

No. 25-10830

**In the United States Court of Appeals  
for the Fifth Circuit**

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TONY McDONALD,  
*Plaintiff-Appellant,*

v.

FEDERAL ELECTION COMMISSION,  
*Defendant-Appellee.*

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On Appeal from the United States District Court  
for the Northern District of Texas, Fort Worth Division

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**MOTION FOR LEAVE TO FILE BRIEF FOR AMICUS CURIAE  
PEOPLE UNITED FOR PRIVACY FOUNDATION  
IN SUPPORT OF APPELLANT'S PETITION FOR REHEARING *EN BANC***

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**SUPPLEMENTAL STATEMENT OF INTERESTED PERSONS**

***McDonald v. FEC, Case No. 25-10830***

Pursuant to Fifth Cir. R. 29.2, undersigned counsel certifies that the following listed persons and entities have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualifications or recusal.

**Amicus Curiae:** People United for Privacy Foundation

**Attorneys for Amicus Curiae:**

Lex Politica PLLC:

Erin M. Hawley

Anne Marie Mackin

Dated: April 23, 2026

*/s/ Erin M. Hawley*

ERIN M. HAWLEY

*Attorney of Record for Amicus  
Curiae*

## **MOTION FOR LEAVE TO FILE BRIEF FOR AMICUS CURIAE**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure, proposed amicus curiae People United for Privacy Foundation (PUFPF) hereby moves the Court for leave to file the attached brief in support of Appellant’s Petition for rehearing en banc. Neither appellant nor appellee opposes this motion.

### **I. Interest of Amicus Curiae.**

As set forth in the proposed brief submitted herewith, PUFPF is a nonprofit, nonpartisan 501(c)(3) organization that advocates for the right of individual Americans to come together in support of shared values and that provides information and resources to policymakers, media, and the public about the close and necessary relationship between citizen privacy and the freedoms of speech and association.

Pursuant to that interest, PUFPF submits comments on proposed legislation and amicus briefs in cases—such as this one—concerning any government action that threatens to chill nonprofit advocacy by unlawfully unmasking organizations’ members and financial supporters. PUFPF has an interest in ensuring the FEC’s compelled disclosure of minor political contributors is subject to meaningful judicial review and held to an appropriately exacting standard of constitutional scrutiny.

### **II. The brief will aid in resolving the Petition.**

Because of PUFPF’s unique and longstanding expertise in the field of nonprofit advocacy-related privacy protection, it is well positioned to

assist this Court’s deliberations through an amicus brief. For instance, PUFPP’s brief clearly explains how, from the outset, the panel’s decision cannot be squared with *Americans for Prosperity Foundation v. Bonta*, 594 U.S. 595 (2021) (“*AFPP*”). In that case, the Supreme Court reaffirmed that compelled disclosure alone can seriously infringe the privacy of association and belief guaranteed by the First Amendment. Government-forced disclosure, in other words, constitutes Article III harm.

So too, PUFPP’s brief explains how the panel’s decision bucks well-established precedent—with which PUFPP is intimately familiar—holding that an Article III injury can “arise from the deterrent, or ‘chilling,’ effect of governmental regulations that fall short of a direct prohibition.” *See, e.g., Laird v. Tatum*, 408 U.S. 1, 11 (1972); *Bates v. City of Little Rock*, 361 U.S. 516, 523 (1960).

Across the board, PUFPP is profoundly alarmed by the fact that, in the decades since the civil rights movement, federal courts have struggled to meaningfully protect the right of individual Americans to join together and engage in “effective advocacy.” *Buckley v. Valeo*, 424 U.S. 1, 65 (1976) (quoting *NAACP v. Alabama ex rel. Patterson*, 357 U.S. 449, 460 (1958)). As PUFPP sees it, the panel’s decision impedes that pursuit, which lies at the heart of PUFPP’s organizational mission. The panel decision denies that disclosure alone constitutes an Article III injury and it eliminates a chilling injury—a quintessential First Amendment harm—outside the preenforcement context.

Consistent with PUFPP's interests and priorities, this case presents a critical opportunity to uphold protections for a plaintiff who pleads the "risk of a chilling effect on association," *AFPP*, 594 U.S. at 618–19, through compelled disclosure. PUFPP will argue in its amicus brief that, under Supreme Court precedent, the answer must be yes. All of these legal issues are highly relevant to the disposition of this case.

The Fifth Circuit recognizes that "[c]ourts enjoy broad discretion to grant or deny leave to amici under Rule 29." *Lefebure v. D'Aquilla*, 15 F.4th 670, 673 (5th Cir. 2021). In general, this Circuit favors granting motions for leave to file amicus briefs insofar as all applicable rules are followed. *See id.* at 675–76 (5th Cir. 2021) (citation omitted) ("[C]ourts should welcome amicus briefs for one simple reason: '[I]t is for the honour of a court of justice to avoid error in their judgments.'"); *see also Neonatology Assocs., P.A. v. Comm'r*, 293 F.3d 128, 132–33 (3d Cir. 2002) (Alito, J.).

For the foregoing reasons, proposed amicus PUFPP respectfully urges the Court to grant this motion for leave to file the attached brief amicus curiae.

Dated: April 23, 2026

*/s/ Erin M. Hawley*

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing complies with the length limitations of Fed. R. App. P. (“Rule”) 32(g)(1) and Rule 27(d)(2)(A) because—according to Microsoft Word—it is 648 words, excluding the parts that are exempted under Rule 32(f). It complies with the typeface and type-style requirements of Rule 32(a)(5) and Rule 32(a)(6) because it is printed in 14-point Century Schoolbook font, a proportionally spaced typeface with serifs.

Dated: April 23, 2026

*/s/ Anne Marie Mackin*

ANNE MARIE MACKIN

**CERTIFICATE OF CONFERENCE**

I hereby certify under 5th Cir. R. 27.4 and Fed. R. App. P. 29(a)(2) that on April 22, 2026, I conferred with counsel for Appellant and Appellee by electronic mail, and neither party opposes this motion for leave.

Dated: April 23, 2026

*/s/ Anne Marie Mackin*

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ANNE MARIE MACKIN

**CERTIFICATE OF SERVICE**

I hereby certify that on April 23, 2026 a true and correct copy of the foregoing was filed via the Court's CM/ECF system and served via electronic filing upon all counsel of record in this case.

Dated: April 23, 2026

*/s/ Anne Marie Mackin*

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ANNE MARIE MACKIN