

In the Supreme Court of the United States

ALAN GRAYSON

Petitioner,

v.

NO LABELS, INC., ET AL.,

Respondents.

**On Petition for a Writ of Certiorari to the U.S. Court of Appeals
for the Eleventh Circuit**

**BRIEF IN OPPOSITION TO PROFESSOR DAVID A. LOGAN'S MOTION TO
FILE AN AMICUS BRIEF**

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Respondents' counsel would not ordinarily oppose the filing of an amicus brief that complies with Rule 37, but Professor Logan proposes filing an amicus brief that does not conform to the rule and, worse, he misstates the facts to this Court in seeking his relief. His motion should be denied.

Professor Logan brings his motion pursuant to "Rule 37.2(b)," which no longer exists, and he inaccurately states: "Counsel of record for the Respondents were notified on Tuesday, April 18, 2023, that Prof. Logan intended to submit the enclosed brief. Counsel for the Respondents has not responded to this notification. Petitioner has consented." Motion at 1. This is false.

On April 18, 2023, Joyce Hughes sent Respondents' counsel an email entitled "Please Be Advised Under Supreme Court Rule 37." The email stated in its entirety: "To Mr. Lowell and Mr. Man: Under Supreme Court Rule 37, please be advised that Prof. David Logan will be filing an amicus brief in support of the petition in No. 22-906, Grayson v. No Labels. If you wish to consent, please reply here." The message clearly mentions filing an amicus brief under Rule 37, not filing a motion to file an amicus brief that does not comply with Rule 37.2.

Within fifteen minutes, Mr. Man responded to Ms. Hughes: "Under the recent amendments to Rule 37, you no longer need our consent. But you do need to provide notice of your intent to file an amicus brief within 10 days of its due date and, with any amicus brief being due by April 24, your notice to us today (the 18th) fails to comply with that rule." Thus, Professor Logan misrepresented to this Court that "Counsel for the Respondents has not responded to this notification." Motion at 1.

Because he failed to provide Respondents with timely notice of his intent to file an amicus brief under Rule 37(2), Professor Logan's motion should be denied.

Respectfully submitted,

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