

No. 26-1348

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

CITY OF PHILADELPHIA,

Plaintiff-Appellee,

v.

SECRETARY U.S. DEPARTMENT OF INTERIOR;
U.S. DEPARTMENT OF INTERIOR;
DIRECTOR NATIONAL PARK SERVICE; NATIONAL PARK SERVICE,

Defendants-Appellants.

On Appeal from February 16, 2026 Preliminary Injunction Order
entered by the United States District Court for the
Eastern District of Pennsylvania, No. 26-434 (Hon. Cynthia M. Rufe)

**AMICUS CURIAE BRIEF OF THE AMERICAN HISTORICAL
ASSOCIATION IN SUPPORT OF THE CITY OF PHILADELPHIA**

Nikhel S. Sus
**Citizens for Responsibility
and Ethics in Washington**
P.O. Box 14596
Washington, DC 20044
(202) 408-5565
nsus@citizensforethics.org

Burt M. Rublin
Facundo Bouzat
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, Pennsylvania 19103
(215) 665-8500
rublin@ballardspahr.com
bouzatf@ballardspahr.com

*Counsel for Amicus Curiae
American Historical Association*

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, the American Historical Association certifies that it does not have any parent corporation and that no publicly held corporation owns 10% or more of its stock.

/s/ Burt M. Rublin

Burt M. Rublin

TABLE OF CONTENTS

	Page
TABLE OF AUTHORITIES	ii
INTEREST OF AMICUS CURIAE	1
SUMMARY OF ARGUMENT	2
ARGUMENT	5
I. The Freedom and Slavery Exhibit Is an Invaluable Historical Work and Its Removal Harms the Public Interest.....	5
A. The Freedom and Slavery Exhibit	5
B. The Freedom and Slavery Exhibit Has Historical and Educational Significance	9
II. The Park Service’s Removal of the Exhibit Is Part of a Broad, Political Effort to Censor and Rewrite American History	15
III. The Park Service Faces No Harm from the Display of the Freedom and Slavery Exhibit and Is Actively Undermining Its Own Mission.	27
CONCLUSION.....	31

TABLE OF AUTHORITIES

	Page(s)
 Federal Cases	
<i>Board of Education v. Pico</i> , 457 U.S. 853 (1982).....	21, 22
<i>Jones v. Alfred H. Mayer Co.</i> , 392 U.S. 409 (1968).....	14
<i>Mitchell v. Trawler Racer, Inc.</i> , 362 U.S. 539 (1960).....	14
<i>West Virginia Board of Education v. Barnette</i> , 319 U.S. 624 (1943).....	21
<i>Winter v. Nat. Res. Def. Council</i> , 555 U.S. 7 (2008).....	5
 Federal Statutes	
54 U.S.C. § 100101(a)	28
54 U.S.C. § 100802	29
An Act to establish a National Park Service, and for other purposes, Pub. L. No. 64-235, § 1, 39 Stat. 535 (1916)	28
National Park Service Centennial Act of 2016, Pub.L. No. 114-289, § 301, 130 Stat. 1482 (2016).....	28, 29
 Regulations	
Executive Order No. 14253, 90 Fed. Reg. 14563 (Mar. 27, 2025)	<i>passim</i>
U.S. Dept. of Interior, Secretary Order 3431 (May 20, 2025).....	15, 16
 Constitutional Provisions	
U.S. Const. amend. XIII.....	14

Other Authorities

Am. Historical Ass’n, *American Lesson Plan: Teaching US History in Secondary Schools* (2024)11

Am. Historical Ass’n, *Standards for Museum Exhibits Dealing with Historical Subjects* (Jan. 31, 2017).....17

Am. Historical Ass’n, *Statement on Standards of Professional Conduct* (Jan. 7, 2023).....16

Am. Historical Ass’n, *Tracking Federal Actions Affecting History*.....3

Andy Battaglia, *Statue removed during protests to be reinstated in Washington DC*, MSN (Mar. 23, 2026).....24

Arlington Nat’l Cemetery, *Removal of the Confederate Memorial* (Aug. 6, 2025).....23

Beverly C. Tomek, *Slavery and Abolition in Pennsylvania* (2021)7

Denise D. Meringolo, *The Park Service Mandate* (July 1, 2025)30

Edward Lawler, Jr., *The President’s House in Philadelphia: The Rediscovery of a Lost Landmark*, 126 *The Pa. Mag. History & Bio.* 1 (Jan. 2002).....6

The Encyclopedia of Greater Philadelphia, *‘I don’t need my history erased’: Rally for return of President’s House slavery exhibit draws hundreds to Independence Hall* (Apr. 22, 2026).6

Erica Armstrong Dunbar, *Never Caught: The Washingtons’ Relentless Pursuit of Their Runaway Slave, Ona Judge* (Atria Books 2017)8

Erica L. Green, *How Trump Treats Black History Differently Than Other Parts of America’s Past*, *N.Y. Times* (June 20, 2025).....21

Fallon Roth & Abraham Gutman, *How the Trump administration’s proposed panels would change President’s House*, *The Philadelphia Inquirer* (Apr. 11, 2026).....9

George Orwell, *1984* (1949)27

Jennifer Schuessler, *How Trump Brought the Fight Over American History to Philadelphia*, N.Y. Times (Feb. 5, 2026).....10

Jessica L. Thompson & Ana K. Houseal, *America’s Largest Classroom, What We Learn from Our National Parks* (Apr. 2020)30

Joseph J. Ellis, *The Great Contradiction: The Tragic Side of the American Founding* (2025).....12, 13

Karin Brulliard & Brady Dennis, *Confidential database reveals which items NPS thinks may ‘disparage’ America*, Washington Post (Mar. 2, 2026)18

Konstantin Toropin, *Restoration of torn-down Confederate monument will cost \$10 million over 2 years, military says*, Associated Press (Aug. 6, 2025).....23

Maxine Joselow & Jennifer Schuessler, *How the National Park Service Is Deleting American History*, N.Y. Times (Jan. 23, 2026)7

Maxine Joselow, *Park Service Is Ordered to Take Down Some Materials on Slavery and Tribes*, N.Y. Times (Sept. 16, 2025).....21

Nat’l Park Serv., *History of the National Park Service* (March 19, 2026)28

Nat’l Park Serv., *Management Policies 2006 § 7.1*29

Nat’l Park Serv., *National Park Service to restore and reinstall Albert Pike statue* (Aug. 4, 2025)23

Nat’l Park Serv., *Visiting the President’s House Site: From Enslavement to Emancipation*9

Org. Am. Historians, *Report on Site Review of Interpretive Programs* (Sept. 8, 2005).....7

PBS News, *In 3 tweets, Trump defends ‘beautiful’ Confederate monuments* (Aug. 17, 2017).....22

Peter Burkholder & Dana Schaffer, *History, the Past, and Public Culture: Results from a National Survey*, Am. Historical Ass’n (2021).....26

Ramin Ganeshram, *Bringing to Light the Cuisine of Hercules Posey, George Washington's Enslaved Chef*, N.Y. Times (Feb. 26, 2024).....8

Save Our Signs, *Erasure in Action* (Mar. 4, 2026).....18, 19

Slavery, George Washington’s Mount Vernon (Apr. 22, 2026).....12, 13

Southern Poverty Law Center, *Teaching Hard History: American Slavery* (2018).....10

Sterling Stuckey, *Slavery and the Freeing of American History Instruction*, Am. Historical Ass'n (Apr. 1, 1995)10

Timothy Snyder, *The War on History Is a War on Democracy*, N.Y. Times Mag. (June 29, 2021)25

U.S. Census Bureau, *Black Population 1790-1915* (1918)10

URS Corp., et al., *The Archeology of Freedom and Slavery: Excavations at the President’s House Site in Philadelphia* (Rev. Sept. 2023)6

White House, *Letter to the Smithsonian: Internal Review of Smithsonian Exhibitions and Materials* (Aug. 12, 2025).....20

White House, *Letter to the Smithsonian: Review of Smithsonian Exhibitions and Materials* (Dec. 18, 2025)20

William Jay, *The Life of John Jay with Selections from His Correspondence* (New York: J. & J. Harper, 1833).....13

Zolan Kanno-Youngs, *Trump Says Smithsonian Focuses Too Much on ‘How Bad Slavery Was’* (2019)19

INTEREST OF AMICUS CURIAE¹

The American Historical Association (“AHA”) is the world’s largest professional organization devoted to the study and promotion of history. It is a 501(c)(3) nonprofit membership organization and was founded in 1884. In 1889, the AHA was incorporated by an act of Congress “for the promotion of historical studies, the collection and preservation of historical manuscripts and for kindred purposes in the interest of American history and of history in America.” It has over 10,200 members, the majority of whom are professional historians. The AHA provides leadership for the discipline of history and highlights the critical role of historical thinking in public life. As the largest membership association of historians in the world, the AHA serves historians in a wide variety of professions and represents every historical era and geographical area.

The AHA has a substantial interest in this case, which implicates the preservation of American history and the education of the American public in a manner that is informed by historical research and the dissemination of accurate, evidence-based information about the past.

All parties have consented to the filing of this brief.

¹ No party’s counsel authored any part of this brief. No party, party’s counsel, or any person other than amicus and its counsel contributed money intended to fund the brief’s preparation or submission.

SUMMARY OF ARGUMENT

This case is about the federal government’s power to control public access to historical knowledge about the nation’s past. Defendants-Appellants (hereafter, the “Park Service”) removed an interpretive exhibit located at the President’s House, the seat of the Executive branch from 1790 to 1800, in Independence National Historical Park. That exhibit, known as the “Freedom and Slavery Exhibit,” explores the profound paradox of slave ownership by George Washington and other founders who risked their lives fighting for freedom and liberty. Indeed, enslaved people worked in the President’s House just a stone’s throw from Independence Hall, where the immortal words “all men are created equal” were enshrined in the Declaration of Independence.

The Freedom and Slavery Exhibit is an invaluable historical and educational resource. A product of consultations with professional historians and historical scholarship, the Exhibit provides a complex picture of life in the President’s House during this nation’s early years. It is especially valuable for helping visitors to Independence National Historical Park learn about the large cast of characters who shaped the founding of the United States. It also documents the tension between the institution of slavery and the principles of liberty and freedom on which this nation was founded—tension that was a subject of considerable debate and discussion in the founding era and thus itself constitutes an important feature of

that era's history. The country's legacy of slavery and debates over slavery may be uncomfortable to learn about for some, particularly as it relates to the behavior and language of our most distinguished founders, such as George Washington, but it is a fundamental aspect of American history. It is only by having access to a complete and accurate description of the past that we can hope to learn from it and improve upon it.

The Park Service's removal of the Freedom and Slavery Exhibit, on the other hand, upends the tenets of professional historical practice. The Exhibit was peer-reviewed and deemed accurate by the Park Service when it was installed and approved by experts in the field of history. Because the Park Service cannot base the Exhibit's removal on any *historical* ground, the only justification that the Park Service is able to offer for the removal is that it was "directed" to do so, and that it was "following" orders. *See* Park Service Corrected Brief at 10; JA59 at ¶ 4; JA185.

The Park Service's removal of the Freedom and Slavery Exhibit is not an isolated act but rather is part of a broader political agenda,² the objective of which is to alter, and even hide, certain aspects of American history that the current

² Am. Historical Ass'n, *Tracking Federal Actions Affecting History*, <https://www.historians.org/teaching-learning/current-events-in-historical-context/tracking-federal-actions-affecting-history/> (last visited Apr. 22, 2026).

Administration deems to “inappropriately disparage Americans.” Executive Order No. 14253, 90 Fed. Reg. 14563, 14564 (Mar. 27, 2025). To that end, the Park Service has removed dozens of public exhibits across the country, and in particular, those that focus on African American, Indigenous, or gender history. This effort not only distorts American history—it goes against the Park Service’s avowed mission of “shar[ing] an accurate and comprehensive history,” including “the good, the bad, [and] the ugly.”³ Perhaps most troublingly, the erasure of history poses a threat to democracy itself. Historians have documented how acts of government censorship of history in other countries during the 20th and 21st centuries offer a cautionary tale as to how such practices can undermine the transparency and openness to rational inquiry that are vital to democracy. For democracy to thrive, people must be freely able to examine and learn from their full, unvarnished national past.

Because the Park Service’s removal of the Exhibit censors a critical aspect of American history, the AHA must weigh in. Courts addressing the propriety of a preliminary injunction consider several factors, including the plaintiff’s likelihood of suffering irreparable harm in the absence of an injunction, whether an injunction

³ See Nat’l Park Serv., *History Under Construction*, <https://www.nps.gov/articles/history-under-construction.htm> (last visited March 19, 2026).

is in the public interest, and whether the balance of equities favors an injunction. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008). These factors support the District Court's decision to grant the City of Philadelphia's motion for a preliminary injunction to enjoin the Park Service from removing the Exhibit. The City will suffer irreparable harm if it cannot display, and the public cannot view, the Freedom and Slavery Exhibit, an historical and educational work of significant public value and interest. By contrast, the Park Service has not articulated any actual harm emanating from display of the Exhibit, so the balance of equities tilts in the City's favor. Several million people visit Independence National Historical Park each year, a large proportion of whom are schoolchildren. If the Exhibit is removed, they will encounter an incomplete version of U.S. history.

Accordingly, the AHA respectfully submits that the Court should affirm the District Court's preliminary injunction order.

ARGUMENT

I. The Freedom and Slavery Exhibit Is an Invaluable Historical Work and Its Removal Harms the Public Interest

A. The Freedom and Slavery Exhibit

The Freedom and Slavery Exhibit rests on the site of the President's House, which is located in Independence National Historical Park in Philadelphia, less than 600 feet from Independence Hall. *See* Figure 1 below. As the seat of the Executive branch from 1790 to 1800, the President's House was the residence of

George Washington and John Adams during their presidencies.⁴ The House was demolished in the 1830s. Today, the President's House site consists of the preserved remains of parts of its foundations,⁵ an above-ground partial reconstruction of the House, and a free-standing stone slab engraved with the names of nine enslaved members of the Washingtons' household.



Figure 1. Photograph of the President's House site.⁶

⁴ See Edward Lawler, Jr., *The President's House in Philadelphia: The Rediscovery of a Lost Landmark*, 126 *The Pa. Mag. History & Bio.* 1 (Jan. 2002).

⁵ See URS Corp., et al., *The Archeology of Freedom and Slavery: Excavations at the President's House Site in Philadelphia* (Rev. Sept. 2023), <https://npshistory.com/publications/inde/pres-house-excavations.pdf>.

⁶ See The Encyclopedia of Greater Philadelphia, *'I don't need my history erased': Rally for return of President's House slavery exhibit draws hundreds to Independence Hall*, <https://philadelphiaencyclopedia.org/backgrounders/i-dont-need-my-history-erased-rally-for-return-of-presidents-house-slavery-exhibit-draws-hundreds-to-independence-hall/> (last visited Apr. 22, 2026).

The Freedom and Slavery Exhibit addresses the legacy of enslaved people and the nature of liberty in this nation’s founding era. Prior to this litigation, the Park Service’s website had stated that the Exhibit “examines the paradox between slavery and freedom in the founding of the nation.”⁷ Interpretive panels explore that theme and are the product of careful scholarly work and consultation with professional historians.⁸ One panel, titled “The Dirty Business of Slavery,” described how 12.5 million Africans were forcibly brought to the Americas through the transatlantic slave trade, and how it reshaped Philadelphia.⁹ A “Memorial” panel stated that “[t]he close proximity to the Liberty Bell Center reminds us that liberty was not originally intended for all.”¹⁰

In addition to exploring the paradox between the institution of slavery and the founding principle of liberty, the Exhibit also told the stories of nine enslaved

⁷ JA466.

⁸ JA501-531. See Org. Am. Historians, *Report on Site Review of Interpretive Programs* at 8 (Sept. 8, 2005), <https://www.oah.org/wp-content/uploads/2025/09/Review-of-Independence-National-Historic-Parks-interpretive-programs.pdf>.

⁹ JA522. See also Maxine Joselow & Jennifer Schuessler, *How the National Park Service Is Deleting American History*, N.Y. Times (Jan. 23, 2026), <https://www.nytimes.com/2026/01/23/climate/national-park-service-deleting-american-history-slavery.html>; Beverly C. Tomek, *Slavery and Abolition in Pennsylvania* (2021).

¹⁰ JA528.

persons who played meaningful roles in the operation of the President’s House during Washington’s presidency. Several panels, for example, discussed Ona Judge, who the Park Service described as “a skilled seamstress” and “indispensable to the First Lady,” and who later emancipated herself and evaded recapture.¹¹ Other panels discussed Hercules, Washington’s chef, who was rotated between the Washingtons’ homes in Philadelphia and Virginia to prevent him from gaining freedom under Pennsylvania’s 1780 Gradual Abolition Act, which allowed enslaved persons to petition for freedom after six months of living in-state.¹² This was a practice that others in the founding leadership followed as well, so that they could retain legal ownership of their human property. These stories document the enduring presence, contributions, and resilience of the enslaved people who lived in the President’s House, as well as the heated debates at the time about the morality and legality of slavery.

On April 7, 2026, during the pendency of this appeal, the Park Service made substantial changes to the President’s House website. The former website

¹¹ JA475, 501, 513-514. *See also* Erica Armstrong Dunbar, *Never Caught: The Washingtons’ Relentless Pursuit of Their Runaway Slave, Ona Judge* (Atria Books 2017).

¹² JA473-474, 523-524. *See also* Ramin Ganeshram, *Bringing to Light the Cuisine of Hercules Posey, George Washington’s Enslaved Chef*, N.Y. Times (Feb. 26, 2024), <https://www.nytimes.com/2024/02/20/dining/hercules-posey-george-washington-chef.html>.

depictions of the panels that were physically removed from the President's House in January were replaced by digital renderings of new panels, which omit the previous panels' descriptions of "brutality and oppression," "torture," "inhumane treatment," and "rape."¹³ Also, the new panel concerning George Washington's slave ownership casts him in a much more sympathetic light than the removed panels.¹⁴

B. The Freedom and Slavery Exhibit Has Historical and Educational Significance

The Freedom and Slavery Exhibit's focus on the realities of early American life, particularly the legacy of slavery, is of tremendous importance to a complete and accurate history of this nation's founding era. The central role of slavery in the social, economic, and political development of the United States is well-documented. As historian Sterling Stuckey aptly explained, "African Americans are descendants of a people who were second to none in laying the foundations of

¹³ JA527.

¹⁴ See Nat'l Park Serv., *Visiting the President's House Site: From Enslavement to Emancipation*, <https://www.nps.gov/inde/planyourvisit/presidentshousesite.htm> (last visited Apr. 22, 2026); Fallon Roth & Abraham Gutman, *How the Trump administration's proposed panels would change President's House*, *The Philadelphia Inquirer* (Apr. 11, 2026), <https://www.inquirer.com/news/philadelphia/presidents-house-trump-administration-new-display-panels-20260411.html>.

the economic and cultural life of the nation.”¹⁵ In 1776, roughly one in five people in the original 13 colonies were of African descent.¹⁶ The Exhibit’s focus on African American history is entirely reasonable as part of the telling of our national story.

Yet public education and popular historical accounts of the founding do not always adequately address the lives and experiences of enslaved people or the centrality of slavery to political debates during the founding era. One survey of teachers and students in American schools found that less than half of surveyed students could confirm that slavery was legal in the 13 colonies during the time of the American Revolution and only 8% could identify slavery as the central cause of the Civil War.¹⁷ And while almost 100% of surveyed teachers agreed that

¹⁵ See Sterling Stuckey, *Slavery and the Freeing of American History Instruction*, Am. Historical Ass’n (Apr. 1, 1995), <https://www.historians.org/perspectives-article/slavery-and-the-freeing-of-american-history-instruction/>.

¹⁶ See Jennifer Schuessler, *How Trump Brought the Fight Over American History to Philadelphia*, N.Y. Times (Feb. 5, 2026), <https://www.nytimes.com/2026/02/05/arts/george-washington-slavery-trump-history.html>. See also U.S. Census Bureau, *Black Population 1790-1915*, at 25 (1918), <https://www.census.gov/library/publications/1918/dec/negro-population-1790-1915.html>.

¹⁷ Southern Poverty Law Center, *Teaching Hard History: American Slavery* (2018), https://www.splcenter.org/wp-content/uploads/files/tt_hard_history_american_slavery.pdf.

teaching slavery is “essential to understanding American history,” 58% of them found textbooks covering the topic to be inadequate.¹⁸

On the eve of the 250th anniversary of the Declaration of Independence, historic sites, including the President’s House, provide a powerful forum to promote evidence-based accounts of this crucial period in our nation’s history. A landmark AHA research study published in 2024 found that 83% of U.S. history teachers in public schools across the country rely on information and free educational resources from trusted federal institutions and agencies, including the Library of Congress, the National Archives, Smithsonian museums, and the National Park Service.¹⁹ While 70% of the teachers in this study identified the history of slavery as a high priority for coverage in their courses, many also reported that students arrive in their classrooms with preexisting—and often inaccurate—assumptions about slavery and race.²⁰ The removal of the Exhibit both limits access to the history of slavery in the founding era and undermines public trust in the accuracy of resources that play a significant role in public education. By focusing on the lives and contributions of enslaved persons at the President’s

¹⁸ *Id.*

¹⁹ Am. Historical Ass’n, *American Lesson Plan: Teaching US History in Secondary Schools* at 92 (2024), <https://www.historians.org/teaching-learning/k-12-education/american-lesson-plan/>.

²⁰ *Id.* at 135, 161.

House, the Exhibit is a valuable historical resource that helps tell the full story of the House and of the nation at the time of its founding.

Moreover, exploring the stark contradiction between the articulation of principles of liberty in the Declaration of Independence and the reality of chattel slavery also has significant educational and civic value—even if it may be uncomfortable to learn that George Washington, who is venerated as the “Father of His Country,” continued to enslave people throughout his life. At the time of his death in 1799, 317 enslaved men, women, and children worked on his estate at Mount Vernon.²¹ The experiences of our past include not only elements that make us proud but also difficult aspects with which we must contend. Both aspects are part of a shared past that is fundamentally American and offer valuable lessons for present and future generations.

As extensive scholarship has documented, the founders themselves grappled with the contradictions explored in the Freedom and Slavery Exhibit.²² As John

²¹ *See Slavery*, George Washington’s Mount Vernon, <https://www.mountvernon.org/george-washington/slavery> (last visited Apr. 22, 2026).

²² American historians have written extensively about this paradox, also known as “the great contradiction,” of which both the founders and civil society were aware. *See, e.g.*, Joseph J. Ellis, *The Great Contradiction: The Tragic Side of the American Founding* (2025). For instance, after ratification of the Constitution, the Pennsylvania Abolition Society submitted a petition, signed by Benjamin Franklin, urging Congress to take measures for “promoting the abolition of slavery.” *Id.* at 119. Similarly, two Quaker delegations petitioned

Jay, the first Chief Justice of the Supreme Court and a slave-owner, wrote in a letter dated March 15, 1786, “[t]o contend for our own liberty, and to deny that blessing to others, involves an inconsistency not to be excused.”²³ Another founder, Luther Martin, wrote that the slave trade was “inconsistent with the values of the revolution and it was dishonorable to the American character to have such a feature in the Constitution.”²⁴ The Freedom and Slavery Exhibit gives the public a tool for thinking critically about the limits of freedom at the nation’s founding and its expansion over time.

Finally, understanding the history of slavery allows us to better understand the present. Slavery, an institution for nearly 250 years of our country’s history, has had an enduring impact. The availability of enslaved labor spurred and shaped westward expansion and American agriculture. It fueled sectional conflict that ultimately erupted into civil war, after which four million formerly enslaved people worked to establish new lives in freedom. Over a century after slavery was

the House of Representatives to put an end to the slave trade, “arguing that it was a blatant violation of the values declared to the world in the Declaration of Independence.” *Id.* at 117.

²³ See William Jay, *The Life of John Jay with Selections from His Correspondence*, 181-82 (New York: J. & J. Harper, 1833).

²⁴ See Ellis, *supra* n. 22, at 101.

outlawed by the Thirteenth Amendment, the U.S. Supreme Court recognized its lasting effects:

Congress has the power under the Thirteenth Amendment rationally to determine what are the badges and the incidents of slavery, and the authority to translate that determination into effective legislation.... Just as the Black Codes, enacted after the Civil War to restrict the free exercise of those rights, were substitutes for the slave system, so the exclusion of Negroes from white communities became a substitute for the Black Codes. And when racial discrimination herds men into ghettos and makes their ability to buy property turn on the color of their skin, then it too is a relic of slavery.

Jones v. Alfred H. Mayer Co., 392 U.S. 409, 441-43 (1968).

For these reasons, the Freedom and Slavery Exhibit is an invaluable historical work for the public. The removal of the Exhibit “would be to erase more than just a page of history.” *Mitchell v. Trawler Racer, Inc.*, 362 U.S. 539, 550 (1960). The removal constitutes a repudiation of the rigorous work of the distinguished historians who participated in producing it. It undermines public trust in educational and cultural resources. And it reflects a fundamental misrepresentation of the social, political, and economic realities within which the founders—and the nation at the time of its formation—debated and understood liberty, independence, and self-government.

The District Court correctly recognized that adoption of the federal government’s arguments here would lead to “an unchecked rewriting of this country’s history.” JA43. It concluded that “[e]ach person who visits the

President’s House and does not learn of the realities of founding-era slavery receives a false account of this country’s history.” JA42.

II. The Park Service’s Removal of the Exhibit Is Part of a Broad, Political Effort to Censor and Rewrite American History

The Park Service’s removal of the Freedom and Slavery Exhibit is a part of a broader agenda by the Administration to censor certain historical content at public parks, museums, and other venues recording this nation’s history. That effort is traceable to Executive Order 14253. An attorney representing the Park Service at the District Court’s hearing on the City’s motion for a preliminary injunction stated that “this administration decided to issue the Executive Order that resulted in this action” and the Park Service was “following the Executive Order” when it removed the Freedom and Slavery Exhibit. *See* JA85, 185, 189.

Executive Order 14253, titled “Restoring Truth and Sanity to American History,” undermines expert scholarship and the freedom of historians to help Americans learn from their past. It instructs the Secretary of Interior to remove public displays within the Department of Interior’s jurisdiction that “contain descriptions, depictions, or other content that inappropriately disparage Americans past or living (including persons living in colonial times).”²⁵ These removals are

²⁵ The Department of Interior’s implementing order, Secretary Order 3431, similarly demands the removal of content “that inappropriately disparages Americans past or living” and the replacement of the “removed content with content that focuses on the greatness of the achievements and progress of the

framed as a response to the supposedly “corrosive ideology” reflected in historic spaces like Independence National Historical Park “where our Nation declared that all men are created equal.” *Id.* But it is not ‘inappropriate’ to document the complexity of the past and to share it with students and general audiences; rather, it is essential that all visitors to the Park be fully and accurately informed about the nation’s past in order to better steward the nation’s future.

Significantly, the Park Service has not asserted that *any* content in the Freedom and Slavery Exhibit is false or inaccurate according to the historical record. Nor does the Park Service’s removal adhere to best practices in the recording and presentation of history. Integrity of the historical record is the basis for historical scholarship. “All historians believe in honoring the integrity of the historical record,” declares the AHA’s *Statement on Standards of Professional Conduct*—standards that are widely followed by practicing historians.²⁶ The AHA’s *Standards* also make clear that historians should neither misrepresent their

American people.” U.S. Dept. of Interior, Secretary Order 3431 (May 20, 2025). The Secretary Order focuses on the sites of Independence National Historical Park, describing them as “icons of freedom and democratic ideals for people around the world,” and refers to the Declaration of Independence and the U.S. Constitution as embodying “the universal principles of freedom and democracy.” *Id.*

²⁶ See Am. Historical Ass’n, *Statement on Standards of Professional Conduct* (Jan. 7, 2023), <https://www.historians.org/resource/statement-on-standards-of-professional-conduct/>.

sources nor omit historical facts simply because they “run counter” to their personal beliefs. Further, according to the *Standards for Museum Exhibits Dealing with Historical Subjects*, endorsed by the AHA and other historical associations, “[a]ttempts to suppress exhibits or to impose an uncritical point of view, however widely shared, are inimical to open and rational discussion.”²⁷ The Park Service’s removals disregard these basic principles in favor of a distorted and ahistorical view of the past that rejects historical content it deems “inappropriately disparaging.”

That the Park Service is advancing a broader, political agenda to revise or wholly erase certain aspects of American history is made readily apparent by its removal of numerous other public exhibits during the last year. In addition to the Freedom and Slavery Exhibit, the Park Service has removed the following educational displays to comply with expectations laid out in Executive Order 14253:

- A display at Jamaica Bay Wildlife Refuge at the Gateway National Recreation Area in New York that referenced historical events including slavery, Japanese internment camps, and massacres of Native American people;

²⁷ See Am. Historical Ass’n, *Standards for Museum Exhibits Dealing with Historical Subjects* (Jan. 31, 2017), <https://www.historians.org/resource/standards-for-museum-exhibits-dealing-with-historical-subjects/>.

- A “History Under Construction” exhibit at Muir Woods in Golden Gate National Park in California concerning Indigenous history, the role of women in the Muir Woods conservation movement, and the historical role of Park Service staff in eugenics movements;
- Signs and exhibits in Virgin Islands National Park documenting the territory’s history, including Indigenous life and the forced labor of enslaved African people;
- A sign in Acadia National Park in Maine discussing the Wabanaki tribes and the significance of Cadillac Mountain to Wabanaki culture;
- Portions of an exhibit in Grand Canyon National Park in Arizona discussing settlers’ exploitation of land for farming and grazing and the removal of Indigenous tribes from the land;
- A sign in Grand Teton National Park in Wyoming with details about an explorer’s participation in the massacre of Native American people;
- An interpretive display at Fort Sumter in South Carolina that described how climate change may cause the Fort to be underwater by the end of the century;
- Interpretive materials at Glacier National Park in Montana describing the effect of climate change on the Park; and
- Films at Lowell National Historic Park in Massachusetts about the grueling conditions endured by mill workers, many of them women and immigrants, in the 19th century.²⁸

The Park Service has also flagged for removal:

²⁸ See Karin Brulliard & Brady Dennis, *Confidential database reveals which items NPS thinks may ‘disparage’ America*, Washington Post (Mar. 2, 2026), <https://www.washingtonpost.com/climate-environment/2026/03/02/national-parks-signs-censorship-slavery/>. A community collaboration project is cataloguing these and other removals by the Park Service. See Save Our Signs, *Erasure in Action* (last visited Mar. 4, 2026), <https://sites.google.com/umn.edu/save-our-signs/erasure-in-action> .

- A permanent exhibit at Brown v. Board of Education National Historic Park in Kansas that mentions “equity”;
- 80 items at the Selma to Montgomery National Historic Trail in Alabama;
- More than 30 signs at Harper’s Ferry National Historic Park in West Virginia, where abolitionist John Brown led a raid seeking to arm enslaved people for a revolt in 1859;
- A sign at Fort Pulaski National Park in Georgia displaying a reproduction of “The Scourged Back,” an image of an enslaved man scarred by whipping;
- An exhibit at the Kingsley Plantation in the Timucuan Ecological & Historic Preserve in Florida that tells the stories of enslaved people;
- A sign at Sunset Crater Volcano National Monument in Arizona describing basalt bubbles due to the inclusion of an image of a visitor holding a Pride flag;
- An exhibit at Cane River Creole National Historic Park in Louisiana about slavery; and
- A sign at Bent’s Old Fort National Historic Park in Colorado describing a family’s ownership of enslaved people and the stories of enslaved people who “illustrated the perseverance of the human spirit.”²⁹

The Park Service is taking its cues from President Trump, who followed March 2025’s Executive Order 14253 with a social media post in August that accused the Smithsonian Institution of being “OUT OF CONTROL,” “WOKE,” and too focused on “how bad slavery was.”³⁰ That post came several days after the

²⁹ *Id.*

³⁰ See Zolan Kanno-Youngs, *Trump Says Smithsonian Focuses Too Much on ‘How Bad Slavery Was’* (2019),

White House sent a letter dated August 12, 2025, to the Smithsonian announcing that, pursuant to Executive Order 14253, the White House would conduct “a comprehensive internal review” of Smithsonian museums and exhibits to “assess tone, historical framing, and alignment with American ideals” and ensure they “highlight American achievement and progress.”³¹

Thereafter, on December 18, 2025, the White House sent a follow-up letter to the Smithsonian to complain the institution had not provided sufficient information. This letter warned that “[t]he American people will have no patience for any museum that is diffident about America’s founding or otherwise uncomfortable conveying a positive view of American history, one which is justifiably proud of our country’s accomplishments and record.”³²

<https://www.nytimes.com/2025/08/19/us/politics/trump-smithsonian-slavery.html>.

³¹ See The White House, *Letter to the Smithsonian: Internal Review of Smithsonian Exhibitions and Materials* (Aug. 12, 2025), <https://www.whitehouse.gov/briefings-statements/2025/08/letter-to-the-smithsonian-internal-review-of-smithsonian-exhibitions-and-materials/>.

³² See The White House, *Letter to the Smithsonian: Review of Smithsonian Exhibitions and Materials* (Dec. 18, 2025), <https://www.whitehouse.gov/briefings-statements/2025/12/letter-to-the-smithsonian-review-of-smithsonian-exhibitions-and-materials/>.

The Administration is attempting to prescribe what is orthodox in American historical education, irrespective of what the historical record establishes.³³ Highly instructive here is the plurality opinion in *Board of Education v. Pico*, which held that “local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to ‘prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion.’” 457 U.S. 853, 872 (1982) (quoting *West Virginia Board of Education v. Barnette*, 319 U.S. 624, 642 (1943)). So too the government may not remove educational displays at historical sites because it dislikes the facts discussed therein.

The Supreme Court plurality made this assertion specifically in the context of rejecting a school board’s attempt to ban certain purportedly “anti-American” books, including one that, like the Freedom and Slavery Exhibit at issue here, related to slave ownership by George Washington:

When asked to give *an example of ‘anti-Americanism’* in the removed books, petitioners Ahrens and Martin both adverted to *A Hero Ain’t Nothin’ But A Sandwich*, which notes at one point that *George*

³³ See Maxine Joselow, *Park Service Is Ordered to Take Down Some Materials on Slavery and Tribes*, N.Y. Times (Sept. 16, 2025), <https://www.nytimes.com/2025/09/16/climate/trump-park-service-slavery-photo-tribes.html>; Erica L. Green, *How Trump Treats Black History Differently Than Other Parts of America’s Past*, N.Y. Times (June 20, 2025), <https://www.nytimes.com/2025/06/20/us/politics/trump-black-history-federal-holidays.html>.

Washington was a slaveholder ... Petitioner Martin stated: ‘I believe it is *anti-American to present one of the nation’s heroes, the first President, ... in such a negative and obviously one-sided light.* That is one example of what I would consider anti-American.’

457 U.S. at 873 n. 25 (emphasis added).

The Park Service’s removal of the Freedom and Slavery Exhibit and numerous other historical exhibits and displays at national parks around the country stands in stark contrast to President Trump’s outspoken opposition to the removal of statues and monuments honoring generals and political leaders of the Confederacy, who sought to preserve slavery. In the immediate wake of the deadly confrontation in Charlottesville, Virginia in August 2017 between white nationalist and neo-Nazi groups and counter-protesters who clashed over the planned removal of a Robert E. Lee statue, President Trump criticized “the removal of our beautiful statues and monuments” and asserted that “*You can’t change history, but you can learn from it.*”³⁴

The National Park Service made a similar statement in August 2025 when it announced the restoration and reinstallation of a statue of Confederate General Albert Pike in Washington, DC, which had been toppled and vandalized in June 2020 during protests over the murder of George Floyd. It was the only Confederate

³⁴ See *In 3 tweets, Trump defends ‘beautiful’ Confederate monuments*, PBS News (Aug. 17, 2017), <https://www.pbs.org/newshour/politics/in-3-tweets-trump-defends-beautiful-confederate-monuments> (emphasis added).

statue in Washington and had sparked controversy since it was proposed in the 1890s. The Park Service’s press release stated that the reinstallation of the Pike statue was done pursuant to the “Executive Order on Restoring Truth and Sanity to American History” and was intended to “*present a full and accurate picture of the American past.*”³⁵

Also in August 2025, the Administration announced that it would reinstall the Confederate Memorial in Arlington National Cemetery, which had been removed in December 2023 following the completion of the Section 106 consultation process—a process requiring federal agencies to consider the effects on historic properties of projects they intend to carry out.³⁶ In his announcement about the reinstallation of the Confederate Memorial, Secretary of Defense Pete Hegseth stated that “Unlike the Left, *we don’t believe in erasing American history—we honor it.*”³⁷

³⁵ See Nat’l Park Serv., *National Park Service to restore and reinstall Albert Pike statue* (Aug. 4, 2025), <https://www.nps.gov/nama/learn/news/pike.htm> (emphasis added).

³⁶ See Arlington Nat’l Cemetery, *Removal of the Confederate Memorial* (updated Aug. 6, 2025), <https://www.arlingtoncemetery.mil/About/Confederate-Memorial-Removal>.

³⁷ See Konstantin Toropin, *Restoration of torn-down Confederate monument will cost \$10 million over 2 years, military says*, Associated Press (Aug. 6, 2025), <https://apnews.com/article/confederate-memorial-arlington-cemetery-trump-10-million-5dd49c0cc16244e3e09a7a7f0008cbcc> (emphasis added).

More recently, the National Park Service announced plans to install the Caesar Rodney Statue on Freedom Plaza in Washington, DC, as part of the celebration of the nation's 250th birthday. Rodney was a founder who owned a plantation with as many as 200 enslaved people. His statue was originally located in Wilmington, Delaware, but removed by the City in June 2020 after the George Floyd protests. The Park Service's decision to install the Rodney Statue in Freedom Plaza is ironic, as that Plaza was named in 1988 in honor of Dr. Martin Luther King Jr., who wrote his iconic "I Have a Dream" speech in the nearby Willard Hotel. An Interior Department spokesperson stressed that the Rodney Statue was being installed because "*the Trump Administration has been committed to celebrating and acknowledging the full breadth of our nation's history.*"³⁸ Allowing the Administration to censor the work of professional historians in service of its political goals sets a precedent that could create constant whiplash as new presidents enter and leave the White House, jeopardizing people's understanding of U.S. history and education in general.

The censorship of history in other countries offers a cautionary tale as to how such practices can undermine principles that are vital for a healthy democracy.

³⁸ See Andy Battaglia, *Statue removed during protests to be reinstated in Washington DC*, MSN (Mar. 23, 2026), <https://www.msn.com/en-us/news/us/statue-removed-during-protests-to-be-reinstated-in-washington-dc/ar-AA1ZeAYp> (emphasis added).

In Russia and Eastern Europe, for example, there have been many efforts to censor discussions about difficult episodes in national history. Such efforts have been linked to democratic backsliding and a broader attack on free expression. In 2009, a former Russian president established a “Presidential Commission of the Russian Federation to Counter Attempts to Falsify History to the Detriment of Russia’s Interests,” which functioned to advance the ahistorical principle “that history was what served Russia’s national interests, and that all else was revisionism.”³⁹

More recently, a report by the International Federation for Human Rights documents the Russian government’s “crimes against history,” describing a widespread culture of “discreet censorship” accompanied by high-profile cases, often targeting historians.⁴⁰ The *New York Times* has described the Russian government’s efforts to “Take[] the Gulag Out of the Gulag History Museum in Moscow,” replacing exhibits on Stalin’s brutal system of forced labor camps with exhibits highlighting Nazi Germany’s “genocide of the Soviet people.”⁴¹ As a

³⁹ See Timothy Snyder, *The War on History Is a War on Democracy*, N.Y. Times Mag. (June 29, 2021), <https://www.nytimes.com/2021/06/29/magazine/memory-laws.html?smid=nytcore-ios-share>.

⁴⁰ FIDH, *Russia: ‘Crimes against Humanity’*, No. 770a (June 2021), https://www.fidh.org/IMG/pdf/russie-_pad-uk-web.pdf.

⁴¹ See Neil MacFarquhar, *Russia Takes the Gulag Out of the Gulag History Museum in Moscow*, N.Y. Times (Feb. 20, 2026),

Russian historian stated, “[a]ny reminder of the crimes of the Russian state is very inconvenient for the current authorities. A victorious people can only have a victorious history—there should be no dark pages in it.”⁴² Both the Russian and Polish governments have sought to censor historical accounts that acknowledge local collaboration in the crimes of the Nazis. Healthy democracies need to be able to discuss the tragedies of the past for people to become fully informed and better able to avoid them.

The importance of ensuring an accurate account of our nation’s history at its founding 250 years ago cannot be overstated. And the American public *wants* to learn about our nation’s fullest history. A 2021 national survey conducted by the AHA and Fairleigh Dickinson University reported that 73% of respondents were drawn to history that challenged what they knew, and 77% of respondents said it was “acceptable to teach history about harm done to others even if it causes discomfort.”⁴³

<https://www.nytimes.com/2026/02/20/world/europe/russia-gulag-history-museum-stalin.html>.

⁴² *Id.*

⁴³ See Peter Burkholder & Dana Schaffer, *History, the Past, and Public Culture: Results from a National Survey*, Am. Historical Ass’n (2021), <https://www.historians.org/teaching-learning/current-events-in-historical-context/history-the-past-and-public-culture-results-from-a-national-survey/>.

George Orwell’s words are particularly apt here: “Who controls the past controls the future. Who controls the present controls the past.”⁴⁴

III. The Park Service Faces No Harm from the Display of the Freedom and Slavery Exhibit and Is Actively Undermining Its Own Mission

In contrast to the irreparable harm that the Park Service’s removal of the Freedom and Slavery Exhibit inflicts on the public interest, particularly the people of the City of Philadelphia and visitors to Independence National Historical Park, the Park Service has not articulated any harm it has suffered from the display of that Exhibit. To the contrary, its removal of the Exhibit affirmatively undermines its own mission.

On its website, the Park Service describes its role in recording American history: “The role of the National Park Service is to preserve history—the good, the bad, the ugly, and everything in between. *It’s not our job to judge what history is worth telling, but to share an accurate and comprehensive history.*”⁴⁵ It further stresses that “American stories are enriched by complexity, dimension, and challenge. *It’s not our job to judge these stories or promote a singular narrative.*”

⁴⁴ George Orwell, *1984* (1949).

⁴⁵ See Nat’l Park Serv., *History Under Construction*, <https://www.nps.gov/articles/history-under-construction.htm> (last visited March 19, 2026) (emphasis added).

As national park rangers, it is our mandate to tell complete stories that reflect who we are as a society. And as Americans, it's important that we hear them."⁴⁶

The Park Service holds itself out as “a leader in multiple fields of scientific and historical research and encourages and supports research on a wide variety of topics.”⁴⁷ It has a long history of preserving historical artifacts and educating the public about American history. Established in 1916, the Park Service’s mission is “to conserve the scenery and the natural and historic objects and the wildlife and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.”⁴⁸

More recently, the National Park Service Centennial Act of 2016 directed the Secretary to “undertake a program of regular evaluation of interpretation and education programs to ensure that,” among other things, they reflect “different cultural backgrounds, ages, education, gender, abilities, ethnicity, and needs” and

⁴⁶ *Id.* (emphasis added).

⁴⁷ See Nat’l Park Serv., *History of the National Park Service*, <https://www.nps.gov/orgs/1220/history-of-the-national-park-service.htm> (last visited March 19, 2026).

⁴⁸ See An Act to establish a National Park Service, and for other purposes, Pub. L. No. 64-235, § 1, 39 Stat. 535, 535 (1916) (amended and recodified at 54 U.S.C. § 100101(a)).

“current scientific and academic research, content, methods, and audience analysis.”⁴⁹

The Park Service’s Management Policies state that “[s]ince its inception, one of the chief functions of the national parks has been to serve educational purposes.... Within the rich learning environments of national parks...visitors will be offered authentic experiences and opportunities to...*understand the difficult moments our nation has endured.*”⁵⁰ The Policies also state that “[p]arks will be managed as places to demonstrate the principles of science [and] to illustrate the national experience as history.”⁵¹ Also, National Parks Director’s Order #6 states that “Superintendents, historians, scientists, and interpretive staff are responsible for ensuring that park interpretive and educational programs and media are accurate and reflect current scholarship.”⁵²

The Park Service is popularly associated with the iconic landscapes of our country’s national parks, but over half of its sites are intended to “preserve

⁴⁹ Pub.L. No. 114-289, § 301, 130 Stat. 1482, 1487 (codified at 54 U.S.C. § 100802).

⁵⁰ Nat’l Park Serv., *Management Policies 2006* § 7.1, https://www.nps.gov/subjects/policy/upload/MP_2006_amended.pdf (emphasis added).

⁵¹ *Id.* at § 7.3.1.1.

⁵² Nat’l Park Serv., *Director’s Order #6: Interpretation and Education*, § 8.42 https://www.nps.gov/subjects/policy/upload/DO_6_1-19-2005.pdf

historically significant individuals, events or activities.”⁵³ Indeed, the National Park Service has been described as “America’s Largest Classroom.”⁵⁴

The removal of the Freedom and Slavery Exhibit undermines the long-standing mission of the Park Service at one of its most visited historical sites. The Park Service has all but conceded that its removal was based on the current Administration’s own determination about “what history is worth telling”—as countenanced by Executive Order 14253—and has opted against sharing with the public certain aspects of history it now deems “disparaging,” like the legacy of slavery during the founding era. These may not be aspects of our past of which we are proud. But they happened. They form an important part of American history and are a testament to the progress of the nation. Denying these historical facts and removing educational displays and exhibits about them is contrary to the Park Service’s mission and the public interest and causes irreparable harm to the City of Philadelphia.

⁵³ Denise D. Meringolo, *The Park Service Mandate* (July 1, 2025), <https://www.historians.org/perspectives-article/the-park-service-mandate/>.

⁵⁴ Jessica L. Thompson & Ana K. Houseal, *America’s Largest Classroom, What We Learn from Our National Parks* (Apr. 2020).

CONCLUSION

For the reasons set forth above and in the City's response brief, AHA respectfully submits that the Court should affirm the District Court's order granting the City's amended motion for a preliminary injunction.

Respectfully submitted,

Date: April 27, 2026

/s/ Burt M. Rublin

Burt M. Rublin
Facundo Bouzat

Ballard Spahr LLP

1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599

(215) 665-8500

rublin@ballardspahr.com

bouzatf@ballardspahr.com

/s/ Nikhel S. Sus

Nikhel S. Sus

**Citizens for Responsibility
and Ethics in Washington**

P.O. Box 14596

Washington, DC 20044

(202) 408-5565

nsus@citizensforethics.org

CERTIFICATE OF BAR MEMBERSHIP

Burt M. Rublin and Facundo Bouzat hereby certify that they are members of the Bar of the Court of Appeals for the Third Circuit.

Date: April 27, 2026

/s/ Burt M. Rublin

Burt M. Rublin

Date: April 27, 2026

/s/ Facundo Bouzat

Facundo Bouzat

CERTIFICATION

I, Burt M. Rublin, hereby certify as follows:

1. This Brief complies with the type volume limitations of Federal Rule of Appellate Procedure 29(a)(5). This Brief was prepared in Times New Roman 14-point font on Microsoft Office Word 2026 and has 6470 words according to the Microsoft Word Count.
2. Pursuant to Local Rule 31.1(c), the electronic version of the Brief and the hard copies to be filed with the Court are identical.
3. Pursuant to Local Rule 31.1(c), a virus check was performed on this Brief using Windows Defender agent version 4.10.14393.1198 and no virus was detected.

Date: April 27, 2026

/s/ Burt M. Rublin

Burt M. Rublin

CERTIFICATE OF SERVICE

I certify that on April 27, 2026, I electronically filed the foregoing brief in PDF format with the Clerk of Court via the appellate CM/ECF system. I certify that all counsel of record are registered CM/ECF users, and service will be accomplished via the appellate CM/ECF system.

/s/ Burt M. Rublin

Burt M. Rublin