

No. 25-466

IN THE
Supreme Court of the United States

ONGKARUCK SRIPETCH,
Petitioner,

v.

U.S. SECURITIES AND EXCHANGE
COMMISSION,
Respondent.

*ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

**MOTION FOR LEAVE TO FILE
A BRIEF OF BRENDA BARRY, CALEB MOODY,
AND ERIC CANNON AS *AMICI CURIAE*
IN SUPPORT OF PETITIONER**

NICOLAS MORGAN
Counsel of Record
INVESTOR CHOICE
ADVOCATES NETWORK
453 S. Spring Street,
Suite 400
Los Angeles, CA 90013
(310) 849-0384
nicolas.morgan@icanlaw.org

November 17, 2025

IGOR V. TIMOFEYEV
PAUL HASTINGS LLP
2050 M Street, N.W.
Washington, D.C. 20036
(202) 551-1700

ALYSSA K. TAPPER
ALEXANDER SWEET
PAUL HASTINGS LLP
515 South Flower Street,
25th Floor
Los Angeles, CA 90071
(213) 683-6000

**MOTION FOR LEAVE TO FILE
A BRIEF AS *AMICI CURIAE***

Amici curiae Brenda Christine Barry, Eric Christopher Cannon, and Caleb Austin Moody respectfully request this Court's leave to file an *amici curiae* brief in support of the petition for a writ of certiorari in this case. As reflected in the statement of interest in their accompanying *amicus* brief, *amici* are appellants in a case pending on rehearing before the United States Court of Appeals for the Ninth Circuit, *SEC v. Barry* (No. 23-2699). There, the Ninth Circuit recently affirmed a substantial disgorgement award that ignores the limits on equitable relief mandated by this Court's decision in *Liu v. SEC*, 591 U.S. 71 (2020), and effectively eviscerates the requirement of pecuniary harm adopted by the Second Circuit in *SEC v. Govil*, 86 F.4th 89, 103-05 (2d Cir. 2023). See *SEC v. Barry*, 146 F.4th 1242, 1262-64 (9th Cir. 2025). *Amici* thus have a substantial interest in this petition, which provides the Court with the opportunity both to resolve the circuit split on the important issue of whether disgorgement requires a showing of pecuniary harm and to clarify what constitutes the requisite pecuniary harm.

On November 14, 2025, *amici* gave advance notice to counsel of record for both parties of their intention to file the accompanying *amicus* brief. The notice, however, was not given within the ten-day period prescribed by this Court's rules. Petitioner Ongkaruck Sripetch consented to the filing of this *amicus* brief. As of the filing of this motion, the Solicitor General (who is counsel of record for Respondent Securities and Exchange Commission) has not conveyed any objection.

Amici respectfully request that this Court accept the *amicus* brief for filing. The *amicus* brief is being

timely filed, and there is no prejudice to either party from *amici*'s belated notice of the intention to file an *amicus curiae* brief. The purpose of Rule 37.2's ten-day notice requirement is to allow respondent to determine whether to seek an extension of time for a response in light of the intended filing of an *amicus brief*. In this case, the Solicitor General filed a request for an extension of time for the government's response on November 14, 2025, asking that the time to respond be extended until December 17, 2025. The Solicitor General also previously received timely notice of other *amicus curiae* briefs that are being filed in support of the petition. Petitioner, in turn, consented to the filing of this *amicus* brief.

CONCLUSION

The motion for leave to file an *amicus curiae* brief should be granted.

Respectfully submitted,

NICOLAS MORGAN

Counsel of Record

INVESTOR CHOICE

ADVOCATES NETWORK

453 S. Spring Street,

Suite 400

Los Angeles, CA 90013

(310) 849-0384

nicolas.morgan@icanlaw.org

IGOR V. TIMOFEYEV

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(202) 551-1700

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ALYSSA K. TAPPER
ALEXANDER SWEET
PAUL HASTINGS LLP
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25th Floor
Los Angeles, CA 90071
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November 17, 2025 *Counsel for Amici Curiae*