

No. 25-1311

In the Supreme Court of the United States

APPLE INC.,

Petitioner,

v.

EPIC GAMES, INC.,

Respondent.

*On Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit*

**BRIEF FOR AMICI CURIAE
COMPUTER & COMMUNICATIONS INDUSTRY
ASSOCIATION, NETCHOICE, AND SOFTWARE &
INFORMATION INDUSTRY ASSOCIATION
IN SUPPORT OF PETITIONER**

Meredith R. Pottorff
LEHOTSKY COHN LLP
700 Colorado Blvd. #407
Denver, CO 80206

**Not admitted to practice in
Washington, DC. Supervised
by principals of the firm
pending admission to the
District of Columbia bar.*

Steven P. Lehotsky
Counsel of Record
Serena M. Orloff
Jeremy Evan Maltz
Jonathan E. DeWitt
Teddy Ray*
LEHOTSKY COHN LLP
200 Massachusetts Ave. NW,
Suite 700
Washington, DC 20001
(512) 693-8350
steve@lehotskycohn.com

Counsel for Amici Curiae

TABLE OF CONTENTS

Table of Authorities.....	ii
Interest of Amici Curiae.....	1
Introduction and Summary of Argument.....	3
Argument	4
I. Injunctions should be interpreted according to their plain meaning—and not their “spirit”—under Federal Rule of Civil Procedure 65, this Court’s precedent, background interpretive principles, and fundamental notions of fair notice.	4
II. Interpreting injunctions according to their plain terms makes injunctive relief more reliable and effective—which is particularly important when injunctions abut protected constitutional rights, such as the First Amendment’s protections for speech.	13
Conclusion.....	17

TABLE OF AUTHORITIES

Page(s)

Cases

<i>Brooklyn Mining & Milling Co. v. Miller,</i> 227 U.S. 194 (1913)	9
<i>Cal. Artificial Stone Paving Co. v. Molitor,</i> 113 U.S. 609 (1885)	7
<i>Caminetti v. United States,</i> 242 U.S. 470 (1917)	9
<i>Carroll v. President & Comm'rs of Princess Anne,</i> 393 U.S. 175 (1968)	16
<i>FCC v. Fox TV Stations, Inc.,</i> 567 U.S. 239 (2012)	11
<i>Grayned v. City of Rockford,</i> 408 U.S. 104 (1972)	15
<i>Horne v. Flores,</i> 557 U.S. 433 (2009)	6
<i>INS v. Chadha,</i> 462 U.S. 919 (1983)	9

<i>Int’l Longshoremen’s Ass’n, Loc. 1291 v. Phila. Marine Trade Ass’n, 389 U.S. 64 (1967)</i>	7
<i>M&G Polymers USA, LLC v. Tackett, 574 U.S. 427 (2015)</i>	9
<i>McComb v. Jacksonville Paper Co., 336 U.S. 187 (1949)</i>	6
<i>Microsoft Corp. v. AT&T Corp., 550 U.S. 437 (2007)</i>	5
<i>Moody v. NetChoice, LLC, 603 U.S. 707 (2024)</i>	14, 15
<i>NAACP v. Button, 371 U.S. 415 (1963)</i>	15
<i>Ragsdale v. Wolverine World Wide, Inc., 535 U.S. 81 (2002)</i>	10
<i>Regal Knitwear Co. v. NLRB, 324 U.S. 9 (1945)</i>	6
<i>Rodriguez v. United States, 480 U.S. 522 (1987) (per curiam)</i>	8
<i>Roman Cath. Diocese of Brooklyn v. Cuomo, 592 U.S. 14 (2020) (per curiam)</i>	16
<i>Salazar v. Buono, 559 U.S. 700 (2010)</i>	8

<i>Schmidt v. Lessard</i> , 414 U.S. 473 (1974)	5
<i>Taggart v. Lorenzen</i> , 587 U.S. 554 (2019)	7
<i>Terminal R.R. Ass'n of St. Louis v.</i> <i>United States</i> , 266 U.S. 17 (1924)	7
<i>United States v. Armour & Co.</i> , 402 U.S. 673 (1971)	6, 11
<i>United States v. Lanier</i> , 520 U.S. 259 (1997)	11
<i>United States v. Swift & Co.</i> , 286 U.S. 106 (1932)	6
Other Authorities	
Antonin Scalia & Bryan A. Garner, Reading Law: The Interpretation of Legal Texts (2012).....	7, 8
Fed. R. Civ. P. 65	3, 4, 5, 6, 7, 11, 16
Frank H. Easterbrook, <i>Statutes' Domains</i> , 50 U. Chi. L. Rev. 533 (1983)	10
11 Samuel Williston & Richard A. Lord, Williston on Contracts § 32:3 (4th ed.).....	8

INTEREST OF AMICI CURIAE

Amici and their respective members have a substantial interest in this case.¹ Amici litigate across the country to secure injunctive relief protecting their members from unconstitutional and otherwise unlawful regulations. When amici prevail, their members should be able to rely on the plain text and meaning of the injunctions they have obtained.

Computer & Communications Industry Association (“CCIA”) is an international, not-for-profit association that represents a broad cross-section of communications, technology, and Internet industry firms that collectively employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. For more than 50 years, CCIA has promoted open markets, open systems, and open networks, including as a party to or amicus in litigation. In addition, CCIA regularly advocates for the application of First Amendment protections for lawful online speech. A list of CCIA members is available at <https://perma.cc/CL9R-NN53>.

NetChoice is a national trade association of online businesses that share the goal of promoting free enterprise and free expression on the Internet. For

¹ Pursuant to Supreme Court Rule 37.6, amici curiae state that no counsel for any party authored this brief in whole or in part and no entity or person, aside from amici curiae, their members, or their counsel, made any monetary contribution intended to fund the preparation or submission of this brief. Although Petitioner Apple is a CCIA member, Apple did not contribute money that was intended to fund preparing or submitting the brief.

over two decades, NetChoice has worked to ensure the Internet remains innovative and free. NetChoice advocates on behalf of its membership by, among other things, participating in litigation involving issues of vital concern to the online community and filing amicus curiae briefs in cases that, like this one, could shape the way important technological innovations develop.

Software & Information Industry Association (“SIIA”) is a global trade association representing nearly 400 firms involved in the business of information. Through its divisions, events and advocacy, SIIA engages industry leaders and policymakers to ensure a vibrant information ecosystem: one that fosters creation, dissemination and productive use. SIIA and its members work to proactively address issues and challenges that impact their industry segments with the goal of driving innovation and growth of the information economy.

INTRODUCTION AND SUMMARY OF ARGUMENT

Judicial injunctions are legal instruments, no less than statutes, regulations, or contracts. Like other legal instruments, therefore, they must be interpreted according to their plain text. Federal Rule of Civil Procedure 65, this Court's contempt precedents, basic background interpretive principles, and fundamental notions of fair notice all demand as much.

At bottom, injunctions must mean what they say. They are the culmination of an adversarial process, during which courts and litigants devote substantial attention to determining both whether equitable relief is warranted and precisely what that relief requires of the parties. The resulting injunctions impose legal obligations backed by the extraordinary power of judicial contempt. That judicial-contempt power carries a unique risk. Unlike other legal instruments, injunctions are interpreted and enforced in the first instance by the same judges who issue them. This only underscores the need for clarity in judicial injunctions. The party subject to an injunction must be able to determine what the court has forbidden or required by looking to the text of the order itself. And the party benefiting from the injunction likewise deserves clarity about what precisely it has won.

The need for textual precision is greatest where, like here, an injunction touches speech. Uncertainty about the scope of judicial commands can chill expressive acts that no injunction actually prohibits.

The contrary rule adopted in the decisions below is contrary to Rule 65, this Court's precedent, interpretive principles governing everything from statutes

to private contracts, and notions of fair notice. The Ninth Circuit’s decision permits courts to impose contempt based on a command that appears nowhere in the order, so long as the court concludes that the conduct frustrated the injunction’s perceived “spirit.” Pet.App.12a. That approach gives parties no fixed line between lawful conduct and contempt.

This Court should reject the Ninth Circuit’s “spirit” approach and confirm that judicial injunctions should be interpreted according to their plain text.

ARGUMENT

I. Injunctions should be interpreted according to their plain meaning—and not their “spirit”—under Federal Rule of Civil Procedure 65, this Court’s precedent, background interpretive principles, and fundamental notions of fair notice.

Federal Rule of Civil Procedure 65, this Court’s contempt precedent, basic principles governing the interpretation of legal instruments, and fair notice all require courts to enforce injunctions according to their plain terms. This Court should therefore reject the Ninth Circuit’s decision, which allows courts to bypass plain text in favor of an injunction’s perceived “spirit.”

A. Federal Rule of Civil Procedure 65 requires courts to limit their contempt inquiries to the plain text of the injunction.

Specifically, Rule 65(d)(1) requires every injunction to: (1) “state its terms specifically”; and (2) “describe in reasonable detail” the conduct restrained or required. The Rule further discourages

reliance on extra-textual sources of meaning by prohibiting courts from defining an injunction by reference to any “other document.” *See* Fed. R. Civ. P. 65(d)(1)(C). These requirements would be severely undermined if courts could bypass the text of their injunctions in search of the injunctions’ perceived “spirit.”

Indeed, Rule 65 “was designed” to provide the parties with “explicit notice of precisely what conduct is outlawed,” both to “prevent uncertainty and confusion” for the enjoined parties and to “avoid the possible founding of a contempt citation on a decree too vague to be understood.” *Schmidt v. Lessard*, 414 U.S. 473, 476 (1974). Put otherwise, Rule 65’s requirements ensure that a party can determine what conduct the court has prohibited or required by looking to the order.

Furthermore, Rule 65 itself provides mechanisms to address the concerns that the courts below had about limiting injunctions to their plain text. For instance, the Ninth Circuit held that, “[w]ere narrow literalism the rule of interpretation, injunctions would spring loopholes.” Pet.App.12a (citation modified). As an initial matter, characterizing a gap in a legal instrument as a “loophole” does not mean that courts may insert their preferred terms. *E.g., Microsoft Corp. v. AT&T Corp.*, 550 U.S. 437, 457 (2007). The same is true of injunctions. If the litigants and courts leave a gap in the injunction’s scope and terms, that gap is itself evidence of the adversarial process.

Regardless, this Court has explained that Rule 65 does not require injunctions to be “so narrow as to

invite easy evasion.” *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 193 (1949). So the language of the injunction itself can provide courts with sufficient flexibility to address future conduct. And given that language is sometimes imperfect, a court may clarify an order when its existing language is genuinely ambiguous.

When an injunction proves wholly insufficient to address the concerns of the parties and courts, courts have other means to address the problem. “[I]f there [are] extenuating circumstances . . . there [is] a method of relief”: Litigants may “petition[] the District Court for a modification, clarification or construction of the order.” *Id.* at 192; see *Regal Knitwear Co. v. NLRB*, 324 U.S. 9, 15 (1945) (similar). This flexibility exists as part of courts’ inherent authority and in the Federal Rules of Civil Procedure themselves. See *United States v. Swift & Co.*, 286 U.S. 106, 114-15 (1932) (recognizing that a court of equity retains continuing authority over the injunctive decrees it issues). Specifically, Federal Rule of Civil Procedure 60(b)(5) allows the court to modify a judgment when there has been “a significant change either in factual conditions or in law.” *Horne v. Flores*, 557 U.S. 433, 447 (2009) (citation omitted).

Those tools allow courts to account for unforeseen circumstances without holding a party in contempt based on obligations that never appeared in the injunction “as originally written.” *United States v. Armour & Co.*, 402 U.S. 673, 676 (1971). No legal text is written with perfect foreknowledge of how the world will change and how the text will apply to that world.

But that problem does not justify ignoring the limitations of the text.

B. Confirming Rule 65’s plain text, this Court has explained that contempt sanctions may not be based on “implication or intendment beyond the meaning of [the order’s] terms”; instead “the facts found must constitute a plain violation of the decree so read.” *Terminal R.R. Ass’n of St. Louis v. United States*, 266 U.S. 17, 29 (1924); see *Taggart v. Lorenzen*, 587 U.S. 554, 561 (2019) (requiring “‘explicit notice’ of ‘what conduct is outlawed’” (citation omitted)). Going back more than a century, the Court has explained that contempt “is a severe remedy, and should not be resorted to where there is fair ground of doubt as to the wrongfulness of the defendant’s conduct.” *Cal. Artificial Stone Paving Co. v. Molitor*, 113 U.S. 609, 618 (1885). Put otherwise, because the “judicial contempt power is a potent weapon,” it should not be deployed lightly or without adequate notice to the litigants. *Int’l Longshoremen’s Ass’n, Loc. 1291 v. Phila. Marine Trade Ass’n*, 389 U.S. 64, 76 (1967).

These principles confirm Rule 65’s requirement that an injunction provide specific and reasonably detailed notice of the conduct it restrains or requires.

C. Background interpretive principles reinforce that judicial injunctions should be interpreted according to their plain meaning—the default mode of interpretation across legal texts. “The words of a governing text are of paramount concern, and what they convey, in their context, is what the text means.” Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 56 (2012). So “the ‘spirit’

of laws is the unhappy interpretive conception of a supposedly better policy than can be found in the words of an authoritative text.” *Id.* at 344. The “spirit-over-letter [of the law] concept” is too often a “bald assertion of an unspecified and hence unbounded judicial power to ignore what the law says.” *Id.* at 343.

The language of legal instruments—including injunctions—reflects the considered resolution of competing legal and equitable considerations. *See Salazar v. Buono*, 559 U.S. 700, 714 (2010) (plurality op.) (“An injunction is an exercise of a court’s equitable authority, to be ordered only after taking into account all of the circumstances that bear on the need for prospective relief.”). All legal instruments could be said to pursue some larger end beyond their plain terms. A contract for the sale and delivery of widgets could be understood to further the parties’ shared interest in economic dynamism. Yet legal instruments do not pursue such general ends by all means consistent with their spirit. *E.g.*, *Rodriguez v. United States*, 480 U.S. 522, 525-26 (1987) (per curiam) (“[N]o legislation pursues its purposes at all costs.”). Instead, they pursue those ends through the specific means identified in their text.

Limiting legal texts to their plain terms is therefore the norm in multiple contexts.

In the private-law context, contracts are interpreted according to their plain text. *See* 11 Samuel Williston & Richard A. Lord, *Williston on Contracts* § 32:3 (4th ed.) (“The plain, common, or normal meaning of language will be given to the words of a contract unless the circumstances show that in a

particular case a special meaning should be attached to them.”). Limiting courts’ consideration to the plain terms of the contract is how courts can give proper effect to the agreements and the compromises of the contracting parties. *Brooklyn Mining & Milling Co. v. Miller*, 227 U.S. 194, 198 (1913) (“By way of compromise the present contract was made.”). In fact, this Court has specifically rejected a “spirit”-based or extra-textual approach to interpreting legal instruments. See *M&G Polymers USA, LLC v. Tackett*, 574 U.S. 427, 438-39 (2015) (rejecting the Sixth Circuit’s interpretation where its holding “violate[d] ordinary contract principles” and was based on the court’s “own suppositions” rather than the contract’s terms).

In public law, statutes and regulations are interpreted according to their plain text. See, e.g., *Caminetti v. United States*, 242 U.S. 470, 485 (1917) (“It is elementary that the meaning of a statute must . . . be sought in the language in which the act is framed, and if that is plain, . . . the sole function of the courts is to enforce it according to its terms.”). Statutes are the result of the “finely wrought and exhaustively considered, procedure” of bicameralism and presentment. *INS v. Chadha*, 462 U.S. 919, 951 (1983).² It is a process that combines input from the

² Of course, judicial injunctions lack the democratic inputs and oversight of statutes. That distinction only underscores the need for courts to interpret injunctions according to their plain terms. Judicial injunctions grant judges the power to both define and interpret legal obligations imposed on parties. Further

competing interests of policy advocates, differing political parties, two legislative chambers, and the president. As a result, “[a]lmost all statutes are compromises, and the cornerstone of many a compromise is the decision, usually unexpressed, to leave certain issues unresolved”:

Whether these issues have been identified (so that the lack of their resolution might be called intentional) or overlooked (so that the lack of their resolution is of ambiguous portent) is unimportant. What matters to the compromisers is reducing the chance that their work will be invoked subsequently to achieve more, or less, than they intended, thereby upsetting the balance of the package.

Frank H. Easterbrook, *Statutes’ Domains*, 50 U. Chi. L. Rev. 533, 540 (1983); see *Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81, 93-94 (2002) (noting statutory provision was the “result of compromise between groups with marked but divergent interests in the contested provision”).

Like these other legal texts, judicial injunctions reflect multivarious inputs and, thus, compromises. And whatever the context, “[c]ourts . . . must respect and give effect to these sorts of compromises.” *Wolverine*, 535 U.S. at 94. Injunctions are the culmination of an adversarial process that requires consideration of multiple, competing factors, including whether an injunction is appropriate, what conduct it

allowing the court to rely on the “spirit” of the injunction would unduly expand the court’s authority over the parties.

forbids, and to whom it applies. During this process, parties may propose or object to certain language and litigate the meaning and consequences of proposed provisions. The court then translates its resolution of this process and final decision into an injunction intended to bind the parties. And the result is a “decree” that mandates or “prohibits *certain behavior*,” not “general” concepts. *Armour*, 402 U.S. at 678 (emphasis added). Expanding a court’s injunctive order by treating the injunction’s perceived “spirit” as an additional command would allow courts to retroactively alter the substance of an order during enforcement proceedings without notice or the process required to impose such an injunction. *See id.* at 677-78 (regardless of the “Government’s overall aim, the decree itself, carefully worked out between the parties in exchange for their right to litigate the issues, . . . prohibits [only] particular actions and relationships not including the one here in question.”).

D. Adhering to plain text also furthers basic principles of fair notice.

“A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.” *FCC v. Fox TV Stations, Inc.*, 567 U.S. 239, 253 (2012). In the governmental enforcement context, due process “bars courts from applying a novel construction” of a legal requirement “to conduct that neither the statute nor any prior judicial decision has fairly disclosed to be within its scope.” *United States v. Lanier*, 520 U.S. 259, 266 (1997). No less is true under Rule 65, which requires every injunction to: (1) “state its terms

specifically”; and (2) “describe in reasonable detail” the conduct restrained or required.

Allowing courts to reinterpret the plain terms of injunctions to impose new, unwritten requirements after the parties have litigated the issues to a final conclusion invites exactly this type of discriminatory enforcement and uncertainty. And where a business acts in good faith to conform its conduct to an injunction’s explicit terms, it is corrosive to the rule of law to punish that conduct for violating an injunction’s unwritten “spirit,” which is, by definition, outside the text and divined only after the fact.

E. The decisions below departed from these settled principles. The original injunction prohibited Apple from preventing developers from displaying buttons, external links, or other calls to action. Pet.App.166a. Neither Epic nor the courts below deny that Apple complied with that restriction. Yet the district court found a violation because Apple’s conduct supposedly violated the injunction’s “spirit.” Pet.App.125a-31a. The Ninth Circuit then affirmed that approach, reasoning that a party “may be held in contempt for violating the spirit of an injunction” even when it complied with the order’s actual terms. Pet.App.12a.

The Court should thus reject the decision below because it departs from the clear command of the federal rules, this Court’s precedents, and the most basic tenets of our legal system, which require that parties know in advance the legal rules that bind them. This Court should require the lower courts to

enforce injunctions’ plain meaning, rather than their perceived “spirit.”

II. Interpreting injunctions according to their plain terms makes injunctive relief more reliable and effective—which is particularly important when injunctions abut protected constitutional rights, such as the First Amendment’s protections for speech.

Beyond being required by existing law, interpreting injunctions according to their plain terms has benefits for the parties that litigate the injunctions. Judicial injunctions are hard-fought, hard-contested, and hard-won. And at the end of that adversarial process, all parties should be able to take future actions with clarity about what conduct the court has allowed and what it has forbidden. Permitting post-hoc, “spirit”-based interpretations of injunctions flouts these principles and injures a party that has relied on an injunction and conformed its conduct to the order.

A. All parties to a judicial injunction benefit from clarity about what the injunction requires.

Amici litigate on behalf of their members nationwide, seeking injunctive relief from unconstitutional state laws. Their members must conform complex—and sometimes multibillion-dollar—business operations to the requirements of law in multiple jurisdictions simultaneously. They therefore need to know which legal requirements they remain subject to, which activities they may continue, and whether and how their operations must change.

So when amici (and other organizations like them) secure injunctive relief, their members need clarity about what precisely the injunction forbids. And they should be able to gain that clarity without the need for future litigation or judicial review. For instance, this Court recently reaffirmed that the First Amendment protects private entities—such as social media websites—when they “present[] a curated compilation of speech originally created by others.” *Moody v. NetChoice, LLC*, 603 U.S. 707, 728 (2024). On remand in the Florida and Texas cases giving rise to that holding, the only way that regulated entities can develop their compliance plans with anything approaching certainty is to look to the plain text of an injunction. Once they are asked to align their operations with what a reviewing court might think is the “spirit” of the injunction, amici’s members lack the kind of notice that the law demands.

Here, Apple was not provided notice of what the injunction demanded because the decisions below interpreted the injunction according to its amorphous “spirit” rather than its text. The original injunction prohibited Apple from doing one specific thing: Apple could not preclude developers from displaying their own buttons, external links, or other calls to action. Pet.App.166a. Apple complied with that restriction. Pet.Br.31-33.

B. Where an injunction restricts speech or speech-adjacent conduct, the harm resulting from uncertain legal requirements is even more pernicious because that uncertainty chills protected speech. “Precision of regulation must be the touchstone in an

area so closely touching our most precious freedoms.” *NAACP v. Button*, 371 U.S. 415, 438 (1963). The issue presented in this case is thus vitally important for amici’s members, many of whom “engage in [their] own expressive activity” by “presenting a curated compilation of speech originally created by others.” *Moody*, 603 U.S. at 728.

When a post-hoc, spirit-based interpretation of an injunction, like here, “abuts upon sensitive areas of First Amendment freedoms, it operates to inhibit the exercise of those freedoms,” because “[u]ncertain meanings inevitably lead citizens to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked.” *Grayned v. City of Rockford*, 408 U.S. 104, 109 (1972) (citation modified). An uncertain injunction can thus chill protected speech: If contempt depends on an injunction’s “spirit,” a rational business will avoid expressive conduct that the injunction does not actually prohibit but that could, conceivably, fall within the “spirit” of the injunction.

Entities that are supposed to benefit from an injunction may not engage in protected speech based on concerns that such speech may somehow fall outside of the injunction’s “spirit”—even if plainly contemplated by the injunction’s text. For example, an online service may secure an injunction permitting it to publish and curate user-generated content, notwithstanding a law prohibiting such editorial discretion. *E.g.*, *Moody*, 603 U.S. at 720-21 (describing Florida and Texas laws). Yet, the service may nevertheless decline to moderate content if it fears a

court might later conclude that doing so is not included in the “spirit” of the injunction. That self-censorship harms the very party the injunction was meant to protect.

Conversely, “order[s] issued in the area of First Amendment rights must be couched in the narrowest terms that will accomplish the pin-pointed objective permitted by constitutional mandate and the essential needs of the public order.” *Carroll v. President & Comm’rs of Princess Anne*, 393 U.S. 175, 183 (1968). Thus, injunctions that may limit speech must do so in the narrowest possible manner, lest they chill more speech than necessary.

Regardless of the form of the injunction, the “loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Roman Cath. Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020) (per curiam) (citation omitted). Accordingly, courts should not be able to rely on an injunction’s “spirit” to avoid the First Amendment limitations that this Court has placed on the *text* of such injunctions.

* * *

Like other legal texts, injunctions must mean what they say. That is why Rule 65, this Court’s precedent, and background interpretive principles all point in the same direction: Injunctions must be interpreted according to their plain text, not the district court’s evaluation of the injunction’s “spirit.” A text-based approach serves the parties who litigate injunctions, giving them the clarity to conform their conduct in advance rather than risk contempt for

conduct no order actually forbids. Nowhere is that concern more acute than where, as here, the enjoined conduct involves speech.

CONCLUSION

The Court should reverse.

Respectfully submitted,

Steven P. Lehotsky
Counsel of Record
Serena M. Orloff
Jeremy Evan Maltz
Jonathan E. DeWitt
Teddy Ray*
LEHOTSKY COHN LLP
200 Massachusetts Ave. NW,
Suite 700
Washington, DC 20001
(512) 693-8350
steve@lehotskycohn.com

Meredith R. Pottorff
LEHOTSKY COHN LLP
700 Colorado Blvd. #407
Denver, CO 80206

**Not admitted to practice in
Washington, DC. Supervised by
principals of the firm pending
admission to the District of
Columbia bar.*

Counsel for Amici Curiae

SEPTEMBER 2026