

No. \_\_\_\_

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**In the Supreme Court of the United States**

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MISSOURI ETHICS COMMISSION; DON SUMMERS, IN HIS OFFICIAL CAPACITY;  
KIMBERLY BENJAMIN, IN HER OFFICIAL CAPACITY; GEORGE RATERMANN, IN HIS  
OFFICIAL CAPACITY; WAYNE HENKE, IN HIS OFFICIAL CAPACITY; SHERMAN W.  
“BILL” BIRKES, JR. IN HIS OFFICIAL CAPACITY; CHERYL D.S. WALKER IN HER  
OFFICIAL CAPACITY; LIZ ZIEGLER, IN HER OFFICIAL CAPACITY,  
*Petitioner,*

v.

FREE AND FAIR ELECTION FUND; MISSOURIANS FOR WORKER FREEDOM;  
AMERICAN DEMOCRACY ALLIANCE; HERZOG SERVICES, INC.; FARMERS STATE  
BANK; MISSOURI ELECTRIC COOPERATIVES, DOING BUSINESS AS ASSOCIATION  
OF MISSOURI ELECTRIC COOPERATIVES; ASSOCIATION OF MISSOURI ELECTRIC  
COOPERATIVES, PAC; DAVID KLINDT; LEGENDS BANK; JOHN ELLIOTT,  
*Respondents.*

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APPLICATION FOR AN EXTENSION OF TIME IN WHICH TO FILE A  
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES  
COURT OF APPEALS FOR THE EIGHTH CIRCUIT

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November 26, 2018

**To the Honorable Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eighth Circuit:**

Petitioners the Missouri Ethics Commission, its commissioners, and its director request under Supreme Court Rule 13.5 two additional months in which to file a petition in this Court seeking certiorari, to and including Friday, February 8, 2019.

**I. Jurisdiction.** The U.S. Court of Appeals for the Eighth Circuit entered a judgment in this case on Monday, September 10, 2018, No. 17-2239, and no order seeking rehearing was filed. As a result, the current due date for Petitioners' petition for certiorari in this Court is Monday, December 10, 2018.

This application is filed more than 10 days before that date. Petitioner has sought no extension of time from this Court to file this petition before now.

The Eighth Circuit's opinion is attached as Appendix A. This Court has jurisdiction under 28 U.S.C. §§ 1291, 1254, and 2102.

**II. Reasons to Grant the Application.** This case is about the proper application of the First Amendment to the U.S. Constitution to a Missouri campaign finance law. The provision, in Mo. Const. art. VIII, § 23.3(12), prohibits a political action committee from receiving contributions from other political action committees. The Missouri Ethics Commission investigates alleged violations of campaign finance laws and enforces this law. The district court held that, under exacting scrutiny, the prohibition unconstitutionally

infringed on a political action committee's First Amendment rights to freedom of speech and association. The Eighth Circuit affirmed.

The issues potentially for a petition include whether this prohibition passes constitutional scrutiny because it is closely drawn to serve the important state interests of preventing corruption and the appearance of corruption, increasing transparency in the electoral process, and combatting circumvention of campaign finance regulations.

Under intermediate, exacting scrutiny, “[e]ven a significant interference with protected rights of political association may be sustained if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgment of associational freedoms.” *McCutcheon v. Federal Election Comm’n*, 134 S. Ct. 1434, 1444 (2014) (quoting *Buckley v. Valeo*, 424 U.S. 1, 25 (1976)). In *FEC v. Beaumont*, 539 U.S. 146, 155 (2003), this Court held that a State has important anti-corruption interests in preventing the circumvention of contribution limits, and in *California Medical Association v. FEC*, 453 U.S. 182, 203 (1981), this Court held that a law limiting contributions to committees lawfully serves this interest.

Here, the restriction on PAC-to-PAC transfers where the recipient PAC contributes directly to candidates serves important state interests in preventing the fact or appearance of public corruption, increasing transparency, and avoiding the circumvention of contribution limits, while still

allowing committees to engage in many other viable alternative forms of speech and while not affecting PACs that only make independent expenditures.

The State believes that, because this case raises these significant and technical issues, it will require additional time to adequately research and draft a petition. The Missouri Attorney General's Office is heavily engaged in the press of business here as well as the other federal and state courts.

For these reasons, the State of Missouri requests that an order be entered extending the time to petition for certiorari in this matter by 60 days, to and including Friday, February 8, 2019.

Respectfully submitted,

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November 26, 2018

## CERTIFICATE OF SERVICE

I, Julie Marie Blake, counsel for Petitioner and a member of the Bar of this Court, hereby certify that an original and two copies was mailed to the Court, and that three copies of this application for extension of time to file a petition for writ of certiorari here was mailed, first-class postage prepaid, to each counsel for the respondents listed here.

s/ Julie Marie Blake

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