

The Anti-Trump Strategy That's Actually Working **Lawsuits, lawsuits, and more lawsuits.**

By Michael Scherer

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Days after Attorney General Pam Bondi tried to put an end to the Justice Department's revelations about Jeffrey Epstein, captains of the legal resistance gathered by Zoom. Norm Eisen, a former attorney for Barack Obama's White House, had convened lawyers, Democratic communications strategists, a neoconservative Trump critic, and a former chair of the Michigan Democratic Party. This one was big, Eisen said from his parked car in Baltimore, where he had traveled for a lawsuit to overturn President Donald Trump's cuts to AmeriCorps. They should move quickly.

"The Trump-Epstein story is the story of the Trump administration—corruption benefiting his rich and powerful cronies at the expense of vulnerable people," Eisen explained as I lurked on the July call with everyone's permission.

The plan was to file a Hail Mary lawsuit to force the Department of Justice to release any documents in its possession that tie Epstein, a convicted child sex offender, to Trump. Eisen's team had already filed the request for anything that connects the two men, under the Freedom of Information Act. The FOIA is normally a weak tool for unlocking investigative records gathered for criminal investigations, but Eisen had a legal theory: Because the DOJ had argued under pressure after Bondi's announcement that the extraordinary public interest in the Epstein case required the unsealing of grand-jury testimony, they could argue the same thing. And that was just the beginning.

Eisen, who has pursued more than 100 legal matters against Trump since his second inauguration, explained that he wanted to try the case in the court of law and the court of public opinion. He asked for an update on an op-ed he had written raising questions about "a potential cover up" of Trump's dealings with Epstein. He wanted a plan from Lavora Barnes, the former Michigan party chair, about how they would get elected leaders to discuss the Epstein records. He wanted a press plan to publicize the requests they had already filed, and the lawsuit they would file a few weeks later. A discussion followed about whether they should also try to intervene in the Justice Department's effort to unseal grand-jury testimony, how many of the Epstein records they should demand to release, and how the Epstein issue fit with other arguments against Trump. "We have an extremely strong horse right now. Let's just ride that," said Bill Kristol, the resident neoconservative. "We want to know what's going on with the Epstein files."

The first seven months of Trump's Oval Office do-over have been, with occasional

exception, a tale of ruthless domination. The Democratic opposition is feeble and fumbling, the federal bureaucracy traumatized and neutered. Corporate leaders come bearing gifts, the Republican Party has been scrubbed of dissent, and the street protests are diminished in size. Even the news media, a major check on Trump's power in his first term, have faded from their 2017 ferocity, hobbled by budget cuts, diminished ratings, and owners wary of crossing the president.

One exception has stood out: A legal resistance led by a patchwork coalition of lawyers, public-interest groups, Democratic state attorneys general, and unions has frustrated Trump's ambitions. Hundreds of attorneys and plaintiffs have stood up to him, feeding a steady assembly line of setbacks and judicial reprimands for a president who has systematically sought to break down limits on his own power. Of the 384 cases filed through August 28 against the Trump administration, 130 have led to orders blocking at least part of the president's efforts, and 148 cases await a ruling, according to a review by Just Security. Dozens of those rulings are the final word, with no appeal by the government, and others have been stayed on appeal, including by the Supreme Court.

"The only place we had any real traction was to start suing, because everything else was inert," Eisen told me. "Trump v. the Rule of Law is like the fight of the century between Ali and Frazier, or the Thrilla in Manila or the Rumble in the Jungle. It's a great heavyweight battle."

The legal scorecard so far is more than enough to provoke routine cries of "judicial tyranny" by Trump and his advisers. "Unelected rogue judges are trying to steal years of time from a 4 year term," reads one typical social-media complaint from Trump's senior adviser Stephen Miller. "It's the most egregious theft one can imagine."

But Miller's fury was, in part, misdirected. Before there can be rulings from judges, there must be plaintiffs who bring a case, investigators who collect facts and declarations about the harm caused, and lawyers who can shape it all into legal theories that make their way to judicial opinions. This backbone of the Trump resistance has as much in common with political organizing and investigative reporting as it does with legal theory.

"It should give great pause to the American public that parties are being recruited to harm the agenda the American people elected President Trump to implement," White House spokeswoman Abigail Jackson told me in a statement.

Even those at the center of the fight against Trump view their greatest accomplishments as going beyond the temporary restraining orders or permanent injunctions they won. Without the court fights, the public would not know about many of the activities of Elon Musk's DOGE employees in the early months of the administration. They would not have read headlines in which federal judges accuse the president's team of perpetrating a

“sham” or taking actions “shocking not only to judges, but to the intuitive sense of liberty that Americans far removed from courthouses still hold dear.” Kilmar Abrego Garcia would not have become a household name. Even cases that Trump ultimately won on appeal—such as his ability to fire transgender soldiers, defund scientific research, and dismiss tens of thousands of government employees—were delayed and kept in the news by the judicial process.

In Trump immigration cases, it’s one thing in public, another in court

Since Inauguration Day, executive orders have been defanged or blocked, agency closures delayed, government-employee firings reversed. Deportation flights have been delayed, law firms have freed themselves from Trump’s retaliation, and foreign students have won the ability to continue studying at U.S. universities. Courts have forced the president to restore cut services and spending to AmeriCorps, the U.S. African Development Foundation, the CDC, and other agencies. They have upended an effort by the Office of Refugee Resettlement to make it more difficult to release unaccompanied minors from government custody and forced Trump to pay for foreign-aid bills he had hoped to stiff-arm. A federal appeals court ruled Friday that many of Trump’s tariffs were illegal, setting up a likely hearing by the Supreme Court.

“The biggest victory, I think, has been in terms of highlighting the egregious nature of what Trump is doing,” Rushab Sanghvi, the general counsel for the American Federation of Government Employees, told me. “It is getting the public to understand how terrible it is.”

The groundwork for these victories was laid before Trump was even reelected, in a series of summits in 2023 and 2024. Universities hosted symposiums. Organized labor held private meetings. International experts, who had been studying Hungary’s Viktor Orbán, warned that Trump would move quickly and try to overwhelm his opponents. “We needed to flood the zone with rule-of-law shock and awe,” Eisen told me after the Zoom call.

The plan that emerged was not focused on centralizing a response, but on running a barrage of coordinated efforts. Attorneys general would represent states, advocacy groups such as Public Citizen and the ACLU would focus on their areas of expertise, and the unions would gather stories from their members and identify plaintiffs who could show harm. Atop this infrastructure, new organizations took shape, bringing in tens of millions of dollars to pay for it all.

The offices of Democracy Forward, the single largest source of Trump’s legal troubles, look from the inside like those of any corporate Washington law firm. From the building’s corner windows, the group’s more than 130 staff members—about half of

them attorneys—can just make out the White House a couple of blocks down the street. By their count, they have also filed more than 100 legal actions so far this year against Trump, often with union, nonprofit, or local-government partners.

Since 2021, the group had been operating on the assumption that American democracy was backsliding, and that the outcome of the 2024 election would merely determine whether it sped up or slowed down. By early 2024, it had established working groups with other organizations to begin sketching out the “threat matrix” of a second Trump term, placing particular focus on the Heritage Foundation’s Project 2025, which Trump distanced himself from while campaigning but has largely embraced while in office. “We knew that if the federal landscape were to regress, people would have very few levers of power left,” Skye Perryman, Democracy Forward’s president, told me. “They would be able to go to the streets and to vote, and they would be able to use litigation.”

Democracy Forward’s first filing, to gain access to the deliberations of DOGE, hit the docket of the D.C. district court within hours of Trump taking the oath of office. Eisen’s Democracy Defenders Fund, which has about two dozen attorneys, and three other legal groups filed similar suits at the same time. The decision to sue so soon was controversial. Perryman remembers some elected Democrats, among others, urging her to hold back. But she had been gaming out the moment for more than a year. She had a theory of the case and a coalition that saw the moment as she did. “Right now, it’s fight versus no fight, rather than left or center-left,” she told me.

‘I run the country and the world.’

One week later, the group faced its first crisis. The Office of Management and Budget released a memo telling federal agencies to “temporarily pause all activities related to obligation or disbursement of all Federal financial assistance,” a seismic order that threatened to close hundreds of federally funded programs around the country. “Our litigators knew on the surface: This is unlawful,” Megan Uzzell, Democracy Forward’s director of external affairs, told me. But to build a case, they needed plaintiffs who had been harmed. That night, they worked the phones, signing up an array of groups that received federal funding and needed lawyers, such as the National Council of Nonprofits, the American Public Health Association, and the Main Street Alliance. “We developed that,” Uzzell said. “Our litigators stayed up all night long developing the legal framework, and we were in court by 10 o’clock the next morning.” The memo was stayed by a court that day and withdrawn by the White House the next.

A pattern developed. Attorneys drafted legal arguments for potential moves by Trump, worked the phones to find plaintiffs and dig up facts, and then rushed to court. “It is what the administration didn’t think the legal community would be able to do,” Perryman told me. “This is highly factually intense work. It’s designed that way so that

the administration can go in and make a bunch of technical arguments, and we have met them every step of the way.”

Shortly after Trump’s second inauguration, a school-committee member for Easthampton, Massachusetts, received a Facebook Messenger text from an old college friend asking if she would be interested in going to court. Democracy Forward was preparing a lawsuit against Trump to challenge expected cuts to the Department of Education, and they were looking for plaintiffs.

Easthampton is a former mill town in the western part of the state, with a school district of about 1,400 kids and 118 teachers, and a working-class population that is far more politically mixed than much of the broadly liberal area. For the mayor and the school committee, going to court was not an easy decision. The superintendent and the district’s lawyer were initially skeptical. But Sam Hunter, who received the outreach, along with his school-committee colleague Laura Scott, decided to push ahead anyway.

“The conversation was, ‘You are in 1938 Berlin. Which kind of person are you?’” Scott remembered. “This is the closest you are going to get to that moment.” Democracy Forward also signed up the Somerville, Massachusetts, school district, along with a set of public-employee unions. The case eventually merged with a similar lawsuit filed by Democratic state attorneys general.

Weeks later, Hunter found himself in a Boston courtroom listening to the federal judge Myong J. Joun consider Trump’s decision to eliminate about half of the staff at the Department of Education in the name of efficiency. The president had acknowledged that he could not get rid of the department altogether—Trump’s stated goal—without an act of Congress. But his lawyers argued that he had the power to make personnel decisions in the meantime, even if that meant firing half of the employees. The question before the judge was whether the government’s claims made constitutional sense.

Joun, who was nominated by President Joe Biden, had before him a raft of details about Easthampton’s concerns. The Education Department’s Office for Civil Rights, which had been targeted for dismantling by Trump, had worked closely with the district to resolve issues of racial bias in how the schools disciplined their students. Their transportation options, class sizes, and accommodations for students with disabilities all depended on federal support.

“Do you drink coffee?” Joun asked Deputy Assistant Attorney General Eric Hamilton at a hearing, in late April.

“I do,” Hamilton responded for the government.

"I drink coffee every morning," the judge continued. "I go to Dunkin' Donuts, and when I walk in, there is a person behind the counter. There is a person making a fresh pot of coffee. If I want a sandwich, there's a person at the sandwich station ... Let's say one morning there is no one there. I don't think the plaintiffs are saying that Dunkin' Donuts should hire these three employees back. I think what they're saying is they want their cup of coffee."

At another point in the argument, Joun dismissed the government's claim that Trump's order was legal because it said in the text that it would not violate the law, comparing it to a teenager coming up with a nonsensical explanation for breaking a parent's rules.

Hunter was surprised by the lighthearted tone. It was clear to him that Joun was on the side of the schools. "Every time he made one of those jokes, I would look around and think: Are we all laughing?" Hunter told me.

Joun ruled that Trump's cuts overstepped his authority, quoting at length from the briefs that Easthampton had filed. "The idea that Defendants' actions are merely a 'reorganization' is plainly not true," he wrote, issuing a preliminary injunction that prohibited the Department of Education from going through with its planned layoffs. Weeks later, the First Circuit Court of Appeals unanimously upheld the ruling, sending it to the U.S. Supreme Court.

"All of our lawsuits tell stories," Randi Weingarten, the head of the American Federation of Teachers, which was a co-plaintiff in the lawsuit and 11 others, told me. "But you can't ask the judge to do all the work. If you want to prevail, you have to put real stories and real harm in front of the judge."

The Supreme Court's liberals are trying to tell Americans something

The Supreme Court ultimately voided Joun's ruling in an order that offered no reasoning. "The majority apparently deems it more important to free the Government from paying employees it had no right to fire than to avert these very real harms while the litigation continues," Justice Sonia Sotomayor wrote in a dissent joined by the Court's two other Democratic appointees. The Department of Education employees were dismissed. But the law remains unsettled. Joun has ordered amended complaints to be filed by October 15, setting up a winter battle that could eventually end up back at the Supreme Court.

Eisen believes that these legal struggles against Trump are just the opening minutes of a much larger battle. "He did not win that round. We did not win either," he told me, "but we held our own, and that in itself is a victory."

The Supreme Court, which has so far appeared more favorable to Trump than district

courts, could ultimately tilt the scorecard in the president's favor, as the justices begin to consider the substance of the legal questions presented by Trump. But the ultimate score will not be recorded on just the appellate docket or in the list of injunctions that are left to stand. Organizers are tracking Trump's approval ratings, as well, anticipating the effect the legal efforts could have on the 2026 midterm elections. "Despite the bluster from the White House, the president has been losing public support. He is losing in court in ways that he did not anticipate," Perryman told me. Voters have the power to provide the ultimate check.

The president is also providing more fodder for more lawsuits. The many aggressive tactics by ICE have spawned new cases, as has the deployment of federal officers and National Guardsmen to try to crack down on crime in D.C. Eisen is working on a plan for a lawsuit against Trump that challenges the financial benefits he and his family have enjoyed since taking office. The battle, in short, is just beginning.

"The demand for lawyers that are willing to defend people from the government is exponentially greater today than it was on day one," Perryman told me. "We believe the next 200 days are going to be even more significant than the first 200 days."

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