UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

FREEDOM PATH, INC., Plaintiff, v. INTERNAL REVENUE SERVICE, et al., Defendants.	No. 1:20-CV-01349 (JMC)

UNOPPOSED MOTION OF INSTITUTE FOR FREE SPEECH FOR LEAVE TO FILE AN AMICUS BRIEF IN SUPPORT OF NEITHER PARTY

The Institute for Free Speech ("IFS") seeks leave to file the attached Amicus Brief in Support of Neither Party. IFS reached out to counsel for the other parties to obtain their consent in accordance with Local Civil Rule 7(o)(2). Counsel for Plaintiff Freedom Path, Inc. do not object to the filing of this Amicus Brief. Counsel for Defendants, including the Internal Revenue Service ("IRS"), take no position to the filing of this Amicus Brief. The Court should grant this motion for the following reasons.

First, IFS has a deep interest in the outcome of this case. IFS is a nonpartisan, nonprofit organization dedicated to the protection of the First Amendment rights of speech, assembly, petition, and the press. Along with scholarly and educational work, IFS represents individuals and civil society groups in litigation securing their First Amendment liberties. IFS submitted three comments in response to the IRS's Notice of Proposed Rulemaking for REG-134417-13, which proposed to replace the regulation at issue in this case, in 2013 and in 2014. One of those comments proposed a regulation that would comport with Supreme Court precedents. Since then, IFS has maintained an interest in the IRS's regulation of political speech because such regulation affects the First Amendment protections of political speech rights. IFS has served as *amicus curiae* in many other political speech cases across the country. *See Amicus Brief*, INST. FOR FREE SPEECH, https://www.ifs.org/category-type/amicus-brief/.

Second, IFS's Amicus Brief is desirable because it will aid the Court in the disposition of this case. IFS responds to the Court's call about how to decide which organizations meet the qualifications of 26 U.S.C. § 501(c)(4). Specifically IFS argues (1) the Court should adopt a bright-line rule that the IRS will classify an organization under 26 U.S.C. § 527, rather than § 501(c)(4), if the FEC classifies the organization as a political committee; (2) alternatively, the Court should adopt a rule that the IRS will classify an organization under § 527, rather than § 501(c)(4), if more than 50% of an organization's activities are express advocacy or its functional equivalent; (3) *Amici* CLC/CREW's proposal to import the "promote," "attack," "support," or "oppose" ("PASO") standard from campaign finance disclosure laws poses constitutional problems; (4) election campaign advocacy is civic speech and promotes the original meaning of social welfare, so any rule must permit § 501(c)(4)s to engage in such advocacy; and (5) *Amici* CLC/CREW's dark money concerns are overblown.

Third, IFS's position is not adequately represented by the parties to the case. IFS raises new arguments, unexplored by the other parties, about the FEC's unique ability to decide questions about organizations' political activity that should, in turn, impact organizations' statuses under the Tax Code. IFS also provides unique historical research on the origins of the statutes and terms before the Court. Finally, IFS provides unique responses to this Court's concerns in its recent order.

This motion is also timely and does not unduly delay the ability of the Court to rule on the renewed summary judgment motions. The hearing on the renewed motions is not until May 12, 2026, and the briefing on the motions will not be completed until April 24, 2026. The other parties have the opportunity to respond to any new arguments raised in IFS's brief.

The brief complies with Local Rule 7(o), including the page limit restriction. IFS does not seek to participate in oral argument.

For the foregoing reasons, IFS respectfully asks the Court to grant the attached motion for leave to file an amicus curiae brief in support of neither party.

Dated: March 27, 2026

Respectfully submitted,

/s/ Edward D. Greim

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CERTIFICATE OF SERVICE

On March 27, 2026, I caused the foregoing document to be electronically filed in the Court's CM/ECF software, which provides service to all counsel of record.

/s/ Edward D. Greim
Counsel for Movant Institute for Free Speech