

KAROLINE LEAVITT SAYS AMERICAN BUSINESSES SHOULD HAVE NO RECOURSE WHEN TRUMP MOOD SWINGS DESTROY THEIR BUSINESSES

Karoline Leavitt went on a rant today, attacking the three judges (one Reagan appointee, one Obama appointee, and a Trump appointee) who ruled that Donald Trump cannot usurp Congress' authority to levy tariffs. (The Federal Circuit Court of Appeals issued an emergency en banc stay of the order.)

The courts should have no role here. There is a troubling and dangerous trend of unelected judges inserting themselves into the Presidential decision-making process. America cannot function if President Trump – or any other president, for that matter – has their sensitive diplomatic or trade negotiations railroaded by activist judges. President Trump is in the process of rebalancing America's trade agreements with the *entire* world, bringing tens of billions of dollars in tariff revenues to our country and finally ending the United States of America from being ripped off. These judges are threatening to undermine the credibility of the United States on the world stage.

Let's ignore, for the moment, Leavitt's typically inflammatory rhetoric.

Let's consider her premise.

Leavitt is saying that America's small businesses should have no recourse if Trump unlawfully destroys their business.

One of the five plaintiffs in the lawsuit, Terry Cycling's Nikolaus Holm, which sells women's cycling clothing, described in a filing submitted on April 10 that;

- His company had already paid \$25,000 in unplanned tariffs
- Tariffs may cost the company \$250,000 by the end of 2025
- If the tariffs in effect on April 10 stayed in place, they would have to pay \$1.2 million in tariffs in 2026
- It had already raised prices by up to 30% to pay for the tariffs

"Tariffs will become the single largest line item operating expense on Terry Cycling's Profit & Loss Statement," Holm described. "It would be larger than payroll."

In Karoline Leavitt's world, small business owners like Holm should have absolutely no recourse if Trump's mood swings and unlawful usurpation of Congress' power destroys their business.

Update: DC Judge Rudolph Contreras also threw out Trump's tariffs (but stayed the injunction for 14 days).

How he found he had jurisdiction – *after* the Court of International Trade had already ruled; Contreras basically said they did not have jurisdiction, and *how* he used their prior ruling to dismiss Trump's inflammatory claims of harm – are matters of some interest.

But for the purposes of this post, here's how Contreras described the harm that Trump's usurpation of Congress' duties had done to the

two family-owned toy companies that sued.

They cannot offset the highest IEEPA tariffs without raising prices 70 percent or more “as a matter of pure survival,” Woldenberg Decl. ¶ 9; their customers have already canceled over \$1 million in orders, id. ¶ 10; and they face an immediate 40 or 50 percent decline in sales, year-over-year, id. ¶ 11. The companies “cannot possibly absorb the costs of the increased tariffs” without “changing [their] pricing radically.” Id. ¶¶ 6, 14. But they cannot pass price increases onto their customers without selling substantially fewer products. Id. ¶¶ 16, 18. Plaintiffs are not “massive entities that can withstand such losses in their core business[es].” See *Everglades Harvesting & Hauling, Inc. v. Scalia*, 427 F. Supp. 3d 101, 116 (D.D.C. 2019). Nor can they reduce the quality of their products to support lower prices: reducing quality is “unthinkable” for “premium brands” like Plaintiffs, and is practically unworkable because it would require them to “change the design and/or production of more than 2,000 products at once.” Id. ¶ 15.

Without an injunction, Plaintiffs may have to refinance loans on unfavorable terms; significantly scale back operations and product offerings; close facilities; lay off employees; or possibly sell their businesses. Mot. Prelim. Inj. at 41. Granted, financial losses typically do not constitute irreparable harm. E.g., *Wisc. Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985). But that is not the case when “the loss threatens the very existence of the movant’s business.” Id.

The government argues that Plaintiffs’ harms are speculative and conclusory.

See Defs.' PI Opp'n at 37–39. The Court disagrees. See Pls.' PI Reply at 20–21 (detailing, to the extent possible, the specific costs that Plaintiffs have incurred because of the Challenged Orders). How could Plaintiffs possibly describe the exact costs they will face from paying tariffs that the President imposes, pauses, adjusts, and reimposes at will?

Note that Contreras used Trump's moodiness and unreliability against him in this ruling.

Stephen Miller's shrill attacks on judges Karoline Leavitt parroted today have, heretofore, been directed at people Miller has spent years demonizing, primarily migrants (about whom he lies shamelessly). Miller has trained Trump's rubes to believe that migrants should have no due process.

But this time around, Miller's puppet Leavitt is saying that small business owners are not entitled to due process.