6-16-2017

Fred T. Korematsu Center for Law and Equality's Motion for Leave to File Amicus Curiae Brief in Support of Plaintiffs' Motion for Preliminary Injunction

Fred T. Korematsu Center for Law and Equality

Attorneys for Amicus Curiae

THE HONORABLE RICHARD A. JONES

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

NORTHWEST IMMIGRANT RIGHTS PROJECT ("NWIRP"), a nonprofit Washington public benefit corporation; and YUK MAN MAGGIE CHENG, an individual,

Plaintiffs,

vs.

JEFFERSON B. SESSIONS III, in his official capacity as Attorney General of the United States; UNITED STATES DEPARTMENT OF JUSTICE; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; JUAN OSUNA, in his official capacity as Director of the Executive Office for Immigration Review; and JENNIFER BARNES, in her official capacity as Disciplinary Counsel for the Executive Office for Immigration Review,

Defendants.

CIVIL ACTION NO. 2:17-cv-00716-RAJ

FRED T. KOREMATSU CENTER FOR LAW AND EQUALITY'S MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

NOTE ON MOTION CALENDAR: JUNE 16, 2017

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The Fred T. Korematsu Center for Law and Equality ("Korematsu Center") hereby respectfully submits this Motion for Leave to File *Amicus Curiae* Brief in Support of Plaintiffs' Motion for Preliminary Injunction (the "Amicus Curiae Brief" or "Brief"). The Korematsu Center conferred in writing with counsel for the parties before filing this Motion. Plaintiffs stated that they do not oppose this filing. Defendants stated that they take no position.

INTEREST OF *AMICUS CURIAE* AND REASONS WHY THE MOTION SHOULD BE GRANTED

The Korematsu Center is a non-profit organization based at the Seattle University School of Law.[1] The Korematsu Center works to advance justice through research, advocacy, and education. It seeks to combat discrimination, help communities advocate for themselves, and train the next generation of social justice advocates. Inspired by the legacy of Fred Korematsu, who defied military orders during World War II that ultimately led to the unlawful incarceration of 110,000 Japanese Americans, the Korematsu Center works to advance social justice for all. Drawing from its experience and expertise, the Korematsu Center has a strong interest in ensuring that courts understand the historical context for exercises of power affecting disempowered communities, including past attempts to suppress activism and advocacy by regulations of the legal profession. It also has a particular interest in addressing actions that curtail political expression through the courts, particularly litigation designed to vindicate racial and ethnic minorities' constitutional rights.

The Korematsu Center respectfully requests that the Court grant this Motion and permit it to file its concurrently submitted Amicus Curiae Brief because the document fulfills "the classic role of amicus curiae by assisting in a case of general public interest, supplementing the efforts of counsel, and drawing the court's attention to law that escaped consideration." *Miller-Wohl Co. v. Comm'r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir. 1982); *see also, e.g.*, *Missouri v. Harris*, No. 2:14-CV-00341-KJM, 2014 U.S. Dist. LEXIS 89716, at *7 (E.D. Cal.

[1] The Korematsu Center does not, in this Motion, associated Amicus Curiae Brief, or otherwise, represent the official views of Seattle University.

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July 1, 2014) (discussing district courts' "broad discretion regarding the appointment of amici"). As recently demonstrated in *Hawaii v. Trump*, __ F.3d __, No. 17-15589, 2017 U.S. App. LEXIS 10356, at *81-84 (9th Cir. May 15, 2017), the submissions of amici curiae can often provide additional relevant authority or evidence useful to the Court. In *Hawaii v. Trump*, for example, the Ninth Circuit specifically cited to the amici submissions of immigrant advocacy groups, legal scholars, aid organizations, state governments, business advocacy groups, and others on the likely impact of the contested executive order on their members and operations, and explained that these amici had "identified specific harms that will result if [the executive order] takes effect, bolstering the conclusion that the injunction is in the public interest." *Id.*

In this case, Plaintiffs seek injunctive relief against Government enforcement of 8 C.F.R. § 1001.1(k) and 8 C.F.R. § 1003.102(t) in ways that interfere with the ability of Plaintiffs and similarly situated attorneys to assist immigrant clients and express their First Amendment rights. The Korematsu Center submits its Brief to provide additional legal authority and historical context for the important public interest issues presented to the Court. The Brief addresses the historical backdrop to this dispute, describing prior examples of similar governmental efforts to prevent legal professionals from engaging in activism and thereby insulating the government from potential challenges by minority populations who are subject to adverse governmental policies. These historical examples establish a well-trod path of governmental abuses that the Government now seeks to revisit through its enforcement of the regulations at issue, which adversely impact immigrants who are already targets of the Trump Administration's anti-immigrant political agenda. The Brief also provides additional authority concerning the First Amendment rights of immigrant clients and prospective clients to receive information and ideas from legal counsel, which are rights correlative of the lawyers' own First Amendment rights to engage in litigation-related activities as methods of expression. The matters presented in the Brief are directly relevant to the issues before the Court and further demonstrate the need for the relief sought by Plaintiffs in this case, but are not fully addressed in the parties' existing briefing. Accordingly, the Korematsu Center respectfully requests that it be permitted to file its Brief.

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CONCLUSION

For the reasons set forth herein, the Korematsu Center respectfully requests that this Court grant this Motion, and permit it to file its Amicus Curiae Brief attached as Exhibit A hereto.

Respectfully submitted this 16th day of June, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused the foregoing document to be electronically filed with the Clerk of Court using the CM/ECF system which will send notification of the filing to all counsel of record.

Dated this 16th day of June, 2017.

/s/ Shawn Larsen-Bright
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EXHIBIT A

THE HONORABLE RICHARD A. JONES

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Plaintiffs,

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CIVIL ACTION NO. 2:17-cv-00716-RAJ

AMICUS CURIAE BRIEF OF THE FRED T. KOREMATSU CENTER FOR LAW AND EQUALITY IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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I. INTRODUCTION

It is no coincidence that the Trump Administration is attempting to restrict advocacy by and for immigrant populations while it vigorously pursues its anti-immigrant policy agenda. It is likewise no coincidence that the Northwest Immigrant Rights Project ("NWIRP") is one of the initial targets of this effort, in light of its work to interrupt government efforts to curtail immigrants' rights. *See, e.g.*, *Ali v. Trump*, No. 2:17-cv-00135-JLR, 2017 U.S. Dist. LEXIS 77656 (W.D. Wash. May 22, 2017) (class action challenging Muslim "travel ban" executive order, in which NWIRP is counsel).[1] History teaches that those in power have regularly taken similar actions to incapacitate legal aid and civil rights organizations and silence the communities they represent by imposing deceptively innocuous regulations upon the legal profession. Examples include efforts during the civil rights era to restrict the ability of political organizations like the NAACP to enforce desegregation through the courts; efforts to restrict the ability of civil rights groups like the ACLU to advocate for reproductive freedom for women; and efforts of the federal government to insulate its actions from challenge by minority populations as part of so-called welfare reform. Yet, the United States Supreme Court has confirmed that all of these efforts were unconstitutional restrictions on speech.

The constitutional rights at issue are those of both lawyers and clients.[2] Lawyers for legal aid and political organizations such as NWIRP have First Amendment rights to engage in litigation-related activities to express their values and advocate for social and political change, including the right to advise clients of their legal rights and their opportunity to use litigation as a mechanism to vindicate those rights. And, just as the lawyers' rights are protected, so are the clients' correlative constitutional rights to consult with and receive the information, ideas, and advice that NWIRP lawyers have to offer, to enable their own expression.

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[1] In addition to providing individual legal services, NWIRP has a significant history of engaging in systemic advocacy to advance rights for immigrants. *See, e.g.*, *Ali Khoury v. Asher*, 667 Fed. App'x. 966 (9th Cir. 2016) *aff'g Khoury v. Asher*, 3 F. Supp. 3d 877 (W.D. Wash. 2014); *Rivera v. Holder*, 307 F.R.D. 539 (W.D. Wash. 2015); *A.B.T. v. U.S. Citizenship & Immigration Servs.*, No. C-11-2108, 2013 U.S. Dist. LEXIS 160453 (W.D. Wash. Nov. 4, 2013).

[2] The word "client" is used herein to refer broadly to the actual or prospective clients and constituents of advocacy organizations like NWIRP. It is not meant to suggest full representation or a traditional attorney-client relationship.

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As further described herein, the Government's newfound interpretation of 8 C.F.R. § 1003.102(t)'s "Notice of Appearance" requirement as mandating compulsory representation is an example of the timeworn, unconstitutional tactic of imposing purportedly neutral restrictions on attorney speech to stifle political activism by and on behalf of disfavored and oppressed minority groups. Application of the compulsory representation rule to organizations such as NWIRP places an unconstitutional burden on both attorney speech and the correlative rights of the actual and prospective clients. It is only through their receipt of information, ideas, and advice from these organizations that the intended recipients will be able to effectively express their own First Amendment rights and advocate for themselves. The Government's improper efforts to debilitate NWIRP also further silences these already disempowered individuals, in violation of their First Amendment rights.

The lessons of the past, including the striking parallels between the Government's current position and prior unlawful efforts to restrict the legal profession, must be considered in evaluating 8 C.F.R. § 1003.102(t) as newly interpreted. To provide the Court with additional historical and political background and legal precedent relevant to the First Amendment analysis at issue, Amicus Curiae The Fred T. Korematsu Center for Law and Equality ("Korematsu Center") respectfully submits this Amicus Brief for the Court's consideration. The Korematsu Center respectfully requests that the Court grant NWIRP's Motion for Preliminary Injunction.

II. IDENTITY AND INTEREST OF AMICUS CURIAE

The Korematsu Center is a non-profit organization based at the Seattle University School of Law.[3] The Korematsu Center works to advance social justice through research, advocacy, and education. Drawing from its experience and expertise, the Korematsu Center has a strong interest in ensuring that courts understand the historical context for exercises of power affecting disempowered communities, including past attempts to suppress activism and advocacy by regulations of the legal profession. It has a particular interest in addressing actions that curtail

[3] The Korematsu Center does not, in this Brief or otherwise, represent the official views of Seattle University.

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political expression through the courts, particularly litigation designed to vindicate racial and ethnic minorities' constitutional rights. Fred Korematsu, who inspired the Korematsu Center's foundation, possessed unique experience in using litigation as a form of political speech. *See generally Korematsu v. United States*, 323 U.S. 214 (1944), *conviction vacated*, 584 F. Supp. 1406 (N.D. Cal. 1984). Today, the now vilified *Korematsu* case serves as an important reminder of the crucial role of judicial oversight of executive power targeting the interests of minority communities and of the verdict of history when that role is unfulfilled. The Korematsu Center seeks to ensure similar mistakes are never made again.

III. BACKGROUND

The Korematsu Center adopts and incorporates by reference the factual background set forth in NWIRP's Motion for Preliminary Injunction. *See generally* Dkt. No. 37 at 1-5.

IV. ARGUMENT

A. The Government Regulation Is a Content-Based Restriction that is Subject to Strict Scrutiny and Violates the First Amendment.

1. The First Amendment Protects NWIRP's Right to Provide, and its Clients' Right to Receive, Limited Legal Services.

The law is settled that "collective activity undertaken to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment." *See In re Primus*, 436 U.S. 412, 426 (1978). The First Amendment protects attorneys "vindicating legal rights," "advis[ing] another that his legal rights have been infringed," and engaging in "vigorous advocacy." *NAACP v. Button*, 371 U.S. 415, 434, 437, 439 (1963); *see also, e.g., Conant v. Walters*, 309 F.3d 629, 637 (9th Cir. 2002). This "form of political expression" is particularly safeguarded for non-profit groups like the NAACP, ACLU, or NWIRP. *Button*, 371 U.S. at 428-29, 440-41; *see also, e.g.*, Susan D. Carle, *From* Buchanan *to* Button: *Legal Ethics and the NAACP (Part II)*, 8 U. Chi. L. Sch. Roundtable 281, 305-07 (2001) [*hereinafter* Carle]; *Jean v. Nelson*, 727 F.2d 957, 983 (11th Cir. 1984) ("The Supreme Court has repeatedly emphasized that counsel have a [First Amendment] right to inform individuals of their rights . . . when they do so

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as an exercise of political speech without expectation of remuneration.").

As a corollary to the rights of lawyers to engage in litigation-related activities, the First Amendment likewise protects clients' rights to receive information, ideas, and advice in order to exercise their own rights of expression.[4] *Cf. Button*, 371 U.S. at 428-31 (recognizing that the protected activities of the NAACP's attorneys made possible the political expression of its members). Settled First Amendment law confirms that individuals have a "reciprocal right to receive" expression protected by the First Amendment because "the protection afforded is to the communication, to its source and to its recipients both." *Va. State Bd. of Pharmacy v. Va. Citizens Consumer Council*, 425 U.S. 748, 756-757 (1976); *see also, e.g., Griswold v. Connecticut*, 381 U.S. 479, 482-83 (1965) (confirming that the "right of freedom of speech and press includes . . . the right to receive," as "[w]ithout those peripheral rights the specific rights would be less secure"). The rights to express and receive ideas are logically and constitutionally intertwined, and are together necessary to "protect the interchange of ideas" underlying the First Amendment. *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765, 783 (1978); *see also Bd. of Educ. v. Pico*, 457 U.S. 853, 867 (1982) ("The dissemination of ideas can accomplish nothing if otherwise willing addressees are not free to receive and consider them.") (quotation omitted). As the Supreme Court has explained, "the right to receive ideas is a necessary predicate to the *recipient's* meaningful exercise of his own rights of speech, press, and political freedom." *Pico*, 457 U.S. at 867 (emphasis in original); *see also Arce v. Douglas*, 793 F.3d 968, 981-83 (9th Cir. 2015) (expanding "a student's right to receive information and ideas" to curricula in order to avoid "hinder[ing] a student's ability to develop the individualized insight and experience needed to meaningfully exercise her rights of speech, press, and political freedom").[5]

[4] Consideration of the rights of third parties is particularly appropriate in challenges to restrictions on free speech. *See Sec'y of Md. v. Joseph H. Munson Co.*, 467 U.S. 947, 956-57 (1984) (holding that third-party standing requirements are relaxed in First Amendment cases). Here, a full evaluation of the Government's actions requires consideration of the reciprocal rights of NWIRP's clients. Standing is not an issue; NWIRP has standing to assert these rights because it presents its own injury (its own claims) and maintains a special, attorney-client relationship with its clients. *See Caplin & Drysdale, Chartered v. United States*, 491 U.S. 617, 623 n.3 (1989). Additionally, the complexity of immigration law and the clients' likely lack of English proficiency create obstacles for the clients to defend their own interests, which further weighs in favor of considering their interests here. *Id.*

[5] The First Amendment right to receive has been articulated in a variety of contexts, including the right to receive

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Similarly, courts have consistently affirmed that a client's consultations with legal counsel are activities protected under the First Amendment. *See, e.g., Mothershed v. Justices of the Supreme Court*, 410 F.3d 602, 611 (9th Cir. 2005) (confirming that the right to consult with an attorney is protected by the First Amendment); *Denius v. Dunlap*, 209 F.3d 944, 953-54 (7th Cir. 2000) ("[T]he First Amendment protects the right of an individual or group to consult with an attorney on any legal matter."); *see also, e.g., United Transp. Union v. State Bar*, 401 U.S. 576, 585-86 (1971) ("[C]ollective activity undertaken to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment."); *United Mine Workers of Am., Dist. 12 v. Ill. State Bar Ass'n*, 389 U.S. 217, 221-22 (1967) (holding that union had constitutional right to hire attorneys to assist its members in asserting their rights); *Bhd. of R.R. Trainmen v. Va. ex rel. Va. State Bar*, 377 U.S. 1, 5-8 (1964) (holding that union had a First Amendment right to maintain a legal staff to give advice and recommend attorneys).

Altogether, the reciprocal rights of NWIRP and its clients to provide and receive information and ideas are a "necessary predicate" to their respective ability to meaningfully exercise their First Amendment rights, and must be fully protected.[6] *Pico*, 457 U.S. at 867.

2. 8 C.F.R. § 1003.102(t) is Subject to Strict Scrutiny.

Content-based restrictions on protected activity, such as the exercise of free speech through litigation-related activities, are presumptively unconstitutional, subject to strict, exacting scrutiny. *Reed v. Town of Gilbert*, 135 S. Ct. 2218, 2226 (2015). Restrictions are considered "content-based" if they distinguish favored from disfavored speech based on what is expressed.

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information about abortion (*Griswold*, 381 U.S. at 482); political propaganda (*Meese v. Keene*, 481 U.S. 465, 480 (1987)); advertising (*Va. State Bd. Of Pharm.*, 425 U.S. at 756); the views of businesses on an election ballot (*First Nat'l Bank*, 435 U.S. at 783); books in a school (*Pico*, 457 U.S. at 866); and a prisoner's right to receive mail (*Prison Legal News v. Cook*, 238 F.3d 1145, 1152-53 (9th Cir. 2001)). The context here is not materially different.

[6] The fact that NWIRP's clients are immigrants is of no consequence to this analysis, as immigrants are protected by the First Amendment. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70 F.3d 1045, 1063-64 (9th Cir. 1995) (confirming that aliens in the country enjoy full First Amendment rights), *rev'd on other grounds*, 525 U.S. 471 (1999); *see also, e.g., Bridges v. Wixon*, 326 U.S. 135, 148 (1945) (stating that "freedom of speech and of press is accorded aliens residing in this country"); *cf. Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (acknowledging the constitutional due process rights of aliens who have entered the country, whether lawfully or unlawfully); *First Nat'l Bank*, 435 U.S. at 780 ("Freedom of speech and the other freedoms encompassed by the First Amendment have always been viewed as fundamental components of the liberty safeguarded by the Due Process Clause."). They also have a general right to obtain counsel. *See Biwot v. Gonzales*, 403 F.3d 1094, 1098 (9th Cir. 2005).

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See Turner Broad. Sys. v. FCC, 512 U.S. 622, 643 (1994). Here, the contested compulsory-representation rule is triggered only when an attorney engages in what the statute defines as "practice or preparation." 8 C.F.R. § 1003.102(t), § 1001.1(i), (k). To determine whether those definitions apply, one must inspect the contents of both attorney speech and prospective or current client speech. *See* 8 C.F.R. § 1003.102(t). It is thus a content-based restriction.

A restriction survives strict scrutiny only if it is justified by a compelling government interest and narrowly tailored to serve that interest. *See Button*, 371 U.S. at 438. The restriction must be the "least restrictive means among available, effective alternatives." *United States v. Alvarez*, 567 U.S. 709, 729 (2012). Moreover, courts are wary of selective enforcement and "[b]road prophylactic rules in the area of free expression are suspect." *Button*, 371 U.S. at 435, 438. Although able to fashion reasonable restrictions with respect to time, place, and manner, the government "may not, under the guise of prohibiting professional misconduct, ignore constitutional rights." *Id.* at 439. To properly assess these factors, the court must analyze the circumstances in which the regulation was promulgated. *Id.* at 435-36.

As detailed below, a review of the relevant history and current political climate reveals that there is no compelling government interest supporting the restriction at issue here and, even if there were, the restriction is not narrowly tailored to achieve any such interest.

B. Unconstitutional Regulations on Legal Advocacy Have Frequently Been Used to Attempt to Silence Disempowered Communities.

The Government's attempt to enforce its new interpretation of 8 C.F.R. § 1003.102(t) by requiring all-or-nothing representation mirrors similar past attacks on protected political action through purportedly neutral regulation of the legal profession. These examples provide relevant historical context for evaluating the constitutionality of the Government's position here.

1. Efforts to Restrict Advocacy for Dismantling "Separate but Equal."

The NAACP originated in 1909 to eliminate racial barriers and secure equal citizenship rights across the United States. *Button*, 371 U.S. at 419. In 1930, the NAACP implemented a strategic nationwide litigation campaign to desegregate public schools. *See* Derrick A. Bell, Jr.,

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Serving Two Masters: Integration Ideals and Client Interests in School Desegregation Litigation, 85 Yale L.J. 470, 473 (1976) [hereinafter Bell]. As part of its campaign, the NAACP met with principals, hosted student-parent meetings, posted on community bulletins, and handed out leaflets to inform individuals of their legal rights, among other activities. *See Button*, 371 U.S. at 421-23. These efforts laid the groundwork for *Brown v. Board of Education*, 347 U.S. 483, 487 (1954) (overruling "the so-called 'separate but equal' doctrine"), and continued in the wake of *Brown* to provide resources for implementing *Brown's* desegregation mandate.

Following *Brown*, local legislative resistance necessitated a wave of civil rights litigation targeted at enforcing compliance with the constitutional requirements of desegregation. *See Brown v. Bd. of Educ.*, 349 U.S. 294, 298 (1955). In an effort to thwart that litigation, many states redoubled their efforts to cripple the NAACP's ability to continue using the courts to advance its social justice mission. For example, among other avenues of attack, six southern states (Georgia, Mississippi, South Carolina, Tennessee, Texas, and Virginia) sought to restrict the NAACP's ability to pursue litigation as a political tactic by adopting or amending legal ethics rules to prohibit the NAACP's campaign activities. *See* Carle, *supra*, at 299. Similarly, as part of its "arsenal of 'massive resistance'" to desegregation, implemented in a special session after *Brown*, Virginia amended its laws to criminalize the encouragement of certain litigation ("barratry" statutes), the solicitation of clients by a "runner" or "capper," and the financing of litigation ("champerty" statutes). *See Button*, 371 U.S. at 423-24; Bell, *supra*, at 494, 501. These amendments were passed in an attempt to limit the NAACP's ability to locate plaintiffs and commence litigation to vindicate the constitutionally established rights of minorities. *See Button*, 371 U.S. 437-38; Carle, *supra*, at 299. Suddenly, the NAACP's longstanding, successful practices were grounds for disbarment and criminal sanctions for its attorneys. *See Button*, 371 U.S. at 434-35.

The NAACP sued Virginia to restrain enforcement of its newly enacted provisions, claiming that the statutes infringed on the First Amendment rights of the NAACP, its members, and its lawyers to associate for the purpose of legal redress. *See Button*, 371 U.S. at 428. After

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two oral arguments, the United States Supreme Court agreed with the NAACP and found that the NAACP was engaged in "a form of political expression" protected by the First Amendment. *See Button*, 371 U.S. at 428-29; Carle, *supra*, at 284. Put simply, the Court held that the litigation-related activities of the NAACP were "constitutionally privileged means of expression to secure constitutionally guaranteed civil rights." *Button*, 371 U.S. at 443.

In addition to confirming the rights of the NAACP's lawyers, the Court recognized in *Button* the critical role that the NAACP's efforts played in enabling and facilitating the political expression of the NAACP's members and clients. These were principally the disempowered minority communities of the Jim Crow South, who were otherwise unable to exercise effectively their own First Amendment rights.[7] The Court confirmed that litigation assisted by the NAACP, "while serving to vindicate the legal rights of members of the American Negro community, at the same time and perhaps more importantly, makes possible the distinctive contribution of a minority group to the ideas and beliefs of our society." *Id.* at 431. The Court also appropriately noted that for some groups like the NAACP and its members, "association for litigation may be the most effective form of political association" and that "under the conditions of modern [majoritarian] government, litigation may well be the sole practicable avenue open to a minority to petition for redress of grievances." *Id.* at 430; *see also Bates v. State Bar of Ariz.*, 433 U.S. 350, 376 (1977) (noting that "[u]nderlying" cases such as *Button* is "the Court's concern that the aggrieved receive information regarding their legal rights and the means of effectuating them").

Importantly, in *Button* the Court also acknowledged the political reality and circumstances in which the purportedly neutral restrictions on litigation were introduced, as they are key factors in assessing the constitutionality of government action. Within the conditions presented in *Button*, the Court recognized that Virginia's restrictions were overly broad and presented an alarming opportunity to oppress minority speech:

We cannot close our eyes to the fact that the militant Negro civil rights movement

[7] The Court held that the NAACP had standing to assert its own First Amendment rights as well as the corresponding rights of its members. *Button*, 371 U.S. at 428.

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> has engendered the intense resentment and opposition of the politically dominant white community of Virginia; litigation assisted by the NAACP has been bitterly fought. In such circumstances, a statute broadly curtailing group activity leading to litigation may easily become a weapon of oppression, however evenhanded its terms appear. Its mere existence could well freeze out of existence all such activity on behalf of the civil rights of Negro citizens.

Button, 371 U.S. at 435-36. Thus, the critical lesson of *Button* is not just that advocacy in litigation is constitutionally protected speech, for the benefit of the political expression rights of both lawyers and clients, but that even seemingly neutral efforts to curtail such activity must be carefully analyzed in light of the circumstances in which they arose.

2. Efforts to Restrict Advocacy for Reproductive Freedom.

In the era surrounding and following *Button*, the struggle for individual reproductive rights took on greater prominence in the national consciousness, as civil rights organizations such as the ACLU vigorously pursued both policy and litigation strategies in this area. *See generally* Stephanie Ridder and Lisa Woll, *Transforming Grounds: Autonomy and Reproductive Freedom*, 2 Yale J.L. & Feminism 75, 75-77 (1989-90). Reproductive freedom is considered critical to unwinding society's unequal race, class, and gender hierarchies. *See, e.g.*, Elizabeth Moen, *Women's Rights and Reproductive Freedom*, 3 Hum. Rts. Q. 53, 58 & n.19 (1981).

In 1973, civil rights activists obtained an historic achievement in *Roe v. Wade*, 410 U.S. 113 (1973). But the struggle for reproductive freedom was far from over and significant attention turned to challenging the horrific and unconstitutional sterilization programs that remained as lingering effects of the early twentieth-century eugenics movement. These programs were championed by the white upper class, and disproportionately affected the poor, immigrants, and racial minorities. *See* Edward J. Spriggs, Jr., *Involuntary Sterilization: An Unconstitutional Menace to Minorities and the Poor*, 4 N.Y.U. Rev. L. & Soc. Change 127 (1974); *see also* Mary Ziegler, *Reinventing Eugenics: Reproductive Choice and Law Reform after World War II*, 14 Cardozo J.L. & Gender 319, 339, 344 (2007-08). Women of color engaged in an effort to fight these policies and secure their freedom of reproductive choice. *See* Angela Y. Davis, *Women, Race & Class* 215-21 (1d ed. 1981) (discussing efforts to end sterilization abuse against women of color, waged primarily by women of color). These efforts

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were supported by civil rights organizations such as the ACLU, which endeavored to inform sterilization victims of their rights and began pursuing litigation across the country aimed at dismantling sterilization programs, as part of their broader advocacy for reproductive rights.[8]

Just after the *Roe v. Wade* decision in 1973, national newspapers began reporting that pregnant women on welfare in Aiken County, South Carolina were being sterilized or threatened with sterilization as a condition for continued receipt of Medicaid. *See* Mark J. Zummo, *In re Primus and Ohralik v. Ohio State Bar Association: A First Amendment Challenge to Prohibitions on Attorney Solicitation*, 48 U. Cin. L. Rev. 886, 889 (1979). Edna Smith Primus, a South Carolina attorney and cooperating lawyer with the ACLU, met with women who had been sterilized and advised them of their legal rights. *Id.* She later wrote to one of the women she met, offered to explain the situation further, and asked if she was interested in joining a lawsuit. *Id.* Ms. Primus's letter prompted the South Carolina Supreme Court Board of Commissioners on Grievances and Discipline to find Ms. Primus in violation of its disciplinary rules, which prohibited attorneys from soliciting a client on behalf of the ACLU. *Id.* at 890 & n.27. In the background of this decision was the controversial ruling in *Roe v. Wade*, issued just months earlier, and the fact that America's elite, particularly in the South, favored eugenics policies as techniques for reinforcing the social hierarchy. *See* Lisa Powell, *Eugenics and Equality: Does the Constitution Allow Policies Designed to Discourage Reproduction Among Disfavored Groups?*, 20 Yale L. & Pol'y Rev. 480, 485-88 (2002) (describing how social elites have historically supported eugenics policies as a means of subordinating unpopular groups).

Ms. Primus challenged the Board's finding as violating her rights of expression under the First Amendment. *See In re Primus*, 436 U.S. 412 (1978). The Supreme Court rejected South

[8] The ACLU and other civil rights organizations engaged in an extensive nationwide litigation campaign against sterilization programs during this period. *See Poe v. Lynchburg Training Sch. & Hosp.*, 518 F. Supp. 789 (W.D. Va. 1981) (class action filed by ACLU seeking to declare Virginia's sterilization program unconstitutional); *see also, e.g., Madrigal v. Quilligan*, 639 F.2d 789 (9th Cir. 1981) (class action financed by Southern Poverty Law Center brought by Chicanas subjected to coercive sterilization practices at Los Angeles County Medical Center); *Relf v. Weinberger*, 565 F.2d 722 (D.C. Cir. 1977) (class action led by Southern Poverty Law Center on behalf of poor black women challenging regulations covering sterilizations of poor and intellectually disabled individuals); *Walker v. Pierce*, 560 F.2d 609 (4th Cir. 1977) (ACLU and Southern Poverty Law Center represented African American women in lawsuit against obstetrician who required or threatened sterilization before providing birthing care).

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Carolina's argument that differences between the NAACP and ACLU justified a different result from that in *Button*. *Id.* at 427. The Court found no meaningful difference between the two organizations, which both engage in extensive educational and lobbying activities and devote energy and funds to litigation on behalf of their declared purposes. *Id.* It further determined that South Carolina's solicitation rules swept too broadly and were not drawn closely enough "to avoid unnecessary abridgment of associational freedoms." *Id.* at 432. It thus concluded that South Carolina's supposed attempt to regulate attorney solicitation illegally infringed on Ms. Primus's and the ACLU's First Amendment rights, including the right to advise individuals of their own legal rights as a method of political expression. *Id.* at 438-39.

Critically, the Court in *Primus*, echoing its decision in *Button*, recognized that expression of the First Amendment rights of lawyers in this context is crucially important to the ability of disempowered communities to exercise their own rights. The Court acknowledged the ACLU's description of challenges in safeguarding the constitutional rights of "inarticulate, economically disadvantaged individuals who may not be aware of their legal rights" and noted that "the efficacy of litigation as a means of advancing the cause of civil liberties often depends on the ability to make legal assistance available to suitable litigants." *Id.* at 418 n.9, 431. The "cooperative activity" of litigation-related expression must be carefully protected in order to preserve the rights of both lawyers and clients. *Id.* at 433 (quoting *Button*, 371 U.S. at 438).

3. Efforts to Restrict Challenges to Welfare Reform

The circumstances at issue in *Legal Services Corporation v. Velazquez*, 531 U.S. 533 (2001), provide yet another historical example of powerful interests unlawfully attempting to restrict the ability of disempowered communities to use litigation for political goals. In *Velazquez*, the Court considered a congressional restriction banning recipients of Legal Services Corporation ("LSC") funds from challenging welfare reform laws.[9] The restriction at issue came in the wake of the "Contract with America"—a manuscript released by the Republican Party

[9] LSC was created in 1974 as a nonprofit corporation to deliver financial support appropriated by Congress to organizations providing legal assistance to persons unable to afford legal assistance. *Velazquez*, 531 U.S. at 536.

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during the 1994 Congressional election campaign that was addressed, in part, to reforming the American welfare system. Newt Gingrich et al., *Contract with America* 2 (1994) ("The government should encourage people to work, not to have children out of wedlock."). The Republican Congress's subsequent effort to implement these policies was met with staunch opposition by Democratic President Bill Clinton, driving Congress to use omnibus appropriations bills to advance its conservative welfare policy. *See* Rafael DeGennaro & Rachel Sciabarrasi, *Monsters of Congress* 14 (ReadtheBill.org Foundation 2007).

Among these appropriations bills was the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104-134, 110 Stat. 1321-53 (1996) (the "1996 Act"). *See Velazquez*, 531 U.S. at 538. The 1996 Act included the restriction at issue in *Velazquez*, Section 504(a)(16), which was designed to avoid challenges to Congress's new welfare policies, and was introduced amidst a barrage of other constraints placed on legal services lawyers to make it more difficult for low-income people to obtain legal representation in suits against the government and other civil proceedings.[10] *See* Laura K. Abel & Risa E. Kaufman, *21st Annual Edward v. Sparer Symposium Suing the Government: Velazquez and Beyond: Preserving Aliens' and Migrant Workers' Access to Civil Legal Services: Constitutional and Policy Considerations*, 5 U. Pa. J. Const. L. 491, 491-92 (2003). In general, the rights of welfare claimants to access legal protections through the courts were not just "curtailed" by these constraints, they "were gratuitously extinguished altogether." David A. Super, *Essay: The New Moralizers: Transforming the Conservative Legal Agenda*, 104 Colum. L. Rev. 2032, 2073 (2003).

Against this backdrop of efforts by the political majority to restrict the ability of disempowered communities to challenge their actions, the Supreme Court struck down the restriction at issue in *Velazquez* as unconstitutional. The Court noted that the restriction "sifts out cases presenting constitutional challenges" to insulate Congress's laws from judicial inquiry. *Velazquez*, 531 U.S. at 546. The Court rejected the government's attempt to "exclude from

[10] The Court denied plaintiffs' request for certiorari on these other restrictions. *Velazquez v. Legal Servs. Corp.*, 532 U.S. 903, 903 (2001).

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litigation those arguments and theories Congress finds unacceptable but which by their very nature are within the province of the courts to consider." *Id.* As the Court explained, "[w]here private speech is involved, even Congress' antecedent funding decision cannot be aimed at the suppression of ideas thought inimical to the Government's own interest." *Id.* at 548. The Court ultimately concluded succinctly that the "Constitution does not permit the Government to confine litigants and their attorneys in this manner." *Id.*

Of fundamental importance in *Velazquez* was the Court's recognition that restrictions on the activities of the legal aid lawyers were ultimately an improper burden on the rights of the indigent clients to express and advocate for themselves. The Court noted 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" and confirmed that there was "little doubt that that the LSC Act funds constitutionally protected expression." *Id.* at 548 (quotations omitted). Yet the restriction at issue would effectively result in there being "no alternative source for the client to receive vital information respecting constitutional and statutory rights" and "no alternative channel for expression of the advocacy" restricted by Congress. *Id.* at 546-47. Almost by definition, LSC clients were not people who could obtain private counsel. Without access to the courts, disempowered communities may have no practical ability to exercise their own activism, which made the attempted restriction in *Velazquez* "even more problematic." *Id.* at 546; *see also Eng v. Cooley*, 552 F.3d 1062, 1069 (9th Cir. 2008) (explaining the suggestion in *Velazquez* "that government action seeking to limit an attorney's advocacy 'on behalf of' a client implicates the client's, as well as the attorney's, First Amendment interests," as a "natural corollary of the long-recognized First Amendment right to hire and consult an attorney"). The same factors are of particular relevance today, as the immigrant populations being targeted by the Government's current policies could be left entirely without recourse. As in *Velazquez*, the Government restrictions here should be subjected to a high level of constitutional scrutiny.[11]

[11] Attempts to defund legal services for low-income populations, which continue to this day, have been repeatedly used to further disempower minority populations. One prominent example of sabotage of legal services for political

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C. History is Repeating Itself: The Administration's Unconstitutional Efforts to Restrict First Amendment Rights For Its Anti-Immigration Agenda.

Just like Virginia's amendments targeted to stifle NAACP activity, just like South Carolina's restrictions on ACLU lawyers' advice to women concerning reproductive freedom, and just like the politicized attempt to prohibit challenges to welfare reform laws, the Government's new decision to enforce 8 C.F.R. § 1003.102(t) against NWIRP is designed to disempower disfavored populations and the groups that advocate on their behalf. This time, the underlying purpose is the advancement of the Trump Administration's anti-immigration agenda.

1. Current Anti-Immigration Political Climate.

The current administration's anti-immigration rhetoric and agenda has been widely publicized. For example, during his campaign for the presidency, Donald Trump repeatedly vowed to, among other things, build a wall along the United States and Mexico border, drastically increase deportations of immigrants, and implement a "complete shutdown of Muslims entering into the United States." *Int'l Refugee Assistance Project v. Trump*, 857 F.3d 554, No. 17-1351, 2017 U.S. App. LEXIS 9109, at *28-29 (4th Cir. May 25, 2017); *see also, e.g.*, Marsha B. Freeman, *Holier Than You and Me: 'Religious Liberty' Is the New Bully Pulpit and Its New Meaning Is Endangering Our Way of Life*, 69 Ark. L. Rev. 881, 892 n.59 (2017) ("[A]s a presidential candidate, Donald Trump early on made the issue of immigration his hot button, threatening to build a wall between the U.S. and Mexico and bar all non-citizens from

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gains involved California's statewide rural legal services program, California Rural Legal Assistance ("CRLA"). *See* Jose R. Padilla, *Lawyering Against Power: The Risks of Representing Vulnerable and Unpopular Communities*, 11 Seattle J. Soc. Just. 173, 177 (2012-13). CRLA's early successes in California included: establishing agricultural workers minimum wage, eliminating prejudgment attachment procedures, striking down an English literacy condition on voting, successfully challenging a reduction in benefits, obtaining retesting for Spanish-speaking students who had been wrongly assigned to special needs classes, and expanding free lunch programs. Jerome B. Falk, Jr. & Stuart R. Pollak, *Political Interference with Publicly Funded Lawyers: The CRLA Controversy and The Future of Legal Services*, 24 Hastings L.J. 599, 607 (1972-73). In 1968, the U.S. Office of Economic Opportunity (OEO) designated CRLA as the outstanding legal services program of the year. *See id.* at 607. Despite CRLA's success, in 1970, Governor Reagan employed a gubernatorial veto provision to block a $1.8 million federal grant to CRLA. *See id.* at 599, 609. Reagan claimed to rely on a government report containing charges of purported misconduct, including: disruption of the prison system and public schools, violation of grant conditions, unethical solicitation of clients, and harassing and frivolous legal actions. *Id.* at 610-617. A subsequent OEO investigation found that the report was deceptive and that virtually all of the charges were "without merit." *Id.* at 629, 635.

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entering the country."); Ingrid V. Eagly, *Immigrant Protective Policies in Criminal Justice*, 95 Tex. L. Rev. 245, 285 (2016) ("President-elect, Donald Trump, has proposed deporting eleven million undocumented immigrants and building a wall between the United States and Mexico.").

The Government has attempted to carry out its anti-immigration agenda (with little regard for the legality of its actions) through a number of channels, several of which have already been successfully challenged on constitutional grounds in this Court and throughout the country. *See generally Hawaii v. Trump*, __ F.3d __, No. 17-15589, 2017 U.S. App. LEXIS 10356 (9th Cir. June 12, 2017) (affirming nationwide preliminary injunction of Trump Administration's second Muslim "travel ban" executive order, entered by District of Hawaii); *Int'l Refugee*, 2017 U.S. App. LEXIS 9109, at *78-87, *105-15 (affirming nationwide preliminary injunction of Trump Administration's second Muslim "travel ban" executive order, entered by District of Maryland); *Washington v. Trump*, 847 F.3d 1151, 1169 (9th Cir. 2017) (per curiam) (denying motion to stay pending appeal of nationwide temporary restraining order of Trump Administration's first Muslim "travel ban" executive order, entered by Western District of Washington); *Cnty. of Santa Clara v. Trump*, 17-cv-00574-WHO, 17-cv-00485-WHO, 2017 U.S. Dist. LEXIS 62871, at *97 (N.D. Cal. Apr. 25, 2017) (issuing nationwide preliminary injunction against executive order threatening to withhold federal funding from sanctuary cities); *Aziz v. Trump*, 1:17-cv-116, 2017 U.S. Dist. LEXIS 20889, at *9-13 (E.D. Va. Feb. 13, 2017) (issuing preliminary injunction against first Muslim "travel ban" executive order); *cf. Ali v. Trump*, No. 2:17-cv-00135-JLR, 2017 U.S. Dist. LEXIS 77656 (W.D. Wash. May 22, 2017) (stayed class action challenging first Muslim "travel ban" executive order, in which NWIRP is counsel). While President Trump has tried to claim that "his immigration policies would target the 'bad hombres,'" the reality is that "even the 'good hombres' are not safe" from his far-reaching anti-immigrant agenda. *Magana Ortiz v. Sessions*, __ F.3d __, No. 17-16014, 2017 U.S. App. LEXIS 9363, at *5-6 (9th Cir. May 30, 2017) (Reinhardt, J., concurring) (describing the "inhumane" deportation of an individual who was "by all accounts a pillar of his community" as "contrary to the values of this nation and its legal system").

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2. The Historical and Political Context Further Reveals Why the Compulsory Representation Rule Fails Strict Scrutiny.

For the subject regulation to survive strict scrutiny, the Government must articulate a compelling governmental interest that the regulation is narrowly tailored to serve. Particularly when viewed through the lens of similar historical efforts at disempowerment and the current political climate, the Government has not satisfied these requirements.

a. The Government Does Not Offer a Compelling Interest.

Strict scrutiny analysis requires that the Court identify what the Government's actual (rather than post hoc) interest is and determine whether that interest is, in fact, compelling. *See Button*, 371 U.S. at 444. The Court should view the Government's selective enforcement of its compulsory-representation rule, and newfound purported interest in such enforcement, in light of the current political situation. *See Int'l Refugee Assistance Project v. Trump*, No. TDC-17-0361, 2017 U.S. Dist. LEXIS 37645, at *39 (E.D. Va. Feb 13, 2007) (considering public statements by President Trump relating to purpose of Muslim travel ban was "appropriate because courts may consider 'the historical context' of the action and the 'specific sequence of events' leading up to it") (quoting *Edwards v. Aguillard*, 482 U.S. 578, 594-95 (1987)). Doing so reveals that the Government's stated basis for enforcing the regulation all of a sudden now, after eight years, to impair NWIRP's ability to provide legal services to countless unrepresented immigrants, is a pretext for advancing the administration's anti-immigration policies. *Cf. Int'l Refugee*, 2017 U.S. App. LEXIS 9109, at *78-87 (holding that evidence supported finding that purported national security interest was a pretext for "President Trump's desire to exclude Muslims from the United States"); *Aziz*, 2017 U.S. Dist. LEXIS 20889, at *25 (same).

The Government's contention that its belated efforts to enforce its compulsory-representation rule are meant to combat notario fraud and identify counsel for sanctions rings hollow. The circumstances here show another attempt by a governmental branch—similar to those in *Primus*, *Button*, and *Velazquez*—to advance a political agenda (here, anti-immigration policies) by attempting to disempower organizations opposed to that agenda (here, an

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organization whose political mission is to advocate for the rights of immigrants). The Government does not deny that this is the effect of its rule. Tr. of TRO Hr'g ("TRO Hr'g"), 37:3-21. Nonetheless, it claims its motive is pure and unrelated to its political agenda. History advises otherwise. *See, e.g., Button*, 371 U.S. at 435-36. The timing of the Government's selective enforcement of this 2008 rule (*i.e.*, after President Trump began implementing his expansive anti-immigration agenda) is further reason to view the Government's post-hoc explanations with skepticism.

Rather than analyzing the Government's claimed basis for its new interpretation of 8 C.F.R. § 1003.102(t), the Court should identify and evaluate the Government's *actual* "interest" in determining whether the Government has set forth a "compelling government interest" justifying the restrictions on free speech. The Court in *Button* confirmed that courts must consider the political conditions underlying the restriction at issue. 371 U.S. at 435-36. Here, the political reality, as revealed by the President's own pronouncements, is that the real "interest" being pursued by the Government is to facilitate its plan of mass deportations by restricting the number of immigrants that will have access to legal representation and information about their rights, thus limiting the number of legal challenges by immigrants who understand their rights. By law, such an "interest" is not a "compelling" government interest that could warrant the infringement on NWIRP's right to vindicate the legal rights of the immigrant population and provide "vigorous advocacy" on their behalf. *See Button*, 371 U.S. at 437, 439, 444. Nor is it a basis for infringing on the corollary First Amendment rights of immigrant populations to receive information and ideas that will enable their own expression. *See Pico*, 457 U.S. at 867; *Button*, 37 U.S. at 428-31. In fact, the Government's belated attempt to enforce the compulsory-representation rule comes at a time when vigorous advocacy and political expression by and on behalf of the immigrant population is needed now more than ever, as immigrants' rights are specifically and publicly under attack by the Trump Administration. *See Velazquez*, 531 U.S. at 546-47; *Primus*, 436 U.S. at 431.

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b. The Regulation is Not Narrowly Tailored

Even if the Government had a compelling interest, and it is does not, the regulation is not narrowly tailored to meet any such interest. The Government principally claims its interest is combating notario fraud, yet during the TRO Hearing it was unable to provide *any* evidence to support its theory that enforcement of its new interpretation of 8 C.F.R. § 1003.102(t) might prevent notario fraud. *See* TRO Hr'g, 38:19-39:20. This is no doubt because empirical evidence suggests that such regulations actually undermine the Government's stated interests, by restricting access to competent counsel and thus compromising effective representation. For example, empirical analysis indicates that regulation of the "Unauthorized Practice of Law," or "UPL," bears no causal relation to satisfactory representation, and may actually *cause* notario fraud.[12] *See* Andrew Moore, *Fraud, the Unauthorized Practice of Law and Unmet Needs: A Look at State Laws Regulating Immigration Assistants*, 19 Geo. Immigr. L.J. 1, 11 (2004-05). UPL regulation appears to have contributed to the lack of legal services in the immigrant community, thereby creating a black market for unlicensed predators to prey on immigrants' need for legal services. *Id.*; *see also* Dkt. No. 18-1, at 4-9 (Amicus Curiae Br. of Att'y General of Wash.). The evidence does not support the Government's stated interest.

The Government also has claimed that enforcement of its new interpretation of 8 C.F.R. § 1003.102(t) is necessary to identify attorneys for hypothetical disciplinary purposes. This Court has already correctly identified how the regulation is not narrowly tailored to satisfy this interest either, as there are other less restrictive methods to achieve this goal, such as requesting a show cause hearing. TRO Hr'g, 41:13-42:6, 44:18-45:1. Another option would be to simply ask

[12] Supreme Court Justice Neil Gorsuch has suggested that the regulation of UPL should be revisited, primarily because of the lack of access to competent counsel. The Hon. Neil M. Gorsuch, *Access to Affordable Justice: A Challenge to the Bench, Bar, and Academy*, 100 Judicature 46, 48-49 (2016). Discussing UPL outside the immigration context, Justice Gorsuch listed a number of studies indicating that regulating UPL is not meaningfully associated with client satisfaction. *Id.* For example, lay specialists who represent clients in bankruptcy and administrative proceedings "often perform as well as or even better than attorneys and generate greater consumer satisfaction." *Id.* at 49. Moreover, the American Law Institute has noted that "'experience in several states with extensive nonlawyer provision of traditional legal services indicates no significant risk of harm to consumers.'" *Id.* (quoting Deborah L. Rhode, *Access to Justice* 87-88 (2004)). Thus, while fraudulent representation is a legitimate concern that disproportionately impacts immigrants and other disempowered communities, regulations that restrict access to counsel are unproven means for curbing incompetent or fraudulent representation. *Id.* at 1.

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the client. In short, if identification were really an issue, there are a number of common sense ways the Government could address that issue. Requiring NWIRP's attorneys to take on full representation of all individuals they represent is not one of them.

V. CONCLUSION

In this highly charged anti-immigration political atmosphere, protecting the legal rights of immigrant communities and those who advocate on their behalf is especially important. Unfortunately, as the historical examples described above reveal, there is a long history in this country of the politically powerful seeking to further disempower minority populations by imposing restrictions on the legal organizations that advocate for them. This history is augmented here by the Government's ongoing attempt to reshape immigration policy in ways that have already been determined to be unlawful in numerous respects. It is against this historical and political backdrop that the Government's position should be evaluated.

As the Supreme Court made clear in *Button*, and has consistently affirmed, the First Amendment protects attorneys who advise others on their rights and engage in legal advocacy. Careful protection of this principal helps to ensure that otherwise disempowered populations have access to and are able to exercise their right to receive the ideas and information they need to engage in their own advocacy and expression. The Government's compulsory-representation rule, as newly interpreted, follows the historical pattern of unconstitutional efforts to restrict these core First Amendment rights in order to avoid legal challenge to the oppression of minority populations. The Government's interest here is not compelling and cannot survive strict scrutiny. The Korematsu Center respectfully requests that the Preliminary Injunction be issued.

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I caused the foregoing document to be electronically filed with the Clerk of Court using the CM/ECF system which will send notification of the filing to all counsel of record.

Dated this 16th day of June, 2017.

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