

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

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SUNOCO, INC. (R&M); SUNOCO PARTNERS  
MARKETING & TERMINALS, L.P.,

*Petitioners,*

v.

PERRY CLINE, ON BEHALF OF HIMSELF AND  
ALL OTHERS SIMILARLY SITUATED,

*Respondent.*

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On Petition for Writ of Certiorari to the United States  
Court of Appeals for the Tenth Circuit

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**OPPOSITION TO MOTION FOR LEAVE TO  
FILE BRIEF OF *AMICUS CURIAE* BY THE  
NATIONAL ASSOCIATION OF  
MANUFACTURERS**

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August 4, 2026

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Pursuant to Rule 21.4, Respondent Perry Cline respectfully opposes the motion for leave to submit a brief of *amicus curiae* in support of Petitioners filed by the National Association of Manufacturers (“NAM”). Because NAM did not comply with the requirement to give timely notice of its *amicus curiae* brief in support of Petitioners, leave should be denied.

As NAM acknowledges, Rule 37.2 requires that notice of the intent to file an *amicus* brief in support of a petition for writ of certiorari must be provided to all parties “at least 10 days prior to the due date for the *amicus curiae* brief.” Sup. Ct. R. 37.2.

Because this case was placed on the Court’s docket on July 1, 2026, any *amicus* briefs were due to be filed on July 31, 2026. Sup. Ct. R. 37.2. Notice of the intent to file was therefore due no later than July 21, 2026. However, NAM’s counsel did not advise Respondent of its intention to file a brief until July 23—eight days before the filing deadline.<sup>1</sup>

Rule 37.2 sets forth its 10-day notice requirement in strict, mandatory terms: “The *amicus curiae* brief *shall* indicate that counsel of record received *timely* notice of the intent to file the brief under this Rule ....” Sup. Ct. R. 37.2 (emphasis added). That requirement mirrors the strict filing deadlines for *amicus* briefs, which this Court warns “will not be extended.” *Id.*

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<sup>1</sup> NAM’s motion for leave states elliptically that Respondent’s counsel “was notified on July 22” of the *amicus* brief. Mot. at 1. On that date, Respondent’s counsel was contacted by a lawyer representing the Petitioners—not NAM—and the identity of the potential *amicus* was not disclosed. Regardless, that contact occurred nine days before the filing deadline and was thus also untimely under Rule 37.2.

If the 10-day notice requirement of Rule 37.2 is to have any meaning—and if it is to be honored by *amici* in other cases—it cannot be ignored with impunity. There is no “small amount” exception to Rule 37.2, Mot. at 1, and NAM’s suggestion that no prejudice would result from the late notice, *id.*, does not account for the fact that Respondents’ counsel weighed the absence of any indication that *amicus* briefs would be filed when recommending that the deadline for a brief in opposition be extended—a request that was made precisely 10 days before the July 31 deadline.

NAM’s claim that it “learned of this case and its importance to class action jurisprudence in the afternoon on July 21,” Mot. at 1, hardly signals the thorough attention of an *amicus curiae* who was motivated to assist the Court. Not only did NAM have more than three months since the decision below to identify the case, App.1-2, but the substantive rulings in question were all issued on November 17, 2025. App.3-71. In total, NAM had more than eight months to learn about the case and its supposed importance; it has no excuse for failing to give timely notice of its intention to file a brief in support of Petitioners.

Respondent’s counsel means no disrespect to NAM or its counsel. We ordinarily agree to extensions as a professional courtesy when they do not prejudice the interests of a client. But as noted, the absence of *amici* in support of Petitioners was a material factor in the decision to seek an extension of the response deadline, as opposed to waiving the right to file a response and potentially inviting an order requiring a response. Thus, Respondent respectfully opposes NAM’s motion for leave to file a brief of *amicus curiae* in violation of the 10-day notice period set forth in Rule 37.2.

## CONCLUSION

The motion for leave should be denied and the proposed brief of *amicus curiae* tendered by the National Association of Manufacturers in support of Petitioners should not be accepted for filing.

Respectfully submitted,

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