Scharf-Norton Center for Constitutional Litigation
at the GOLDWATER INSTITUTE
Jonathan Riches (025712)
Timothy Sandefur (033670)
Scott Day Freeman (019784)
Stacy Skankey (035589)
500 E. Coronado Rd.
Phoenix, AZ 85004
(602) 462-5000
litigation@goldwaterinstitute.org

IN THE SUPREME COURT
STATE OF ARIZONA

In the Matter of: PETITION TO AMEND SUPREME COURT RULES 32(b) AND (c)	Supreme Court No. R-24-0030 **REPLY IN SUPPORT OF PETITION TO AMEND RULES 32(b) AND (c), RULES OF THE SUPREME COURT**

Petitioners' Petition R-24-0030, to amend Rules 32(b) and (c) Rules of the Supreme Court ("Rule 32"), received a total of 24 comments, 10 in support and 14 in opposition. The opposing comments largely focused on the Arizona State Bar's mission statement—conferred upon it by the Arizona Supreme Court—that allows the Arizona State Bar ("State Bar") to regulate beyond the practice of law with no limiting principle. The only opposing comment to address the constitutional legal arguments raised in the Petition was the State Bar's own, but the State Bar's argument fails to justify the infringement of free speech rights addressed by the Petition. For the reasons set forth in the Petition and herein, the Petition should be granted.

DISCUSSION

The 10 comments in support came from individual members of the State Bar willing to publicly support the Petition. The 14 comments in opposition came from the State Bar, voluntary bar associations, managing partners of the largest law firms in Phoenix, and one State Bar member in his individual capacity. The State Bar's Comment was, however, the *only* opposing comment that addressed the legal arguments raised by the Petition. As such, this Reply will address the constitutional argument first, then summarize and address the remaining arguments presented.

I. *Keller* protects attorneys' First Amendment[1] rights and does not give expansive powers the State Bar.

The Petition urges the Court to adopt amendments to Rule 32 regarding mandatory membership of the State Bar bringing Rule 32 into compliance with *Keller v. State Bar of Cal.*, 496 U.S. 1 (1990), and related cases. The State Bar opposes the Petition, arguing that it mischaracterizes the current state of the law. Specifically, the State Bar contends that *Keller* has not been overruled, and that it does not mean state bars may only use member fees for lawyer regulation. State Bar Comment ("Bar Cmt.") at 10.

First, the Petition does not allege that *Keller* has been overruled. In fact, the Petition argues for applying *Keller*, to provide minimal safeguards for attorneys' First Amendment and Article II § 6 rights. The proposed amendments would bring the State Bar into *compliance* with *Keller* and the First Amendment and Article II § 6.

Second, contrary to the State Bar's belief, Bar Cmt. at 10, it may not constitutionally fund activities of an ideological nature just because those activities

[1] Because the Arizona Constitution's protections for free speech are broader than the First Amendment's protections, what is said herein applies with even greater force with respect to rights protected by Ariz. Const. art. II § 6.

relate in some way to regulating the legal profession or improving the quality of legal services. Remarkably, the State Bar goes so far as to assert "[e]ven if an activity is controversial or ideological, like a diversity program may be to some, it is germane if the activity is an improvement to the quality of legal services." *Id.* But *Keller* does not warrant the State Bar to do whatever it pleases with mandatory membership funds so long as it can fashion some tangential connection to improving legal services. The State Bar's attenuated interpretation of *Keller* is inconsistent with both that case's reasoning and its actual holding.

Keller made clear that a state bar "may not … fund activities of an ideological nature." 496 U.S. at 14. Rather, it may only fund from mandatory dues those activities "germane" to regulating the legal profession and improving the quality of legal services. *Id*. at 13–14. The language in *Keller* is limiting, and not expansive. The Court said, for example, that "[c]ompulsory dues may not be expended to endorse or advance a gun control or nuclear weapons freeze initiative," although attorneys "have no valid constitutional objection to their compulsory dues being spent for activities connected with disciplining members of the Bar or proposing ethical codes for the profession." *Id.* at 16.

Plainly the Court did not contemplate rationalizing the expenditure of compulsory dues for, in the State Bar's words, "controversial or ideological" undertakings, just because such undertakings might have some attenuated connection to "an improvement to the quality of legal services." Bar Cmt. at 10. Surely any skilled lawyer could fashion some kind of argument that endorsing gun control or a nuclear weapons freeze would somehow bear a connection to improving the quality of legal services. But if that is the test, then the *Keller* rule would be rendered a vain and futile formula. For the State Bar to take such liberties with *Keller* as to mean that if there is some connection—however obscure—to

improving the quality of legal services, even a confessedly controversial or ideological undertaking would be "germane" and therefore permissible, is an abuse of the *Keller* precedent.

To be clear: although *Keller* acknowledged that it would sometimes be difficult to distinguish between the regulatory functions and a state bar's political or ideological activities, the State Bar here is *not* trying to stay to the "extreme ends of the spectrum [that] are clear." 496 U.S. at 15. Rather, it is asserting precisely what *Keller* denies: that there are no effective limits to its capacity to spend compulsory dues on ideological and political activities, because those activities still improve the quality of the profession somehow.

In making that argument, the State Bar makes short shrift of the belief held by many members of the State Bar (and quite a large segment of the lay population) that Diversity, Equity, and Inclusion ("DEI") is a political (and racially discriminatory) ideological enterprise. *See, e.g.*, Matthew W. Finkin, *Diversity! Mandating Adherence to A Secular Creed*, 2 J. Free Speech L. 451, 475 (2023) ("The DEI mandate places research and teaching under the impress of an ideological end."); Graeme Wood, *DEI is an Ideological Test,* The Atlantic (Feb. 10, 2023)[2]; Jeffrey Flier, *Against Diversity Statements*, Chron. Higher Educ. (Jan. 3, 2019) (DEI represents "a particular leftist ideology").[3]

As the Foundation for Individual Rights and Expression observes, "the phrase 'diversity, equity, and inclusion' may sound innocuous or uncontroversial, in practice it is laden with political and ideological connotations that make it a matter of lively debate." *FIRE Statement on the Use of Diversity, Equity, and*

[2] https://www.theatlantic.com/ideas/archive/2023/02/christopher-rufo-manhattan-institute/673008/.
[3] https://www.chronicle.com/article/against-diversity-statements/.

Inclusion Criteria in Faculty Hiring and Evaluation.[4] The State Bar cannot rationalize spending compulsory dues on it, by arguing that "lively debate" improves the legal profession, any more than it could justify spending compulsory dues "to endorse or advance a gun control or nuclear weapons freeze initiative," on the theory that lively debate over these things would also improve the legal profession. *Keller*, 496 U.S. at 16.

Nevertheless, as Mauricio Hernandez notes in his comment in support of the Petition, the State Bar filed a rule change petition in January 2021 to require DEI training as part of the mandatory CLE training hours for attorneys.[5] This example underscores "how expansively [the State Bar] chooses to define its core functions of regulating the legal profession and improving the quality of legal services." *Id.* at 3. In fact, not only does the State Bar view itself as free to spend compulsory dues to fund this ideological enterprise, but of the 54 seminars being offered at the upcoming State Bar convention, 11 focus on DEI.[6]

The germaneness standard is not a license to rationalize spending compulsory dues on ideological and political undertakings by cleverly finding some connection to the improvement of the legal profession. Instead, it is a limiting and guiding principle to protect attorneys' First Amendment (and Article II § 6) rights while permitting the regulation of the profession. The Fifth Circuit said this last year when it rejected Louisiana State Bar Association ("LSBA")'s

---

[4] https://www.thefire.org/research-learn/fire-statement-use-diversity-equity-and-inclusion-criteria-faculty-hiring-and.

[5] Mauricio Hernandez, Comment in Support of the Pending Petition (Apr. 24, 2024) at 2–3.

[6] *2024 Convention*, State Bar of Arizona (June 2024) at 22–59, https://www.azattorneymag-digital.com/azattorneymag/2024conmag/MobilePagedReplica.action?pm=2&folio=58#pg60.

argument that it could fund charity drives and holiday parties with compulsory dues, on the grounds that these promoted "goodwill," and goodwill is germane to improving the profession: "if anything that purportedly promoted 'goodwill' were germane because it, in some attenuated fashion, improved the quality of legal services, there would be almost no limit to what bar associations could do," the Court said, "whether it be taking public stances on controversial issues to curry favor among certain segments of the electorate." *Boudreaux v. La. State Bar Ass'n*, 86 F.4th 620, 634 (5th Cir. 2023). Rather, *Keller*'s germaneness rule requires "some direct relation to legal practice." *Id.*; *see also Schell v. C.J.. & JJ. of Okla. Sup. Ct.*, 11 F.4th 1178, 1193–95 (10th Cir. 2021) (allowing plaintiff to state freedom of association claim against bar that spent dues on non-germane activities); *Crowe v. Oregon State Bar*, 989 F.3d 714, 727–29 (9th Cir. 2021) (same).

Finally, the State Bar argues that the Petition exaggerates its lobbying and the non-regulatory activities. But even if that were true, which it is not, all that matters is whether "*some*" of the State Bar's activities are not germane. *McDonald v. Longley*, 4 F.4th 229, 248 (5th Cir. 2021). If so, then the expenditure of compulsory funds for those activities is unconstitutional.

To emphasize a final point, the Arizona Constitution protects freedom of speech *more* than does the First Amendment. *Brush & Nib Studio, LC v. City of Phoenix*, 247 Ariz. 269, 281–82 ¶ 45–46 (2019). Thus, even if the State Bar's interpretation of "germaneness"—as allowing it to fund political, ideological speech and activities on the theory that controversy in general improves the profession—were appropriate under the First Amendment, it is certainly not appropriate under Article II § 6. That provision is *more* hostile to compelled speech than is the federal Constitution, *see id*. at 308 ¶ 177 (Bolick, J., concurring)

("our state constitution categorically protects an individual's freedom to write free from compulsion."). Notably, Article II § 6 uses more absolute and emphatic terms: "Every person may freely speak, write, and publish on all subjects … ." Forcing a person to fund ideological speech and activities with which he or she disagrees is not being "freely" enabled to speak "on all subjects."

It is a time-honored principle of law that what may not be done directly may not be done indirectly. *Caldwell v. Bd. of Regents of Univ. of Ariz.*, 54 Ariz. 404, 410 (1939); *Turpin v. Locket*, 10 Va. 113, 125 (1804). Yet the State Bar advances an interpretation of *Keller* that would enable it to fund exactly the type of ideological and political activities *Keller* forbids it from funding, by the simple expedient of doing so indirectly: under the excuse that doing so is somehow connected to improving the legal profession. That argument would render *Keller* pointless. The *Keller* germaneness rule requires a "direct relation to legal practice," not a rationalization. *Boudreaux*, 86 F.4th at 634. That rule should be read strictly and not broadly, to protect the rights of Arizona lawyers under the First Amendment and Article II § 6. The Petition amends Rule 32 to bring it into compliance with *Keller* and its progeny.

II. The State Bar construes its mission statement with excessive liberality to supersede freedom of speech.

The State Bar agrees that this Court is the proper forum to decide its structure and mission. Bar Cmt. at 1. And the State Bar's mission statement is given under this Court's direction and control, pursuant to Rule 32(a). *Id.*

But the State Bar liberally construes its mission statement to do *far* more than regulate the practice of law. Indeed, its interpretation has no limiting principle. The opposing comments share the State Bar's view that its mission

statement allows much more than the regulation of lawyers.[7] They discuss and provide examples of how nearly everything can be viewed as falling within the State Bar's mission to "serve and protect the public."

But however broad the State Bar's mission may be, it obviously must be confined within the limits of the federal and state constitutions. Petitioners are not asking this Court (as the State Bar claims) to "reevaluate the mission given to the State Bar." Bar Cmt. at 4. Rather, they ask the Court to amend those portions of Rule 32 inconsistent with the freedoms of speech and association protected by the First Amendment and Article II § 6 and Article XXV of the Arizona Constitution. Nothing prevents the State Bar from operating based on voluntary membership—as indeed, the bars of about half the states already do.[8] Were it to do so, there

---

[7] *See, e.g.,* Bar Cmt. at 2 ("the State Bar carries out programs and activities, including but not limited to lawyer regulation"); *id*. at 4 ("the State Bar's programs and activities in furtherance of public protection go beyond specialty certification, MCLE compliance, and attorney discipline"); Latina Mentoring Project Comment at 1 ("the State Bar of Arizona, beyond its regulatory duties, …"); Community Legal Services, *et al.* Comment at 3 ("The State Bar's mission is more than Arizona lawyer regulation"); 31 Past Presidents of the State Bar of Arizona Comment at 1 ("Beyond its regulatory duties, …"); Council on Minorities and Women in the Law Comment at 1 ("The State Bar is more than a regulatory institution"); Council on Persons with Disabilities in the Legal Profession Comment at 1 ("the Bar's mission goes far beyond mere regulation. It performs a multitude of nonregulatory activities …"); Arizona Asian American Bar Association, *et al.* Comment at 1 ("Regulating the practice of law is about more than lawyer discipline."); Los Abogados Hispanic Bar Association Comment at 1 ("the State Bar does so much more, and should endeavor to keep doing so."); James P. O'Sullivan Comment at 1 ("the Bar is at its best when serving as more than 'The Principal's Office.'"); Arizona Black Bar Comment at 1 ("the State Bar has a responsibility that goes beyond the regulation of Arizona lawyers …").

[8] *See* Rebecca Rusiecki, *Something to Crow About: Crowe v. Oregon State Bar and the Constitutionality of Integrated Bar Associations,* 56 UIC L. Rev. 381, 390 (2023).

would be no constitutional objection to its engaging in ideological undertakings. Like those states, the State Bar can simply separate its regulatory functions—funded by mandatory annual payments from attorneys—from other activities supported by voluntary payments.

The State Bar also argues that it has proven its "fiscal responsibility and stewardship," Bar Cmt. at 3, and proposes, because there have been no fee increases since 2017, that it should be able to continue its expansive understanding of its mission supported by mandatory fees. This is illogical. *First*, a lack of increase in membership fees does not mean the State Bar can continue to force mandatory membership fees merely because they *could* charge more but have not done so. *Second*, the State Bar conducted a membership survey in March 2024 which revealed that one out of every three attorneys—nearly an entire third of its membership—were not satisfied with the State Bar.[9] A main reason for discontent was the high cost of the State Bar's mandatory dues.[10] A 2021 membership survey revealed the same trend, with 23% of members—almost a quarter—dissatisfied or discontent with the State Bar because, among other things, the dues were too high.[11] *Finally*, if the State Bar does have a proven track record of fiscal responsibility and stewardship, it should have no difficulty continuing its mission and fund non-regulatory activities with voluntary membership dues.

---

[9] Taylor Tasler, *Survey Results Show Desire for More Services*, Ariz. Atty (March 2024). The survey stated that 24.1% were not satisfied of the 11% of bar members that responded. *Id.* The other top reasons for being discontent included lack of value of member benefits for the price, costs of CLEs, and lack of support for small firms.

[10] *Id.* Of course, because membership is compulsory, dissatisfied members' only options are to move to a state that offers a voluntary bar or stop practicing law altogether. *See* Rusiecki, *supra* 8, at 408.

[11] Carol Rose, *General Satisfaction, Room for Growth,* Ariz. Atty (April 2021).

III. Determining regulatory and non-regulatory functions is left for the Study Committee.

The Petition asks for the State Bar to separate its regulatory functions, to be supported by mandatory fees, from its non-regulatory activities supported by voluntary fees. The proposed order asks the Court to appoint a Study Committee to assist the State Bar to separate the regulatory and non-regulatory activities. The study committee may also propose additional changes to the rules consistent with the amendments approved. Therefore, the Petition need not give exhaustive examples of what is a regulatory function of the State Bar.

Nevertheless, the Petition referenced obvious examples of non-regulatory activities currently supported by mandatory membership fees. Additional examples include organizing a poetry competition, advertising 7-11 Slurpee's, and promoting "fashion week."[12]

The opposing comments take issue with the Petition's assessment and examples of non-regulatory activity. However, the Petition's assessment was guided by the State Bar's financial statements—which already make a conclusion on whether an activity is regulatory or non-regulatory. *See* Financial Statements, State Bar of Arizona.[13] In addition to *Keller* and this Court, a study committee could use the State Bar's own designations to guide its own conclusions of regulatory activities.[14]

---

[12] *Artistic Port in a Storm*, Ariz. Atty (May 2024); #FashionWeekWisdom, Twitter, Sept. 27, 2023, https://x.com//AZSTateBar/status/1707168364685070533; #FreeSlurpee, Twitter, July 11, 2023, https://x.com/AZStateBar/status/1678871956601405442. *See also* Tasler, *supra* note 9 (discussing valuable programs and areas the State Bar should improve).

[13] https://www.azbar.org/about-us/financial-statements/

[14] In fact the Court already established a Task Force to review the State Bar's Role and Governance determining the State Bar's mandatory and discretionary activities, and the financial implications. See Administrative Order No. 2014-79, https://www.azcourts.gov/Portals/22/admorder/Orders14/2014-79.pdf.

The comments in opposition raised specific examples of State Bar programs that commenters feel are important and worry would be harmed if the State Bar funded these programs with voluntary funds. These examples include: Fee Arbitration Program, Ethics Hotline, Member Assistance, Law Office Management Programs, Bar Leadership Institute, State Bar Convention, CLE Programs and attorney wellness. But many of these programs are already offered by voluntary bar associations and other resources. No evidence has been provided here to even suggest that states that provide these programs with voluntary funds—or organizations that offer such programs to consumers who are free to decide whether to pay for them or not—are somehow inadequate.

In fact, no opposition comment has offered any reason to believe that these programs benefit or assist lawyers—no reason, that is, except the commenters' subjective opinions. Perhaps the most egregious example of this is the State Bar's assertion—in reference to its having spent compulsory dues to post a tweet saying "REMINDER: Your worth is not measured by your productivity"[15]—that "[a] healthy, well-adjusted lawyer is less likely to miss important deadlines, fall ill unexpectedly, and misappropriate client funds." Bar Cmt. 6–7. There was no citation or support for this assertion—and, it is equally plausible that to *discourage productivity among lawyers* is likely to encourage attorneys to be less productive, which is inimical to the profession.

In any event, the *Boudreaux* court made clear why the State Bar's defense of this tweet is unpersuasive. There, the LSBA argued that its "wellness" tweets were germane because they helped lawyers be more productive. "Those statements fail the germaneness test," said the court,

[15]*See* State Bar of Arizona, Twitter, May 17, 2023, https://x.com/AZBar/status/1658895638531014657.

> because they do not sufficiently relate to legal practice or the legal profession. Even assuming healthier lawyers are generally more effective lawyers, the LSBA is not an all-encompassing wellness service that may comment on every facet of lawyers' health and fitness. … [I]f bar associations may opine, advise, and inform on anything that they deem is generally conducive to attorney health and wellness, there is no limiting principle. If a bar association may tout the health benefits of broccoli, may it also advise attorneys to practice Vinyasa yoga, adhere to a particular workout regimen, or get married and have children, if it believes that those activities improved attorney wellness and therefore the quality of legal services in the state? How remote or indirect can the purported benefit to legal services be? The LSBA offers no clear answer, nor can we discern any principled line once we allow advice that is not inherently tied to the practice of law or the legal profession.

86 F.4th at 632–33.

The point of criticizing all of the #selfcaresunday and #wellnesswednedsay social media posts is not to criticize general wellness, but to show it is not germane to the regulation of lawyers and, therefore, should not be mandated with membership dues. The State Bar's unsupported contentions on wellness only prove the need to have the State Bar comply with *Keller* when determining what is germane to the practice of law—not just whatever it thinks has remote or indirect correlation.

IV. Voluntary bar associations provide the same benefits.

Many opposing comments were submitted by voluntary bar associations, which argue that mandatory bar association is necessary for *their* organizations. The commenters do not explain why the proposed amendments would affect them or their members.[16] But, the Petition does not prohibit the State Bar from

[16] The comments are unclear as to the relationship between these voluntary organizations and the State Bar. *See, e.g.*, Council on Persons with Disabilities in the Legal Profession Comment at 1 ("Continuing that partnership [with the State Bar] is vital to our mission."); Latina Mentoring Project Comment at 1 ("The Bar

continuing its same services—they just can't force their members to fund anything non-germane. The State Bar may continue in its mission without compelled speech and association. In fact, the voluntary bars can also continue their relationship with the State Bar even if the State Bar adopts membership consistent with the First Amendment and Article II § 6 of the Arizona Constitution.

The mere existence of voluntary bars proves compulsory membership is not necessary. These voluntary bar organizations can do a myriad of activities under their missions and goals including access to justice, pro bono legal work, other charitable work, and diversity programs. They may even provide lobbying, education, networking, continuing education, and wellness tips. These voluntary bar organizations can offer these services and can do so without mandating membership.

Voluntary bars are more responsive and better equipped to take on challenges that their specific communities face.[17] In contrast, the State Bar has no incentive to listen to its dissatisfied members—a third of its membership.[18] If the State Bar were to be a voluntary association, it would better serve the needs of its members, inspire innovation, and provide more comprehensive programs catered to its lawyer members.[19] Without a mandatory bar, you are likely to see stronger voluntary bars, with better access to justice and happier lawyers.

V. The sky will not fall.

The comments in opposition offer "sky will fall" arguments with regard to access to justice but provide no explanation as to how or why that would happen if

---

has been an invaluable partner in our efforts to promote diversity within the profession.").

[17] *See* Rusiecki, *supra* 8 at 407–08.

[18] *See* Tasler, *supra* 9.

[19] *See* Rusiecki, *supra* 8 at 407–08.

the State Bar were to comply with the First Amendment and Article II § 6. As discussed above, the voluntary bar organizations already promote access to justice and would not be hindered in doing so by granting the Petition. Nor would there be any reason for the State Bar to abandon its mission to promote access to justice if the Petition were granted.

Commenter in support Carrie Donnell points out "[i]t is critical that attorney bar dues are minimal in order to maximize access to justice." Carrie Ann Donnell Comment at 1. Ms. Donnell points out that even a few hundred dollars a year increases client costs. *Id.* She also states it harms the lawyer's ability to adjust and lower rates for those who cannot afford their fees. *Id.* Consider Steven Simon's comment that he only pays $265 for Florida Bar dues, while Arizona charges $500. Steven Simon Comment at 1. That additional $200+ might have been directed to voluntary organizations that promote access to justice, or simply reduce his firm's overhead and thus lower costs to clients. Reduced costs for legal services *inherently* promote access to justice.[20]

The comments in opposition offer fear instead of argument—fear that attorneys will cease to offer pro bono work if not forced to pay dues to the State Bar, which the State Bar spends on wellness tweets and DEI programs. But no such emotional appeal is appropriate, and there is no basis for believing that the profession will cease to concern itself with access to justice if the freedoms of speech and association are respected. There are multiple ways and opportunities for the State Bar, the State, or private organizations to promote access to justice—

[20] *See also*, Rusiecki, *supra* 8. "In fact, some scholars suggest that lawyers may view the dues they pay to integrated bars as a tax relieving them of pro bono responsibilities, which could result in fewer services being available for indigent clients." *Id.* at 406.

and more so if attorneys are permitted to decide for themselves what organizations to join, what messages to articulate, and how to allocate their resources.

VI. The State Bar does act as a trade organization.

The State Bar argues that its lobbying and non-regulatory activities are for the benefit of the State Bar membership—and then simultaneously argues that it does not operate like a labor union. It says that "[l]abor organizations exist primarily to bargain with employers for the benefit of the organization's members on things such as working conditions, benefits, and compensation," Bar Cmt. at 12, and then denies that it does these things. But, in fact, it does.

For example, it works to obtain deals with "approved partners" to establish benefits and discounts on business and lifestyle services, health insurance, and practice management.[21] And of course, the State Bar does this while lobbying and engaging in other activities that it claims improve the quality of legal services. The State Bar does act as a trade organization—and consequently must respect the limits established by Article XXV of the Arizona Constitution and the First Amendment to the Federal Constitution.

The Petition, if granted, will allow for voluntary membership to continue to receive many of the non-regulatory benefits the State Bar offers. But just as "[c]ompelling a person to *subsidize* the speech of other private speakers" is unconstitutional because "'to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhor[s] is sinful and tyrannical,'" *Janus v. AFSCME*, 585 U.S. 878, 893 (2018) (quoting Thomas Jefferson), so forcing a person to join a trade association as a condition of

[21] *See* Benefits & Services, State Bar of Arizona, https://www.azbar.org/for-legal-professionals/benefits-services/.

practicing law is unconstitutional. *Baldwin v. Arizona Flame Rest., Inc.*, 82 Ariz. 385, 393 (1957).

CONCLUSION

Petitioners request the Court adopt amendments to Rules 32(b) and (c) as proposed in the Petition.

Respectfully submitted June 3, 2024 by:

/s/ Stacy Skankey
Jonathan Riches (025712)
Timothy Sandefur (033670)
Scott Day Freeman (019784)
Stacy Skankey (035589)
Scharf-Norton Center for Constitutional Litigation at the GOLDWATER INSTITUTE