

No. 24-1287

No. 25-250

IN THE

Supreme Court of the United States

LEARNING RESOURCES, INC., ET AL.,

Petitioners,

v.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES ET
AL.,

Consolidated with

DONALD J. TRUMP, PRESIDENT OF THE UNITED
STATES, ET AL.,

Petitioners,

v.

V.O.S. SELECTIONS, INC., ET AL.,

Respondents.

**MOTION OF SUSAN WEBBER, JONATHAN ST.
GODDARD, AND RHONDA AND DAVID
MOUNTAIN CHIEF FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT**

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Pursuant to Rules 21 and 28.3 of the Rules of this Court Susan Webber, Jonathan St. Goddard, and Rhonda and David Mountain Chief (Webber), move for leave to participate in the oral argument in this case. Webber requests an additional fifteen minutes of argument time in addition to time allocated to other parties. Accordingly, if this motion is granted, the argument time would be divided as follows: 30 minutes for petitioners, 30 minutes for respondents, and 15 minutes for Webber.

On September 9, 2025, this Court granted the government's petition for a writ of certiorari and motion to expedite in No. 25-250. On the same day the Court also granted the petition for a writ of certiorari before judgment in No. 24-1287 and consolidated the case with No. 25-250. The petitions present two questions: (1) whether the International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, Tit. II, 91 Stat. 1626, authorizes tariffs by a President; and (2) if so, whether IEEPA unconstitutionally delegates legislative authority to a President.

Webber filed a motion to intervene on September 10, 2025 requesting the Court address the distinct legal arguments as to whether IEEPA and the Trade Expansion Act of 1962, 19 U.S.C. § 1862 (Section

232) authorize executive branch tariffs on cross-border Tribes. Webber's motion was distributed for conference of October 10, 2025.

Motions pertaining to oral argument are due on or before Friday, October 3, 2025. The government filed its opening brief on September 19, 2025. Responding briefs from petitioners in No. 24-1287 and respondents in No. 25-250 are to be filed by October 20, 2025; and the government's consolidated reply brief is to be filed by October 30, 2025. Webber generally supports the positions advanced by petitioners in No. 24-1287 and respondents in No. 25-250, that IEEPA does not authorize tariffs imposed by the executive branch, with the clarification that the executive branch does not have authority to impose tariffs on tribal commerce.

Webber contends that the President does not have the authority to impose tariffs on cross-border tribal commerce and that the Executive Orders at issue in this case violate Article I, Sec. 8, Cl. 3 (Indian Commerce Clause) and Article VI (Treaties) of the Constitution, specifically, Jay's Treaty of 1794 including its explanatory note (1796), and the Treaties of Greenville (1795), Ghent (1814) and Spring Wells (1815). These unique issues are not addressed by the other parties.

The Webber plaintiffs have significant interest in this case. Article I, Section 8, Clause 3, grants Congress the exclusive power to regulate commerce with Indian Tribes, which includes the individuals that comprise the Tribes. *Cherokee Nation v. Georgia*, 5 Pet. 1 (1831); *U.S. v. Holliday*, 70 U.S. 407, 418 (1865) *Haaland v. Brackeen*, 599 U.S. 255, 143 S. Ct. 1609 (2023). Webber advances the sovereign and separate nature of tribal commerce, which is distinct from commerce with foreign nations or among the states. The President has no authority to impose tariffs on Indian Tribes and individual tribal members. *Haaland*, 599 U.S. 255, 274-75.

The Court has held oral argument in numerous cases involving the Indian Commerce Clause and Treaty rights, including: *Haaland v. Brackeen* (oral argument held on consolidated cases November 9, 2022, decision issued June 15, 2023, affirming that the Indian Commerce Clause, along with the Treaty Clause and the Federal Government's inherent power over Indian affairs); *McGirt v. Oklahoma* (oral Argument held May 11, 2020 decision issued July 9, 2020 holding that the Muscogee Nation's reservation was never disestablished by Congress and remains Indian Country for purposes of the Major Crimes

Act); *Oklahoma v. Castro-Huerta* (oral Argument held April 27, 2022, decision issued June 29, 2022 holding that States Oklahoma has concurrent jurisdiction to prosecute crimes committed by non-Indians against Indians in Indian Country); *Arizona v. Navajo Nation* (consolidated with *Department of the Interior v. Navajo Nation*)(oral Argument held March 20, 2023, decision issued June 22, 2023 holding that the 1868 treaty creating the Navajo Reservation did not require the United States to take affirmative steps to secure water for the Navajo Nation); and *Herrera v. Wyoming*, (oral Argument held January 8, 2019, decision issued May 20, 2019, holding that a treaty establishing the Crow Tribe’s hunting rights on “unoccupied lands of the United States” did not expire when Wyoming became a state.

Webber’s contentions draw on this developing body of jurisprudence. Webber believes that oral argument addressing the specific issue of the executive branch’s authority to impose tariffs on tribal commerce will be of material assistance to the Court.

Webber requests this Court grant leave to join in the oral argument and allocate fifteen minutes of additional time to Webber.

Respectfully submitted.

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September 29, 2025