESE**
2 **CONSTITUTIONAL LINES**

3 **A. The 2008 Non-Prosecution Agreement Language**

4 **116.** On September 24, 2008, Defendant Alexander Acosta, then United States
5 Attorney for the Southern District of Florida, executed a Non-Prosecution Agreement
6 with Jeffrey Epstein containing the following immunity provision:

7 "The United States...will not institute any criminal charges against
8 **potential co-conspirators** of Epstein, **including but not limited to** Sarah
9 Kellen, Adriana Ross, Lesley Groff, or Nadia Marcinkova."

10 (Emphasis added; see Exhibit A - 2008 Non-Prosecution Agreement)

11 **117.** This language crossed every constitutional line identified in Section VII
12 through specific ultra vires conduct:

13 **B. Unlimited Unnamed Persons**

14 **118. The Constitutional Violation:** The phrase "**including but not limited to**"
15 created immunity for unlimited unnamed persons, directly violating *Ex parte Garland's*
16 requirement that immunity recipients be identified.

17 **119. What "Including But Not Limited To" Means Legally:**

- 18 • "**Including**" = The four named persons receive immunity
19 • "**But not limited to**" = **Unlimited additional unnamed persons** also receive
20 immunity
21 • **Combined effect** = Open-ended immunity extending to anyone who could be
22 characterized as "potential co-conspirator"

23 **120. Why This Exceeds Presidential Pardon Authority:** Presidents cannot issue
24 pardons stating "John Smith and others unnamed." Constitutional text requires
25 knowing **who** receives immunity. The 2008 grants exceeded this constitutional
26 maximum by protecting unlimited unnamed persons.

C. Unspecified Federal Crimes

121. The Constitutional Violation: The agreement provided no specification of **which federal crimes** received immunity protection, violating *Ex parte Garland's* requirement that pardons identify offenses with sufficient specificity that "guilt" can be "blotted out."

122. What Crimes Were Covered? The agreement stated only "will not institute any criminal charges" without specifying:

- Which federal statutes?
- Which time periods?
- Which geographic locations?
- Which criminal conduct?
- Which victims?

123. Why This Exceeds Presidential Pardon Authority: Presidents must specify "for offenses against the United States" with enough clarity to identify what guilt is being pardoned. Blanket immunity for all potential federal crimes violated this constitutional requirement.

D. Secret Process Avoiding Constitutional Safeguards

124. The Constitutional Violation: Acosta negotiated immunity grants through **secret hotel room meetings** with Epstein's attorneys, deliberately avoiding:

- Judicial oversight or approval
- Victim notification (required by Crime Victims' Rights Act)
- Public accountability
- Constitutional process safeguards
- Equal protection review

125. Why This Violates Due Process: *Mathews v. Eldridge* requires constitutional process when government action affects individual rights. Secret negotiations providing systematic privilege to wealthy defendants while excluding victims and public oversight violated procedural due process requirements.

1 **E. Systematic Prevention of Federal Statutory Enforcement**

2 **126. The Constitutional Violation:** The immunity grants systematically prevented
3 enforcement of federal statutes specifically enacted to protect children and victims
4 from sexual predators. The grants made prosecution impossible under 18 U.S.C. §
5 1591 (sex trafficking of children and adults), granted immunity for interstate transport
6 violations under the Mann Act (18 U.S.C. §§ 2421-2424), violated victim notification
7 requirements under the Crime Victims' Rights Act (18 U.S.C. § 3771), and prevented
8 victim compensation under the mandatory restitution provisions of 18 U.S.C. §
9 1591(f).

10 **127. Why This Violates Take Care Clause:** Article II, Section 3 requires faithful
11 execution of laws. Granting immunity that makes federal statutory enforcement
12 impossible violated constitutional duty to execute laws enacted by Congress,
13 particularly child protection statutes where congressional intent mandates prosecution
14 of criminal enterprises exploiting minors.

15 **X. How Defendant Acosta Crossed These Constitutional Lines**

16 **A. The Mathematical Constitutional Impossibility**

17 **128.** Basic constitutional logic proves Acosta's immunity grants exceeded all
18 constitutional authority, creating structural harm to constitutional governance affecting
19 all citizens:

20 **B. The Logical Proof**

21 **129. Premise 1:** Presidential pardon power = maximum constitutional immunity
22 authority (Article II, Section 2)

23 **130. Premise 2:** Prosecutorial immunity derives from presidential executive
24 authority (constitutional delegation)

25 **131. Premise 3:** Derivative authority cannot exceed source authority (constitutional
26 hierarchy)

132. Premise 4: Presidents cannot pardon unnamed persons for unspecified crimes
(*Ex parte Garland* requirements)

133. Conclusion: Prosecutorial immunity to unnamed persons for unspecified crimes exceeds constitutional authority because:

If: Presidents cannot grant this immunity (Premise 4) And: Prosecutorial authority < Presidential authority (Premises 2-3) Then: Prosecutors certainly cannot grant this immunity Therefore: 2008 immunity grants = ULTRA VIRES

C. The Comparative Analysis

134. The following table demonstrates how Acosta's grants exceeded even presidential pardon authority, creating structural harm to constitutional hierarchy protecting all citizens:

Immunity Element	Presidential Pardon Power (Constitutional Maximum)	2008 Prosecutorial Immunity (Actual Grants)	Constitutional Violation
Who receives immunity?	Must identify specific persons	"Unnamed co-conspirators"	Exceeded maximum
For which crimes?	Must specify offenses	"Will not institute any criminal charges" (all crimes)	Exceeded maximum
Geographic scope?	Can be limited	No geographic limitation	Exceeded maximum
Temporal scope?	Can be limited	No temporal limitation	Exceeded maximum
Number of persons?	Presidents must name each person	"Including but not limited to" (unlimited persons)	Exceeded maximum
Statutory enforcement?	Cannot systematically prevent enforcement	Made sex trafficking prosecutions impossible	Exceeded maximum
Constitutional process?	Public presidential action	Secret hotel negotiations	Exceeded maximum

135. Result: The 2008 grants exceeded presidential pardon authority in **every measurable dimension**, proving ultra vires government action beyond any constitutional authorization and creating structural harm to constitutional limits protecting all citizens equally.

XI. PROOF THAT GOVERNMENT CROSSED THESE CONSTITUTIONAL LINES

A. Direct Documentary Evidence

136. Exhibit A - 2008 Non-Prosecution Agreement: The immunity language speaks for itself:

"The United States...will not institute any criminal charges against potential co-conspirators of Epstein, including but not limited to Sarah Kellen, Adriana Ross, Lesley Groff, or Nadia Marcinkova."

137. This language on its face demonstrates:

- **Unnamed persons protected:** "including but not limited to" = unlimited scope
- **Unspecified crimes covered:** "any criminal charges" = all federal crimes
- **No constitutional process:** Secret negotiations, no judicial review
- **Systematic enforcement prevention:** Made prosecution impossible

B. The 2019 Mathematical Impossibility Proof

138. Exhibit B - 2019 Federal Indictment: The Southern District of New York indictment identifying "others known and unknown" as criminal co-conspirators creates mathematical impossibility proving the 2008 immunity was based on false premises. As set forth in Section VI.F above (¶¶62-64), federal prosecutors cannot simultaneously maintain that no federal crimes existed (2008 immunity justification) while proving federal crimes by "others known and unknown" (2019 prosecution evidence). Both positions cannot be constitutionally true, establishing constitutional fraud through ultra vires government action.

C. Complete Absence of Constitutional Authority Precedent

139. Research reveals **no precedent** in American constitutional history for:

- Prosecutorial immunity to unlimited unnamed persons
- Immunity grants exceeding presidential pardon scope
- Blanket immunity for unspecified federal crimes
- Secret immunity negotiations avoiding constitutional process

140. The complete absence of authority proves these grants exceeded all constitutional bounds—first impression territory requiring judicial establishment of fundamental limits on prosecutorial power.

D. The "Including But Not Limited To" Language

141. The phrase "including but not limited to" has established legal meaning as language of **enlargement**, not limitation:

"The term 'including' is not one of all-embracing definition, but connotes simply an illustrative application of the general principle." *Federal Land Bank v. Bismarck Lumber Co.*, 314 U.S. 95, 100 (1941).

Black's Law Dictionary defines "including but not limited to" as "a phrase used to introduce examples without excluding other members of the class," confirming the phrase operates legally to **expand** the scope of a provision beyond named items to an **unlimited class**. When prosecutors wrote "including but not limited to Sarah Kellen, Adriana Ross, Lesley Groff, or Nadia Marcinkova," they did not limit immunity to four persons—they established four named persons as merely illustrative of an unlimited class of unnamed immunity recipients.

142. When applied to immunity grants:

- "Including" = named persons definitely receive immunity
- "But not limited to" = **additional unnamed persons also receive immunity**
- Combined effect = **open-ended immunity without constitutional limits**

143. This language created immunity scope exceeding presidential pardon authority, where presidents must identify specific persons receiving clemency.

E. Secret Process Evidence

144. Exhibit C - DOJ Office of Professional Responsibility Report Excerpts:

Evidence establishes that Acosta negotiated immunity through secret hotel meetings with Epstein's attorneys, deliberately avoiding:

- DOJ headquarters oversight
- Judicial review
- Victim notification (CVRA violation)
- Public accountability
- Written constitutional analysis

145. This secret process violated due process requirements for governmental action affecting constitutional rights and criminal justice integrity.

F. The Youngstown Framework Analysis

146. Under Justice Jackson's *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635-38 (1952) (Jackson, J., concurring), framework, presidential (and derivative prosecutorial) authority operates at three levels:

Category	Congressional Posture	Presidential Authority Level
Category 1	Congress authorized	Maximum authority
Category 2	Congress silent	Uncertain authority
Category 3	Congress prohibited	Minimum authority

147. Application to 2008 Immunity Grants:

- Congress enacted federal sex trafficking statutes requiring prosecution
- Congress never authorized immunity for unnamed co-conspirators
- Congress through CVRA required victim notification in immunity decisions
- Acosta's immunity grants **violated congressional requirements**

148. Conclusion: The 2008 immunity grants fall into **Youngstown Category 3**—executive action contrary to congressional will—where presidential authority is at constitutional minimum and can be sustained only by finding Congress lacks constitutional power to prohibit such grants. Since Congress clearly possesses power

1 to require federal statutory enforcement, the immunity grants are constitutionally
2 invalid under the *Youngstown* framework.

3 **XII. EFFECT OF EQUITABLE RELIEF**

4 **A. Relief Specification Continued**

5 **149. If This Court Grants Equitable Relief**, the following effects occur. The
6 2008 immunity grants would be declared void ab initio, constitutional limits on
7 prosecutorial authority would be established, ongoing enforcement of invalid immunity
8 would be prohibited, and future ultra vires immunity grants would be prevented.
9 Crime victims may then pursue individual legal remedies based on collateral
10 estoppel—the constitutional violation is established, and victims need only prove their
11 individual harm without relitigating the authority question. Victims control whether to
12 participate while the structural remedy stands established. Vulnerable populations
13 benefit from structural remedy without forced participation, victims maintain privacy,
14 safety, and agency throughout, and constitutional accountability is achieved without
15 victim exploitation.

16 **XIII. REQUEST FOR EXPEDITED CONSIDERATION**

17 **A. Equitable Relief Without Damages Claims**

18 **150.** Plaintiff requests expedited consideration because this Petition seeks only
19 equitable relief (declaration and injunction) without any personal damages claims.

20 **B. Judicial Efficiency and Clean Precedent**

21 **151.** Petitions seeking only structural declaratory relief enable cleaner
22 constitutional precedent. No individual damages claims complicate constitutional
23 analysis. Settlement pressure is eliminated because nothing personal is at stake. The
24 constitutional question can be answered directly without factual disputes about
25 individual harm, and judicial resources focus on structural issues benefiting everyone.

1 **C. Constitutional Function**

2 **152.** This case enables judicial determination of whether Article III's equity
3 jurisdiction permits citizens to challenge structural constitutional violations when those
4 violations affect everyone equally. The answer—yes or no—provides valuable
5 precedential guidance.

6 **D. Humanitarian Recognition**

7 **153.** Structural advocacy at personal sacrifice—seeking to remove an
8 unconstitutional barrier so victims may pursue justice if they choose—represents
9 citizenship duty. Plaintiff bears all litigation costs and exposure risks, seeks no
10 personal gain, enables vulnerable populations to benefit without forced participation.

11 **E. Efficiency Benefits**

12 **154.** Expedited resolution benefits the judicial system through quick resolution of
13 structural questions, prevention of duplicative litigation on identical constitutional
14 issues, and establishment of precedent enabling victims to pursue individual remedies
15 with collateral estoppel effect.

16 **XIV. THE EIGHTEEN-YEAR ENFORCEMENT GAP - PROVING**
17 **TRADITIONAL STANDING'S CONSTITUTIONAL FAILURE**

18 **A. The Undeniable Reality**

19 **155.** For eighteen years, from 2008 to 2026, constitutionally invalid immunity
20 grants have protected a documented sex trafficking enterprise, harmed dozens of
21 identified victims, and exceeded the maximum immunity authority enumerated
22 anywhere in the Constitution—and no judicial review has occurred. This case

1 presents concrete evidence that traditional standing doctrine creates constitutional non-
2 justiciability for clear enumerated violations when harm affects everyone equally.

3 **156. The Documented Facts No One Disputes:**

- 4 • **2008:** Federal prosecutor Alexander Acosta grants immunity to "unnamed co-
5 conspirators including but not limited to" in secret hotel negotiations
- 6 • **Mathematical Certainty:** These grants exceeded presidential pardon power
7 (constitutional ceiling) in every measurable dimension
- 8 • **Obvious Violation:** Presidents cannot pardon unnamed persons; prosecutors
9 (derivative authority) certainly cannot
- 10 • **Real Victims:** Dozens of documented individuals harmed by criminal enterprise
11 receiving governmental protection
- 12 • **2019:** Federal prosecutors indict Epstein, identifying "others known and
13 unknown"—proving 2008 immunity was based on false premises
- 14 • **Congressional Recognition:** FBI and DOJ officials testified to Congress that
15 Acosta's plea deal was the "original sin"
- 16 • **2026:** No judicial review of whether immunity grants exceeded constitutional
17 authority has occurred

18 **157. Eighteen Years of Constitutional Violation With Zero Judicial**

19 **Enforcement:** From 2008 to 2026—eighteen years—the ultra vires immunity grants
20 that exceeded presidential pardon authority have received no judicial review of their
21 constitutional validity. Throughout this period, victims have remained without remedy,
22 the criminal enterprise has remained protected, and constitutional limits have remained
23 violated. No court has ever addressed whether federal prosecutors possessed
24 constitutional authority to grant immunity to unlimited unnamed persons for
25 unspecified crimes. The consequences of unidentified separation of powers violations
26 compound over time: Epstein continued his crimes, victims continued to suffer, co-
27 conspirators remained unidentified, and the constitutional violation multiplied across
28 nearly two decades. This case and the ongoing constitutional crises documented in
29 MEMO C present the identical problem—the absence of any mechanism to identify
30 when a separation of powers violation has occurred. Neither can be remedied without
31 first being identified as such. *See* MEMO C, Section VIII.C (establishing that *Kirchner*
32 *v. Acosta* and ongoing separation of powers crises present the identical constitutional
33 problem; documenting how unidentified violations produce compounding
34 consequences that "accumulate without constitutional remedy").

1 **B. The Three Possibilities - All Demonstrate Constitutional Failure**

2 **158. Only Three Explanations Exist for Why No Judicial Review Has**
3 **Occurred in Eighteen Years:**

4 **1. Possibility A: Nobody Noticed the Constitutional Violation**

5 **159. If nobody noticed:** This would mean that FBI officials, DOJ prosecutors,
6 congressional oversight committees, legal scholars, victim advocates, and federal
7 judges all failed to recognize that immunity to "unnamed co-conspirators" exceeds
8 presidential pardon authority for eighteen years despite multiple congressional
9 investigations, extensive media coverage, federal re-indictment in 2019, and Crime
10 Victims' Rights Act litigation.

11 **This possibility is absurd.** The violation has been recognized for years.

12 **2. Possibility B: Everyone Noticed But Thought They Lacked Standing**

13 **160. If everyone noticed but nobody filed suit:** This means that for eighteen
14 years, informed parties recognized clear constitutional violation but believed they
15 lacked standing under traditional *Lujan* doctrine to challenge prosecutorial action
16 exceeding enumerated constitutional authority.

17 **This possibility proves traditional standing doctrine creates constitutional non-**
18 **justiciability for enumerated violations affecting structural governance.**

19 **3. Possibility C: Those With Power to Challenge Were Part of the Criminal**
20 **Enterprise**

21 **161. If those with power to challenge were themselves implicated:** This means
22 that for eighteen years, governmental officials with authority and resources to
23 challenge constitutional violations deliberately did not because they or their associates
24 were among the "unnamed co-conspirators including but not limited to" who received
25 immunity protection.

26 **162. This possibility proves that traditional standing doctrine enables criminal**
27 **enterprise protection when officials are complicit.**

1 **C. Documented Proof of Possibility C: the *Kirchner v. Johnson* Evidence**

2 **163. Possibility C Is Not Theoretical—It Is Documented Current Government**

3 **Conduct:** Plaintiff's separate action in *Kirchner v. Johnson*, Case No. 1:25-cv-02735-
4 ACR (D.D.C.), filed August 19, 2025, documents real-time evidence that officials
5 currently possessing authority to investigate and challenge the 2008 immunity grants
6 are instead actively protecting the same criminal enterprise. *See* ECF No. 13, ¶¶395-
7 411 (First Amended Complaint) (documenting prosecutorial capture and investigative
8 fraud). This evidence transforms Possibility C from theoretical argument into
9 judicially-cognizable fact.

10 **164. Attorney General Bondi's Refusal to Investigate Cabinet-Level**

11 **Testimony:** On October 1, 2025, Commerce Secretary Howard Lutnick provided
12 public testimony to the New York Post describing Jeffrey Epstein as "the greatest
13 blackmailer ever," stating that prominent men "participated" in activities with Epstein,
14 and describing video recording operations during "massages" as Epstein's blackmail
15 methodology. Six days later, on October 7, 2025, Attorney General Pam Bondi
16 testified before Congress that she saw the interview but has not interviewed Commerce
17 Secretary Lutnick regarding his testimony about the blackmail operation. *See Kirchner*
18 *v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.), ECF No. 13-26, at 8-12 (Exhibit A-1:
19 Government Defendants Interview Transcripts) (documenting Bondi's October 7, 2025
20 testimony); ECF No. 13-24, ¶¶15-28 (Appendix K: Bondi and Patel's Coordinated
21 Investigative Fraud) (formal analysis of refusal to investigate).

22 **165.** When asked if she plans to investigate, Bondi responded with legally absurd
23 passive construction: "if he wants to talk to the FBI or the FBI wants to talk to him"
24 and "if Howard Lutnick wants to speak to the FBI and if Director Patel wants to speak
25 to Howard Lutnick. Absolutely." An Attorney General who waits for Cabinet
26 Secretaries to volunteer testimony about blackmail operations targeting prominent
27 Americans, rather than directing immediate investigation under 28 U.S.C. § 547 and
28 Article II, Section 3, is not faithfully executing the laws—she is obstructing them.

29 **166. The July 7, 2025 DOJ Memo's Fraudulent "Exhaustive Review" Claim:**

30 Attorney General Bondi is responsible for the unsigned July 7, 2025 DOJ memo
31 claiming DOJ conducted an "exhaustive review" of the Epstein matter. This claim

1 constitutes fraud on the American public because it strategically omits any intelligence
2 connection analysis despite overwhelming evidence requiring investigation, including
3 \\$2.3 million in documented payments to former Israeli Prime Minister Ehud Barak,
4 billion-dollar suspicious financial flows through international routing patterns, and
5 investments in Carbyne surveillance technology staffed by Unit 8200 intelligence
6 veterans who secured \$1.5 million in U.S. Department of Homeland Security contracts
7 while concealing Epstein's role as primary funding source. *See Kirchner v. Johnson*,
8 No. 1:25-cv-02735-ACR (D.D.C.), ECF No. 13-14, ¶¶256-260 (Appendix A)
9 (documenting the July 7 DOJ memo's strategic omissions and manufactured ignorance
10 methodology).

11 **167. FBI Director Patel's Prejudiced Dismissal of Expert Evidence:** FBI
12 Director Kash Patel's June 6, 2025 interview demonstrates deliberate investigative
13 fraud. When asked about Dr. Michael Baden's autopsy findings—the most prominent
14 expert challenge to the suicide conclusion from a former New York City Chief Medical
15 Examiner with 50 years of experience—Patel first claimed complete ignorance: "I
16 haven't seen it. I'll definitely take a look at it." Then, after hearing Baden's conclusions
17 read aloud, Patel immediately dismissed them without analysis: "This is what we call a
18 war of experts. You can always find someone right to come in and say the opposite,
19 right?" *See Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.), ECF No. 13-26, at
20 1-7 (Exhibit A-1) (documenting Patel's June 6, 2025 interview); ECF No. 13-24, ¶¶29-
21 45 (Appendix K) (formal analysis of prejudiced dismissal methodology).

22 **168.** An FBI Director who admits ignorance of the most prominent contrary expert
23 opinion, yet produces instant prejudiced rebuttal dismissing findings he confesses
24 never examining, demonstrates consciousness that actual investigation would expose
25 conclusions the institution is committed to suppressing. Patel also admitted he only
26 "recently" became aware of core 2019 surveillance video from the death he is
27 supposedly investigating in 2025—proving no comprehensive review occurred.

28 **169. The "Credible Evidence" Fraud Framework:** The D.C. case documents
29 that Speaker Johnson deployed fraudulent "credible evidence" legal framework for 43
30 consecutive days (July 7 - August 18, 2025) claiming executive authority to determine
31 evidence credibility before releasing Epstein files. This framework appeared 15 times

1 across 7 exhibits achieving 0% legal accuracy. Federal Rules of Evidence 607 and 901
2 vest credibility determination exclusively in constitutional fact-finders (judges and
3 juries), never in executive officials deciding what evidence to release. *See Kirchner v.*
4 *Johnson*, No. 1:25-cv-02735-ACR (D.D.C.), ECF No. 13-14, ¶¶207, 244-247
5 (Appendix A: Legislative and Executive Branch Ultra Vires Coordination)
6 (documenting 43-day deployment and *Interstate Circuit* coordination pattern).

7 **170.** Statistical analysis demonstrates that 83.3% of "victim protection" language
8 used by government officials actually protected criminal associates' reputations rather
9 than victim safety. Attorney General Bondi's participation proves the fraud was
10 knowing, not error: her November 22, 2024 pre-appointment statement correctly
11 distinguished victim protection from evidence release using proper legal terminology,
12 then her July 7, 2025 memo as Attorney General adopted the identical fraudulent
13 framework—proving conscious abandonment of standards she previously
14 demonstrated. *See Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.), ECF No.
15 13-14, ¶261 (Appendix A) (documenting Bondi's professional capture through
16 comparison of pre- and post-appointment statements).

17 **171. Coordinated Cross-Branch Pattern Proving Criminal Enterprise:** The
18 D.C. case documents coordinated abandonment of the fraudulent "credible evidence"
19 framework within days of Plaintiff's August 19, 2025 filing—100% simultaneous
20 cessation across all defendants. Under *United States v. Myers*, 692 F.2d 823, 835-36
21 (2d Cir. 1982), coordinated abandonment of methodology upon judicial scrutiny proves
22 consciousness of guilt. The statistical impossibility of five legal professionals
23 independently abandoning identical fraudulent methodology simultaneously eliminates
24 coincidental explanation, establishing coordinated criminal enterprise under *Interstate*
25 *Circuit v. United States*, 306 U.S. 208, 226-27 (1939). *See* ECF No. 13-14, ¶¶248-264
26 (Appendix A) (establishing cross-branch criminal conspiracy through coordinated
27 linguistic manipulation, Vice President Vance's July 28, 2025 coordination, and
28 Transportation Secretary Duffy's identical deflection patterns).

29 **172. This Evidence Proves Officials Are Actively Protecting the Same**
30 **Criminal Enterprise:** The documented pattern establishes coordinated refusal across
31 all investigative authorities. Attorney General Bondi, with authority under 28 U.S.C. §

1 547 and Article II, Section 3, refuses to investigate Cabinet blackmail testimony.
2 Director Patel, with FBI investigative authority, admits ignorance of core evidence and
3 provides prejudiced dismissal. Speaker Johnson, with congressional oversight
4 authority, deploys fraudulent legal framework and blocks H.R. 4405. The DOJ, with
5 authority to challenge 2008 immunity validity, issued a July 7 memo claiming
6 "exhaustive review" while excluding intelligence analysis. *See Kirchner v. Johnson*,
7 No. 1:25-cv-02735-ACR (D.D.C.), ECF No. 13-24, ¶¶46-62 (Appendix K)
8 (synthesizing coordinated investigative fraud across executive and legislative
9 branches).

10 **173. Why This Proves Citizen Standing Is Constitutional Necessity:** If the
11 current Attorney General refuses to investigate Cabinet-level testimony about the exact
12 blackmail operation her July 7 memo claimed to have "exhaustively reviewed," and the
13 current FBI Director admits he never examined the most prominent contrary expert
14 opinion while claiming comprehensive investigation, then the officials with authority
15 to challenge the 2008 ultra vires immunity grants are themselves protecting the
16 criminal enterprise that immunity shields.

17 **174.** This is not inference—it is documented government conduct from 2025. The
18 "Possibility C" scenario where "those with power to challenge were themselves
19 implicated" is occurring in real-time before this Court. Traditional standing doctrine
20 that prevents citizens from challenging ultra vires immunity when officials with
21 investigative authority are actively protecting the same criminal enterprise represents
22 complete constitutional breakdown.

23 **175. Judicial Notice Requested:** Plaintiff respectfully requests this Court take
24 judicial notice of the following filings in *Kirchner v. Johnson*, Case No. 1:25-cv-
25 02735-ACR (D.D.C.), pursuant to Federal Rule of Evidence 201(b)(2), as court records
26 whose accuracy cannot reasonably be questioned:

27 a. **First Amended Complaint** (ECF No. 13, filed January 19, 2026), ¶¶310-316, 395-
28 411 - documenting the pattern of official conduct by AG Bondi, Dir. Patel, and
29 Speaker Johnson;

1 b. **Exhibit A-1** (ECF No. 13-26) - Government Defendants Interview Transcripts and
2 Ultra Vires Evidence, documenting 0% legal accuracy in "credible evidence" claims
3 across 15 instances;

4 c. **Appendix A** (ECF No. 13-14), ¶¶207, 244-264 - Legislative and Executive Branch
5 Ultra Vires Coordination, documenting 43-day fraud deployment, *Interstate Circuit*
6 coordination pattern, and cross-branch criminal conspiracy;

7 d. **Appendix K** (ECF No. 13-24) - Bondi and Patel's Coordinated Investigative Fraud
8 by Refusal to Investigate and Prejudiced Evidence Dismissal, containing formal logical
9 analysis of documented official conduct;

10 e. **Any orders or rulings** issued by the D.C. court addressing the factual allegations or
11 legal framework presented therein.

12 These documents are matters of public record filed in a federal court, and their
13 existence and contents cannot reasonably be questioned. Plaintiff does not request
14 judicial notice of the truth of any disputed factual assertions, but rather of the fact that
15 these filings exist and contain the allegations and documentary evidence described
16 herein.

17 **D. Why Equitable Standing is Constitutional Necessity**

18 **176. If traditional standing doctrine enables eighteen years of criminal**
19 **enterprise protection through ultra vires immunity because implicated officials**
20 **won't challenge and citizens can't challenge, the doctrine has become mechanism**
21 **for constitutional collapse rather than constitutional enforcement.**

22 **177. Article III Equity Jurisdiction Breaks This Protection Mechanism:** By
23 enabling any citizen to challenge enumerated constitutional violations regardless of
24 particularized harm:

- 25 • Officials lose veto power over constitutional enforcement
- 26 • Criminal enterprise protection fails
- 27 • Constitutional limits become enforceable
- 28 • Framers' system restored

29 **178. The Alternative Is Accepting That Constitutional Limits Are**
30 **Unenforceable Precisely When Enforcement Matters Most.**

1 **XV. CAUSES OF ACTION**

2 **A. Count I: Ultra Vires Government Action**

3 **1. (Declaratory Judgment Act, 28 U.S.C. § 2201)**

4 **179.** Plaintiff incorporates by reference all preceding paragraphs.

5 **180. Ultra Vires Doctrine Constitutional Foundation:** Ultra vires governmental
6 action occurs when officials act completely outside their constitutional authority,
7 rendering such actions void ab initio regardless of good faith intent. *Youngstown Sheet*
8 *& Tube Co. v. Sawyer*, 343 U.S. 579 (1952), established that government officials
9 cannot exceed constitutional grants of power even during claimed emergencies,
10 requiring judicial declaration that government action exceeding constitutional authority
11 is constitutionally invalid.

12 **181. Presidential Pardon Power Constitutional Hierarchy:** The Constitution
13 grants presidents maximum immunity power through Article II, Section 2's explicit
14 pardon authority. Prosecutorial immunity power derives from Article II prosecutorial
15 discretion and must operate within constitutional limits narrower than presidential
16 pardon power. Constitutional hierarchy prevents derivative authority from exceeding
17 source authority, making prosecutorial immunity grants that surpass presidential
18 pardon scope constitutionally impossible and ultra vires.

19 **182. 2008 Immunity Exceeded Presidential Pardon Authority:** The 2008
20 immunity grants to "unnamed co-conspirators" for unspecified crimes exceeded what
21 even presidents could accomplish using explicit constitutional pardon authority
22 because: (a) presidents cannot issue blanket pardons to unnamed persons for unknown
23 crimes under *Ex parte Garland* specificity requirements; (b) presidential pardon power,
24 while broad, operates within constitutional limits requiring identified persons, specific
25 offenses, and respect for separation of powers principles that prevent systematic
26 undermining of federal statutory schemes; (c) prosecutorial immunity cannot exceed
27 presidential pardon scope constitutionally or statutorily without violating constitutional
28 hierarchy established by Article II structure; (d) constitutional precedent requires
29 prosecutorial authority remain within narrower limits than presidential power while

1 respecting federal statutory mandates and Take Care Clause duties; (e) systematic
2 constitutional and statutory violations occurred through ultra vires government action
3 that prevented enforcement of federal sex trafficking and child protection laws through
4 immunity grants exceeding constitutional pardon power limitations and violating
5 separation of powers by systematically preventing congressional statutory enforcement.

6 **183. Constitutional Impossibility of Defense:** No constitutional defense exists for
7 ultra vires immunity grants because: (a) good faith cannot exceed constitutional
8 authority; (b) prosecutorial discretion operates within constitutional limits; (c)
9 constitutional text establishes maximum immunity power through presidential pardons;
10 (d) derivative authority cannot exceed source authority without violating constitutional
11 structure and separation of powers.

12 **B. Count II: Separation of Powers Violation**

13 **1. (Direct Constitutional Claim - Article I, Article II)**

14 **184.** Plaintiff incorporates by reference all preceding paragraphs.

15 **185. Article I vs. Article II Immunity Authority:** The Constitution grants
16 Congress exclusive legislative immunity power (broad, unspecified, policy-based)
17 through Article I while limiting prosecutorial immunity (specific, cooperation-based,
18 constitutionally constrained) through Article II. The 2008 immunity grants functioned
19 as legislative immunity while using prosecutorial authority, violating separation of
20 powers through systematic usurpation of Article I power by Article II officials.

21 **186. Youngstown Framework Application:** Under Justice Jackson's concurrence
22 in *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 635-38 (1952), executive
23 authority operates at constitutional minimum when acting contrary to congressional
24 will. The 2008 immunity grants lacked congressional authorization and violated
25 congressional sex trafficking enforcement statutes, placing prosecutorial power at
26 constitutional minimum where systematic constitutional invalidity is established
27 through ultra vires government action.

28 **187. Legislative Power Usurpation:** Acosta exceeded Article II prosecutorial
29 authority by granting Article I-equivalent immunity without constitutional

1 authorization, usurping congressional power through executive action and violating
2 separation of powers by exercising legislative immunity authority through
3 prosecutorial discretion, creating systematic constitutional violations requiring judicial
4 intervention.

5 **C. Count III: Procedural Due Process Violation**

6 **1. (Fifth Amendment - Direct Constitutional Claim)**

7 **188.** Plaintiff incorporates by reference all preceding paragraphs.

8 **189. Constitutional Process Requirements:** Due process requires constitutional
9 procedures when government action affects individual rights, including immunity
10 determinations that impact criminal justice system integrity and equal protection under
11 law. Valid immunity grants require identified parties, specified crimes, constitutional
12 process, and public accountability through transparent governmental action.

13 **190. Systematic Process Violations:** The 2008 immunity grants violated
14 procedural due process through: (a) secret hotel negotiations avoiding constitutional
15 oversight; (b) no judicial review or constitutional safeguards; (c) unnamed recipients
16 violating identification requirements; (d) unspecified crimes violating constitutional
17 definiteness; (e) arbitrary immunity distribution without constitutional process.

18 **191. Vagueness Doctrine Violations:** Immunity for "potential co-conspirators"
19 without definitional boundaries violates constitutional requirements under *Grayned v.*
20 *City of Rockford*, 408 U.S. 104, 108-09 (1972), that government action provide
21 "sufficient definiteness that ordinary people can understand what conduct is
22 prohibited," creating arbitrary immunity system lacking constitutional process and
23 equal protection safeguards.

24 **D. Count IV: Substantive Due Process Violation**

25 **1. (Fifth Amendment - Direct Constitutional Claim)**

26 **192.** Plaintiff incorporates by reference all preceding paragraphs.

1 **193. Legitimate Government Interest Requirement:** Substantive due process
2 requires government action serve legitimate purposes through constitutional means.
3 No legitimate government interest exists in protecting unnamed criminals through
4 immunity grants exceeding constitutional authority, and systematic wealth-based
5 immunity violates constitutional requirements for equal treatment under law.

6 **194. Arbitrary Government Action:** The 2008 immunity grants constitute
7 arbitrary government action lacking constitutional justification because: (a) no
8 prosecutorial necessity existed for blanket immunity; (b) no cooperation requirements
9 justified immunity scope; (c) wealth-based immunity system violates rational basis
10 requirements; (d) systematic privilege creation lacks any legitimate governmental
11 purpose.

12 **E. Count V: Equal Protection Violation**

13 **1. (Fifth Amendment - Direct Constitutional Claim)**

14 **195.** Plaintiff incorporates by reference all preceding paragraphs.

15 **196. Wealth-Based Classification Analysis:** The 2008 immunity grants created
16 systematic wealth-based classification where individuals associated with wealthy
17 criminal enterprises receive governmental immunity protection while ordinary citizens
18 face full criminal prosecution for identical evidence types, violating Equal Protection
19 Clause through arbitrary classifications lacking rational basis in constitutional law.

20 **197. Two-Tiered Justice System:** Systematic discrimination through wealth-based
21 immunity creates constitutionally impermissible two-tiered system where: (a) wealthy
22 defendants receive governmental protection through ultra vires immunity; (b) ordinary
23 citizens face full prosecution without immunity protection; (c) identical evidence
24 produces different legal outcomes based on wealth rather than law; (d) constitutional
25 equality under law is systematically violated.

26 **198. No Rational Basis for Discrimination:** Government cannot provide
27 constitutional justification for wealth-based immunity because: (a) criminal evidence
28 standards apply equally regardless of wealth; (b) constitutional rights do not vary based
29 on economic status; (c) equal protection requires identical treatment under identical

1 circumstances; (d) systematic privilege violates democratic principles and
2 constitutional structure.

3 **F. Count VI: Conspiracy to Obstruct Justice**

4 **1. (42 U.S.C. § 1985(2))**

5 **199.** Plaintiff incorporates by reference all preceding paragraphs.

6 **200. Statutory Framework:** 42 U.S.C. § 1985(2) creates a cause of action against
7 two or more persons who "conspire to deter, by force, intimidation, or threat, any party
8 or witness in any court of the United States from attending such court, or from
9 testifying to any matter pending therein, freely, fully, and truthfully" or who conspire
10 "to impede, hinder, obstruct, or defeat, in any manner, the due course of justice in any
11 State or Territory, with intent to deny to any citizen the equal protection of the laws."

12 **201. The Conspiracy:** Defendant Acosta, acting in concert with Epstein's defense
13 attorneys—including counsel who participated in secret hotel room negotiations—and
14 DOJ officials who approved or acquiesced in the non-prosecution agreement, conspired
15 to obstruct the due course of justice in federal court proceedings by: (a) conducting
16 secret immunity negotiations deliberately excluding crime victims entitled to notice
17 and participation under the Crime Victims' Rights Act, 18 U.S.C. § 3771; (b)
18 structuring the NPA to prevent federal prosecution where victims would attend and
19 testify; (c) granting immunity to unnamed "potential co-conspirators" specifically to
20 prevent their testimony in future federal proceedings; and (d) coordinating with defense
21 counsel on victim notifications while simultaneously excluding victims from
22 substantive NPA negotiations.

23 **202. Overt Acts in Furtherance of the Conspiracy:** The conspirators performed
24 specific overt acts including: (a) arranging and conducting secret meetings at the
25 Marriott Hotel in West Palm Beach to negotiate immunity terms outside normal
26 prosecutorial channels; (b) deliberately withholding notice of the NPA from identified
27 victims until after the agreement was finalized, in violation of 18 U.S.C. § 3771(a)(2)-
28 (4); (c) drafting immunity language ("including but not limited to") specifically
29 designed to protect unnamed witnesses from ever being called to testify; (d)

misrepresenting to the district court that the state prosecution adequately addressed federal interests; and (e) continuing to enforce the NPA's terms to prevent victims from accessing federal court remedies.

203. Injury to Plaintiff and Similarly Situated Citizens: The conspiracy to obstruct justice injured Plaintiff and all citizens by: (a) preventing victims from attending and testifying in federal proceedings that should have occurred; (b) denying equal protection by creating a system where wealthy defendants could purchase obstruction of justice through coordinated prosecutorial-defense cooperation; (c) establishing precedent that federal prosecutors can conspire with defense counsel to circumvent victim rights and judicial oversight; and (d) obstructing the constitutional processes that protect all citizens' rights to equal justice under law.

G. Count VII: Violation of Federal Child Protection Statutes

1. (Article II, Section 3 - Take Care Clause; 18 U.S.C. §§ 1591, 2421-2424, 3771)

204. Plaintiff incorporates by reference all preceding paragraphs.

205. Federal Statutory Mandates Violated: Acosta's immunity grants violated federal statutes specifically designed to protect children and victims from sexual predators, including: (a) 18 U.S.C. § 1591 (Sex Trafficking of Children and Adults); (b) 18 U.S.C. § 2421-2424 (Mann Act - Interstate Transportation for Illegal Sexual Activity); (c) 18 U.S.C. § 3771 (Crime Victims' Rights Act); (d) various federal child protection statutes requiring prosecution of sexual predator networks and criminal enterprises exploiting minors and adults through systematic criminal activity.

206. Take Care Clause Constitutional Violation: Article II, Section 3 requires the President to "take Care that the Laws be faithfully executed," creating constitutional mandate that extends to federal prosecutors as presidential delegates in law enforcement. Acosta violated this constitutional duty by granting immunity that systematically prevented enforcement of federal child protection statutes, sex trafficking laws, and congressional mandates requiring prosecution of criminal enterprises that exploit vulnerable populations through coordinated criminal activity.

1 **207. Statutory Impossibility Principle:** Federal prosecutors cannot grant
2 immunity that prevents enforcement of federal statutes specifically designed to protect
3 vulnerable populations, particularly children, from sexual predators and trafficking
4 enterprises. Congressional intent in enacting comprehensive federal child protection
5 and sex trafficking statutes requires prosecutorial enforcement rather than systematic
6 immunity grants that prevent statutory compliance and enable continued criminal
7 enterprise operation through governmental protection.

8 **208. Constitutional and Statutory Hierarchy Convergence:** The Constitution
9 and federal statutes converge to establish absolute hierarchy where child protection
10 supersedes any immunity considerations for criminal associates. Presidential pardon
11 power, while constitutionally broad, operates within established limits requiring
12 identified persons, specific offenses, and respect for separation of powers principles
13 that prevent systematic undermining of federal statutory schemes enacted by Congress.
14 Presidents cannot issue blanket pardons to unnamed persons for unspecified crimes,
15 nor systematically prevent enforcement of federal child protection and sex trafficking
16 statutes through pardon authority. Prosecutorial immunity power, derived from Article
17 II prosecutorial discretion, necessarily operates within narrower constitutional limits
18 than presidential pardon authority and cannot grant blanket immunity to unnamed co-
19 conspirators for unidentified crimes that would exceed what presidents could
20 accomplish constitutionally through explicit pardon power while systematically
21 preventing enforcement of federal statutory mandates designed to protect children and
22 victims from sexual predators. Acosta's immunity grants violated both constitutional
23 hierarchy and federal statutory mandates by prioritizing criminal associate protection
24 over child welfare through ultra vires government action exceeding any constitutional
25 or statutory authority.

26 **209. Federal Child Protection Priority:** Federal law establishes constitutional and
27 statutory hierarchy where child protection from sexual predators supersedes any
28 consideration for criminal associate comfort, immunity protection, or prosecutorial
29 convenience. The systematic immunity grants that prevented enforcement of federal
30 sex trafficking statutes, Mann Act violations, and child protection laws violated this
31 fundamental legal hierarchy by subordinating congressional statutory mandates to

1 prosecutorial protection of criminal associates through ultra vires government action
2 beyond any constitutional or statutory authorization.

3 **210. Crime Victims' Rights Act Violations:** The 2008 immunity grants violated
4 18 U.S.C. § 3771 by conducting secret negotiations excluding victim participation,
5 notification, and input in immunity determinations affecting federal criminal
6 proceedings. Federal law grants victims specific statutory rights to reasonable,
7 accurate, and timely notice of court proceedings and any plea agreement that directly
8 and substantially affects their interests, rights violated through Acosta's coordination
9 with criminal associates while excluding victim protection considerations required by
10 federal statutory mandates.

11 **XVI. DAMAGES AND ONGOING HARM**

12 **A. Constitutional Harm to Plaintiff**

13 **211.** Plaintiff suffers concrete constitutional harm including:

- 14 a. **Equal protection harm** from wealth-based immunity system that provides
15 governmental protection to wealthy criminal associates while subjecting ordinary
16 citizens to full criminal prosecution
- 17 b. **Due process harm** from arbitrary ultra vires immunity grants lacking constitutional
18 process, identification requirements, and equal protection safeguards
- 19 c. **Constitutional governance harm** from systematic prosecutorial authority abuse
20 exceeding constitutional limits and creating government action beyond constitutional
21 grants
- 22 d. **Separation of powers harm** from prosecutorial usurpation of legislative immunity
23 authority violating constitutional structure and democratic accountability
- 24 e. **Particularized harm through documented official retaliation:** Plaintiff's separate
25 litigation in *Kirchner v. Johnson*, No. 1:25-cv-02735-ACR (D.D.C.), documents that
26 the same officials who refuse to investigate the 2008 immunity grants are actively
27 engaged in coordinated ultra vires conduct affecting Plaintiff directly. The chain from
28 Acosta's 2008 grants to official protection of the criminal enterprise to documented

1 targeting of Plaintiff's constitutional advocacy establishes particularized injury flowing
2 from the same source this action challenges.

3 **f. Active litigant interest in prosecutorial authority limits:** As a plaintiff currently
4 litigating constitutional claims in federal court, Plaintiff has a concrete stake in the
5 proper boundaries of prosecutorial authority. If prosecutors can grant unlimited
6 immunity exceeding presidential pardon power with impunity, that precedent affects
7 the integrity of Plaintiff's pending litigation and every citizen's access to constitutional
8 justice.

9 **g. Constitutional advocacy burden:** Plaintiff has undertaken substantial personal
10 sacrifice to identify and challenge a constitutional question of first impression with
11 documented real-world consequences—the protection of a criminal enterprise that
12 harmed dozens of victims. *Bond v. United States* specifically protects citizens' ability to
13 seek judicial vindication of structural constitutional principles "without having to rely
14 solely upon the political processes that control a remote central power." 564 U.S. at
15 221 (quoting *Gregory v. Ashcroft*, 501 U.S. 452, 458 (1991)). Denial of standing
16 would impose precisely that relegation—reducing Plaintiff to advocacy alone, to
17 hoping Congress acts, to preaching constitutional violations to passersby who cannot
18 remedy them. Worse, denial would impose the unbearable indignity of soliciting
19 trauma survivors—the very victims this immunity system harmed—to undertake
20 constitutional litigation that Plaintiff has already labored for and sacrificed for. The
21 Constitution does not require citizens who identify structural violations to outsource
22 their vindication to those least able to bear the burden. The paradox is inescapable: if
23 declaratory relief possesses constitutional value, then withholding such relief from
24 meritorious claims constitutes concrete harm—unless declaratory relief carries no
25 value at all, which would render the Declaratory Judgment Act a nullity. The worst
26 harm Plaintiff can sustain is non-redress of this case and controversy not because it
27 lacks constitutional merit, but because standing doctrine precludes reaching the merits.
28 Plaintiff would then carry for the remainder of his years the knowledge that
29 documented constitutional violations exceeded all enumerated authority, that the
30 question was never answered, and that closure was denied not by constitutional
31 substance but by procedural gatekeeping.

212. Ongoing Constitutional Violations: Each day of continued ultra vires immunity enforcement creates accumulating constitutional harm through systematic privilege creation, criminal enterprise protection, and constitutional structure violations that progressively degrade constitutional governance and equal protection under law.

B. The Causal Chain From Ultra Vires Immunity to Ongoing Constitutional Violations

213. FBI Director's "Original Sin" Admission: On September 16, 2025, FBI Director Kash Patel testified before the Senate Judiciary Committee that "the original sin in the Epstein case was the way it was initially brought by Mr. Acosta back in 2006," identifying the 2008 non-prosecution agreement as the root cause of ongoing institutional failure to achieve transparency and accountability. Director Patel's characterization constitutes an admission against interest by the sitting FBI Director that the 2008 immunity grants are the origin point from which all subsequent transparency failures flow—confirming the causal primacy this complaint asserts.

214. Court-Ordered Secrecy as Direct Product of Ultra Vires Grants: Director Patel testified that Acosta's 2008 plea and non-prosecution agreement resulted in "courts issu[ing] mandates and protective orders legally prohibiting anyone from ever seeing that material ever again without the permission of the court." The secrecy infrastructure constraining public accountability is not an independent legal development—it is the direct, foreseeable, and intended product of the ultra vires immunity grants challenged herein. Unconstitutional government action generated the judicial instruments that now shield that same unconstitutional action from review.

215. Self-Perpetuating Constitutional Violation: Director Patel used these court orders as the boundary of FBI cooperation with congressional oversight: "I will commit to providing all records I'm legally permitted to do so under the court orders." This creates a self-perpetuating constitutional violation: (a) Acosta executed ultra vires immunity grants exceeding all enumerated constitutional authority; (b) those grants were formalized through judicial proceedings generating protective orders; (c) those protective orders now constrain the FBI Director's cooperation with Congress; (d) the

1 FBI Director invokes those orders as legal justification for limiting transparency; (e) no
2 party has challenged the constitutional authority underlying the original grants. The
3 unconstitutional action of 2008 generated its own immunity from investigation—
4 precisely the recursive self-protection that equitable intervention is designed to break.

5 **216. The FRE 901/607 Conflation as Downstream Constitutional Violation:**

6 When public pressure demanded transparency that the court orders technically
7 restricted, government officials deployed a fraudulent legal framework—substituting
8 executive "credibility determinations" for constitutional fact-finding processes. Under
9 Federal Rules of Evidence 607 and 901, credibility determinations belong exclusively
10 to constitutional fact-finders (judges and juries), not executive officials. Yet beginning
11 no later than July 7, 2025, government defendants in *Kirchner v. Johnson*, No. 1:25-cv-
12 02735-ACR (D.D.C.), deployed "credible evidence" language across legislative and
13 executive branches simultaneously, creating the false appearance of legal justification
14 for selective disclosure while usurping judicial fact-finding authority. *See* ECF No. 13-
15 14 (Appendix A: Legislative and Executive Branch Ultra Vires Coordination).

16 **217. The Causal Chain Is Direct and Unbroken:** The FRE 901/607 conflation
17 exists because the 2008 ultra vires grants created conditions requiring it:

18 a. **Without the ultra vires grants**, full transparency would have been achieved
19 through normal prosecutorial process no later than 2008, and no secrecy infrastructure
20 would exist requiring subsequent justification;

21 b. **Without the court-ordered secrecy**, government officials would have had no
22 occasion to construct fraudulent legal frameworks for selective disclosure, as complete
23 disclosure would have been the constitutional default;

24 c. **Without the "credible evidence" conflation**, constitutional fact-finding authority
25 would have remained with judges and juries where the Federal Rules of Evidence
26 assign it, and no cross-branch coordination to misrepresent federal law would have
27 been necessary;

28 d. **Without the ongoing concealment**, the constitutional violations documented in
29 Plaintiff's D.C. litigation—including coordinated evidence suppression, reactive policy
30 modifications, and systematic targeting of constitutional advocacy—would not have
31 occurred because the underlying facts would have been public for eighteen years.

1 **218. Post-Filing Coordination Proves the Chain Remains Active:** On August
2 19, 2025, Plaintiff filed a complaint in the District of Columbia documenting the FRE
3 901/607 conflation. Within days, all five government defendants simultaneously
4 abandoned the fraudulent "credible evidence" framework—100% coordinated
5 cessation satisfying *Interstate Circuit v. United States*, 306 U.S. 208, 226-27 (1939),
6 which established that parallel conduct contrary to independent self-interest permits
7 inference of coordination without direct evidence of agreement. The statistical
8 impossibility of five legal professionals independently abandoning identical fraudulent
9 terminology at the precise moment of legal challenge constitutes consciousness of
10 guilt—proving the conflation was knowing rather than inadvertent and confirming the
11 causal chain from the 2008 grants through the present day remains active and
12 producing ongoing constitutional violations.

13 **219. Director Patel's Testimony Simultaneously Confirms and Demonstrates**
14 **the Harm:** Director Patel identifies the 2008 grants as the "original sin" while
15 simultaneously using their products—court orders and protective mandates—to limit
16 his own cooperation with Congress. This is not merely evidence of the causal chain; it
17 is the causal chain operating in real time before the Senate Judiciary Committee. The
18 FBI Director acknowledges the root cause while treating its consequences as
19 permanent constraints rather than products of reviewable governmental action. His
20 testimony proves that the 2008 ultra vires grants continue to distort constitutional
21 governance eighteen years after execution—and will continue indefinitely absent
22 judicial declaration that the grants exceeded constitutional authority.

23 **220. Redressability Through Declaratory Relief:** Declaring the 2008 immunity
24 grants unconstitutional would undermine the legal foundation of the protective orders
25 they generated, eliminate the justification for executive "credibility" gatekeeping of
26 public information, restore constitutional fact-finding authority to judges and juries
27 under FRE 607 and 901, break the self-perpetuating cycle in which unconstitutional
28 action generates its own immunity from review, and provide the structural remedy that
29 eighteen years of particularized litigation has failed to achieve. This chain of
30 redressability confirms that the declaratory relief Plaintiff seeks is not abstract—it

1 addresses the documented root cause of ongoing constitutional violations affecting
2 every American's right to transparent governance and equal justice under law.

3 **221. The Eighteen-Year Enforcement Gap Exposed:** Despite extensive litigation
4 surrounding the 2008 plea deal—including Crime Victims' Rights Act proceedings,
5 congressional investigations, state prosecutorial actions, and civil litigation by
6 identified victims—no party has ever challenged whether federal prosecutors possessed
7 constitutional authority to grant immunity to unlimited unnamed co-conspirators for
8 unspecified crimes exceeding presidential pardon power. The FBI Director identifies
9 the 2008 grants as the origin of institutional failure. Congress has investigated
10 repeatedly without resolution. Identified victims have litigated for years without
11 reaching the constitutional question. Yet the foundational question—did Acosta have
12 the constitutional authority to do what he did?—remains unasked and unanswered.
13 This eighteen-year enforcement gap proves that traditional standing doctrine is
14 structurally incapable of reaching the root cause the FBI Director himself identifies,
15 confirming the constitutional necessity of equitable standing for enumerated
16 constitutional violations under Article III's distinct equity jurisdiction.

17 **C. Irreparable Harm Requiring Emergency Relief**

18 **222. Constitutional Structure Breakdown:** Ultra vires immunity grants create
19 irreparable harm to constitutional structure by establishing precedent that prosecutorial
20 authority can exceed constitutional limits, violate separation of powers, and create
21 arbitrary governmental privilege systems that cannot be remedied through monetary
22 damages alone.

23 **223. Rule of Law Collapse:** Systematic wealth-based immunity violates
24 fundamental rule of law principles by creating governmental privilege for criminal
25 associates that progressively destroys equal justice under law and constitutional
26 accountability in ways that monetary compensation cannot address.

27 **224. Criminal Enterprise Enablement:** Continued enforcement of ultra vires
28 immunity grants enables ongoing criminal enterprise protection while preventing

1 constitutional accountability and criminal prosecution required by constitutional
2 governance, creating irreparable harm to public safety and constitutional compliance.

3 **XVII. PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff respectfully requests that this Court:

5 **A. Declaratory Relief**

6 **225. Declare that the 2008 Epstein immunity grants are void ab initio** as ultra
7 vires government action exceeding constitutional authority;

8 **226. Declare that prosecutorial immunity power cannot exceed presidential**
9 **pardon authority** and must operate within constitutional limits established by Article
10 II hierarchy;

11 **227. Declare constitutional requirements for valid immunity grants** including
12 identified persons, specified crimes, constitutional process, and equal protection
13 compliance;

14 **228. Declare that separation of powers prohibits prosecutorial grants of**
15 **legislative-scope immunity** without congressional authorization and constitutional
16 process;

17 **229. Declare that wealth-based immunity systems violate Equal Protection**
18 **Clause** and create constitutionally impermissible two-tiered justice systems;

19 **230. Declare that secret immunity negotiations violate due process**
20 **requirements** for constitutional procedures in government action affecting individual
21 rights;

22 **231. Declare that federal child protection statutes prohibit immunity grants**
23 that prevent prosecution of sexual predator networks and criminal enterprises
24 exploiting minors;

25 **232. Declare that Take Care Clause prohibits prosecutorial immunity** that
26 systematically prevents enforcement of federal statutory schemes enacted by Congress;

1 **B. Injunctive Relief**

2 **233. Permanently enjoin enforcement of 2008 immunity grants** as
3 constitutionally invalid ultra vires government action;

4 **234. Mandate prosecutorial compliance with constitutional limits** on immunity
5 authority within Article II grants;

6 **235. Require constitutional process for future immunity grants** including
7 judicial oversight, public accountability, and equal protection compliance;

8 **236. Prohibit wealth-based immunity systems** violating constitutional equality
9 requirements;

10 **237. Enjoin secret immunity negotiations** that violate due process and Crime
11 Victims' Rights Act requirements;

12 **238. Mandate compliance with federal child protection statutes** in all
13 prosecutorial immunity determinations;

14 **C. Collateral Estoppel Effect**

15 **239. Order collateral estoppel effect** of this Court's constitutional declaration for
16 any subsequent litigation by victims or other parties with particularized harm, enabling
17 them to utilize the constitutional findings without relitigating the authority question;

18 **D. Expedited Consideration**

19 **240. Order expedited consideration** of this constitutional challenge because
20 Plaintiff seeks only structural declaratory relief with no personal damages;

21 **E. Monetary Relief**

22 **241. Award attorney's fees and costs** pursuant to applicable fee-shifting statutes;

1 **F. Humanitarian Protection Through Structural Remedy**

2 **242. Declare that equitable relief for structural violations protects vulnerable**
3 **populations** from forced participation in constitutional litigation by enabling any
4 citizen to challenge governmental violations affecting everyone;

5 **243. Declare that this approach serves constitutional purposes** by ensuring
6 enumerated constitutional limits remain enforceable even when violations particularly
7 harm vulnerable populations unable to litigate themselves;

8 **G. Additional Relief**

9 **244. Order expedited discovery** regarding ultra vires immunity processes,
10 constitutional authority analysis, and coordination among defendants in granting 2008
11 immunity;

12 **245. Grant such other and further relief** as this Court deems just, equitable, and
13 proper under the circumstances;

14 **246. Retain jurisdiction** to enforce this Court's declarations and injunctions,
15 monitor constitutional compliance, and address any subsequent violations of
16 constitutional limits on prosecutorial immunity authority;

17 **247. Order publication** of this Court's constitutional declarations to ensure public
18 notice of constitutional limits on prosecutorial authority and prevention of future ultra
19 vires immunity grants.

20 **XVIII. CONCLUSION**

21 **248.** The 2008 Epstein immunity grants present **constitutional questions of first**
22 **impression** requiring judicial resolution. No precedent exists authorizing prosecutorial
23 immunity to unlimited unnamed persons for unspecified crimes. No constitutional
24 authority supports immunity grants exceeding presidential pardon power. No
25 separation of powers principle permits prosecutorial usurpation of legislative immunity
26 authority.

249. Mathematical Proof: The 2019 federal indictment's identification of "others known and unknown" as criminal co-conspirators creates mathematical impossibility proving 2008 immunity was based on false premises and constitutional fraud.

250. Humanitarian Imperative: Crime victims—especially children—should not bear the burden of establishing constitutional limits on prosecutorial authority through public adversarial proceedings. Article III's equity jurisdiction enables structural advocacy protecting vulnerable populations while preserving their privacy, safety, and agency.

251. Constitutional Service: Plaintiff seeks only equitable declaratory relief establishing constitutional boundaries that protect everyone equally. This structural advocacy at personal sacrifice demonstrates that Article III equity jurisdiction serves constitutional enforcement rather than personal enrichment.

252. Judicial Invitation: Whether this Court recognizes Article III's equity jurisdiction for structural constitutional violations or addresses these issues under traditional standing doctrine, judicial resolution is urgently needed to restore constitutional governance, protect vulnerable populations, and prevent future ultra vires prosecutorial action exceeding constitutional authority.

Respectfully submitted,

JOSEPH KIRCHNER

Pro Se Plaintiff and Citizen-Advocate

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(612) 552-2122

DATED: March 13, 2026

XIX. VERIFICATION

I, Joseph Kirchner, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Petition in Equity and Complaint, and that the facts stated therein are true and correct to the best of my knowledge, information, and belief.

Executed on: March 13, 2026

At: Edina, Minnesota

JOSEPH KIRCHNER

Plaintiff, Pro Se

XX. CERTIFICATE OF SERVICE

I hereby certify that on _____, 2026, I served a true and correct copy of the foregoing **PETITION IN EQUITY FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF** upon all parties as follows:

Alexander Acosta

c/o Newsmax Inc.

750 Park of Commerce Dr., Suite 100

Boca Raton, FL 33487

Via certified mail, return receipt requested

Attorney General of the United States (Official Capacity Defendant)

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530

Via certified mail, return receipt requested

United States Attorney's Office

Southern District of Florida

99 NE 4th Street

Miami, FL 33132

Via certified mail, return receipt requested

(Required under FRCP 4(i)(1)(A))

JOSEPH KIRCHNER

Plaintiff, Pro Se

1 **XXI. ATTACHMENTS**

2 The following exhibits, memoranda, and appendices are filed herewith in support of
3 this Petition in Equity and are incorporated by reference:

4 **A. Exhibits**

- 5 • **EXHIBIT A:** Epstein 2008 Non-Prosecution Agreement
6 • **EXHIBIT B:** Epstein 2019 Federal Indictment
7 • **EXHIBIT C:** DOJ Office of Professional Responsibility Report Excerpts

8 **B. Memoranda of Law**

- 9 • **MEMO A:** The Recovery of Equitable Standing for Enumerated Constitutional
10 Violations
11 • **MEMO B:** The Madisonian Separation of Powers Objective Compliance Test
12 • **MEMO C:** The Constitutional Necessity of Judicial Recognition of Separation of
13 Powers Violations and Adoption of an Objective Compliance Test

14 **C. Appendices**

- 15 • **APPENDIX A:** Madisonian Separation of Powers Objective Compliance Tests

16 **D. Cross-Reference to D.C. Filing**

17 The exhibits, appendices, and supporting documents filed in *Kirchner v. Johnson*, No.
18 1:25-cv-02735-ACR (D.D.C.), are incorporated by reference as set forth in Section
19 XIV.C (¶178) above.

20 **END OF PETITION**
21