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## **Southeastern Legal Foundation Urges United States Supreme Court to Uphold Limits on FDA's Power Grab**

WASHINGTON, DC (Feb. 29, 2024): Today, [Southeastern Legal Foundation](#) (SLF) and the Texas Public Policy Foundation (TPPF) filed an [amicus brief](#) explaining that courts have the express power to postpone the effective date of a federal agency's action when that action is being challenged in court and supporting Alliance for Hippocratic Medicine in its Supreme Court appeal challenging Food and Drug Administration's (FDA) approval of mifepristone, a drug designed to cause chemical abortions.

In their [brief](#), SLF and TPPF explain how FDA approved the drug nearly two decades ago under an expedited approval process. Due to the expedited process and the potential dangers of the drug, the Alliance for Hippocratic Medicine filed a petition in 2002 with the agency challenging its approval. The agency ignored the petition until 2016, when it rejected the petition and loosened its earlier restrictions on chemical abortions. The Alliance filed another petition, which FDA denied, so it filed a lawsuit challenging the agency's actions.

In their [brief](#) before the Supreme Court, SLF and TPPF explain that there is no need for the Supreme Court to review the case because the lower courts' stay was the appropriate remedy. Section 705 of the Administrative Procedure Act (APA) gives courts broad authority to review agency action and "issue all necessary and appropriate process" to rein in runaway agencies.

SLF and TPPF urge the Supreme Court to uphold the plain text and meaning of Section 705 of the APA which gives the courts the power to provide the necessary check on executive agencies that often act outside the scope of their authority. The best approach in this case, as the groups argue, is to issue a stay temporarily halting the FDA's actions until the courts can reach a final decision about their lawfulness.

Vice President of Litigation for SLF [Braden Boucek](#) states, "Stays are necessary tools for courts when they need to halt unlawful agency action, both temporarily and permanently. The lower courts here were well within their authority to issue a temporary stay against FDA until the legality of its actions have been resolved, and we are hopeful that the Supreme Court will agree."