

No. 25-364

No. 25-365

IN THE
Supreme Court of the United States

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES,
ET AL.
Petitioners,

v.

STATE OF WASHINGTON, ET AL.; JASON BARBARA, ET AL.
Respondents.

On Writ of Certiorari to the
United States Court of Appeals

**MOTION OF JOSEPH D. KIRCHNER FOR LEAVE TO
FILE BRIEF AS AMICUS CURIAE OUT OF TIME**

[COUNSEL NAME - SCOTUS Bar Member Required]
Counsel of Record

[Address]

[City, State ZIP]

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[email@example.com]

Joseph D. Kirchner respectfully moves this Court for leave to file the accompanying brief as amicus curiae out of time, in support of neither party. In support of this motion, amicus states as follows:

I. INTRODUCTION

This motion seeks leave to file an amicus brief raising an issue of extraordinary consequence that no party and no amicus has addressed: **Any narrow construction of "persons" in the Fourteenth Amendment that excludes human children born in the United States necessarily destroys corporate personhood.**

This argument has never been raised in the 138-year history of corporate personhood doctrine. The Court cannot rule on the meaning of "persons" without considering this consequence.

II. STATEMENT OF INTEREST

Amicus is a pro se plaintiff in two pending federal actions:

1. **Kirchner v. Johnson**, No. 1:25-cv-02735-ACR (D.D.C.) — involving claims against corporate defendants Anthropic, PBC; OpenAI, Inc.; Apple Inc.; and Comcast Corporation, whose constitutional defenses depend entirely on corporate personhood under the Fourteenth Amendment.

2. **Kirchner v. Ellison**, No. 0:26-cv-00726-JWB-ECW (D. Minn.) — challenging Minnesota's police accountability framework.

This Court's interpretation of "persons" in the instant case will directly govern the constitutional status of the corporate defendants in amicus's D.C. litigation. Amicus has a direct, concrete interest in ensuring the Court considers the full implications of its ruling.

III. REASONS FOR GRANTING LEAVE

A. The Brief Raises a Novel Issue Not Addressed by Any Party or Amicus

Amicus has reviewed the briefs filed by the parties and the numerous amici curiae in this case. **None addresses the necessary consequence of any narrow construction for corporate personhood.**

The parties debate whether "persons" includes children of undocumented immigrants. Neither addresses what a narrow construction means for artificial legal entities. The dozens of amicus briefs filed address historical interpretation, humanitarian consequences, federalism, and original intent. **None addresses corporate personhood.**

This gap is remarkable given the stakes. If this Court holds that "persons" can be narrowly construed to exclude human beings born on United States soil, the same analytical framework necessarily applies to corporations—which are not born, have no physical existence, are never mentioned in the Constitution, and were not contemplated by the Framers.

The definition of "persons" has been substantively altered only once before—when it was expanded to include corporations in *Santa Clara* (1886). This case represents the first proposed *contraction*. That historical singularity explains why this argument has never been raised: until now, there was no occasion to compare interpretive approaches to the same constitutional term.

This argument has never been raised in 138 years. The Court should hear it before ruling.

B. Corporate Personhood Was Never Actually Decided

The accompanying brief demonstrates that this Court has never issued a holding that corporations are "persons" under the Fourteenth Amendment. The entire doctrine traces to a headnote—not a holding—in *Santa Clara County v. Southern Pacific Railroad Co.*, 118 U.S. 394 (1886).

The headnote was written by court reporter J.C. Bancroft Davis, a former railroad executive with financial interests in the outcome. Chief Justice Morrison Waite explicitly confirmed in correspondence that the Court "avoided meeting the constitutional question."

This Court has repeatedly held that headnotes are not part of the Court's decision. *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337 (1906). Yet the Santa Clara headnote was fraudulently converted into "precedent" by subsequent citations.

The instant case is the first opportunity for this Court to confront the corporate personhood doctrine with full awareness of its fraudulent origin—and the logical consequences of any narrow construction of "persons."

C. The Delay Is Justified

Amicus is a pro se litigant without legal training or institutional resources. Amicus identified the connection between the birthright citizenship cases and corporate personhood on March 14, 2026, while preparing arguments for his pending federal litigation.

Upon recognizing this consequence, amicus immediately prepared this motion and the accompanying brief. The delay of approximately two weeks beyond the standard deadline reflects the time required for a pro se litigant to:

1. Identify the novel legal connection
2. Research the Santa Clara headnote history
3. Draft a brief conforming to this Court's requirements
4. Prepare this motion

Amicus respectfully submits that the importance of the issue outweighs the modest delay.

D. No Prejudice to Any Party

The accompanying brief supports neither party. It raises a consequence that both parties—and this Court—should consider before ruling. Accepting this brief prejudices no party; it merely ensures the Court has complete information.

Oral argument is scheduled for April 1, 2026. Filing this brief on March 18, 2026 provides ample time for the Court and parties to consider the argument before oral argument.

E. The Court's Interest in Complete Information

This Court is about to issue a ruling that will define "persons" in the Fourteenth Amendment. That definition will govern not only birthright citizenship but also corporate constitutional rights, criminal procedure, civil rights litigation, and countless other contexts.

The Court should not adopt any construction of "persons" without considering all consequences. The accompanying brief identifies a consequence that would fundamentally reshape American constitutional law—the collapse of corporate personhood.

Whether or not this Court agrees with amicus's analysis, it should have the opportunity to consider the argument. Declining to grant leave would mean ruling on "persons" without ever considering what a narrow construction means for corporations.

IV. COMPLIANCE WITH RULE 37

A. Consent

Pursuant to Supreme Court Rule 37.2(a), consent of the parties is not required when the United States is a party. The United States, through the President and other federal officials, is a petitioner in this case.

B. Authorship and Funding

No counsel for any party authored this brief in whole or in part. No person or entity other than amicus made a monetary contribution to the preparation or submission of this brief.

C. Timeliness of Motion

This motion is filed as promptly as possible after amicus identified the novel legal issue.

V. CONCLUSION

For the foregoing reasons, amicus respectfully requests that this Court grant leave to file the accompanying brief as amicus curiae out of time.

The brief raises an issue of extraordinary importance that no party or amicus has addressed: the necessary collapse of corporate personhood under any narrow construction of "persons." This argument has never been raised in 138 years. The Court should consider it before ruling.

Respectfully submitted,

Joseph D. Kirchner
Amicus Curiae
4440 Parklawn Avenue, #203
Edina, MN 55435
(612) 552-2122
legal@lawsofexistence.com
Dated: March 18, 2026

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the word limits of Supreme Court Rule 33.1(g). This motion contains 1,042 words, excluding the parts exempted by Rule 33.1(d).

CERTIFICATE OF SERVICE

I certify that on this date, copies of this Motion and the attached Amicus Brief were served by first-class mail and electronic transmission upon:

Counsel for Petitioners:

Solicitor General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
SupremeCtBriefs@usdoj.gov

Counsel for Respondents:

Cody Wofsy
ACLU Foundation
125 Broad Street
New York, NY 10004
cwofsy@aclu.org

Dated: March 18, 2026

Joseph D. Kirchner, Amicus Curiae

PROPOSED ORDER

No. 25-364, 25-365

DONALD J. TRUMP, PRESIDENT OF THE UNITED STATES, ET AL.,

Petitioners,

v.

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Respondents.

ORDER

The motion of Joseph D. Kirchner for leave to file a brief as amicus curiae out of time is **GRANTED**.

The Clerk is directed to file the accompanying brief.
So ordered.

[Date]

ATTACHMENT

Brief of Joseph D. Kirchner as Amicus Curiae Supporting Neither Party

[Attached separately]

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that this brief complies with the word limits set forth in Supreme Court Rule 33.1(g). This brief contains 1,171 words, excluding the parts of the brief exempted by Supreme Court Rule 33.1(d).