Case No. 17-71692

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

In re: UNITED STATES OF AMERICA

UNITED STATES OF AMERICA, *et al.*,
Petitioners,

v.

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF OREGON,
Respondent,
and
KELSEY CASCADIA ROSE JULIANA, *et al.*,
Real Parties in Interest

On Petition For Writ of Mandamus in
Case No. 6:15-cv-01517-TC-AA (D. Or.)

UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN OPPOSITION TO PETITION FOR WRIT OF MANDAMUS

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UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*

Pursuant to Federal Rules of Appellate Procedure 27 and 29 and Circuit Rule 29, the League of Women Voters of the United States and League of Women Voters of Oregon ("Leagues") respectfully request that the Court grant them leave to file an amicus brief in this matter, in opposition to petitioners United States, et al.'s Petition for Writ of Mandamus to the United States District Court for the District of Oregon.

The Leagues are grassroots, nonpartisan, nonprofit organizations that encourage informed, active, and inclusive participation in government in order to promote political responsibility and to better serve the democratic interests and principles of *all* peoples of the United States, including underrepresented groups. The Leagues direct their limited efforts at effectuating change primarily though the legislative and executive branches to ensure that the interests of *all* Americans are represented in a transparent, participatory, and politically accountable government. However, the Leagues have joined in suits or filed amicus briefs in certain limited circumstances where judicial involvement is necessary safeguard the fundamental rights of underrepresented individuals when the other branches of government have failed them.

One of the issues before this Court is the separation of powers doctrine and whether the courts may properly decide whether Defendants' actions have violated

the Youth Plaintiffs' constitutional rights. In the accompanying brief, *amici* submit that the courts serve their proper role to act as a check and balance on the other branches of government to protect the constitutional rights of individuals, including children. Children do not have a vote, and therefore lack the potential for redress through the political branches. The judiciary truly is their last resort.

Pursuant to Federal Rule of Appellate Procedure 29 and Circuit Rule 29-3, *amici* have obtained the consent of all parties before filing their amicus brief. The District Court takes no position on amicus parties. The Circuit Advisory Committee Note to Circuit Rule 29-3 states that a motion for leave to file is not necessary when all parties consent, as is the case here. In an abundance of caution, *amici* file this unopposed motion for leave to file their attached brief.

Dated: September 5, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on September 5, 2017, I electronically filed the foregoing **UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN OPPOSITION TO PETITION FOR WRIT OF MANDAMUS** with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

Dated: September 5, 2017

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Real Parties in Interest

On Petition For Writ of Mandamus in
Case No. 6:15-cv-01517-TC-AA (D. Or.)

AMICI CURIAE BRIEF OF LEAGUES OF WOMEN VOTERS IN OPPOSITION TO PETITION FOR WRIT OF MANDAMUS

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, *amici curiae* League of Women Voters of the United States and League of Women Voters of Oregon each states that it does not have a parent corporation and that no publicly-held companies hold 10% or more of its stock.

TABLE OF CONTENTS

PAGE

TABLE OF AUTHORITIES

Cases

Constitutional Provisions

Other Authorities

***AMICI CURIAE* BRIEF IN OPPOSITION TO PETITION FOR WRIT OF MANDAMUS**

No party's counsel authored this brief, and no party, party's counsel, or other person contributed money for the preparation or filing of this brief. FRAP 29(a)(4)(E).

I. IDENTITY AND INTEREST OF *AMICI CURIAE*

The League of Women Voters of the United States ("LWVUS") is a grassroots, nonpartisan, nonprofit organization that encourages informed, active, and inclusive participation in government in order to promote political responsibility and to better serve the democratic interests and principles of *all* peoples of the United States, including underrepresented groups. LWVUS's primary focus and activities consist of: (1) protecting voters by ensuring that *all* voters—particularly those from traditionally underserved or underrepresented demographics, including young adults, new citizens, and minorities—have the opportunity and information to exercise their vote; (2) educating and engaging voters by assisting and encouraging voter registration, education with respect to candidates and their positions, and voter turnout; (3) reforming the influence of money in politics through reclaiming our nation's campaign finance system in order to increase governmental transparency, combat corruption, and maximize citizen participation in the political process; and (4) protecting the environment by supporting legislation that seeks to protect our country from the physical,

economic, and public health effects of climate change while providing pathways to economic prosperity.

LWVUS believes that climate change is the greatest environmental challenge of our generation and that averting the damaging effects of climate change requires actions from both individuals and governments at local, state, national and international levels. LWVUS supports legislative solutions and strong executive branch action, and works to build support for action on climate change nationally and at the state and local levels to avoid irrevocable damage to our planet.

The League of Women Voters of Oregon ("LWVOR") is also a grassroots, nonpartisan, nonprofit organization. LWVOR shares LWVUS's primary mission and focus of ensuring effective representative government through voter registration, education, and mobilization, and works to ensure that the voices and interests of all individuals, particularly those underrepresented in government, are spoken and accounted for in political decision-making. LWVOR also works to advocate for sound environmental policy. Since the 1950s, LWVOR has been at the forefront of efforts to protect air, land, and water resources. LWVOR's Social Policy directs members to secure equal rights and equal opportunity for all, as well as promote social and economic justice and the health and safety of all Americans. LWVOR's members work to preserve the physical, chemical, and biological

integrity of the ecosystem, with maximum protection of public health and environment. LWVOR believes that climate change is one of the most serious threats to the environment, health, and economy of our nation.

Focused as they are on engaging citizens to participate in the democratic process to ensure that the interests of *all* Americans are represented in a transparent, participatory, and politically accountable government, and respecting the proper role of each branch of government, *amici* direct their limited efforts at effectuating change primarily though the legislative and executive branches. However, where appropriate in certain limited circumstances, *amici* recognize that judicial involvement is necessary to safeguard the fundamental rights of underrepresented individuals when the other branches of government have failed them. In limited circumstances such as those presented in this action, *amici* participate in litigation in order to ensure that the interests of representative democracy are served.

To that end, *amici* have occasionally, but sparingly, joined in suits or filed amicus briefs in cases primarily with respect to disputes in which the voting rights of individuals have been infringed,[1] but also in similar cases, such as this one, in

[1] *See, e.g.*, Brief of Amici Curiae Common Cause, League of Women Voters of the United States and Project Vote, Inc., In Support of Appellants, *Ohio A. Philip Randolph Institute, et al. v. Husted*, No. 16-3746 (6th Cir.) (Appeal regarding Ohio's removal of voters from voter roles under National Voter Registration Act) *available at* http://lwv.org/files/Filed%20Amici%20Curiae%20Brief%20-

which other fundamental rights of underrepresented groups have been adversely impacted.[2]

Amici file this brief in opposition to the Petition for Writ of Mandamus to emphasize the proper role of the courts, in keeping with the separation of powers, to serve as a check and balance to the legislative and executive branches, particularly when their actions, as here, have infringed upon the fundamental rights of individuals.

II. SUMMARY OF ARGUMENT

Amici Curiae respectfully request this Court deny Defendants' Petition. These Youth Plaintiffs' fundamental rights arising under the Constitution and Public Trust Doctrine have been and are being infringed by Defendants' historical and continuing creation and exacerbation of a dangerous climate system. Given their age, Plaintiffs cannot rely on the representational political process to safeguard their fundamental rights. Their only redress is through the judiciary. "The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury." *Marbury v.*

%20Common%20Cause%2C%20LWV%2C%20Project%20Vote.pdf; *League of Women Voters v. Newby*, No. 16-236 (RJL) (D.D.C. June 29, 2016) (Challenge to HB 589 as voter suppression bill); and *League of Women Voters of the United States v. Fields*, 352 F.Supp. 1053 (E.D. Ill. 1972) (Challenge to discrimination in voter registration practices).

[2] *See* Brief of League of Women Voters of Oregon, et al., as Amici Curiae in Support of Plaintiffs-Appellants, *Chernaik v. Brown*, No. A159826 (Or. App.) (Mar. 3, 2016).

Madison, 5 U.S. (1 Cranch) 137, 163 (1803). As a check on the legislative and executive branches, "[i]t is emphatically the province and duty of the judicial department to say what the law is." *Id.* at 177. "[P]olicing the enduring structure of constitutional government when the political branches fail to do so is one of the most vital functions of this Court." *Nat'l Labor Relations Board v. Canning*, 134 S. Ct. 2550, 2593 (2014) (Scalia, A., concurring) (internal quotations omitted).

The urgency of this case further supports allowing the District Court proceedings to continue without intermediate review by this Court. As explained by Dr. James Hansen,[3] "[a]ction is required to preserve and restore the climate system such as we have known it in order for the planet as we have known it to be able to continue adequately to support the lives and prospects of young people and future generations." Declaration of James Hansen, Dkt. 1-1 ¶ 76.[4] Magistrate Judge Thomas Coffin acknowledged the pressing nature of the matter and the need for judicial review:

> [D]efendants have since admitted that human induced climate change is harming the environment to the point where it will relatively soon become increasingly less habitable causing an array of severe deleterious effects . . . .

Dkt. 146 at 14.

[3] Dr. Hansen is the former Director of the NASA Goddard Institute for Space Studies and current Adjunct Professor at Columbia University's Earth Institute, where he directs the University's Climate Science Program.
[4] Amici refer to the District Court docket as "Dkt." and to the Ninth Circuit docket as "Doc."

The District Court properly exercised its constitutional duty to serve as a check and balance on the other branches of government in denying Defendants' motion to dismiss and setting a schedule for the case to move forward. As the case proceeds, the District Court will continue to fulfill its proper role. Any concerns Defendants have with respect to discovery can be addressed in the normal course of the discovery process. By denying this Petition, this Court confirms the District Court's role as arbiter of facts and allows the trial process to develop a robust record for future appellate review.

III. ARGUMENT

A. Introduction

Climate change is no longer a theoretical, future possibility—it is upon us now. In 2016, every state in the U.S. had an above-average summer temperature. American Meteorological Society, *State of the Climate in 2016* (Blunden, J. and D.S. Arndt, eds., Aug. 2017), 98 BULL. OF AM. METEOR. SOC'Y, no. 8, at 178. 16 of the last 17 years are the warmest years on record for the globe. U.S. GLOBAL CHANGE RESEARCH PROGRAM, CLIMATE SCIENCE SPECIAL REPORT: A SUSTAINED ASSESSMENT ACTIVITY OF THE U.S. GLOBAL CHANGE RESEARCH PROGRAM 13 (Wuebbles, D.J. et al. eds., Final Draft June 28, 2017) (hereinafter "Final Draft Report"). Average annual temperature over the contiguous United States increased by 1.8°F (1.0°C) between 1901 and 2016. *Id.* at 17. Of that change, 1.2°F increase

occurred since 1986. *Id.* These temperatures are projected to rise even further, with an increase of 2.5°F possible over the next few decades, and much larger rises by late century. *Id.* Consistent with this warming, most regions of the U.S. have seen the frequency and intensity of extreme heat and heavy precipitation events increasing. *Id.* at 19. Extreme temperature events are virtually certain to increase in frequency and intensity in the future as global temperatures rise. *Id.* at 22.

These rising global temperatures have consequences now, including more frequent dangerous climate events such as wildfire, major flooding and extreme drought. In 2016 there were 15 weather and climate events in the U.S. with losses exceeding $1 billion each. *State of the Climate in 2016* at 178. Cumulatively, these events led to 138 fatalities and caused $46.0 billion in total, direct costs. *Id.* Projections of the economic losses—let alone the loss of life—from Hurricane Harvey continue to rise by the day.

Climate change disproportionately threatens America's children for at least two reasons. First, the progressive nature of the impacts of climate change means that today's youth and future generations will see greater warming and more frequent and severe extreme weather events, including drought and flooding. "Warming and associated climate effects from CO_2 emissions persist for decades to millennia." Final Draft Report at 34.

Second, the unique life phase of childhood leaves children especially vulnerable to the impacts of climate change. According to the U.S. Environmental Protection Agency ("EPA"), "Children are especially vulnerable to the impacts of climate change because of (1) their growing bodies; (2) their unique behaviors and interactions with the world around them; and (3) their dependency on caregivers." EPA, FACT SHEET: CLIMATE CHANGE AND THE HEALTH OF CHILDREN 1 (May 2016). Children suffer directly from longer and more severe heat waves. Children are more vulnerable than adults to pollution from burning fossil fuels, exacerbated by climate change. *See* American Academy of Pediatrics Council on Environmental Health, *Policy Statement on Global Climate Change and Children's Health*, 136 PEDIATRICS, no. 5, at 994 (2015). Childhood asthma and allergies result from changes in distribution and seasonality of plants and increased frequency of severe wildfires. Children will also suffer most from displacement due to rising sea levels and extreme weather events as access to education, health care, and nutrition are disrupted. *Id.*

Although the children of America will experience disproportionate harm from climate change impacts, they have no direct representation in our government. The choices our government makes today will determine the magnitude of climate change risks beyond the next few decades. Final Draft Report at 34. By continuing to utilize and enable technologies that it knows are the

primary drivers of climate change, our federal government jeopardizes our children's future existence. Yet children do not have rights of participation in our political process where the decisions are being made that will determine whether our nation will continue to sustain them. As the District Court noted, "the majority of youth plaintiffs are minors who cannot vote and must depend on others to protect their political interests." Dkt. 83 at 16.

Here the legislative and executive branches have actively infringed upon the fundamental liberties of the Youth Plaintiffs, and so the judiciary must fulfill its role to serve as a check and balance to protect the rights of these individuals. *Bowsher v. Synar*, 478 U.S. 714, 721 (1986) ("The declared purpose of separating and dividing the powers of government, of course, was to diffuse power the better to secure liberty."). Given the urgency of climate change and the disproportionate harms that children will suffer from it, the courts should act to fulfill this vital function to safeguard individual liberties, and allow the merits of these important issues to be developed and decided through the trial process.

B. The District Court is Acting in Its Proper Role as a Check and Balance on the Political Branches of Government and to Determine the Facts of the Case.

Courts have historically exercised jurisdiction to determine the constitutional rights of children. "A child, merely on account of his minority, is not beyond the protection of the Constitution." *Bellotti v. Baird*, 443 U.S. 622, 633 (1979)

(plurality opinion). For example, the Supreme Court has found that children have the right to notice and counsel under the Equal Protection Clause of the Fourteenth Amendment. *See In re Gault*, 387 U.S. 1 (1967). Students, both in and out of school, have First Amendment rights. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 511 (1969). Children may not be deprived of certain property interests without due process. *See Goss v. Lopez*, 419 U.S. 565, 574 (1975) (finding right to a public education is a property interest, protected by the Due Process Clause). And children are entitled to protections under the Eighth Amendment, which "reaffirms the duty of the government to respect the dignity of all persons." *Roper v. Simmons*, 543 U.S. 551, 560 (2005) (ruling that execution of persons under the age of eighteen would be cruel and unusual punishment).

In recognizing the rights of children, courts have relied on both the autonomy rights of children and their special vulnerability to deprivations of liberty or property interests by the State. In *Bellotti*, the Court noted that the "Court's concern for the vulnerability of children is demonstrated in its decisions dealing with minors' claims to constitutional protection against deprivations of liberty or property interests by the State." 443 U.S. at 634. These Youth Plaintiffs are vulnerable to deprivations of liberty by the government because they must rely on others to advocate for them, and at the same time are directly impacted by the sovereign's decisions and actions in furthering and responding to climate change.

"The nature of injustice is that we may not always see it in our own times." *Obergefell v. Hodges*, 135 S. Ct. 2584, 2598 (2015). Climate change presents one of those injustices, and the Youth Plaintiffs assert "a claim to liberty [that] must be addressed." *Id.*

1. The District Court Properly Recognized Plaintiffs' Standing.

Not only have the Plaintiffs met the requirements for Article III standing under *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992) and related cases,[5] there are also strong prudential reasons supporting the District Court's standing determination in this case.

First, the Youth Plaintiffs' claims are rooted in a diminishment of their voice in representational government. The executive and legislative branches of the federal government are making decisions today that discount the future and exploit future generations. Youth have no voice in these decisions—elected representatives are not accountable to youth who did not elect them. Voting is an exercise in free expression, which is highly personal and therefore by necessity must be carried out by the individual and not by proxy. Sonja C. Grover, YOUNG PEOPLE'S HUMAN RIGHTS AND THE POLITICS OF VOTING AGE 66-69 (2011). "The conception of political equality from the Declaration of Independence, to Lincoln's

[5] *Amici* refer the Court to the *Amicus Curiae* brief submitted by Earthrights for a full discussion of standing.

Gettysburg Address, to the Fifteenth, Seventeenth, and Nineteenth Amendments can mean only one thing—one person, one vote." *Gray v. Sanders*, 372 U.S. 368, 381 (1963). The political franchise of voting is "regarded as a fundamental political right, because [it is] preservative of all rights." *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886). Without the ability to vote, Plaintiffs' rights are more often and more easily violated when the political branches make decisions about climate change.

The Youth Plaintiffs' voices in representational government are diminished by their inability to vote for people who will protect their interests. As a result, the Plaintiffs fall within a minority class, to be protected by the courts from the impositions of the majority. *See* John Edward Davidson, *Tomorrow's Standing Today*, 28 COLUM. J. ENVTL. L. 185, 215 (2003) (arguing that youth without a vote are akin to a political minority, unable to pursue their goals through the political process). *See also*, Antonin Scalia, *The Doctrine of Standing as an Essential Element of the Separation of Powers*, 27 SUFFOLK U. L. REV. 881, 895 (1983) (framing standing as requiring a plaintiff to establish a "basis for concern that the majority is suppressing or ignoring the rights of a minority that wants protection," justifying judicial intervention.). "[T]he class of those litigants who allege that their own constitutional rights have been violated, and who at the same time have no effective means other than the judiciary to enforce these rights, must be able to

invoke the existing jurisdiction of the courts for the protection of their justiciable constitutional rights." *Davis v. Passman*, 442 U.S. 228, 242 (1979).

Second, Plaintiffs' cause, "arising . . . in Equity," is a matter properly before the court under Article III, Section 2 of the U.S. Constitution. Since *Ex Parte Young*, courts have recognized actions seeking injunctive relief for violations of the Constitution, even where there is no express statutory authority for such relief. 209 U.S. 123 (1908). *See also Davis*, 442 U.S. at 242 (recognizing "established practice for this Court to sustain the jurisdiction of federal courts to issue injunctions to protect rights safeguarded by the Constitution . . . ." (quoting *Bell v. Hood*, 327 U.S. 678, 684 (1946)).). The equitable powers of the federal district courts include "a practical flexibility" in shaping remedies. *Brown v. Bd. of Educ.*, 349 U.S. 294, 300 (1955). Equity's flexibility also allows the courts to respond to unforeseen circumstances—that is, new threats like severe climatic changes caused by human activity that were neither contemplated nor predicted by the drafters of the Constitution. *See* Davidson, *supra* at 199-200; WILLIAM BLACKSTONE, 1 COMMENTARIES at 34 (Bernard C. Gavit ed., 1941). The District Court here is properly exercising its jurisdiction to determine whether the as-yet undetermined facts of this case support a finding of violations of constitutional rights, including well-established unenumerated rights and the right to a climate system capable of sustaining human life.

Third, recognizing Plaintiffs' standing in this case supports the separation of powers doctrine. Defendants rely on *Allen v. Wright*, 468 U.S. 737 (1984) in asserting otherwise. Pet. at 12. In *Allen*'s plurality opinion, the Court denied standing to plaintiffs because they failed to allege that their children had been the victims of discriminatory exclusion from the schools whose tax exemptions they challenged as unlawful. *Allen*, 468 U.S. at 746. In determining that the plaintiffs' alleged injury was not "fairly traceable" to the government's actions, the Court framed the law of standing as "built on a single basic idea—the idea of separation of powers." *Id.* at 752.[6] Noting that the standing inquiry requires careful examination of a complaint's allegations, the Court explained:

> These questions and any others relevant to the standing inquiry must be answered by reference to the Art. III notion that federal courts may exercise power only "in the last resort, and as a necessity," *Chicago & Grand Trunk R. Co. v. Wellman*, 143 U.S. 339, 345 (1892), and only when adjudication is "consistent with a system of separated powers and [the dispute is one] traditionally thought to be capable of resolution through the judicial process," *Flast v. Cohen*, 392 U.S. 83, 97 (1968).

Id.

Here, the Plaintiffs have alleged "a specific threat of being subject to the challenged practices" and do not seek to present "general complaints about the way in which government goes about its business." *Id.* at 760. As noted by Magistrate

[6] In their dissenting opinions, Justices Brennan, Stevens, and Blackmun disagreed with the plurality's conclusions regarding standing both as to the injury alleged and the impact of separation of powers on the standing analysis. *See id.* at 766, 783.

Coffin, the separation of powers calls upon the court to decide the merits of this case:

> [T]he intractability of the debates before Congress and state legislatures and the alleged valuing of short term economic interest despite the cost to human life, necessitates a need for the courts to evaluate the constitutional parameters of the action or inaction taken by the government. This is especially true when such harms have an alleged disparate impact on a discrete class of society.

Dkt. 68 at 8. With no relief available to the Plaintiffs through the other branches of government, their case falls squarely within the "necessity" and "last resort" requirements espoused by the Court in *Allen*.

2. The District Court is the Proper Venue to Resolve Discovery Disputes.

Defendants assert, under the second *Bauman* factor, that a later appeal would not provide an effective remedy for the "burden and cost" of complying with discovery requests it deems intrusive and inappropriate. Pet. at 33 (citing *Bauman v. U.S. Dist. Ct.*, 557 F.2d 650 (9th Cir. 1977)). Defendants' petition essentially asks this Court to agree that the discovery Plaintiffs seek is inappropriate. But as Plaintiffs have pointed out, the District Court has not yet had occasion to issue any discovery orders. *See* Doc. 14 at 5-11. Defendants have not challenged any discovery requests; Plaintiffs have not sought to compel any productions.

"It is the function of the District Court rather than the Court of Appeals to determine the facts . . . ." *Murray v. U.S.*, 487 U.S. 533, 543 (1988). This Court has

recognized that courts of appeals "cannot afford to become involved with the daily details of discovery," although they may rely on mandamus to review discovery orders "when particularly important interests are at stake." *Perry v. Schwarzenegger*, 591 F.3d 1147, 1156-57 (9th Cir. 2010). Matters not raised in the district court will not ordinarily be considered on appeal, as the appellate court's role is not inquisitorial. *United States v. Choate*, 576 F.2d 165, 178 (9th Cir. 1978). Here, the District Court has expressed its intent to continue to manage the discovery process, including through limiting the scope of discovery and through bifurcating the trial. Dist. Ct. Ltr. at 2-3 (Aug. 25, 2017) (Doc. 12). Before the District Court has had the opportunity to address the issue, it is premature for Defendants to ask by way of this Petition for this Court to order that discovery be limited or foreclosed.

C. Conclusion

Defendants have failed to demonstrate errors and conditions necessary to invoke "extraordinary" remedy of mandamus. *Perry*, 591 F.3d at 1156. As explained by the District Court, "permitting this case to proceed to trial will produce better results on appeal by distilling the legal and factual questions that can only emerge from a fully developed record." Doc 12 at 2. The courts have a duty to safeguard individuals' rights where the other branches have failed to do so. These Youth Plaintiffs are reliant on the judicial branch to declare their rights, and

the District Court is the proper venue to develop the case record and decide the merits of these "vitally important issues." *Id.* at 3. *Amici Curiae* respectfully request that this Court deny Defendants' Petition.

Dated: September 5th, 2017.

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CERTIFICATE OF BRIEF LENGTH

Pursuant to Ninth Circuit Rule 29-2, I certify that this brief complies with the length limits permitted by Federal Rule of Appellate Procedure 29(a)(5) and contains 3868 words. The brief's type size and typeface comply with Fed. R. App. P. 32(a)(5) and (6).

Dated: September 5, 2017

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I hereby certify that on September 5, 2017, I electronically filed the foregoing ***AMICI CURIAE*** **BRIEF OF LEAGUES OF WOMEN VOTERS IN OPPOSITION TO PETITION FOR WRIT OF MANDAMUS** with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. All participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

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