No. 09-559

In the
# Supreme Court of the United States

JOHN DOE #1, et al.,

*Petitioners*,

v.

SAM REED,
Washington Secretary of State, et al.,

*Respondents.*

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

## Motion for Leave to File Brief Amicus Curiae and Brief of *Amicus Curiae* Center for Constitutional Jurisprudence in Support of Petitioners

EDWIN MEESE III
214 Massachusetts Ave. N.E.
Washington D.C. 20002

KAREN J. LUGO
Center for Const'l Jurisprudence
c/o Chapman Univ. School of Law
One University Drive
Orange, California 92886

ANTHONY T. CASO
*Counsel of Record*
Law Office of
Anthony T. Caso
8001 Folsom Blvd., Ste. 100
Sacramento, CA 95826
Telephone: (916) 386-4432
Facsimile: (916) 307-5164
tom@caso-law.com

*Counsel for Amicus Curiae*
*Center for Constitutional Jurisprudence*

## MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE IN SUPPORT OF PETITIONERS

Amicus Center for Constitutional Jurisprudence has received consents to file this amicus brief from Petitioners, Respondent State of Washington, and Respondent Washington Families Standing Together. Amicus has yet to receive a response to its request for consent from Respondent Washington Coalition for Open Government, thus necessitating this motion.

The Center believes the issue before this court is one of special importance to the individual rights protected by the Constitution. If permitted, amicus will argue that the First Amendment was meant to protect political expression from threats of retribution and coercion. The freedom to speak out on controversial political issues and petition state government will be lost if the identity of petition-signers is made public. Any such publication merely invites private individuals and organizations to threaten and ultimately silence political opponents. From the secret ballot to the anonymous political pamphlet, however, the nation has sought to protect and encourage participation in the political process.

WHEREFORE, the Center for Constitutional Jurisprudence seeks leave to file the accompanying brief amicus curiae.

DATED: March, 2010.

Respectfully submitted,

EDWIN MEESE III
214 Mass. Ave. NE
Washington, DC 20002

KAREN J. LUGO
Center for Constitutional Jurisprudence
c/o Chapman University School of Law
One University Drive
Orange, CA 92886

ANTHONY T. CASO
*Counsel of Record*
Law Office of
Anthony T. Caso
8001 Folsom Blvd., # 100
Sacramento, CA 95826
Telephone: (916) 386-4432
Facsimile: (916) 307-5164

*Counsel for Amicus Curiae*
*Center for Constitutional Jurisprudence*

## QUESTION PRESENTED

Whether state public disclosure of identifying information about petition signers violates the First Amendment right to free expression by allowing private harassment and threats of reprisal.

**TABLE OF CONTENTS**

## TABLE OF AUTHORITIES

### Cases

**United States Constitution**



**State Statute**



**Rule of Court**

**Other Authorities**

## IDENTITY AND INTEREST OF AMICUS CURIAE[1]

The Center for Constitutional Jurisprudence is dedicated to upholding the principles of the American Founding, including the proposition that the Founders intended to encourage public expressions of politics without fear of private reprisal or harassment. In addition to providing counsel for parties at all levels of state and federal courts, the Center has participated as amicus curiae before this Court in several cases of constitutional significance, including *Citizens United v. Fed. Election Comm'n*, 130 S. Ct. 876 (2010); *Van Orden v. Perry*, 545 U.S. 677 (2005); *Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1 (2004); *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002); and *Boy Scouts of America v. Dale*, 530 U.S. 640 (2000).

## SUMMARY OF ARGUMENT

Throughout this Nation's history, the right to remain anonymous while engaging in political speech has been upheld to ensure that private threats of intimidation or retribution would not chill perfectly peaceful discussions of public importance. In fact, this practice of anonymous speech played a vital role in the involvement of our Founders, who published both the Federalist and Anti-Federalist papers under the protective veil of anonymity, when debating the merits of the proposed federal Consti-

---

[1] Pursuant to Rule 37.6, Amicus Curiae affirms that no counsel for any party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than Amicus Curiae, its members, or its counsel made a monetary contribution to its preparation or submission.

tution. Without such protections, the Founders' writings may have been quelled by fears of private harassment and economic reprisal. Such stories of political participation represent but one example of the importance of anonymity to the free exchange of ideas.

To protect a robust freedom of speech on matters of governance, anonymity has been extended to speakers in a variety of contexts. The examples begin with the introduction of the secret ballot in the United States. Though not adopted nationwide until the presidential election of 1884, the secret ballot's safeguard against coercion and intimidation has been in use since the American Revolution.

Similarly, anonymous pamphleteering and anonymity in membership have been protected as fundamental to free political expression. From the earliest days of our nation, there has been recognition that political speech and participation must occasionally be protected by anonymity in order to avoid personal or economic reprisals.

In this case, the State of Washington has no legitimate interest of sufficient magnitude to justify the publication of the names of petition signers. In the absence of such a compelling state interest, the Washington Public Records Act must give way to the First Amendment.

## I

## ANONYMITY HAS LONG BEEN RECOGNIZED AS NECESSARY IN PROTECTING POLITICAL EXPRESSION AGAINST PRIVATE INTIMIDATION AND THREATS OF REPRISAL

Anonymity—the ability to conceal one's identity while communicating—enables the expression of political ideas, participation in the government process, membership in political associations, and the practice of religious belief without fear of private intimidation or public reprisal. The importance of protecting such speech is rooted in the recognition that anonymity shelters constitutionally-protected expressions and political associations from threats of intimidation or reprisal that might otherwise chill the protected speech. Julie E. Cohen, *Examined Lives: Informational Privacy and the Subject as Object*, 52 Stan. L. Rev. 1373, 1425 (2000); *United States v. United States Dist. Ct. for the E. Dist. of Mich.*, 407 U.S. 297, 314 (1972).

From secret balloting to anonymous pamphleteering, the shield of anonymity has protected political speech and participation in the democratic processes of the country. This Court has reaffirmed the principle that sacrificing anonymity "might deter perfectly peaceful discussions of public matters of importance." *Talley v. California*, 362 U.S. 60, 65 (1960). *See Watchtower Bible & Tract Soc'y of N.Y., Inc. v. Vill. of Stratton*, 536 U.S. 150, 159 (2002); *McIntyre v. Ohio Elections Comm'n*, 514 U.S. 334, 341-42 (1995); *Bates v. City of Little Rock*, 361 U.S. 516, 523-24 (1960). The reason for this Court's continued protection of anonymous political speech is

the fear that without such protection, threats of private intimidation and harassment will chill individuals' constitutionally protected right of free expression. *McIntyre*, 514 U.S. at 341-42.

### A. The Practice of Secret Balloting Demonstrates the Importance of Anonymity

This Court has noted that the tradition of anonymous political speech "is perhaps best exemplified by the secret ballot, the hard-won right to vote one's conscience without fear of retaliation." *McIntyre*, 514 U.S. at 343. Since its universal adoption in 1884, secret balloting has long been considered as fundamental a right as any included in the Bill of Rights. However, the importance of secret balloting extends beyond the interest of the individual voter. Ballot secrecy also serves the important societal interests of a thriving democracy in obtaining the free exercise of the franchise and accurate voter opinion. *D'Aurizio v. Borough of Palisades Park*, 899 F. Supp. 1352 (D.N.J. 1995). With concerns over bullying tactics delegitimizing election results the secret ballot became the ideal answer to quelling such actions by immunizing voters from private retribution through a veil of secrecy. "Indeed, the central thrust of the [secret] ballot is to allow a voter to express his or her preferences in private without fear of coercion from others." John C. Fortier & Norman J. Ornstein, *The Absentee Ballot and the Secret Ballot: Challenges for Election Reform*, 36 U. Mich. J.L. Reform 483, 488 (2003).

The secret ballot has assumed a central role in our concepts of democracy and ordered liberty. The

tradition of secrecy through the use of the secret ballot has the sanction of antiquity in this country coming by way of Europe. Charles B. Nutting, *Freedom of Silence: Constitutional Protection Against Governmental Intrusions in Political Affairs*, 47 Mich. L. Rev. 181, 182 (1948). Early use of secret ballots in the United States was necessitated by the threat of the English government, prior to the American Revolution, to disclose the choice of each individual voter. *Id.* at 181-86.

The fear of government retribution was not the lone driving force behind the adoption of secret balloting. Rather, private intimidation and harassment targeted at participating voters was just as disconcerting. Some of the first examples of targeted viewpoint discrimination occurred in this country during the American Revolution. Peter Margulies, *Laws of Unintended Consequences: Terrorist Financing Restrictions and Transitions to Democracy*, 20 N.Y. Int'l L. Rev. 65, 93 (2007). Partisans supporting the revolution used violence, intimidation, confiscation of property, banishment, and political, economic, and social ostracism to persecute Loyalists for their political expression. *History in Dispute - American Revolution* 189 (Keith Krawczynksi et al. eds., 2003). *See also* Cynthia Crossen, *Colonists Who Opposed American Revolution All But Forgotten*, Wall St. J., July 4, 2006 (stating that during the American Revolution, "[v]iolence against loyalists wasn't uncommon").

In his speech of 1842, Lord Macaulay made note of private intimidation as a barrier to achieving legitimate election results when referring to election practices in the United States, claiming: "The

suffrage, to be exempt from the corruption of the wealthy and the violence of the powerful, must be secret." Lord Thomas Babington Macaulay, *The People's Charter: A Speech Delivered in the House of Commons* (May 3, 1842). Likewise, Rep. Mark B. Cohen, a Pennsylvania state legislator long active in election reform, highlighted the importance of secret ballots to combat such evils, stating, "The secret ballot guarantees that it is one's private opinion that counts. Open ballots are not truly free for those whose preferences defy the structures of power or friendship." Roxanne Jekot, CountTheVote.org, *Secret Ballot Compromised in Georgia!* (Dec. 6, 2005), *available at* http://votetrustusa.org./index.php ?option=com_content&task=view&id=441&Itemid=1 13 (last visited Mar. 1, 2010) (quoting Rep. Mark B. Cohen, D-PA).

Without the protection of a secret ballot, citizens would be faced with the same evils and abuses that this Court has outlined when discussing the importance of anonymous political speech. Underlying those opinions is the Court's fear that without anonymity, citizens will be faced with harassment and intimidation at the hands of their neighbors. As this Court has observed, "an examination of the history of election regulation in this country reveals a persistent battle against two evils: voter intimidation and election fraud." *Burson v. Freeman*, 504 U.S. 191, 206 (1992). Without the secret ballot, voter's voices would be chilled by the possibility of targeted intimidation tactics and harassment at the hands of their neighbors. Edward B. Moreton, Jr., *Voting By Mail*, 58 S. Cal. L. Rev. 1261, 1274 (1985).

Today, the custom of secret balloting is unquestioned and observed uniformly throughout the country. As the D.C. Circuit has observed, "In this country a person's right to vote secretly is inviolate." *Buckley v. Valeo*, 519 F.2d 821, 867 n.117 (D.C. Cir.), *aff'd in part & rev'd in part on other grounds*, 424 U.S. 1 (1975). As such, the secret ballot "'has been recognized as a fundamental right of constitutional undertones.'" *D'Aurizio*, 899 F. Supp. at 1359 (citation omitted). With the threat of foreign rule long behind, the focus of the secret ballot has shifted from fear of government reprisal to the protection of the voting citizenry vulnerable to harassment and reprisal from private individuals. By preventing attempts of private citizens to influence the voter by intimidation or bribery, a key aim of secret balloting has been to ensure that the voter can record a sincere choice. Nutting, *supra*, at 185.

Additionally, secret ballots have served similar roles in the workforce in determining union representation. In this context, the role of secret ballots has been to ensure the legitimacy of voting outcomes. Eve I. Klein et al., *The Employee Free Choice Act—What's an Employer to Do?*, 81 N.Y. St. B.J. 38, 39 (2009). The reason for such practices is identical to those espoused in support of secret balloting in general elections. There has been a documented history of intimidation tactics and harassment meant to coerce employees into either accepting or denying union representation. *Id.*

In order to avoid the chilling of employee expression, union voting has followed the lead of state and federal elections and relied upon the

protection of anonymity that secret ballots provide. *Id.* The secret ballot election affords unions an opportunity for informed voters to cast their ballot and voice their decision in a neutral and anonymous setting, free from judgment, intimidation, or fear of reprisal. *Id.* Without the protection of anonymity, union voting would slip into the fraudulent and coercive practices guaranteed by forced disclosure. *Id.*

Similar to secret ballot elections, the exercise of one's right of expression through the signing of petitions should be granted the same protection of anonymity. The same principles apply—there is a danger that private harassment will chill protected expression. In fact, in this case the right to vote is inextricably tied to petitioning to put the matter to a vote. Each act is dependent upon the other. Indeed, by signing the petition an individual has in many cases declared his position on the ultimate issue. *Campaign for Family Farms v. Glickman*, 200 F.3d 1180, 1188 (8th Cir. 2000). In this case there is also an express communicative element to the act of signing the petition. The petitions circulated stated that "by signing R-71 we can reverse that decision and protect marriage as between one man and one woman" and that one should "[s]ign R-71 to protect children." Petitioner's Brief at 21, *Reed v. Doe*, No. 09-559 (U.S. Feb. 25, 2010). There is no question that petition signers in this case were taking a position on a matter of political controversy.

Publication of the identities of the petition signers can lead to the type of private harassment and intimidation that would chill free speech. *See* John R. Lott Jr. & Bradley Smith, *Donor Disclosure*

*Has Its Downsides*, Wall St. J., Dec. 26, 2008, at A13 (describing how the director of the Los Angeles Film Festival was forced to resign after disclosure of political support led to opponents threatening to boycott and picket the next festival). *See also* Steve Lopez, *Prop. 8 Stance Upends Her Life*, L.A. Times, Dec. 14, 2008, at B1 (describing a manager of a family-owned business who had to resign after disclosure of political support because "throngs of [angry] protestors" repeatedly stood outside the restaurant and "shout[ed] 'shame on you' at customers").

If petition signatures are publicly disclosed, there is a substantial risk that "unpopular" decisions and stances will be driven suppressed by threats of disclosure. Without the protection of anonymous political speech applied to petition signatures, political participation and expression will cease to include and invite those fearful of private reprisals. Such principles are not just applicable to secret balloting, but have long been applied to cases of anonymous pamphleteering and membership.

### B. Principles of Anonymous Political Speech Have Long Been Applied to Anonymous Pamphleteering, Which Played a Role in This Nation's Founding

One of the more storied traditions within the realm of public political discourse in the United States is the practice of anonymous pamphleteering. In the face of concerns for transparency, anonymous pamphleteering has been seen, not as a hindrance to the continued development of society and the United States as a republic, but as a helpful tool in that effort. This Court has recognized that "anonymous

pamphlets, leaflets, brochures and even books have played an important role in the progress of mankind." Talley, 362 U.S. at 64.

These tools of free speech "indeed have been historic weapons in the defense of liberty, as the pamphlets of Thomas Paine and others in our own history abundantly attest." *Lovell v. City of Griffin*, 303 U.S. 444, 452 (1938); *see* Willard Grosvenor Bleyer, *Main Currents in the History of American Journalism* 90-93 (1927). However, the tradition of anonymous political speech is most famously embodied in *The Federalist Papers*, authored by James Madison, Alexander Hamilton, and John Jay, but signed "Publius." Publius' opponents, the Anti-Federalists, also published under pseudonyms: prominent among them were "Cato," believed to be New York Governor George Clinton; "Centinel," probably Samuel Bryan or his father, Pennsylvania judge and legislator George Bryan; "The Federal Farmer," who may have been Richard Henry Lee, a Virginia member of the Continental Congress and a signer of the Declaration of Independence; and "Brutus," who may have been Robert Yates, a New York Supreme Court justice who walked out on the Constitutional Convention. 2 The *Complete Anti-Federalist* (Herbert J. Storing ed., 1981). The fact that the authors of the Anti-Federalists remain unknown today demonstrates the fear that accompanies taking a position on controversial subjects. Had these authors not been able to publish anonymously, we may never have had the benefit of their participation in the great debate about our federal Constitution.

A forerunner of all of these writers was the pre-Revolutionary War English pamphleteer "Junius," whose true identity remains a mystery. *See Encyclopedia of Colonial and Revolutionary America* 220 (John Mack Faragher ed., 1990) (positing that "Junius" may have been Sir Phillip Francis). The "Letters of Junius" were "widely reprinted in colonial newspapers and lent considerable support to the revolutionary cause." *Powell v. McCormack*, 395 U.S. 486, 531 n.60 (1969).

Although those who practiced anonymous political speech were silent as to their true motivations, it has been inferred that the decision in favor of anonymity was motivated by fear of economic or official retaliation, concern about social ostracism, or merely a desire to preserve as much of one's privacy as possible. *McIntyre*, 514 U.S. at 341-42. Since many of these Founding authors continued to hide behind the veil of their pseudonyms long after the American Revolution, it seems that for them fear of private reprisal and social ostracism continued to motivate their wish for anonymity. "Whatever the motivation may be," the interest in continued unfettered political discourse "unquestionably outweighs any public interest in requiring disclosure as a condition of entry." *Id.* at 342. Indeed, anonymous publication permits the ideas expressed to stand on their own merit, apart from any prejudice against the author. *Id.*

These principles are evidenced upon a review of this nation's history where persecuted groups and minority sects have been able to choose how to criticize oppressive practices. *Talley*, 362 U.S. at 64. This Court has recognized that, without anonymity,

the fear of retribution would chill important speech and political participation. *Id.* at 65.

This historical evidence clearly reveals a "respected tradition of anonymity in the advocacy of political causes." *McIntyre*, 514 U.S. at 343. For, under our Constitution, "anonymous pamphleteering is not a pernicious, fraudulent practice, but an honorable tradition of advocacy and of dissent. Anonymity is a shield from the tyranny of the majority." *Id.* at 357. The right to anonymous political speech represents the choice made in the First Amendment to protect a robust political participation, without fear of reprisal. As Justice Stevens noted:

> It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand of an intolerant society. The right to remain anonymous may be abused when it shields fraudulent conduct. But political speech by its nature will sometimes have unpalatable consequences, and, in general, our society accords greater weight to the value of free speech than to the dangers of its misuse.

*McIntyre*, 514 U.S. at 357. It is in balancing the right of anonymous political speech against public concerns for transparency that society's weight in the value of free speech without fear of reprisal prevails. Those principles are especially important in this case. There is no significant interest in publication of the names of those that sign a petition to place a measure on the ballot any more than the publication

of individual ballot choices. The disclosure can only serve to deter participation in the political process—much the same as compelled disclosure of membership in a political association.

### C. The Principles Behind the Protection of Political Association Membership Privacy Also Apply Here

This Court has held that there are times when States may not compel political associations to disclose the identities of their members. *Bates v. City of Little Rock*, 361 U.S. 516 (1960); *NAACP v. State of Alabama*, 357 U.S. 449 (1958). In *Bates* and *NAACP*, this Court ruled that forced public disclosure of membership could chill political participation out of fear of reprisal. *Bates*, 361 U.S. at 524. This Court found that disclosure of names would lead to fear of community hostility and economic reprisals. *Id.* This Court also found that public disclosure would discourage new members from joining the organizations and induce former members to withdraw. *Id.* "This repressive effect, while in part the result of private attitudes and pressures, was brought to bear only after the exercise of governmental power had threatened to force disclosure of the members' names." *Bates*, 361 U.S. at 524 (citing *NAACP*, 357 U.S. at 463).

In this case, the act of signing petitions represents an individual's choice to participate in the political process. Just as the political association served as the mode of expression in *Bates*, the signing of the petition in this case serves a similar if not identical purpose. Through their signatures individuals are able to express their political preference for changes in the laws. Washington's

public records act policies must be balanced against these weighty constitutional principles.

## II

## CONSTITUTIONAL PRINCIPLES BEHIND THE SECRET BALLOT AND THE RIGHT TO ANONYMOUS POLITICAL SPEECH ALSO FORBID GOVERNMENT DISCLOSURE OF PETITION SIGNATURES

This Court has long recognized that anonymity is essential to the freedom to participate in dissident groups and to express unpopular views. *Brown v. Socialist Workers '74 Campaign Comm.*, 459 U.S. 87, 91 (1982); *Gilmore v. City of Montgomery*, 417 U.S. 556, 575 (1974); *NAACP v. Button*, 371 U.S. 415, 431 (1963); *Talley*, 362 U.S. at 65; *NAACP*, 357 U.S. at 462. When identification requirements "extend beyond restrictions on time and place they chill discussion itself." *Hynes v. Mayor & Council of Oradell*, 425 U.S. 610, 628 (1976) (Brennan, J., concurring in part). The importance in anonymity lies in the speakers' ability to speak his message without fear of retaliation for voicing an unpopular viewpoint. The fear of reprisal that an identification requirement would engender "might deter perfectly peaceful discussions of public matters of importance." *Talley*, 362 U.S. at 65.

In this case the State of Washington contends that disclosure of the petition signatures is compelled by the Washington Public Records Act, Wash. Rev. Code § 42.56.001, *et seq*. Posting of David Ammons to *From Our Corner*, Wash. Sec'y of State Blogs, http://blogs.sos.wa.gov/FromOurCorner/index.php/2009/07/r-71-update-signature-requests-pe

nding/ (July 28, 2009). However, such a disclosure by the government runs directly contrary to this Court's precedent in protecting political speech from threats of reprisal. To permit the state to disclose the identities of those who have petitioned their government will force those petitioners to face the same dangerous side effects facing pamphleteers, voters, and membership bodies.

This Court has already held that circulating petitions is political speech. *Buckley v. Am. Constitutional Law Found., Inc.*, 525 U.S. 182, 197 (1999) (*Buckley II*); *Meyer v. Grant*, 486 U.S. 414, 421-22 (1988). *Buckley II* decided that the First Amendment protects circulation of an initiative petition because collecting signatures is "core political speech." *Buckley II*, 525 U.S. at 186. In *Meyer*, this Court declared that "The First Amendment 'was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people.'" *Meyer*, 486 U.S. 421 (citing *Roth v. United States*, 354 U.S. 476, 484 (1957)). The signing of an initiative petition as Petitioners have done in this case, "involves both the expression of a desire for political change and a discussion of the merits of the proposed change." *Id.* Such expression for change places petition signatures directly on par with other forms of anonymous political speech.

All include a conscientious decision to speak and thus act on an issue of personal importance. In voting, it is the decision of a citizen to take control through his guaranteed right of deciding his future by choosing to either affirm or disaffirm a particular issue. *Palmer v. Thompson*, 403 U.S. 217, 234 (1971). In pamphleteering, it is the decision to

express political viewpoints through written word. *See Talley*, 362 U.S. at 64. In membership, it is choosing to speak and act by joining others united by similar concerns. *See Bates*, 361 U.S. at 520. The act of petitioning the state for placement of a proposed law on the ballot is no different. In this sense, anonymity is central to the flourishing of a successful republic, because it permits engagement in ideas and beliefs without fear of retribution.

Anonymity is a necessary component in the people's ability to participate in the political process outside the watchful eye of their neighbors. Without the protection of anonymity, citizens' will be kept from freely participating in political expression. Without the protection of anonymity the threats of harassment and retaliation will chill political participation. As Justice Stevens wrote in discussing the balance of interests in anonymous speech, it is the interest of protecting the Bill of Rights and the First Amendment in particular, that "our society accords greater weight to the value of free speech than to the dangers of its misuse." *McIntyre*, 514 U.S. at 357.

## CONCLUSION

Respondents ask this Court to "endorse a view of the First Amendment that subject citizens of this Nation to death threats, ruined careers, damaged or defaced property, or pre-emptive threatening warning letters as the price for engaging in "core political speech, the 'primary object of First Amendment protection.'" *McConnell v. Fed. Election Comm'n*, 540 U.S. 93, 264 (2003) (Thomas, J., concurring in part, concurring in judgment in part, & dissenting in part) (quoting *Nixon v. Shrink Missouri*

*Gov't PAC*, 528 U.S. 377, 410-11 (2000) (Thomas, J., dissenting)). At the core of the First Amendment is the right to participate in the political process. This Court ought not to countenance any chilling of that participation in the absence of the most compelling government interest. The interests behind Washington's public records law simply do not rise to such a level, and even if they did, a more narrowly-tailored means of advancing those interests could be devised that protects individuals against reprisal for their political participation.

DATED: March, 2010.

Respectfully submitted,

EDWIN MEESE III
214 Mass. Ave. NE
Washington, DC 20002

KAREN J. LUGO
Center for Constitutional Jurisprudence
c/o Chapman University School of Law
One University Drive
Orange, CA 92886

ANTHONY T. CASO
*Counsel of Record*
Law Office of
Anthony T. Caso
8001 Folsom Blvd., # 100
Sacramento, CA 95826
Telephone: (916) 386-4432
Facsimile: (916) 307-5164

*Counsel for Amicus Curiae*
*Center for Constitutional Jurisprudence*