

ORAL ARGUMENT SET FOR JANUARY 9, 2024  
No. 23-3228

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**United States Court of Appeals  
for the District of Columbia Circuit**

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UNITED STATES OF AMERICA,

*Plaintiff-Appellee,*

v.

DONALD J. TRUMP,

*Defendant-Appellant.*

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Appeal from the U.S. District Court for the District of Columbia  
Criminal Case No. 1:23-cr-00257-TSC (Hon. Tanya S. Chutkan)

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**NOTICE OF INTENT TO PARTICIPATE AS *AMICI CURIAE* BY  
FORMER ATTORNEY GENERAL EDWIN MEESE III AND  
LAW PROFESSORS STEVEN G. CALABRESI AND GARY S.  
LAWSON**

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GENE C. SCHAERR

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JUSTIN A. MILLER\*

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December 30, 2023

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**CORPORATE DISCLOSURE STATEMENT**

*Amici curiae* former Attorney General Edwin Meese III and law professors Steven G. Calabresi and Gary S. Lawson certify that they are natural persons, and as such have no parent corporations or stock.

*/s/ Gene C. Schaerr*

GENE C. SCHAERR

*Counsel of Record*

**NOTICE OF INTENT TO FILE AN *AMICI CURIAE* BRIEF**

Per D.C. Cir. Rule 29(b), and the guidance set forth in Section IX(A)(4) of this Court's Handbook of Practice and Internal Procedure, former Attorney General Edwin Meese III and law professors Steven G. Calabresi and Gary S. Lawson hereby notify this Court of their intent to file an *amici curiae* brief in the above captioned matter in support of neither party.

Counsel for plaintiff and defendant both have indicated that they consent to the filing of *amici's* brief.

The Honorable Edwin Meese III served as the seventy-fifth Attorney General of the United States after having served as Counselor to the President, and is now the Ronald Reagan Distinguished Fellow Emeritus at the Heritage Foundation. During his tenure as Attorney General, the Department of Justice steadfastly defended proper limits on federal power. Professors Calabresi and Lawson are scholars of the original public meaning of the Constitution. Members of this Court have cited their work. *See, e.g., PHH Corp. v. C.F.P.B.*, 881 F.3d 75, 104 (D.C. Cir. 2018) (Pillard, J.) (citing Calabresi); *We the People Found., Inc. v. United States*, 485 F.3d 140, 144 (D.C. Cir. 2007) (Rogers, J., concurring)

(citing Lawson). And they have published scholarship on the very issues they raise in their amicus brief. See Steven G. Calabresi & Gary Lawson, *Why Robert Mueller's Appointment as Special Counsel Was Unlawful*, 95 Notre Dame L. Rev. 87 (2019).

*Amici* have also filed amicus briefs in cases concerning constitutional law issues, *see, e.g.*, Brief *Amici Curiae* of Constitutional Originalists Edwin Meese III, Steven G. Calabresi, and Gary S. Lawson in Support of Respondents, *SEC v. Jarkesy*, No. 22-859 (SCOTUS Oct. 6, 2023), Brief of *Amici Curiae* Former Attorney General Edwin Meese III and Professors Steven G. Calabresi and Gary S. Lawson Supporting Petitioners, *Moore v. United States*, No. 22-800 (SCOTUS Sept. 6, 2023), including the very issues in this case, *see* Brief of Former Attorney General Edwin Meese III and Law Professors Steven G. Calabresi and Gary S. Lawson as *Amici Curiae* Supporting Neither Party, *United States v. Trump*, No. 23-624 (Dec. 20, 2023).

*Amici* intend to file an amicus brief of no more than 6,500 words that addresses points neither party nor any other *amici* are making that will aid the Court's consideration of this case. Specifically, *amici* will

address a threshold question as to whether Jack Smith is legally appointed, which question can be raised for the first time on appeal.

Respectfully submitted,

/s/ Gene C. Schaerr

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\* Not yet admitted in D.C. Practicing under the supervision of D.C. bar members.

Date: December 30, 2023

**CERTIFICATE OF SERVICE**

I certify that on December 30, 2023, I caused the foregoing Brief for *Amici Curiae* to be filed with the Clerk of this Court by using the appellate CM/ECF system. The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Gene C. Schaerr

GENE C. SCHAERR