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FOR IMMEDIATE RELEASE
Sep 4, 2026

Media Contact:
Lauren Stiller Rikleen
Executive Director, LDAD
LRikleen@RikleenInstitute.com

LDAD Files Amicus Brief Challenging Trump IRS Immunity Agreement

Lawyers Defending American Democracy (LDAD) has filed an amicus brief in *Floyd et al. v. U.S. Department of Justice et al.*, supporting a challenge to the agreement that intended to "settle" President Trump's lawsuit against the Internal Revenue Service (IRS). A provision in that agreement purports to provide immunity for President Trump, his family, and his businesses from liability in connection with matters pending or potentially pending before the IRS and other agencies.

At the request of Democracy Forward, LDAD's brief addresses whether that provision violates federal tax law and whether the National Treasury Employees Union (NTEU), one of the plaintiffs, has standing to challenge it.

Federal law prohibits the President and certain other executive branch officials from directly or indirectly requesting that the IRS conduct or terminate an audit or investigation of a particular taxpayer. LDAD's brief examines the legislative history of the tax code and explains that Congress enacted the law to protect individual tax audits and investigations from interference by high-ranking officials for partisan or personal purposes.

The brief notes that the challenged agreement directly conflicts with that congressional purpose because the taxpayer receiving protection is President Trump himself. Congress deemed the prohibition on presidential interference as essential to both the integrity of the tax system and public confidence in it.

LDAD's brief also supports NTEU's associational standing to bring the challenge. NTEU represents IRS employees, including employees responsible for conducting the audits of sitting presidents. NTEU members have standing to sue because the agreement could force them to choose between terminating an audit or investigation in possible violation of federal law and refusing an instruction from the President or other officials, thereby risking discipline, termination, or even criminal exposure. Because protecting those employees is directly related to NTEU's role as the exclusive representative of the IRS bargaining unit, the brief argues that NTEU may pursue the challenge without requiring individual employees to participate in the lawsuit.

"The agreement at issue in this case represents a fundamental breach of the rule of law and abuse of the legal system," said LDAD co-founder and board member Gershwin ("Gary") Ratner, "It attempts to enable President Trump to arrange a lawsuit in which there was no case or controversy between adverse parties, in order to gain benefits for himself, his family members, and all his businesses in direct violation of a prohibition in the tax code that contains criminal penalties for its violation."

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