

## FACT SHEET

### Legal and Factual Basis for Lawsuit Against Unconstitutional Delegation of Executive Authority

#### Legal Background

The lawsuit challenges President Trump’s delegation of sweeping executive authority to Elon Musk through the DOGE (Digital Operations and Government Efficiency) initiative, arguing that it violates the U.S. Constitution’s separation of powers and the Appointments Clause.

#### Appointments Clause – U.S. Constitution, Article II, Section 2, Clause 2:

The Appointments Clause ensures executive appointments are subject to congressional oversight and Senate confirmation. It states that the President:

“shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.”

#### Key Legal Precedents:

- **United States v. Arthrex (2021):** Distinguishes between principal officers (requiring Senate confirmation) and inferior officers (who must be appointed per congressional authorization).
- **Buckley v. Valeo (1976):** Clarifies that “officers” exercise significant authority and must be appointed under the Appointments Clause.
- **Edmond v. United States (1997):** Defines inferior officers as those supervised by Senate-confirmed principal officers.
- **Trump v. United States (2024) (Thomas, J., concurring):** Reinforces that the President cannot unilaterally create and fill new offices without congressional authorization.

#### Factual Background

- **November 12, 2024:** Then-President-elect Trump announced DOGE as a “Manhattan Project” to overhaul federal agencies and bureaucracy.
- **January 20, 2025:** President Trump issued an Executive Order renaming the U.S. Digital Service as the U.S. DOGE Service, granting it expansive new powers.



- **January 21, 2025 – Present:** Musk, without Senate confirmation or legal appointment, has exercised unprecedented executive authority, accessing classified information, directing agency activities, and eliminating federal programs.
- **February 3, 2025:** White House confirms Musk has been leading DOGE but provides no legal basis for his authority.
- **Scope of DOGE:** Musk and DOGE operatives have gained access to key federal agencies, including the Department of the Treasury, the Department of Defense, and the Centers for Medicare and Medicaid Services, among others.

### **Legal Claims**

The lawsuit asserts that Musk’s role violates:

1. **The Appointments Clause:** Musk has not been lawfully appointed to any executive position requiring Senate confirmation.
2. **Separation of Powers:** The President cannot unilaterally vest unchecked executive authority in an unelected individual.
3. **Ultra Vires Actions:** Any directives issued by Musk in this capacity are unconstitutional and without legal effect.

### **Relief Sought**

- A judicial declaration that Musk’s role and actions are unconstitutional.
- An injunction preventing Musk from issuing orders to federal agencies.
- Nullification of all executive actions taken by Musk through DOGE.