

**Reply Br. for Appellant at 3 n.3, *EPIC v. Commission*, No. 17-5171 (D.C. Cir. docketed July 27, 2017):**

<sup>3</sup>EPIC is aware that the Eagle Forum Education & Legal Defense Fund has submitted a motion for leave to file an *amicus curiae* brief in support of affirmance. However, this Court has previously made clear, in response to a previous filing by the Eagle Forum, that arguments presented by an amicus are “not properly before [the Court]” where they have been “rejected by the actual parties to [the] case.” *Eldred v. Reno*, 239 F.3d 372, 378 (D.C. Cir. 2001), *aff’d sub nom. Eldred v. Ashcroft*, 537 U.S. 186 (2003). The Eagle Forum’s proposed brief not only attempts to improperly “expand the scope” of this appeal, it includes “repetition of facts [and] legal arguments” prohibited by Circuit Rule 29.