

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN BROADCASTING
COMPANIES, INC., et al.,

Plaintiffs,

v.

FEDERAL COMMUNICATIONS
COMMISSION, et al.,

Defendants.

Case No. 1:26-cv-02902-LLA

**UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*
FOUNDATION FOR INDIVIDUAL RIGHTS AND EXPRESSION, CATO INSTITUTE,
CLAY CALVERT, COMPETITIVE ENTERPRISE INSTITUTE, INSTITUTE FOR
POLICY INNOVATION, THE MULTICULTURAL MEDIA, TELECOM AND
INTERNET COUNCIL, NATIONAL COALITION AGAINST CENSORSHIP, PEN
AMERICAN CENTER, INC., PUBLIC KNOWLEDGE, REPORTERS WITHOUT
BORDERS, INC., THE RUTHERFORD INSTITUTE, AND SOCIETY FOR THE RULE
OF LAW AND DEMOCRACY, INC. IN SUPPORT OF PLAINTIFFS**

Pursuant to Local Civil Rule 7(o), the Foundation for Individual Rights and Expression (FIRE), Cato Institute, Clay Calvert, Competitive Enterprise Institute (CEI), Institute for Policy Innovation (IPI), The Multicultural Media, Telecom and Internet Council, Inc. (MMTC), National Coalition Against Censorship (NCAC), PEN American Center, Inc. (PEN America), Public Knowledge, Reporters Without Borders, Inc. (RSF), The Rutherford Institute, and Society for the Rule of Law and Democracy, Inc. respectfully move this Court for leave to appear as *amici curiae*

and to file the proposed brief of *amici curiae*, attached hereto, in support of Plaintiffs in the above-captioned proceeding.¹ Counsel for the parties do not object to the filing of this *amici* brief.

In support of this motion, Proposed *Amici* state as follows:

1. **The Foundation for Individual Rights and Expression (FIRE)** is a nonpartisan nonprofit that defends the rights of all Americans to free speech and free thought—the essential qualities of liberty. Since 1999, FIRE has successfully defended First Amendment rights nationwide without regard to the speakers’ views through public advocacy, strategic litigation, and *amicus curiae* filings in cases implicating expressive rights.

2. **The Cato Institute** is a nonpartisan public-policy research foundation established in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. Cato’s Robert A. Levy Center for Constitutional Studies was established in 1989 to help restore the principles of limited constitutional government that are the foundation of liberty. Toward those ends, Cato publishes books and studies, conducts conferences, produces the annual *Cato Supreme Court Review*, and files amicus briefs.

3. **Clay Calvert** is professor emeritus at the University of Florida where he taught media law in Levin College of Law and directed the Marion B. Brechner First Amendment Project in the College of Journalism and Communications. He currently serves as a nonresident senior fellow at the American Enterprise Institute where he has written and commented extensively about the FCC under Chairman Carr’s leadership.

4. **Competitive Enterprise Institute (CEI)** is a nonprofit educational and research institute headquartered in Washington, D.C., dedicated to promoting the principles of free markets

¹ Pursuant to Local Civil Rule 7(o)(5), counsel for Proposed *Amici* certify that no counsel for a party authored this brief in whole or in part, and no person other than Proposed *Amici*, their members, or their counsel made a monetary contribution to the brief’s preparation or submission.

and limited government. Since its founding in 1984, the institute has focused on raising public understanding of the problems of overregulation through policy analysis, commentary, and litigation. CEI also pursues public-interest litigation to ensure that federal agencies act within the constraints of the United States Constitution, the Administrative Procedures Act, and its enabling statutes. CEI's mission is to develop and advocate for policies that advance the right to freedom, fairness, property, and prosperity for Americans.

5. **The Institute for Policy Innovation (IPI)** is a non-profit, non-partisan public policy "think tank" based in Irving, Texas and founded in 1987 to research, develop and promote innovative and non-partisan solutions to today's public policy problems. IPI's focus is on approaches to governing that harness the strengths of individual liberty, limited government, and free markets.

6. **The Multicultural Media, Telecom and Internet Council, Inc. (MMTC)** is the technology, media, and telecommunications industries' leading nonpartisan, national nonprofit diversity organization. Since opening its doors in 1986, MMTC has worked to promote and preserve equal opportunity, civil rights, and social justice in the mass media, telecommunications, and broadband industries and to close the "digital divide" on behalf of its members and constituents, including current and prospective radio and broadcast station owners, programmers, and others involved in the communications sector. MMTC has helped diverse entrepreneurs gain access to capital and become media and telecommunications owners, breaking down structural and regulatory barriers to entrepreneurial opportunity. It has helped diversify the communications bar by training and deploying over 100 communications lawyers and professionals.

7. **The National Coalition Against Censorship (NCAC)** is an alliance of more than 60 national non-profit literary, artistic, religious, educational, and civil liberties groups. NCAC

was founded in 1974 in response to the United States Supreme Court's landmark decision in *Miller v. California*, 413 U.S. 15 (1973), which narrowed First Amendment protections for sexual expression and opened the door to obscenity prosecutions. The organization's purpose is to promote free speech in service of democracy. NCAC engages in direct advocacy and education to support free expression rights of students, teachers, librarians, artists, and others. It therefore has a longstanding interest in ensuring robust First Amendment protections for all. The positions advocated in this brief do not necessarily reflect the views of NCAC's member organizations.

8. **PEN American Center, Inc. (PEN America)** is a nonpartisan nonprofit organization working at the intersection of literature and human rights. Founded in 1922, PEN America advocates for free expression and the interests of writers and journalists in the United States and abroad. Its membership includes more than 5,000 writers, journalists, literary professionals, and readers nationwide. PEN America protects press freedom and journalists by combatting disinformation, defending journalists against online abuse, and supporting local news.

9. **Public Knowledge** is a nonprofit public interest organization that advocates for an open internet, free expression, and universal access to affordable communications. For twenty-five years, it has participated in FCC proceedings and litigation to ensure that communications policy promotes democratic values and serves the public interest. Public Knowledge has a strong interest in ensuring that the Commission's licensing authority serves the public and is never used to punish broadcasters for disfavored speech.

10. **Reporters Without Borders, Inc. (RSF)**, a 501(c)(3) non-profit organization, is the United States affiliate of the independent, international non-profit organization Reporters Sans Frontières. RSF defends the right of everyone to access information and defends journalists working internationally and in the United States. RSF monitors press freedom violations, raises

awareness, advocates for policies supporting access to information, exposes bad actors, and mobilizes the public. RSF has a significant interest in protecting the independence of media organizations from political retaliation.

11. **The Rutherford Institute** is a nonprofit civil liberties organization which was founded in 1982 by its President, John W. Whitehead. The Institute provides legal assistance at no charge to individuals whose constitutional rights have been violated and educates the public about issues affecting their freedoms.

12. **The Society for the Rule of Law and Democracy, Inc.**, doing business as The Society for the Rule of Law, is a national non-profit, non-partisan membership organization of conservative, libertarian, and right-of-center-lawyers, and others, who are dedicated to defending the constitutional principles of the rule of law, limited government, separation of powers, federalism, and other checks and balances. The views of the Society do not necessarily represent the views of all its individual members.

13. Proposed *Amici* have grave constitutional concerns about the extraordinary licensing proceeding directed at Plaintiffs to exercise political retribution. First, the Commission's claim of enforcing employment policies is pretextual and cannot justify the atypical licensing proceeding. Second, such a licensing proceeding is an exercise in political retribution that this court must enjoin.

14. A proposed order accompanies this motion pursuant to Rule 7(o).

For the foregoing reasons, Proposed *Amici* respectfully request this Court grant leave to appear as *amici curiae* and deem the accompanying brief of *amici curiae* filed.

Dated: September 17, 2026

/s/ Robert Corn-Revere

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