

[ORAL ARGUMENT NOT YET SCHEDULED]

No. 25-5188

**In the United States Court of Appeals  
for the District of Columbia**

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GIFFORDS,

*Plaintiffs - Appellants,*

v.

FEDERAL ELECTION COMMISSION,

*Defendants - Appellees,*

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NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*,

*Appellants.*

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On Appeal from the United States  
District Court for the District of Columbia  
The Hon. Emmet G. Sullivan, District Judge  
(Dist. Ct. No. 1:19-cv-01192-EGS)

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CONSENTED-TO MOTION OF INSTITUTE FOR FREE SPEECH FOR LEAVE  
TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF APPELLANTS'  
OPPOSITION TO MOTION TO DISMISS

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Owen Yeates  
INSTITUTE FOR FREE SPEECH  
1150 Connecticut Ave., N.W., Ste. 801  
Washington, DC 20036  
202-301-3300  
oyeates@ifs.org

August 4, 2025

*Counsel for amicus curiae*

Pursuant to Federal Rule of Appellate Procedure 27, the Institute for Free Speech (“the Institute”) moves for leave to file the accompanying *amicus curiae* brief in support of the Appellants in the above-captioned case. The Institute states the following in support of this motion:

1. The Institute is a nonprofit corporation dedicated to the protection of the First Amendment rights of speech, assembly, petition, and press. A core part of the Institute’s mission is ensuring that the FEC lawfully enforces federal campaign finance laws.

2. The Institute has no parent company, subsidiary, or affiliate, and no publicly held company owns more than 10 percent of its stock.

3. The Institute both litigates cases and files *amicus* briefs in lawsuits across the United States, to vindicate the First Amendment rights of speakers from all across the political spectrum. *See, e.g., Moms for Liberty v. Brevard Pub. Sch.*, 118 F.4th 1324, 1328 (11th Cir. 2024); *Campaign Legal Ctr. v. 45Committee, Inc.*, 118 F.4th 378, 380 (D.C. Cir. 2024); *Wyo. Gun Owners v. Gray*, 83 F.4th 1224, 1229 (10th Cir. 2023).

4. Under Rule 29(a), a movant may file an amicus brief either when all parties have consented or when the movant has (1) demonstrated an

adequate “interest” in the matter and (2) the accompanying brief is “desirable” and “relevant to the disposition of the case.” Fed. R. App. P. 29(a)(2)-(3). Courts should “grant motions for leave to file amicus briefs unless it is obvious that the proposed briefs do not meet Rule 29’s criteria as broadly interpreted.” *Neonatology Assocs., P.A. v. C.I.R.*, 293 F.3d 128, 133 (3d Cir. 2002) (Alito, J., in chambers) (citing Micael E. Tigar and Jane B. Tigar, *Federal Appeals—Jurisdiction and Practice* 181 (3d ed. 1999)).

5. While Rule 29 is directed to amicus briefs filed in the course of briefing an appeal on the merits, the same principles appear readily applicable to amicus briefing with respect to a dispositive motion.

6. As detailed in the accompanying brief, the Institute as an *amicus* has a strong interest in the outcome of this case, which could undermine the FEC’s bipartisan structure and permit private parties to bring citizen suits even though the FEC has lawfully acted and chose to forgo an enforcement suit.

7. Because *amicus* has extensive experience defending First Amendment rights in campaign finance cases, the Institute is well-positioned to assist this Court by providing an informed perspective and

specific information, in addition to what the parties offer, regarding the FEC's structure and the potential national impact of a ruling upholding the lower court's decision.

8. The Institute has received the consent of all the parties to file this motion and the accompanying *amicus* brief.

9. Although all parties consented, the Institute now submits this motion for leave to file because this Court is presently considering a motion to dismiss, rather than the full merits of the case. The accompanying brief complies with the format requirements in Fed. R. App. P. 27(d) and contains less than half the number of words set by Fed. R. App. P. 27(d)(2)(A).

August 4, 2025

Respectfully submitted by,

/s/ Owen Yeates

Owen Yeates

INSTITUTE FOR FREE SPEECH

1150 Connecticut Ave., N.W., Ste. 801

Washington, DC 20036

202-301-3300

oyeates@ifs.org

*Counsel for amicus curiae*

## CERTIFICATE OF COMPLIANCE

As required by Federal Rule of Appellate Procedure 32(g), I certify that this motion complies with the type-volume limitation in Fed. R. App. P. 27(d)(2)(A) because it contains 511 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced Serif typeface, Century Schoolbook, in 14-point font using Microsoft Word.

/s/ Owen Yeates

## CERTIFICATE OF SERVICE

I certify that on August 4, 2025, I electronically filed this motion with the Clerk of the Court for the United States Court of Appeals for the District of Columbia using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Owen Yeates