Nos. 24-1287 & 25-250

In the Supreme Court of the United States

LEARNING RESOURCES, INC., ET AL., PETITIONERS

v.

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL.

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v.

V.O.S. SELECTIONS, INC., ET AL.

OPPOSITION OF THE FEDERAL GOVERNMENTAL PARTIES TO THE MOTION FOR LEAVE TO INTERVENE

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The Solicitor General, on behalf of the federal governmental parties, respectfully submits this response in opposition to the motion for leave to intervene filed by Susan Webber, Jonathan St. Goddard, and Rhonda and David Mountain Chief.

STATEMENT

1. These consolidated cases arise out of challenges to tariffs imposed by President Trump pursuant to the International Emergency Economic Powers Act (IEEPA), Pub. L. No. 95-223, Tit. II, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*). The plaintiffs in *V.O.S.* filed suit in the Court of International Trade (CIT) pursuant to 28 U.S.C. 1581(i)(1), which grants the CIT exclusive jurisdiction over "any civil action" against the government "that arises out of any law of the United States providing for

* * * tariffs, duties, fees, or other taxes on the importation of merchandise for reasons other than the raising of revenue," or the "administration and enforcement with respect to [such] matters." 28 U.S.C. 1581(i)(1)(B) and (D); cf. 28 U.S.C. 1337(c) (providing that "district courts shall not have jurisdiction" over matters within the CIT's "exclusive jurisdiction"). The CIT granted summary judgment to plaintiffs, declared the tariffs unlawful, and entered a universal permanent injunction. 25-250 Pet. App. 139a-197a. After issuing a stay pending appeal, the Federal Circuit affirmed the declaratory relief and vacated the injunctive relief. *Id.* at 1a-136a. The Federal Circuit also extended its stay pending certiorari. This Court granted the government's petition for a writ of certiorari on September 9, 2025, ordering expedited briefing and argument during the November 2025 sitting.

The plaintiffs in *Learning Resources* filed suit in the United States District Court for the District of Columbia. The district court denied the government's motion to transfer the case to the CIT and entered a party-specific preliminary injunction. 24-1287 Pet. App. 3a-43a. The court stayed its own injunction pending appeal. *Id.* at 44a-45a. The plaintiffs then filed a petition for a writ of certiorari before judgment. The Court granted that petition and consolidated the case with *V.O.S.*

2. Movants are plaintiffs who filed suit in the United States District Court for the District of Montana. The operative complaint challenges the same tariffs at issue in *V.O.S.* and *Learning Resources*, as well as separate tariffs imposed by President Trump pursuant to Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862). See 25-cv-26 D. Ct. Doc. 15 (Apr. 11, 2025). The district court did not address the merits of those challenges, but instead granted the government's motion to transfer the case to the CIT because movants' claims "fall squarely within the exclusive jurisdiction of the [CIT]" and the court was therefore "divested of its jurisdiction." 25-

cv-26 D. Ct. Doc. 40, at 17 (Apr. 25, 2025). Movants appealed the transfer order. That appeal is fully briefed and the Ninth Circuit has scheduled oral argument on September 17, 2025. Respondents opposed the government's earlier motion to hold those proceedings in abeyance, which the Ninth Circuit denied. See 25-2717 C.A. Docs. 53, 54 (Sept. 5, 2025). The government has renewed that motion in light of the grant of certiorari and certiorari before judgment in *V.O.S.* and *Learning Resources*.

ARGUMENT

This Court should deny the motion to intervene. "No statute or rule provides a general standard to apply in deciding whether intervention on appeal should be allowed," and this Court has accordingly "considered the 'policies underlying intervention' in the district courts." *Cameron* v. *EMW Women's Surgical Center, P.S.C.*, 595 U.S. 267, 277 (2022) (quoting *International Union, United Auto., Aerospace & Agric. Implement Workers of Am.* v. *Scofield*, 382 U.S. 205, 217 n.10 (1965)). Relevant considerations include "timeliness" and "the legal 'interest' that a party seeks to protect." *Id.* at 277, 279 (citation omitted); see Fed. R. Civ. P. 24. The Court has applied a particularly demanding standard for intervention in this Court, reserving that step for "rare," "unusual" cases where intervention is supported by "extraordinary factors." Stephen M. Shapiro et al., *Supreme Court Practice* Ch. 6.16(c), at 6-62 (11th ed. 2019). Movants do not satisfy the relevant considerations, much less identify anything rare, unusual, or extraordinary that would warrant intervention here.

1. Most obviously, movants have not established a significant "legal 'interest'" in the litigation that the existing parties will not adequately represent. *Cameron*, 595 U.S. at 277 (quoting Fed. R. Civ. P. 24(a)(2)); see *Donaldson* v. *United States*, 400 U.S. 517, 531 (1971) ("significantly protectable interest"); see also Fed. R. Civ. P. 24(a)(2) (no intervention when "existing parties adequately represent th[e]

interest").

a. Movants assert (Mot. 1) that their "interests are directly and substantially affected by the President's use of the International Emergency Economic Powers Act (IEEPA) and Section 232 of the Trade Expansion Act of 1962 to impose tariffs on cross-border Tribes" who "operate small businesses and family ranches near the U.S.-Canada border." But those objections may be vindicated in their own suit challenging the tariffs; they do not give movants a cognizable protectable interest in *this* case that would warrant intervention.

To be sure, the Court's resolution of the questions presented may affect movants' claims by establishing relevant precedent. Cf. Mot. 4. But because the Court considers recurring and important questions of federal law, see Sup. Ct. R. 10, virtually all of its decisions establish precedents that affect many other cases involving many other litigants. The possibility of such effects has never been thought to justify intervention. Were it otherwise, this Court would routinely be inundated with motions to intervene.

Instead, nonparties with an interest in the precedent that will be set by this Court's decision in a pending case may present their views by participating as amici curiae: "The obvious alternative for one who desires to intervene in a pending Supreme Court proceeding is to seek to file an amicus curiae brief." *Supreme Court Practice* Ch. 6.16(c), at 6-63. Movants are free to pursue that course here.

b. Nor have movants shown that respondents will not adequately protect their asserted interests. Movants acknowledge (Mot. 1) that their "legal arguments on the scope of IEEPA overlap with [those of] the existing parties," who have challenged the relevant tariffs on statutory and constitutional grounds. And intervention is not warranted with respect to movants' challenge to the Section 232 tariffs, as that

issue is not presented in the *Learning Resources* and *V.O.S.* cases. Movants assert (Mot. 2) that they intend to challenge the IEEPA tariffs on the ground that under the Indian Commerce Clause, "[t]he President has no authority to impose tariffs on Indian Tribes." But they are free to pursue that argument on an as-applied basis in their own suit (or in an amicus brief in this case).

2. Movants also fail to show that intervention is otherwise warranted in "the discretion of the [C]ourt." *Cameron*, 595 U.S. at 278. No court has ruled on the merits of movants' challenges, not even in a preliminary posture. The only relevant ruling is the district court's order transferring the case to the CIT. So even if the Court were interested in addressing any unique circumstances or arguments that movants might raise, the prudent course would be to permit the lower courts to address them first—not to grant intervention now. See *Cutter* v. *Wilkinson*, 544 U.S. 709, 718 n.7 (2005) ("[W]e are a court of review, not of first view.").

To the extent movants are concerned that their claims have not yet been addressed by the lower courts (cf. Mot. 4-5), that is a problem entirely of their own making. The district court ordered the case transferred to the CIT in April; movants could have accepted that transfer and litigated the case in the CIT and the Federal Circuit, just as the *V.O.S.* plaintiffs have done. Instead, they chose to appeal the transfer order, which did not address the merits of their claims. Movants' litigation choices make them poorly positioned to complain about delayed resolution of their claims. Intervention is not a tool for a litigant to expedite its own lawsuit by piggybacking on a different one. Movants cite no precedent for using intervention in a pending case in this Court to circumvent the procedural rulings of a district court. Indeed, movants themselves highlight (Mot. 5) the need for "a complete record" to "full[y] understand[]" their case; that no lower court has addressed any "record" makes intervention at this

juncture premature.

3. Movants briefly assert (Mot. 5) that they are entitled to "permissive intervention under Federal Rule of Civil Procedure 24(b)." But Rule 24 does not govern intervention in the courts of appeals or in this Court, and this Court thus has not distinguished between intervention as of right and permissive intervention in this context. Instead, *Cameron* suggests that the lack of a governing statute or rule means that all motions to intervene on appeal should be treated as motions for "permissive intervention" that are "committed to the discretion of the court before which intervention is sought." 595 U.S. at 278-279. As explained above, movants have not demonstrated that intervention is warranted as an exercise of discretion. Nor have they made any arguments for permissive intervention that differ from the ones they have advanced for intervention as of right. Those arguments lack merit for the reasons set forth above.

CONCLUSION

The motion for leave to intervene should be denied.

Respectfully submitted.

D. JOHN SAUER
Solicitor General

SEPTEMBER 2025