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October 23, 2023

Hon. Scott S. Harris, Clerk  
Supreme Court of the United States  
One First Street, NE  
Washington, D.C. 20543

**Re: O’Handley v. Weber, No. 22-1199**

Dear Mr. Harris:

On Friday, the Court construed the stay application in *Murthy v. Missouri*, No. 23A243, as a certiorari petition and granted the petition. As the U.S. Solicitor General stated in that stay application (at 15-16), the Fifth Circuit’s decision at issue in *Murthy* is “irreconcilable” with the Ninth Circuit’s decision at issue in this petition, *O’Handley v. Weber*, No. 22-1199 (distributed for October 27 conference).

In *Murthy*, plaintiffs successfully opposed a motion to dismiss, bolstered their allegations with extensive discovery regarding federal officials’ censorship efforts, and obtained a preliminary injunction based on that evidence. *Missouri v. Biden*, No. 3:22-CV-01213, 2023 WL 4335270, at \*67 (W.D. La. July 4, 2023) (noting “great deal of discovery” yielded “necessary evidence”), *aff’d in part*, 2023 WL 6425697 (5th Cir. Oct. 3, 2023), *stayed and cert. granted*, 2023 WL 6935337 (U.S. Oct. 20, 2023). Meanwhile, O’Handley’s complaint was dismissed with prejudice, despite allegations that California charged an entire state agency with the same First Amendment–offending mission to censor online speech. The two decisions are indeed irreconcilable. *O’Handley* should be granted and heard alongside *Murthy*—the two sides of a circuit split—just as the Court is hearing *O’Connor-Ratcliff v. Garnier*, No. 22-324, 143 S. Ct. 1779 (2023), together with *Lindke v. Freed*, No. 22-611, 143 S. Ct. 1780 (2023), and *Moody v. NetChoice*, No. 22-277, 2023 WL 6319654 (U.S. Sept. 29, 2023), together with *NetChoice v. Paxton*, No. 22-555, 2023 WL 6319650 (U.S. Sept. 29, 2023).

Respectfully submitted,

/s/ Taylor A.R. Meehan

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