

## MOTION

*Amici Curiae* United States Justice Foundation and Policy Issues Institute, Inc. request leave of the Court to file to their *amicus* brief, attached (and submitted on January 31, 2024).

*Amici* submitted their brief on January 31 rather than January 18 because counsel misread the relevant portion of this Court's January 5, 2024 order and interpreted it as if it read as follows:

Petitioner's brief on the merits, and any *amicus curiae* briefs ... in support of neither party, are to be filed on or before Thursday, January 18, 2024. Respondents' briefs on the merits, and any *amicus curiae* briefs in support [of either party], are to be filed on or before Wednesday, January 31, 2024.

The Court should accept *amici's* brief for filing for several reasons. Preliminarily, the error is harmless, made in good faith, and resulted in a delay of just nine court days. *Amici* recognize the extraordinary circumstances of this case where days might be comparable to weeks, but that segues to other reasons why the Court should grant *amici* the leave they request.

Given the far-reaching importance of this case, all parties have drawn significant *amici* support. Much of that support restates arguments the parties already made. These *amici* took a different approach and their eight-page (1,952-word) brief focused narrowly on a jurisdictional issue that was not addressed by any party or other *amici*.

Other important public interests weigh in favor of granting this motion. As stated in their brief, below, *amici* have significant interests in the subject of this

case. Furthermore, the docket in this case will become part of the historical record on this important issue, and *amici*'s argument should not be excluded from that record on the basis of an honest mistake. Additionally, while there is no guarantee that the Court will consider any or all of the *amici* arguments, it should at least have the option to do so. Granting this motion will give the Court that opportunity.

Respectfully submitted,

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