CASA'S COMPLETE RELIEF PARADOX

In *Trump v. CASA, Inc.*,[1] the Supreme Court held that federal courts may not issue "universal injunctions"[2] unless "necessary to provide complete relief to each plaintiff with standing to sue."[3] This holding followed a long-running debate over the propriety of "universal" or "nonparty" injunctions.[4] Some scholars, judges, and elected officials had critiqued such injunctions for incentivizing forum shopping, preventing the development of the law through percolation, and operating asymmetrically against the federal government.[5] Others had defended nonparty injunctions as consistent with longstanding historical practice,[6] necessary for remedying widespread harm, and beneficial for uniformity and fairness in the law.[7] Doctrinally, *CASA* ended one thread of this debate, though its practical importance is contestable. Broad relief may still be available in class actions or in challenges under the Administrative Procedure Act[8] (APA).[9] But there are procedural hurdles and open questions in these contexts too. Class certification is subject to heightened evidentiary standards and interlocutory appeal,[10] and there are growing calls to prohibit relief for precertification putative classes.[11]

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[1] 145 S. Ct. 2540 (2025).

[2] *Id.* at 2548.

[3] *Id.* at 2562–63.

[4] The terms "nationwide injunction" and "universal injunction" are both somewhat misleading. The relevant distinction is not whether the injunction covers conduct with respect to everyone in the country, or everyone in a particular jurisdiction, but rather whether it is limited to the plaintiffs or instead protects nonparties. *Id.* at 2548 n.1; *see also* Samuel L. Bray, *Multiple Chancellors: Reforming the National Injunction*, 131 HARV. L. REV. 417, 419 n.5 (2017); Mila Sohoni, *The Lost History of the "Universal" Injunction*, 133 HARV. L. REV. 920, 924 n.17 (2020).

This Note therefore uses the term "nonparty injunction" to refer to relief that extends beyond the plaintiffs.

[5] *E.g.*, Bray, *supra* note 4, at 457, 460, 461; Trump v. Hawaii, 138 S. Ct. 2392, 2425 (2018) (Thomas, J., concurring); Ryan Tarinelli, *Republican Lawmakers Take Aim at Nationwide Injunctions*, ROLL CALL (Mar. 25, 2025, at 12:56 ET), https://rollcall.com/2025/03/25/republican-lawmakers-take-aim-at-nationwide-injunctions [https://perma.cc/3E2V-U26A].

[6] *E.g.*, Sohoni, *supra* note 4, at 924.

[7] *E.g.*, Amanda Frost, *In Defense of Nationwide Injunctions*, 93 N.Y.U. L. REV. 1065, 1090–91, 1094–95 (2018).

[8] Pub. L. No. 79-404, 60 Stat. 237 (1946) (codified as amended in scattered sections of 5 U.S.C.).

[9] John Lewis & Jordan Ascher, *Pathways to "Universal" Relief After* Trump v. CASA, JUST SEC. (July 3, 2025), https://www.justsecurity.org/116162/universal-relief-after-trump-v-casa [https://perma.cc/22MF-UWQ7].

[10] *See* Frost, *supra* note 7, at 1095–97.

[11] *See, e.g.*, Elias Neibart, *The Rise of the All-Writs-Act-Putative-Class-Injunction?*, 77 BAYLOR L. REV. (forthcoming 2025) (manuscript at 1), https://ssrn.com/abstract=5344342 [https://perma.cc/8XLT-DNZ7] (arguing that universal relief may not properly be extended to precertification putative classes).

Scholars, and increasingly the federal government, have also debated and questioned the bases for universal vacatur under the APA.[12]

CASA itself, however, left a door open to broader remedies in the second clause of its holding: Injunctions may still be as broad as "necessary to provide complete relief to each plaintiff with standing to sue."[13] That clause reflects the "complete-relief principle,"[14] which *CASA* defined as the idea that courts "may administer complete relief between the parties"[15] and that "[i]njunctive relief should be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs."[16] Prior to *CASA*, scholarship on the complete-relief principle took multiple approaches. Some cited it as a normative justification for universal injunctions.[17] Others argued that, descriptively, it provided near-total explanatory power for predicting when universal injunctions would issue.[18] The principle also had critics: Professor Samuel Bray, in scholarship cited extensively in *CASA* itself,[19] described the complete-relief principle as an "almost wholly indeterminate" rule that failed to impose meaningful limits on universal injunctions.[20]

CASA described the complete-relief principle as having "deep roots in equity."[21] But the term "complete-relief principle" had not been used in any case or scholarly work prior to Bray's reference to the idea in 2017, and there has been surprisingly little scholarly attention to the principle's origins.[22] This gap is particularly notable because *CASA*'s methodology is purportedly historic: The opinion asks about the "historical pedigree"[23] of the universal injunction "within the broad boundaries of traditional equitable relief"[24] as seen in "the High Court of Chancery in England at the time of the adoption of the Constitution and the enactment of the original Judiciary Act."[25] *CASA*'s turn to history is not novel: It is just the latest in a line of Supreme Court decisions that assess

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[12] *See* Mila Sohoni, *The Past and Future of Universal Vacatur*, 133 YALE L.J. 2305, 2308–09, 2308 n.5 (2024) (describing Solicitor General Elizabeth Prelogar's argument against universal vacatur before the Supreme Court and collecting scholarship debating the topic).

[13] Trump v. CASA, Inc., 145 S. Ct. 2540, 2562–63 (2025).

[14] *Id.* at 2556.

[15] *Id.* at 2557 (emphasis omitted) (quoting Kinney-Coastal Oil Co. v. Kieffer, 277 U.S. 488, 507 (1928)).

[16] *Id.* (emphasis omitted) (quoting Califano v. Yamasaki, 442 U.S. 682, 702 (1979)).

[17] *E.g.*, Frost, *supra* note 7, at 1090–94.

[18] *E.g.*, Zayn Siddique, *Nationwide Injunctions*, 117 COLUM. L. REV. 2095, 2100–01 (2017).

[19] *See infra* note 120 and accompanying text.

[20] Bray, *supra* note 4, at 480; *see also id.* at 466–68.

[21] *CASA*, 145 S. Ct. at 2556.

[22] *See* Bray, *supra* note 4, at 466–68 (discussing the principle without exploring its history in detail); Frost, *supra* note 7, at 1090–94 (same); *cf.* Siddique, *supra* note 18, at 2105 n.54 (briefly describing complete relief as a "well-established principle" that is "not directly derived from a historical maxim of equity").

[23] *CASA*, 145 S. Ct. at 2554.

[24] *Id.* (quoting Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc., 527 U.S. 308, 322 (1999)).

[25] *Id.* at 2551 (quoting *Grupo Mexicano*, 527 U.S. at 318).

the propriety of equitable remedies and principles through a historical lens.[26] We should therefore expect courts to turn to history to answer questions about how the complete-relief principle operates. Questions about complete relief have already begun to arise in the aftermath of *CASA*, in contexts ranging from religious freedom,[27] to grant terminations,[28] to the Fourth Amendment.[29] But scholarship has yet to describe the history of the complete-relief principle or assess what that history means for courts trying to apply the principle after *CASA*.

This Note aims to fill that gap. It first traces the history of the complete-relief principle as it evolved from the English Court of Chancery to the form it took when reaffirmed in *CASA*. Part I documents how the chancery-era predecessors of the complete-relief principle did not operate exclusively, or even primarily, as a limiting principle on remedial scope, and that it did not begin to take on this character until a string of decisions originating in desegregation litigation in the 1960s and '70s. Unlike the chancery-era versions of the principle, which focused on questions of joinder and pleading alongside some considerations of relief, the twentieth-century version of the principle both authorized and limited remedial scope based on the nature and the extent of the violation. *CASA* itself drew on both strands of this history.

This Note's second contribution is to begin the task of fitting this history into the complete-relief principle as conceived in *CASA*. Part II articulates how *CASA*'s version of the complete-relief principle continues to authorize injunctions that grant formal relief to nonparties, not merely injunctions that incidentally benefit nonparties. It then assesses how the history of the complete-relief principle guides application of the principle after *CASA*. It concludes that chancery-era history sheds some broad light on contemporary applications of the complete-relief principle. However, there is a paradox at the heart of *CASA*'s invocation of complete relief: *CASA* instructed courts to turn to chancery-era history, but it affirmed a version of the complete-relief principle that has no true chancery-era progenitors.

This Note's final contribution is to provide and defend a positive account answering the primary question that *CASA*'s complete-relief principle leaves open: When does complete relief to the plaintiff make it necessary to provide relief to nonparties? Part III argues that the poor fit between the chancery-era complete-relief principle and *CASA* itself counsels in favor of turning to the second strand of history: understanding complete relief as depending on the nature of the violation.

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[26] *See* Samuel L. Bray, *The Supreme Court and the New Equity*, 68 VAND. L. REV. 997, 1000–02 (2015).

[27] *E.g.*, Etienne v. Ferguson, No. 25-cv-05461, 2025 WL 2022101, at *11 (W.D. Wash. July 18, 2025).

[28] *E.g.*, Nat'l Fair Hous. All. v. U.S. Dep't of Hous. & Urb. Dev., No. 25-cv-01965, 2025 WL 2105567, at *13 n.5 (D.D.C. July 28, 2025).

[29] *E.g.*, Vasquez Perdomo v. Noem, 148 F.4th 656, 686 (9th Cir. 2025).

Specifically, nonparty relief should still be authorized in cases involving "aggregate rights," like those implicated in desegregation cases: rights where injuries to the individual can only be understood by reference to the rights of others. Applying this standard is plausibly consistent with the Court's longstanding practice of constructing an "artificial" or "idealized" history of equity to produce determinate standards for judicial decisionmaking. The Note concludes by illustrating the workability of this principle, drawing on desegregation, voting rights, and the First Amendment.

I. A HISTORY OF COMPLETE RELIEF

According to *CASA*, the Judiciary Act of 1789[30] authorizes federal courts to grant equitable remedies.[31] In cases assessing the propriety and scope of equitable remedies, the Court inquires into the "founding-era antecedent[s]" of the remedy in question.[32] Though "an exact historical match" is not required,[33] the Court's approach "is dominated by appeals to the history and tradition of equity."[34] With this context in mind, this Part surveys the history of the complete-relief principle to assess how that history may guide contemporary applications of the principle. This Part argues that *CASA*'s complete-relief principle reflects two largely separate strands. Section A describes the first strand, stretching from the English Court of Chancery to premerger equity courts in the early twentieth century, where complete relief governed questions like joinder and pleading, with some relevance to remedial scope. Section B describes the second strand, emerging after the merger of law and equity through the Federal Rules of Civil Procedure, where a different version of the complete-relief principle emerged out of desegregation litigation as a principle limiting the scope of remedies based on the nature of the rights implicated. As Parts II and III will argue, the second of these strands provides the most useful guidance for the principle as understood in *CASA*.

A. "Complete Justice"

The complete-relief principle's earliest predecessors came from the English Court of Chancery, but the principle did not operate exclusively or even primarily as a constraint on remedial scope. Instead, in the

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[30] Ch. 20, 1 Stat. 73.

[31] Trump v. CASA, Inc., 145 S. Ct. 2540, 2551 (2025). This view of federal courts' remedial authority is contested. *See* Jack L. Goldsmith, *The Supreme Court 2024 Term — Essay: Interim Orders, the Presidency, and Judicial Supremacy*, 139 HARV. L. REV. 86, 115–19 (2025).

[32] *CASA*, 145 S. Ct. at 2554 (citing Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc., 527 U.S. 308, 333 (1999)).

[33] *Id.*

[34] *See* Bray, *supra* note 26, at 1008. The precedents on equitable principles are distinct from the precedents on equitable remedies, but both lines of precedent are dominated by appeals to history. *See id.*

Court of Chancery and premerger courts of equity in the United States, the principle was invoked in connection with a range of maxims, often operating expansively to bring a wider range of parties and claims before the court.

One common role for this version of the complete-relief principle was as a justification for joining parties. An archetypal and widely cited example is the case of *Knight v. Knight*,[35] decided in the Court of Chancery in 1734. A widow brought a bill in equity against the son of the deceased, alleging that he had failed to maintain a home for her as required by a covenant on land that had been left to the son.[36] She sought to compel the son to rebuild the home and to pay her damages.[37] The son objected that she had failed to bring the deceased's executor as a party; the widow argued that in a suit at law, she would have been allowed to sue the heir alone.[38] Lord Chancellor Talbot rejected the widow's argument: Regardless of the rule at law, "the court of equity in all cases delights to do complete justice, and not by halves."[39] Joining the executor "would prevent a multiplicity of suits," so the objection was proper[40] — in effect, the executor was an indispensable party. The practice of invoking complete relief to justify or require joinder of parties continued into early equity courts in the United States. Like *Knight*, these cases often invoked the same idea of "complete justice" and tied that idea to the multiplicity-of-suit ground for equitable jurisdiction.[41] Leading equitable treatises published in the nineteenth century confirmed this interpretation: Joinder rules reflected the "constant aim of Courts of Equity to do complete justice" so that "future litigation may be prevented."[42]

In addition to invoking the principle to determine what *parties* could be before a court of equity, courts also invoked the concept of "complete justice" to expand the *claims* they could consider. Though equity courts could not typically consider a legal claim where there was an adequate remedy at law,[43] the complete-relief principle justified resolving those claims if plaintiffs were otherwise properly before the court: "[I]f any

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35 (1734) 24 Eng. Rep. 1088; 3 P. Wms. 331.

36 *Id.* at 1088.

37 *Id.*

38 *Id.*

39 *Id.* at 1089.

40 *Id.*

41 *See, e.g.*, Call v. Scott, 8 Va. (4 Call) 402, 406–07 (1803) (opinion of Roane, J.); Vernon & Co. v. Ex'rs of Ehrich, 11 S.C. Eq. (2 Hill Eq.) 257, 260 (1835); Inge v. Boardman, 2 Ala. 331, 334–35 (1841); Shields v. Barrow, 58 U.S. (17 How.) 130, 139 (1854).

42 JOSEPH STORY, COMMENTARIES ON EQUITY PLEADINGS § 72, at 75 (Boston, Charles C. Little & James Brown 1838); *see also* 1 JOHN NORTON POMEROY, A TREATISE ON EQUITY JURISPRUDENCE § 114, at 98 (San Francisco, A.L. Bancroft & Co. 1881) (joinder rules reflect "governing motive of equity . . . to grant full relief").

43 *See* Samuel L. Bray & Paul B. Miller, *Getting into Equity*, 97 NOTRE DAME L. REV. 1763, 1774 n.41 (2022) (quoting 6 JOHN BAKER, THE OXFORD HISTORY OF THE LAWS OF ENGLAND, 1483–1558, at 174 (2003)).

part of the relief sought be of an equitable nature, the Court will retain the bill for complete relief . . . ."[44] Equity courts continued to resolve legal claims under this justification into the twentieth century. In *Camp v. Boyd*,[45] the Supreme Court reviewed an antisuit injunction arising out of an ejectment action concerning three parcels of land.[46] The defendant argued that the plaintiffs had purely legal title in one of the parcels, so a court of equity could not consider the claim as to that parcel given the adequacy of legal remedies.[47] The Court squarely rejected the argument. As the original ejectment suit concerned all three properties, the plaintiffs "were fairly entitled to bring the entire controversy into the court of equity, so that it might be adjudicated in a single suit."[48] Citing *Knight*, the Court affirmed that "[a] court of equity ought to do justice completely, and not by halves."[49] Thus, if "a court of equity [is] obliged to take cognizance of a cause for any purpose," it "will ordinarily retain it for all purposes, even though this requires it to determine purely legal rights that otherwise would not be within the range of its authority."[50]

Other invocations of the complete-relief principle related more directly to remedies. Consider the rules governing equitable pleading: Whereas the common law system of writs and causes of action required precisely pleading elements of a particular claim, equitable pleading was more flexible and imprecise.[51] Thus, "complete justice" was sometimes invoked to justify expanding relief beyond what was included in the original prayer. In *Walden v. Bodley*,[52] for example, an 1840 case arising out of a land dispute,[53] the Supreme Court directed on remand for the lower court to assess profits along with the issue of possession.[54] While the answer "pray[ed] merely for a dissolution of the injunction," the Court "ha[d] . . . the equities of the parties before them; and having jurisdiction of the main points" could "settle the whole matter."[55] *Peck v. School District No. 4* [56] provides another useful illustration from this

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[44] 1 JOSEPH STORY, COMMENTARIES ON EQUITY JURISPRUDENCE § 73, at 90 (Boston, Hilliard, Gray & Co. 1836); *see also* POMEROY, *supra* note 42, § 181, at 168.

[45] 229 U.S. 530 (1913).

[46] *Id.* at 531, 551.

[47] *Id.* at 551.

[48] *Id.*

[49] *Id.*

[50] *Id.* at 552.

[51] Bray & Miller, *supra* note 43, at 1777–79.

[52] 39 U.S. (14 Pet.) 156 (1840).

[53] *Id.* at 157.

[54] *Id.* at 163–64.

[55] *Id.* at 164.

[56] 21 Wis. 523 (1867).

period: There, the Wisconsin Supreme Court[57] voided a contract for purchase of property for a school.[58] In addition to voiding the contract, the court affirmed an injunction against the sale of property to satisfy taxes needed for the contract: The taxes could "be stayed by injunction as a proper subsidiary ground of relief, upon the principle that the jurisdiction of the court having once rightfully attached, it shall be made effectual for all the purposes of complete relief."[59]

Complete relief operated most like a limit on remedial scope when it was invoked to craft remedies that imposed constraints on the plaintiffs in addition to the defendants. In this form, "complete justice" was related to another well-established equitable maxim: "[H]e who seeks equity must do equity."[60] Thus, if the plaintiff had harmed the defendant, courts could invoke complete justice to condition relief to the plaintiff on their payment of some sum to the defendant.[61] For example, in *Kinney-Coastal Oil Co. v. Kieffer*,[62] a case cited in *CASA*, the Supreme Court considered a dispute arising out of a federal statute governing mining and surface use rights.[63] The Court affirmed an injunction in favor of the plaintiff oil company against the defendant's use of the surface land, which was interfering with the plaintiff's mining operation.[64] But it also modified the order to require assessment of damages caused by the plaintiffs to the surface estate.[65] Citing the Court's ability to "administer complete relief between the parties," it held both that the damages (a legal remedy) were cognizable within the suit, and that it was appropriate to assess them against the plaintiff out of concern for the defendant's interests.[66] *Kinney* and similar cases can be viewed as limiting relief insofar as they reduce the net benefit to the plaintiff from the suit. But even here, the principle still operated expansively, bringing a legal remedy into the Court's equitable jurisdiction that it would otherwise be unable to assess.

Thus, from the English Court of Chancery to the early twentieth century, there was no single equitable rule called the "complete-relief principle." Rather, courts invoked the idea of "complete justice" or "complete relief" in a range of contexts largely to expand the parties and

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[57] The Supreme Court has looked to state court decisions as evidence of equitable practice but less frequently than federal cases. *See* Bray, *supra* note 26, at 1015 & n.89. There may be other important differences between state and federal equity practice. *See* Constance Van Kley, *The Statewide Injunction: State Judicial Power and Meaningful Remedies*, 60 HARV. C.R.-C.L. L. REV. 865, 879–84 (2025).

[58] *Peck*, 21 Wis. at 524, 526.

[59] *Id.* at 530.

[60] *See* Samuel L. Bray, *The System of Equitable Remedies*, 63 UCLA L. REV. 530, 569 (2016).

[61] *See, e.g.*, Burnes v. Burnes, 137 F. 781, 791, 801 (8th Cir. 1905).

[62] 277 U.S. 488 (1928).

[63] *Id.* at 492.

[64] *Id.* at 506.

[65] *Id.* at 507–08.

[66] *Id.* at 507.

claims over which they had authority *and* to modify the scope of relief that they could provide.

B. Complete Relief After Merger

These versions of the complete-relief principle began to subside after the merger of law and equity via the Federal Rules of Civil Procedure (FRCP) in the 1930s. Though advocates for merger emphasized retention of permissive pleading and joinder rules,[67] and courts did not initially view the FRCP as having changed the requirements for equitable relief,[68] over time the FRCP left the complete-relief principle in a kind of limbo. After the promulgation of the FRCP, questions about indispensable parties are now answered by Rule 19.[69] Questions about pleadings and their relationship with relief are now answered by Rules 8 and 54.[70] Questions about considering related legal and equitable claims together are largely (though not exclusively) irrelevant in a merged system.[71] Many of these questions began to be answered by doctrines of civil procedure rather than pure application of equitable principles, reducing the need for courts to invoke the complete-relief principle for many of its original purposes.[72]

In the second half of the twentieth century, a different version of the complete-relief principle began to emerge as a rule of remedial tailoring based on the nature of the violation. This version emerged out of desegregation litigation after *Brown* as a justification for broad injunctions. After plaintiffs in these cases initially struggled to certify class actions, courts began to reconceptualize the nature of the desegregation right to justify certification.[73] As one influential case put it, "[t]here is at least considerable doubt that relief confined to individual specified Negro children either could be granted or, if granted, could be so limited in its operative effect."[74] But, starting with the Fifth Circuit's decision in *Bailey v. Patterson*,[75] some courts took this logic to reject the necessity of class certification altogether. It was "unnecessary to determine"

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[67] Stephen N. Subrin, *How Equity Conquered Common Law: The Federal Rules of Civil Procedure in Historical Perspective*, 135 U. PA. L. REV. 909, 947, 954, 973 (1987).

[68] *See* Bray, *supra* note 26, at 1017–18.

[69] FED. R. CIV. P. 19.

[70] FED. R. CIV. P. 8, 54.

[71] *But see, e.g.*, Beacon Theatres, Inc. v. Westover, 359 U.S. 500, 507 (1959) (analyzing legal and equitable remedies to determine availability of trial by jury).

[72] *See, e.g.*, Provident Tradesmens Bank & Tr. Co. v. Patterson, 390 U.S. 102, 124 (1968) (interpreting Rule 19 and describing "complete justice" as a "generalization[]" that is "still valid" but "not a substitute for the analysis required by" the rule (quoting Shields v. Barrow, 58 U.S. (17 How.) 130, 139 (1854))).

[73] *See* David Marcus, *Flawed but Noble: Desegregation Litigation and Its Implications for the Modern Class Action*, 63 FLA. L. REV. 657, 683–86, 688 (2011).

[74] Potts v. Flax, 313 F.2d 284, 289 (5th Cir. 1963); *see also* Marcus, *supra* note 73, at 705 (noting *Potts*'s influence on the conception of desegregation rights).

[75] 323 F.2d 201 (5th Cir. 1963).

whether a class could be certified, because "[t]he very nature of the rights . . . requires that the decree run to the benefit not only of appellants but also for all persons similarly situated."[76]

In the 1970s, the Supreme Court began to convert the idea of the "nature of the right" into a limit on the scope of relief. In *Swann v. Charlotte-Mecklenburg Board of Education*,[77] the Court reviewed a district court's desegregation order that involved busing students.[78] The Court noted that equitable remedies are "characterized by a practical flexibility . . . and by a facility for adjusting and reconciling public and private needs."[79] But the Court noted that judicial power was not "plenary" and "may be exercised only on the basis of a constitutional violation."[80] As most relevant here, it stated without citation that "[a]s with any equity case, the nature of the violation determines the scope of the remedy."[81] This statement was the first time the Supreme Court suggested that the "nature of the violation" served as a guide for equitable remedial power.[82] It did not directly reference the concept of "complete relief" or its predecessors. Notably, despite discussing limits on remedial authority, *Swann* affirmed the lower court's district-wide desegregation order[83] and suggested the "nature of the violation" as something far from a bright-line limit. Rather, sounding in the general practicality and flexibility of equitable remedies, it was a guiding standard of constraint.[84]

Nevertheless, *Swann* laid the foundation for the Court to operationalize the "nature of the violation" into a limiting principle in *Milliken v. Bradley*.[85] The case concerned the propriety of a cross-district desegregation plan to remedy segregation found within a single district.[86] The class included children and parents in Detroit, and the district court found that the Detroit Board of Education had perpetuated

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[76] *Id.* at 206; *see also* Marcus, *supra* note 73, at 680 ("[U]ntil 1963 . . . courts doubted that they could issue broadly applicable injunctions in individual actions."). Professor David Marcus traces this development to *Potts v. Flax*, 313 F.2d 284 (5th Cir. 1963), but *Bailey* was the first case to apply *Potts*'s logic to avoid class certification. *See* Zepeda v. U.S. Immigr. & Naturalization Serv., 753 F.2d 719, 728 n.1 (9th Cir. 1983) (citing *Bailey* as the beginning of this trend).

[77] 402 U.S. 1 (1971).

[78] *Id.* at 9, 11.

[79] *Id.* at 12 (quoting Brown v. Bd. of Educ. (*Brown II*), 349 U.S. 294, 300 (1955)).

[80] *Id.* at 16.

[81] *Id.*

[82] *See* Owen M. Fiss, *The Supreme Court, 1978 Term — Foreword: The Forms of Justice*, 93 HARV. L. REV. 1, 46–47 (1979). Some cases prior to *Swann* spoke more generally of the limits on remedial authority. *See, e.g.*, Swift & Co. v. United States, 196 U.S. 375, 396 (1905) (noting that the Court "cannot issue a general injunction against all possible breaches of the law"). Others claimed that equity could not act on certain classes of claims. *E.g.*, Giles v. Harris, 189 U.S. 475, 486 (1903) (equity cannot grant "a remedy for political wrongs"). But no cases prior to *Swann* suggest a general principle that the *scope* of the remedy must be tailored based on the *nature* of the violation.

[83] *Swann*, 402 U.S. at 32.

[84] *Id.* at 16, 31.

[85] 418 U.S. 717 (1974).

[86] *Id.* at 721.

segregation.[87] But the district court also ordered a desegregation plan covering other counties without making findings as to those counties' liability.[88] On appeal, the Supreme Court noted *Swann*'s statements about the practical flexibility of equitable remedies,[89] but rejected the cross-district plan.[90] It stated "that the scope of the remedy is determined by the nature *and extent* of the constitutional violation,"[91] so a cross-district remedy was impermissible without a finding of cross-district illegality.[92] Despite describing this as a "principle consistently expounded in our holdings," the Court cited only *Swann* for the proposition.[93] Like *Swann*, it did not explicitly invoke the idea of complete relief. Nonetheless, *Milliken* became the first example of the Court applying the "nature and extent of the violation" as a limiting principle on remedial scope.[94]

The addition of "extent" to *Swann*'s formula proved consequential. The Court cited the principle again in *Dayton Board of Education v. Brinkman*,[95] another desegregation case, as a rule of remedial fit: Federal courts were "required to *tailor* 'the scope of the remedy' to fit 'the nature and extent of the constitutional violation.'"[96] But the principle transformed again in *Califano v. Yamasaki*.[97] *Califano* was not a segregation case. It was a class action brought by social security recipients over the government's recoupment procedures for social security overpayments.[98] The Court cited *Brinkman* for the proposition "that injunctive relief should be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs,"[99] connecting the complete-relief principle for the first time to this rule of remedial tailoring. It then held that nationwide relief was appropriate in the instant case.[100] Certifying a nationwide class and granting its members relief was not "inconsistent with principles of equity jurisprudence" because "the scope of injunctive relief is dictated by the extent of the violation established."[101]

Califano became the standard citation for the version of the complete-relief principle that governed nonparty injunctions from the

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87 *Id.* at 722, 724–26.
88 *See id.* at 729–30.
89 *See id.* at 737–38 (quoting *Swann*, 402 U.S. at 16).
90 *Id.* at 745.
91 *Id.* at 744 (emphasis added).
92 *Id.* at 744–45.
93 *Id.* at 744.
94 Fiss, *supra* note 82, at 47.
95 433 U.S. 406 (1977).
96 *Id.* at 420 (emphasis added) (quoting Hills v. Gautreaux, 425 U.S. 284, 293–94 (1976)); *see also* Aus. Indep. Sch. Dist. v. United States, 429 U.S. 990, 991 (1976) (Powell, J., concurring).
97 442 U.S. 682 (1979).
98 *Id.* at 684, 688.
99 *Id.* at 702.
100 *Id.* at 706.
101 *Id.* at 702.

1980s through to *CASA*, and it can be understood as a synthesis of the two lines of doctrine described in this Part. It drew explicitly on the line of cases tracing back to *Swann*, which understood remedial scope as depending on the nature and extent of the violation. But the question it was answering — class certification — was about what parties could, formally or constructively, be brought before the court at all. Invoking complete relief to answer that question fits within the tradition of complete relief as a justification for broad joinder. However, *Califano*'s deployment of *Milliken*'s "extent of the violation" language ultimately "drain[ed] the complete-relief principle of any limiting power."[102] Courts would go on to cite *Califano* not only for the propriety of nationwide class certification, but for expanding the scope of remedies to parties not before the court whenever faced with widespread illegal action of any kind.[103]

CASA, too, explicitly drew on both strands of the complete-relief principle. It cited *Califano*,[104] a case emerging out of the desegregation-era version of the principle, which focused on the "nature of the violation." And it cited *Kinney*,[105] the 1928 case described above, which allowed the joint adjudication of legal and equitable claims and drew on "complete justice" jurisprudence tracing directly back to *Knight*. Regardless of whether these strands should be connected or not, *CASA* connected them. What remains is to understand how that history should shape our understanding of *CASA* and the complete-relief principle moving forward.

II. *CASA*'S COMPLETE-RELIEF PRINCIPLE

CASA invoked the complete-relief principle by staying the injunctions below "only to the extent that the injunctions are broader than necessary to provide complete relief to each plaintiff with standing to sue."[106] But the opinion did not directly articulate any kind of test for determining when a nonparty injunction is "necessary" for complete relief. As noted above, we should expect the history of the complete-relief principle to help answer this question. This Part argues, however, that *CASA* viewed the complete-relief principle as a standard that both authorizes and limits nonparty relief. Because this role was not one the complete-relief principle played during the chancery era or in premerger American courts, that history can only shed light on contemporary applications of the principle at a very high level of generality. This tension leads to *CASA*'s complete-relief paradox: *CASA* limited nonparty injunctions by turning to chancery- and Founding-era history, but it bounded

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102 Bray, *supra* note 4, at 467.
103 *See id.* at 466–67.
104 *See, e.g.*, Trump v. CASA, Inc., 145 S. Ct. 2540, 2557 (2025).
105 *See, e.g.*, *id.*
106 *Id.* at 2562–63.

those injunctions with a principle that was never articulated during that period of history.

A. CASA's Preservation of Nonparty Relief

This section argues that *CASA* viewed the complete-relief principle as an authorization for and limit on nonparty injunctions.[107] A nonparty injunction, for the *CASA* majority, is one where a court grants "relief" to nonparties by protecting them formally by the injunction and allowing the nonparty to enforce the injunction via contempt.[108] Such "relief" is distinct from "incidental benefits" to nonparties. For example, in a nuisance case involving loud music, an injunction that grants relief to an individual plaintiff may grant incidental benefits of quieter music to the nonparty neighbors too.[109] But these benefits are permissible because the remedy is indivisible: "[T]here is no way 'to peel off just the portion of the nuisance that harmed the plaintiff.'"[110] And that injunction still grants no "relief" to nonparties, as only the plaintiff may seek contempt if the defendant violates the injunction.[111]

Though some commenters and courts have interpreted this distinction as *CASA* holding that the complete-relief principle now only authorizes incidental benefits to nonparties,[112] the best reading of *CASA*'s complete-relief principle authorizes *relief* to nonparties, not merely benefits. This is so because the Court's remand order as to the state plaintiffs hinged on relief, not merely benefits. As the Court observed, the lower court had granted the state plaintiffs a nonparty, "universal" injunction.[113] By the Court's own definition, those injunctions were defined by their grant of relief, not merely incidental benefits to nonparties. The Court held that the complete-relief principle did not justify these injunctions with respect to the individual plaintiffs.[114] But, for the state plaintiffs, "[t]he complete-relief inquiry [was] more complicated,"

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[107] *CASA* used the term universal injunction, while this Note uses the term nonparty injunction. *See supra* note 4.

[108] *See CASA*, 145 S. Ct. at 2556 n.11.

[109] *Id.* at 2557.

[110] *Id.* (quoting Rodgers v. Bryant, 942 F.3d 451, 462 (8th Cir. 2019) (Stras, J., concurring in part and dissenting in part)).

[111] *See id.*

[112] *See, e.g.*, Lewis & Ascher, *supra* note 9 ("*CASA* reiterated the long-established principle that 'a court of equity may fashion a remedy that awards complete relief' to the plaintiffs . . . . Under the complete-relief principle, while courts may not directly 'award . . . relief to nonparties,' they may fashion injunctions that benefit nonparties 'incidentally.'" (second alteration in original) (quoting *CASA*, 145 S. Ct. at 2556–57)); Goldsmith, *supra* note 31, at 119–20 ("*Trump v. CASA* killed universal injunctions . . . but left district courts other routes to universal relief in challenges to presidential action . . . includ[ing] . . . forms of suit that in giving complete relief incidentally benefit third parties."); *cf.* Vasquez Perdomo v. Noem, 148 F.4th 656, 686 (9th Cir. 2025) ("Party-specific injunctions may 'advantage nonparties,' but 'only incidentally.'" (quoting *CASA*, 145 S. Ct. at 2557)).

[113] *CASA*, 145 S. Ct. at 2549 (referring to all three injunctions as "universal").

[114] *Id.* at 2557–58.

because "the [lower court] decided that a universal injunction was necessary to provide the States *themselves* with complete relief."[115] It then remanded to allow the lower courts to determine whether this conclusion was correct; that is, whether complete relief to the state plaintiffs could justify an injunction binding the government with respect to nonparty states.[116] This order is intelligible only if complete relief can sometimes justify nonparty relief, as was granted in the original universal injunction. On remand the lower courts reaffirmed that complete relief could justify universal injunctions in two of the three cases,[117] and other courts have already begun to adopt this interpretation of *CASA* in other contexts.[118]

Another way to illustrate this same point is to compare *CASA*'s rule to rules that the Court did not adopt. Bray's scholarship advocates for a bright-line rule under which courts never issue an injunction that grants relief to nonparties, rejecting the complete-relief principle as indeterminate.[119] Despite the majority opinion's explicit reliance on this scholarship,[120] the Court did not adopt this bright-line rule, and instead reaffirmed the complete-relief principle. Or consider Professor Michael Morley's proposal that in all cases necessitating nonparty relief, courts should dismiss suits by individual plaintiffs on the grounds that indispensable parties are absent, and instead require such cases to be filed as class actions.[121] This rule, too, would have assumed nonparty relief is impossible without those parties at least constructively before the court as members of a class — but the Court did not adopt this rule or issue a remand order directing joinder of indispensable parties.[122] It is clear that the complete-relief principle survives *CASA*; the best reading of the case is that the principle now operates both as authorization for and the chief limit on the scope of nonparty relief.

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115 *Id.* at 2558.

116 *Id.*

117 *See* Washington v. Trump, 145 F.4th 1013, 1038 (9th Cir. 2025); Doe v. Trump, No. 25-1169, 2025 WL 2814730, at *34–35 (1st Cir. Oct. 3, 2025). The other case was brought by individual plaintiffs and associations, not states. *See* CASA, Inc. v. Trump, No. 25-cv-00201, 2025 WL 2257625, at *2 (D. Md. Aug. 7, 2025).

118 *See, e.g.*, Etienne v. Ferguson, No. 25-cv-05461, 2025 WL 2022101, at *11 (W.D. Wash. July 18, 2025); Jackson Fed'n of Tchrs. v. Fitch, No. 25-cv-00417, 2025 WL 2394037, at *9–10 (S.D. Miss. Aug. 18, 2025).

119 Bray, *supra* note 4, at 469–71, 480.

120 Bray's article *Multiple Chancellors: Reforming the National Injunction* is cited eight times in the majority opinion. *See CASA*, 145 S. Ct. at 2548–63.

121 Michael T. Morley, *De Facto Class Actions? Plaintiff- and Defendant-Oriented Injunctions in Voting Rights, Election Law, and Other Constitutional Cases*, 39 HARV. J.L. & PUB. POL'Y 487, 553–54 (2016).

122 *CASA* cites Morley's scholarship as well, though not this specific proposal. *See CASA*, 145 S. Ct. at 2553 & n.7.

B. Fitting in History

This section argues that there is a paradox in *CASA*'s version of complete relief: Despite *CASA*'s focus on chancery- and Founding-era history in its rejection of the universal injunction, its affirmation of the complete-relief principle in this form can only be squared with that era of equitable practice at a very high level of generality.

CASA's most basic claim is that complete relief is not a general grant of authority to enjoin a defendant's unlawful conduct against nonparties,[123] and this claim is consistent with history. Classic cases of complete relief as joinder of parties, like *Knight*, make this clear in their assumptions: It was necessary to join the executor precisely *because* the court could not act on the rights of parties not before the court.[124] Other forms of complete relief also shared this essential character: Courts would expand the claims that they considered, or consider relief beyond the pleadings, or impose conditions on plaintiffs, but all within the context of the parties to the instant case.[125] *CASA* thus provides a negative account of complete relief — a default rule for what it does not authorize — that is consistent with this era of equitable practice.

As to *CASA*'s positive account of the complete-relief principle as authorizing and limiting nonparty relief, historical practice sheds some light at a high level of generality. For example, *CASA* leaves open questions about the precise role that administrability concerns should play in understanding when complete relief is "necessary";[126] historical applications of complete relief to joinder of parties were attentive to administrability by stressing considerations of the "difficulty or inconvenience" of such joinder.[127] *CASA* implies that courts should not always grant complete relief;[128] history supports incorporating considerations of justice to the defendant in the complete-relief inquiry,[129] but historical applications, particularly in contexts like mandatory joinder, regularly

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[123] *See id.* at 2556–57.

[124] *See* Knight v. Knight (1734) 24 Eng. Rep. 1088, 1089; 3 P. Wms. 331, 334 ("[W]here the executor and heir are both brought before the court, complete justice may be done, by decreeing the executor to perform this covenant . . . .").

[125] *See supra* section I.A, pp. 649–53.

[126] *Contrast CASA*, 145 S. Ct. at 2558 ("administrative burdens" arguably meant complete relief to state plaintiffs required universal relief because the "cross-border flow" of noncitizens and their children meant that a "'patchwork injunction' would prove unworkable"), *with id.* at 2559–60 (dismissing concerns about a "patchwork enforcement system," *id.* at 2559, and "piecemeal litigation that imposes unnecessary costs on courts and others," *id.*, as "policy pros and cons [that] are beside the point," *id.* at 2560), *and id.* at 2565 (Thomas, J., concurring) (characterizing the majority as "readily dispatch[ing] with the individual and associational respondents' position that they require a universal injunction, notwithstanding their argument that a 'plaintiff-specific injunction' would be difficult to administer").

[127] *E.g.*, *Knight*, 24 Eng. Rep. at 1089; 3 P. Wms. at 334; Corbet v. Johnson, 6 F. Cas. 524, 525 (C.C.D. Va. 1805) (No. 3,218).

[128] *CASA*, 145 S. Ct. at 2558 ("Complete relief is not a guarantee . . . ."); *see also id.* at 2564 (Thomas, J., concurring) (citing Frothingham v. Mellon, 262 U.S. 447, 479, 486–88 (1923)).

[129] *See supra* p. 652.

used language suggesting that providing complete relief was a goal, duty, and obligation.[130]

However, history paints a muddled picture here, because the historical predecessors of the complete-relief principle were geared toward fundamentally different goals than *CASA*'s version of the principle. As section I.A documents, from the English Court of Chancery through the early twentieth century, the complete-relief principle answered questions like: When can or should parties be joined? When can courts of equity consider claims ordinarily restricted to a court of law? What must parties plead in order to get a specific form of relief? What requirements should be imposed on plaintiffs as a condition of relief? Most of these questions are antecedent to the merits of the controversy, and the complete-relief principle is no longer the first place courts turn to answer these questions (to the extent that they remain questions at all). Moreover, the answers to these questions typically operated expansively, allowing courts to grant relief to more parties, on more claims, beyond what was pled, with more conditions. In contrast, *CASA*'s version of the complete-relief principle asks a different question entirely: When does providing complete relief to the plaintiff require extending relief to nonparties? This question is about the scope of relief that follows when the plaintiffs have prevailed on the merits.[131] It is restrictive, rather than expansive, limiting equitable discretion by bounding the scope of relief. Because *CASA*'s complete-relief principle answers different questions for a different purpose than its historical predecessors, courts cannot simply turn to that era of history to answer contemporary questions about the scope of the principle going forward.

III. COMPLETE RELIEF AFTER *CASA*

What to do with *CASA*'s complete-relief paradox? This Part argues that the best way to resolve the tension described here is to adopt the post-merger version of the complete-relief principle. Specifically, nonparty relief should be understood as "necessary" under *CASA* when the nature of the right violated requires that an injunction run to persons other than the plaintiff.[132] This Part first defines and justifies the content of this proposal using the lens of aggregate rights. It then illustrates the proposal's application, drawing on the rule's origins in desegregation cases and examples from voting rights and the First Amendment.

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[130] *E.g.*, *Knight*, 24 Eng. Rep. at 1089, 3 P. Wms. at 334; Decker v. Caskey, 1 N.J. Eq. 427, 433 (Ch. 1831); Camp v. Boyd, 229 U.S. 530, 551 (1913).

[131] Or, for preliminary injunctions, shown a sufficient likelihood of success on the merits. *See* Winter v. Nat. Res. Def. Council, Inc., 555 U.S. 7, 20 (2008).

[132] *Cf.* Bailey v. Patterson, 323 F.2d 201, 206 (5th Cir. 1963) (noting that the "nature of the right[] . . . requires that the decree run to the benefit not only of appellants but also for all persons similarly situated").

A. Complete Relief for Aggregate Rights

This Note proposes that the category of cases where the nature of the right requires nonparty relief can be understood through the lens of "aggregate rights." Such rights are ones where the individual's right and the injury to that right are defined at least in part by the treatment of a broader group.[133] An aggregate right in this sense is, importantly, *not* a group right: The right itself attaches to an individual.[134] But aggregate rights involve a distinctive form of individual injury where the injury "rises and falls" with the treatment of others.[135] The segregation cases from which the modern complete-relief principle originated exemplify the concept of an aggregate right. As *Bailey* put it:

> [The plaintiffs] do not seek the right to use those parts of segregated facilities that have been set aside for use by "whites only." They seek the right to use facilities which have been *desegregated*, that is, which are open to all persons, [plaintiffs] and others, without regard to race.[136]

So conceived, an injunction that grants an individual Black student a right to attend a white school would not be sufficient; extending the injunction to nonparty students is "necessary" to provide complete relief *to the plaintiff themself*. This characteristic contrasts with traditional individual rights. In *CASA*'s nuisance example,[137] the plaintiff has an individual right to use and enjoy her property. It is irrelevant to her claim whether her neighbors are harmed by the music, actively support it, or are entirely neutral — indeed, a nuisance claim could be brought even if the two parties are the only occupants of the neighborhood.[138] The desegregation injunction is also not an indivisible remedy: It's conceptually and practically easy to "peel off" nonparties and craft an injunction granting a single Black student an entry right.[139] But doing so fails to vindicate the right.

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[133] This is a similar definition to those used by prior scholarship. *See, e.g.*, Samuel Issacharoff, *Private Claims, Aggregate Rights*, 2008 SUP. CT. REV. 183, 185 (2009) (defining aggregate rights as claims "that are private in terms of the relief sought, but which are defined by their relation to comparable claims of similarly situated individuals"); Heather K. Gerken, *Understanding the Right to an Undiluted Vote*, 114 HARV. L. REV. 1663, 1666 (2001) (aggregate rights "require a court to consider the relative treatment of *groups* in determining whether an *individual* has been harmed"). But, unlike these definitions, for the purposes of the complete-relief principle, it is not a strict requirement that the individuals in question be similarly situated. *See infra* p. 665. Nothing hinges on this choice of terminology, though other options may generate confusion. *See infra* note 139.

[134] Gerken, *supra* note 133, at 1669.

[135] *Id.* at 1669–70.

[136] *Bailey*, 323 F.2d at 206.

[137] *See* Trump v. CASA, Inc., 145 S. Ct. 2540, 2557 (2025).

[138] *Cf.* Whalen v. Union Bag & Paper Co., 101 N.E. 805, 805–06 (N.Y. 1913) (upholding injunction in a nuisance case between one plaintiff and one defendant).

[139] Morley has referred to this category of cases as implicating "indivisible rights," rather than the "aggregate rights" term used here. Michael T. Morley, *Disaggregating Nationwide Injunctions*, 71 ALA. L. REV. 1, 59 n.329 (2019). This choice of terminology, however, risks confusion: Though

The first reason to adopt this framework is historical. *CASA*, in its own turn to history, draws on two largely distinct historical strands in defining the complete-relief principle. As argued above, the first of those strands is ill-equipped to give content to the principle as understood in *CASA*. But the second strand is a natural fit for *CASA*'s complete-relief principle. As articulated in *Bailey* and *Swann*, it authorizes nonparty relief under certain circumstances. And as applied in *Milliken*, it also limits that relief: Extending the injunction to nonparty students *within* the district was permissible nonparty relief, but extending the injunction *beyond* the school district went beyond what was necessary.

To be sure, these are not chancery-era or Founding-era cases. But the Court's recent equity cases have drawn on a wide range of historical sources, including evidence from the mid- to late nineteenth century, the early twentieth century, and sometimes later.[140] In so doing, the result has sometimes been rules that did not exist in the English Court of Chancery, but that draw on legitimately longstanding equitable practice.[141] *CASA*'s default rule against nonparty injunctions is itself an example: Though it is consistent with chancery-era history, *CASA*'s "sharply defined rule" was never explicitly articulated.[142] Likewise, there was no rule in the Court of Chancery stating that courts may grant nonparty relief when required by the nature of the right.[143] But such a rule builds on legitimately longstanding principles running through complete-relief jurisprudence, including its attention to pragmatism and flexibility, its duty-based orientation, and its antipathy toward procedural postures that beget a multiplicity of suits. That the most specific antecedents for this rule did not emerge until the second half of the twentieth century is an irony given *CASA*'s treatment of twentieth-century precedent in rejecting the universal injunction itself.[144] But this interpretation is the best way to give effect to *CASA*'s interpretation of complete relief without untethering it from history entirely.

The second, related reason for adopting this framework is that it produces a definite, manageable standard for governing nonparty relief. *CASA* can be read as an example of "artificial" or "idealized" history in the Court's equity jurisprudence: the latest in a line of cases converting the complex history of equity into standards "well suited to judicial

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the *right* is arguably indivisible, it is not true that the *remedy* is indivisible, as it is in cases of nuisance. Plaintiffs *can* be "peeled off" from nonparties — but, because of the nature of the right, they ought not be if the goal is complete relief.

140 *See* Bray, *supra* note 26, at 1015.

141 The Court's four-factor test for permanent injunctions is a well-known example of this phenomenon. *See id.* at 1023–24, 1028–29. *See generally* Rachel M. Janutis, *The Supreme Court's Unremarkable Decision in* eBay Inc. v. MercExchange, L.L.C., 14 LEWIS & CLARK L. REV. 597 (2010) (arguing that despite the novelty of its test, eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388 (2006), was ultimately not a "remarkable break from equity practice," Janutis, *supra*, at 599).

142 Bray, *supra* note 4, at 421.

143 *See id.*

144 *See* Sohoni, *supra* note 4, at 1002–03.

decisionmaking."[145] As Bray argues, the Court's "artificial-history approach" can be justified by the "parsimony and stability" it produces in the law: Though it "is not good history[,] . . . that does not keep it from being good jurisprudence."[146] The normative value of this methodology is beyond the scope of this Note. But it is at least a descriptively accurate account of the Court's recent jurisprudence.[147] The following section illustrates that the twentieth-century aggregate rights approach would be a determinate standard that avoids merely reinventing the universal injunction.

B. Applying Aggregate Rights

Many rights now recognized in federal courts are aggregate rights like those implicated in desegregation cases. This section traces through some examples of these rights in the context of group activities and expressive harms, illustrating how injuries have been or can be framed in terms that justify nonparty relief after *CASA*. This survey is not intended to be comprehensive. Instead, the goal is to illustrate that this approach to the complete-relief principle authorizes nonparty relief in a range of cases while avoiding simply reinventing the universal injunction.

1. Group Activity. — Several rights guarantee to an individual the ability to come together with others for some protected purpose. School desegregation can be understood this way: It granted Black students the right to join with other Black *and* white students to receive an education.

Voting rights cases present another example,[148] as voters suffer injuries to their ability to coalesce with other voters to elect a candidate of their choice. In malapportionment cases, for example, the Supreme Court prohibited population deviations of a certain magnitude between different electoral districts.[149] The injuries in these cases are defined by the rights of other voters: It's impossible to say whether a plaintiff's vote is worth "less" than another vote without knowing (1) the number of individuals who may vote in the same district as the plaintiff and (2) the number of individuals who may vote in a different district.[150] Accordingly, it is also impossible to provide complete relief to an individual

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145 Bray, *supra* note 26, at 1001.

146 *Id.* at 1020.

147 *See id.* at 1018–22 (documenting the Court's "artificial history" approach in its recent equity jurisprudence, *id.* at 1018).

148 *CASA* itself gestures toward this potential by citing to voting rights cases. *See* Trump v. CASA, Inc., 145 S. Ct. 2540, 2557 n.12 (2025) (citing Shaw v. Hunt, 517 U.S. 899 (1996)); *id.* at 2563 (Thomas, J., concurring) (quoting Gill v. Whitford, 138 S. Ct. 1916, 1934 (2018)); *id.* at 2590 (Sotomayor, J., dissenting) (citing *Gill*, 138 S. Ct. at 1921).

149 *See* Reynolds v. Sims, 377 U.S. 533, 568 (1964).

150 *See id.* ("[A]n individual's right to vote . . . is unconstitutionally impaired when its weight is in a substantial fashion diluted when compared with votes of citizens living in other parts of the State.").

plaintiff asserting a malapportionment injury without extending an injunction to nonparties. Some current residents of both their district and other districts will need to lose their right to vote in that district and gain it in another in order to remedy the injury.[151]

While malapportionment claims are rare today, racial vote dilution claims remain viable,[152] and nonparty injunctions remain appropriate in those cases for similar reasons. Racial vote dilution may occur under conditions of racially polarized voting, when voters of color get insufficient representation in government despite making up a sizable minority of the population.[153] To prove racial vote dilution, plaintiffs must establish that the minority group is sufficiently large and compact to constitute a majority in a district, that the group is politically cohesive, and that white voters typically vote to defeat the candidate of choice for minorities.[154] The harm[155] here is defined in reference to the legal status (ability to vote) and characteristics (voting preferences) of nonparties. Accordingly, a nonparty injunction is required to grant complete relief to an individual plaintiff.

Some free exercise cases fit into this category. Consider *Etienne v. Ferguson*,[156] a recent case where individual Catholic bishops challenged a Washington mandatory reporter law on the grounds that it illegitimately interfered with the sacrament of confession.[157] The court tailored the scope of its preliminary injunction in light of *CASA*.[158] The plaintiffs had a religious responsibility to "ensur[e] the sacramental seal is maintained by the priests in their dioceses."[159] Without an injunction that also protected the other priests, the plaintiffs could not fulfill *their own* religious obligations. Thus, a nonparty injunction was necessary "to afford complete relief"[160] to the plaintiff priests themselves. The injunction was not *broader* than necessary — it did not cover clergy with no relationship to the plaintiffs or clergy of other faiths.[161] But, because the rights asserted by the plaintiffs required religious activity with nonparties, a nonparty injunction was appropriate. Many religious rights require group activity; *Etienne* provides a potential model in such

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151 *See id.* at 586 (affirming a lower court's reapportionment plan binding the government with respect to nonparties).

152 *See, e.g.*, Robinson v. Ardoin, 605 F. Supp. 3d 759, 770 (M.D. La. 2022).

153 *See* Gerken, *supra* note 133, at 1666.

154 *Id.* at 1674 (citing, inter alia, Thornburg v. Gingles, 478 U.S. 30 (1986)).

155 These conditions define the harm in vote dilution cases. *See* Growe v. Emison, 507 U.S. 25, 40–41 (1993) ("Unless these points are established, there neither has been a wrong nor can be a remedy.").

156 No. 25-cv-05461, 2025 WL 2022101 (W.D. Wash. July 18, 2025).

157 *Id.* at *1.

158 *Id.* at *11.

159 *Id.*

160 *Id.*

161 *Id.*

cases for applying the complete-relief principle to justify limited nonparty relief after *CASA*.

Etienne is also notable for illustrating the possibility of nonparty relief when class certification is not obviously available. The court granted nonparty relief to a group of individuals with different interests: The bishops, harmed via the impact on their supervisory responsibilities, were not obviously representative of the priests, harmed via the impact on their confessionals with parishioners.[162] Though many aggregate rights may be obvious fits for class actions, not all of them will be — in such cases, the complete-relief principle may play an important role.[163]

2. Expressive Harm. — Several cases recognize plaintiffs' rights to be free from certain expressive or stigmatic injuries. *Brown*[164] adopted a version of this theory of harm for segregation itself.[165] When a policy communicates inferiority to a plaintiff because of a particular trait, it is not enough to enjoin the policy with respect to that plaintiff: Its continued enforcement against others with the same trait communicates the same message. Thus, no remedy other than a nonparty injunction provides complete relief.

Gerrymandering cases provide another example of this theory. In *Shaw v. Reno*,[166] the Court articulated the harms of racial gerrymandering as a species of racial classifications, resulting in the "stigmatiz[ation of] individuals by reason of their membership in a racial group," the "incite[ment of] racial hostility,"[167] and the "reinforce[ment of] racial stereotypes."[168] Complete relief to an individual plaintiff therefore requires not only exempting them from the classification — for example, by drawing a plaintiff near the border out of the district, or by granting an individualized exception to vote in a different district — but also requires protecting nonparty rights to eliminate the message of inferiority that creates the injury.[169]

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[162] *See id.* at *7, *11.

[163] Cases implicating overbreadth doctrine may also warrant nonparty relief, albeit without as clear a theory of harm. *See* Griffin v. HM Florida-ORL, LLC, 144 S. Ct. 1, 1–2 (2023) (statement of Kavanaugh, J., respecting the denial of the application for stay); Welty v. Dunaway, No. 24-CV-768, 2025 WL 2015454, at *15 (M.D. Tenn. July 18, 2025) (granting nonparty relief based on potential chilling effects).

[164] Brown v. Bd. of Educ., 347 U.S. 483 (1954).

[165] *See* Rachel Bayefsky, *Remedies and Respect: Rethinking the Role of Federal Judicial Relief*, 109 GEO. L.J. 1263, 1294 (2021).

[166] 509 U.S. 630 (1993).

[167] *Id.* at 643.

[168] *Id.* at 650.

[169] *See* Trump v. CASA, Inc., 145 S. Ct. 2540, 2557 n.12 (2025) (citing the racial gerrymandering case Shaw v. Hunt, 517 U.S. 899 (1996), as an example of an "injur[y] for which it is all but impossible for courts to craft relief that is complete *and* benefits only the named plaintiffs").

Establishment Clause claims may also involve expressive harms.[170] The travel ban litigation from the first Trump presidency offers a useful illustration of how *CASA* modifies the analysis. Consider the Fourth Circuit's opinion in *International Refugee Assistance Project v. Trump*.[171] The version of the ban in question had barred entry to the United States from seven Muslim-majority countries;[172] the opinion stated that it "drip[ped] with religious intolerance, animus, and discrimination."[173] In upholding a nationwide injunction, the court relied on several factors like plaintiff dispersion and national uniformity in immigration enforcement[174] that likely do not survive *CASA* as justifications for nonparty relief. But the court also noted that the expressive elements of the claim presented unique considerations. "[E]njoining [the order] only as to Plaintiffs would not cure the constitutional deficiency," the court wrote, because "[i]ts continued enforcement against similarly situated individuals would only serve to reinforce the 'message' that Plaintiffs 'are outsiders, not full members of the political community.'"[175] A nationwide injunction was thus "necessary to provide complete relief."[176] Though this analysis invoked the interests of nonparties, that doesn't render it inconsistent with *CASA*: Their interests are considered only insofar as they indicate continued harm to the plaintiffs.

Expressive harms need not stem from a classification to warrant nonparty relief under this theory of harm. In *Romer v. Evans*,[177] for example, the Supreme Court affirmed a statewide injunction[178] preventing enforcement of a referendum that prohibited local governments from enacting antidiscrimination ordinances based on sexual orientation.[179] The majority noted that the amendment "impos[ed] a broad and undifferentiated disability on a single named group" and was "inexplicable by anything but animus."[180] Enjoining the enactment with respect to just one plaintiff (or their town) would not remedy the expressive harm: Their individual right to equal protection was infringed not only by harm to themself, but also by harms to others that resulted from

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170 *See* Elizabeth S. Anderson & Richard H. Pildes, *Expressive Theories of Law: A General Restatement*, 148 U. PA. L. REV. 1503, 1546–47 (2000).

171 857 F.3d 554 (4th Cir. 2017).

172 *Id.* at 632 (Thacker, J., concurring).

173 *Id.* at 572 (majority opinion).

174 *Id.* at 605.

175 *Id.* (quoting Santa Fe Indep. Sch. Dist. v. Doe, 530 U.S. 290, 309 (2000)).

176 *Id.* (quoting Madsen v. Women's Health Ctr., Inc., 512 U.S. 753, 778 (1994) (Stevens, J., concurring in part and dissenting in part)). Note that in companion cases, other courts issued and upheld broader injunctions against other aspects of the Executive Order. *See* Trump v. Int'l Refugee Assistance Project, 582 U.S. 571, 575–77 (2017) (per curiam) (collecting cases).

177 517 U.S. 620 (1996).

178 Evans v. Romer, 882 P.2d 1335, 1338 (Colo. 1994). Injunctions from state courts may present unique considerations. *See supra* note 57.

179 *Romer*, 517 U.S. at 623–24.

180 *Id.* at 632.

governmental expression of animosity based on their status.[181] Or take *Decker v. O'Donnell*,[182] an Establishment Clause case where individual taxpayers challenged the payment of public funding to private religious schools.[183] The district court issued an injunction partially based on the government's "entanglement" with sectarian education,[184] and the Seventh Circuit affirmed a nationwide injunction against the program.[185] This nonparty injunction can also be justified in terms of expressive harm. The government's conduct toward nonparties, the schools receiving funding, produced the expressive harm to the plaintiffs; without an injunction binding the government with respect to those nonparties, it would have been impossible to remedy the injury.

This analysis is still bounded — invoking the "nature of the right" does not mean that all antidiscrimination cases or all First Amendment cases necessarily justify nonparty relief. For example, while *Romer* authorized nonparty relief in an LGBT discrimination case, not all such cases require such relief. In *Obergefell v. Hodges*,[186] individual plaintiffs primarily asserted individual harms, like the inability to adopt as a couple; even some plausibly dignitary harms were individually targeted (for example, exclusion of a plaintiff from his husband's death certificate).[187] Accordingly, when injunctions issued following *Obergefell*, they did not always bind nonparties.[188] After *CASA*, with only individualized injuries presented, an injunction likely *couldn't* bind nonparties, even when the injury resulted from discrimination and stigma.

Similarly, not every Establishment Clause case warrants nonparty relief. In cases challenging government displays of religious material, the Court has characterized the injury as partially expressive, "showing a purpose to favor religion . . . [and] 'send[ing] the . . . message to . . . nonadherents "that they are outsiders, not full members of the political community."'"[189] But here, the Establishment Clause does not act as an aggregate right: An individual plaintiff may be injured by the message regardless of whether other individuals receive the message the same way. An injunction here functions like the "abatement" of a religious "nuisance,"[190] with potential incidental benefits if other individuals happen to feel similarly harmed. But those other individuals are irrelevant

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[181] *Id.* at 634–35 (noting the "immediate, continuing, and real injuries," *id.* at 635, from "animosity toward the class," *id.* at 634).

[182] 661 F.2d 598 (7th Cir. 1980).

[183] *Id.* at 602.

[184] *Id.* at 604.

[185] *Id.* at 602.

[186] 576 U.S. 644 (2015).

[187] *Id.* at 658–59, 678.

[188] *See* Josh Blackman & Howard M. Wasserman, *The Process of Marriage Equality*, 43 HASTINGS CONST. L.Q. 243, 244 (2016).

[189] McCreary County v. ACLU of Ky., 545 U.S. 844, 860 (2005) (fourth and fifth alterations in original) (quoting Santa Fe Indep. Sch. Dist. v. Doe, 530 U.S. 290, 309 (2000)).

[190] *See supra* notes 107–11 and accompanying text.

to the individual plaintiff's claim: The nature of the right does not warrant nonparty *relief*, even if it allows nonparty benefits.

CONCLUSION

The paradox of *CASA* is that it strikes down universal injunctions on historical grounds while preserving and elevating a version of the complete-relief principle that is difficult to find precedent for in the English Court of Chancery or Founding-era courts of equity. But the Court's equity jurisprudence has long used a somewhat artificial history of equity. Relying on history from the twentieth century allows for a coherent reading of *CASA*'s complete-relief principle that imposes meaningful limits on nonparty injunctions while preserving courts' ability to remedy injuries to individuals that are inextricably bound up with treatment of groups. Though it remains to be seen how courts will apply *CASA*'s complete-relief principle when presented with different facts on the ground, space remains for nonparty relief to continue providing "complete justice" when harms recognized within the courthouse can only be understood with an eye to harms occurring outside it.