

No. 22A444

In the Supreme Court of the United States

JOSEPH R. BIDEN, JR., PRESIDENT OF THE UNITED STATES,
ET AL.,

Applicants,

v.

STATE OF NEBRASKA ET AL.,

Respondents.

**MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE AMERICANS
FOR PROSPERITY FOUNDATION IN OPPOSITION TO APPLICATION TO
VACATE THE INJUNCTION ENTERED BY THE UNITED STATES COURT
OF APPEALS FOR THE EIGHTH CIRCUIT; FOR LEAVE TO FILE
WITHOUT 10-DAYS NOTICE; AND FOR LEAVE TO FILE IN PAPER
FORMAT**

Michael Pepson
Counsel of Record
Casey Mattox
Cynthia Fleming Crawford
AMERICANS FOR PROSPERITY FOUNDATION
1310 N. Courthouse Road, Ste. 700
Arlington, VA 22201
571.329.4529
mpepson@afphq.org

November 23, 2022

Attorneys for Amicus Curiae

Americans for Prosperity Foundation (AFPF) respectfully moves this Court under Rule 37.2 for leave to file the enclosed brief as *amicus curiae* in support of Respondent States' Opposition to Application to Vacate the Injunction Entered by the United States Court of Appeals for the Eighth Circuit, (i) without 10 day's advance notice to the parties of *amicus's* intent to file as ordinarily required by Sup. Ct. R. 37.2(a) and (ii) in an unbound format on 8½-by-11-inch paper rather than in booklet form.

Respondent States consent to the filing of this brief; Federal Applicants take no position on AFPF's motion for leave. The Federal parties filed their application on Friday, November 18, 2022. As this Court has called for a response by noon EST Wednesday, November 23, 2022, it was not feasible to provide 10 days' notice to the parties.

AFPF participated as *amicus curiae* below. *See* App. 1a (listing *amici* on behalf of States). As set forth in the enclosed brief, AFPF has a strong interest in the separation of powers issues that underlie this case, as well as the fiscal impacts of Applicants' actions. AFPF further respectfully submits that the *amicus* brief includes relevant material not brought to the attention of the Court by the parties that may be of considerable assistance to the Court. *See* Sup. Ct. R. 37.1.

AFPF therefore respectfully seeks leave to file this brief in support of Respondent States' Opposition to the Federal parties' Application.

CONCLUSION

This Court should grant *amicus curiae* AFPF leave to file the enclosed brief.

Respectfully submitted,

/s/ Michael Pepson

Michael Pepson

Counsel of Record

Casey Mattox

Cynthia Fleming Crawford

AMERICANS FOR PROSPERITY FOUNDATION

1310 N. Courthouse Road, Ste. 700

Arlington, VA 22201

571.329.4529

mpepson@afphq.org