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## **Coalition Should Not Have to Disclose Internal Information to Receive Public Records, Groups Tell Texas Supreme Court**

### ***Requiring Group to Provide Names of Members, Coalition Partners and Sympathizers to Obtain Public Records Will Have Chilling Effect***

WASHINGTON, D.C. – A coalition of labor unions should not be forced to disclose information about itself and its associates to obtain documents under a state open records law, three groups told the Texas Supreme Court today.

In an amicus curiae, or “friend of the court,” brief, the groups – Public Citizen, Freedom of Information Foundation of Texas and Texans for Public Justice – urged the state’s high court to overturn a lower court’s ruling.

The dispute originated when the coalition Change to Win requested information under the Texas Public Information Act (TPIA). The coalition sought a copy of a contract between the Employee Retirement System of Texas (ERS) and Caremark, a pharmacy benefit management group, along with records related to the contract. The Texas attorney general determined that the documents were public records under the TPIA, which requires the release of public contracts.

Caremark sued the attorney general to block the disclosure of the contract and related documents, claiming that the records contained trade secrets. When Change to Win intervened in the lawsuit to protect its interest in the TPIA request, Caremark sought extensive discovery about Change to Win’s purpose in requesting the documents in this case and other contracts the coalition sought previously, as well as the identities of individuals and groups with whom Change to Win had communicated about such records.

Change to Win objected to Caremark’s demands, but the trial court and appellate court ruled that the coalition had to produce the requested material. Change to Win then filed a petition asking the Texas Supreme Court to hear the case. Today’s amicus brief was submitted in support of that petition.

“Texas law does not require a quid pro quo – requesters are not obliged to reveal something about themselves to obtain information contained in public records from the government,” said Margaret Kwoka, an attorney with Public Citizen who wrote the amicus brief. “The lower court’s order in this case flies in the face of the principles of open government embodied in the TPIA.”

The groups said that Change to Win should be able to receive the records it requested without having to disclose the inner workings of its organization.

“Public records should be made public on demand – regardless of who requests them or why,” said Craig McDonald, director of Texans for Public Justice. “Citizens demanding access to public documents should not be subject to government interrogation. These records belong to the people.”

Added Joe Larsen, a board member of the Freedom of Information Foundation of Texas, which contributed to the brief, “The trial court’s order threatens to undermine the protections for requesters of government information that are built right in the Public Information Act. If the Texas Supreme Court lets the order stand, any requester that dares sue under the act will face expensive and unnecessary discovery from governmental bodies and their vendors. This would be a devastating result for Texans.”

Forcing organizations to reveal their inner workings and communications to obtain government records that, by law, should be disclosed to anyone who requests them is not only harassing and irrelevant, it also compromises organizations’ right to freely associate under the First and Fourteenth Amendments, the groups told the court.

“If the ruling stands, it will have a chilling effect, not just on organizations that must maintain members’ privacy, but also on people who may want to request information through the TPIA in the future,” Kwoka said. “The public at large is harmed when requesters are not able to enforce their rights effectively because, as the TPIA states, government transparency is a public benefit.”

The groups’ brief is available at [URL HERE](#).

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