

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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No. 16-5196

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LEAGUE OF WOMEN VOTERS OF THE UNITED STATES; LEAGUE OF  
WOMEN VOTERS OF ALABAMA; LEAGUE OF WOMEN VOTERS OF  
GEORGIA; LEAGUE OF WOMEN VOTERS OF KANSAS; GEORGIA STATE  
CONFERENCE OF THE NAACP; GEORGIA COALITION FOR THE PEOPLE'S  
AGENDA; MARVIN BROWN; and JOANN BROWN; PROJECT VOTE,  
*Plaintiffs – Appellants,*

v.

BRIAN D. NEWBY, in his capacity as the  
Executive Director of the United States Election Assistance Commission;  
and UNITED STATES ELECTION ASSISTANCE COMMISSION,  
*Defendants – Appellees,*

KRIS W. KOBACH, Kansas Secretary of State; and  
PUBLIC INTEREST LEGAL FOUNDATION,  
*Intervenors for Defendant – Appellees.*

*On Appeal from the United States District Court for the District of Columbia  
Case No. 16-cv-236(RJL), Hon. Richard J. Leon, Judge*

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**Brief of *Amici Curiae* Asian Americans Advancing Justice | AAJC; Asian  
Americans Advancing Justice | Atlanta; Asian Americans Advancing Justice |  
Asian Law Caucus; Asian Americans Advancing Justice | Chicago; Asian  
Americans Advancing Justice | Los Angeles, The American-Arab Anti-  
Discrimination Committee; Asian American Legal Defense and Education Fund;  
Campaign Legal Center; Common Cause; Dēmos; Mexican American Legal  
Defense and Education Fund; National Asian Pacific American Bar Association;  
National Association of Latino Elected and Appointed Officials Educational  
Fund; National Council of Jewish Women; People for the American Way  
Foundation; The Service Employees International Union; and The Southern  
Coalition for Social Justice in Support of Appellants**

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Eugene Chay  
(Counsel of Record, admission pending)  
Cecelia C. Chang  
ASIAN AMERICANS ADVANCING  
JUSTICE | AAJC  
1620 L Street N.W., Suite 1050  
Washington D.C. 20036  
(202) 296-2300 x 140  
echay@advancingjustice-aajc.org

Javeria Jamil  
ASIAN AMERICANS  
ADVANCING JUSTICE  
| ATLANTA  
6040 Unity Drive, Suite E  
Norcross, Georgia 30071

*Counsel for Amici Curiae*

JULY 21, 2016

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### *Certificate as to Parties and Related Cases*

**Parties and Amici.** Except for the following, all parties, intervenors, and amici appearing before the district court and in this Court are listed in the Brief for Plaintiffs-Appellants.

Amici appearing in this Court include Asian Americans Advancing Justice | AAJC; Asian Americans Advancing Justice | Atlanta; Asian Americans Advancing Justice | Asian Law Caucus; Asian Americans Advancing Justice | Chicago; Asian Americans Advancing Justice | Los Angeles, the American-Arab Anti-Discrimination Committee; Asian American Legal Defense and Education Fund (AALDEF); Campaign Legal Center; Common Cause; Dēmos; Mexican American Legal Defense and Education Fund (MALDEF); National Asian Pacific American Bar Association; National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund; National Council of Jewish Women; People For the American Way Foundation (PFAWF); the Service Employees International Union (“SEIU”); and Southern Coalition for Social Justice.

**Rulings Under Review.** References to the ruling at issue appear in the Brief for Plaintiffs-Appellants.

**Related Cases.** This case has not previously been before this Court. Counsel is aware of no cases that meet this Court's definition of a related case.

Dated: July 21, 2016

Respectfully submitted,

By: /s/ Eugene Chay  
Eugene Chay (Counsel of Record,  
admission pending)  
Cecelia C. Chang  
ASIAN AMERICANS ADVANCING  
JUSTICE | AAJC  
1620 L Street N.W., Suite 1050  
Washington D.C. 20036  
(202) 296-2300 x 140

***Disclosure Statement***

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and D.C. Circuit Rule 26.1, Amici state that none of the Amici has a parent corporation and no publicly held corporation owns 10% or more of the stock of any Amicus.

Dated: July 21, 2016

Respectfully submitted,

By: /s/ Eugene Chay  
Eugene Chay (Counsel of Record,  
admission pending)  
*Counsel for Amici Curiae*

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### *Interest of Amici*

*Amici* are seventeen national and local organizations committed to removing barriers to voter registration and expanding voting rights. *Amici* include organizations that use and rely upon the National Mail Voter Registration Form to support community-based voter registration efforts across the nation as well as in the affected states of Kansas, Georgia, and Alabama.

All *amici* support equal access to voter registration and view equal, unhindered access to registration opportunities as critical to their mission. Many *amici* advocate for disenfranchised and disadvantaged groups that have historically been subject to discriminatory and burdensome voter registration requirements. And all *amici*, no matter what communities and groups they serve, have clients and constituents that would potentially be burdened and deterred from registering to vote if documentary proof-of-citizenship requirements were imposed as a threshold barrier to voter registration.

A complete listing of *amici* is attached hereto as Appendix A.

***Certificate Regarding Authority to File, Authorship, and  
Separate Briefing***

Amici filed a motion requesting leave to file an amicus brief on July 21, 2016. No party's counsel authored this brief in whole or in part; no party or party's counsel contributed money that was intended to fund preparing or submitting the brief; and no person other than the Amici Curiae, their members, or their counsel contributed money that was intended to fund preparing or submitting the brief. *See* Fed. R. App. P. 29(c)(5).

Counsel for Amici certify that a separate brief is necessary, because no other amicus brief of which Amici are aware addresses in detail the impact of the requested state proof-of-citizenship requirements on eligible voters and the particular burdens to traditionally disenfranchised and disadvantaged citizens. *See* D.C. Circuit Rule 29(d). To the best of the knowledge of Amici, one other amicus brief will be filed in support of Appellants by the Fair Elections Legal Network, which will focus on separate, non-overlapping legal arguments.

In light of the different, important, and complex issues presented in these briefs, counsel for Amici certify that filing a joint brief is not practicable and that it is necessary to submit separate briefs.

### *Summary of Argument*

Equal access to voter registration remains one of the most compelling priorities for the nation today. The ability to vote is a fundamental right in our democracy. To exercise that right, however, eligible citizens must first successfully register to vote. Registration thus stands as a gateway to both electoral participation and power. The enduring exclusion of eligible citizens from the voter rolls remains a serious problem today. The registration rates for certain groups of citizens, including racial and ethnic minorities, naturalized citizens and the young, is troublingly low, leaving these groups and their interests systemically underrepresented in the electorate.

The National Voter Registration Act of 1993 (“NVRA”) was enacted to help cure these disparities and to make it easier for all citizens to register to vote. A centerpiece of the NVRA was the establishment of a simplified National Mail Voter Registration Form (“federal form”). Faced

with a history of states imposing discriminatory and burdensome requirements that discouraged voter registration, particularly by traditionally disenfranchised groups, Congress mandated that all states “accept and use” a federal registration form that could be submitted by mail. 52 U.S.C. § 20505(a)(1). The federal form also advanced Congress’s interest in encouraging community outreach by “organized voter registration programs.” *Id.* § 20505(b). By using the federal form, organizations can bring registration opportunities to eligible voters at schools and churches and other community events and assist voters in completing the form, thereby eliminating common barriers to registration.

The federal form requires applicants to state under penalty of perjury that they are citizens and they satisfy other registration requirements. Only two years ago, the U.S. Election Assistance Commission (“EAC”), the agency that administers the federal form, rejected prior requests by states to add additional documentary hurdles to the federal registration process. At that time, the EAC rejected the states’ requests to modify the federal form and require applicants to

provide copies of documents verifying citizenship as a precondition to registration. The agency concluded at the time that imposing additional documentation requirements was unnecessary and contrary to NVRA's goal of streamlining the voter registration process and encouraging voter registration drives. (Joint Appendix ["JA"] 1112.)

Acting unilaterally, Appellee Brian D. Newby, the Executive Director of the EAC, reversed course and recently granted requests by Kansas, Alabama, and Georgia (collectively, the "affected states") to include documentary proof-of-citizenship requirements for their residents in the federal form.

*Amici* submit this brief to explain why modification of the federal form thwarts the NVRA and will increase and entrench existing inequities in voter registration. Complicating the registration process by mandating a separate document-verification step burdens all applicants. Most troubling, the burdens are not evenly distributed. A stubborn and intractable pattern of inequality continues in America today: citizens in certain groups register to vote at lower rates, resulting in voter rolls that

fail to reflect the full diversity and demographic composition of the nation.

The affected states are not exempt from this deeply concerning pattern. The new proof-of-citizenship requirements worsen the problem. Citizens belonging to traditionally disenfranchised and disadvantaged groups—among the least likely to be registered in the first place—are also disproportionately likely to lack documentation of citizenship. For those lacking documents, the process to obtain acceptable proof is often confusing, costly, and time-consuming. These requirements create barriers that are the greatest for citizens in marginalized groups, amongst the most vulnerable members of our society.

The practical impact of state proof-of-citizenship requirements is profoundly unequal: some citizens by happenstance of their individual circumstances will face immense obstacles in attempting to register. Instead of simply filling out a simple, one-page form to register to vote, those citizens will potentially have to spend hundreds of dollars and invest days and months to obtain documents that verify their status as citizens.



The new state requirements also reduce the tools available to assist eligible voters. Voter registration drives and other community-based registration efforts have played a key role in increasing voter registration rates in disenfranchised communities. But organized registration efforts are successful because they overwhelmingly rely on reaching out to, and approaching, citizens in the community, and helping individuals complete the federal form and registration process without the need for additional follow-up.

The new proof-of-citizenship requirements undermine the very features that make organized registration efforts effective. Few individuals carry relevant documents (such as birth certificates or naturalization papers) on their person while going about their daily lives. And citizens lacking documents will often need individualized advice and assistance on how to secure necessary documents. Turning voter outreach efforts into a document screening and gathering process will greatly hinder the ability of organizations to register eligible voters.

Finally, the EAC should not approve state proof-of-citizenship requirements without full information. When the EAC previously

rejected state attempts to modify the federal form, the agency relied upon evidence of burden and harm submitted by parties through public comment. But here, Appellee Newby acted without public notice and the opportunity for public comment. His unilateral action deprived *amici* of the opportunity to submit information on the real-world harms inflicted on eligible voters—especially vulnerable and disadvantaged voters—in the communities we represent and serve. *Amici* also had no opportunity to demonstrate that the burdens on voters and hindrance to organized voter registration programs far outweigh the speculative claims of non-citizen voter fraud made by the affected states.

### *Argument*

## **I. PROOF-OF-CITIZENSHIP REQUIREMENTS IMPOSE SUBSTANTIAL BURDENS ON TRADITIONALLY DISENFRANCHISED VOTERS**

### **A. Disenfranchised Groups Are Underrepresented in the Electorate.**

The federal registration form implements the NVRA's goal of expanding voter rolls. That goal remains elusive today: millions of eligible voters continue to be excluded from the political process. Recent data indicates that there are at least 51 million eligible citizens (nearly

one out of every four of the eligible population) who remain unregistered to vote.<sup>1</sup>

The registration gap also perpetuates a disturbing pattern. Registration rates are far lower among traditionally disenfranchised and disadvantaged groups—leaving those groups disproportionately underrepresented in the electorate, further marginalizing these populations. National registration rates, for example, are substantially lower for minority citizens than the registration rate of majority citizens. Based on 2014 data, for example, only 48.8% of Asian American citizens, 51.3% of Latino citizens, and 63.4% of African-American citizens reported being registered to vote—rates that fall below, and in some cases, significantly below the 68.1% reported registration rate for White, non-Hispanic citizens.<sup>2</sup> There are also significant disparities in reported

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<sup>1</sup> THE PEW CTR. ON THE STATES, *INACCURATE, COSTLY, AND INEFFICIENT: EVIDENCE THAT AMERICA'S VOTER REGISTRATION SYSTEM NEEDS AN UPGRADE* 2 (2012), *available at* [http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes\\_assets/2012/pewupgradingvoterregistrationpdf.pdf](http://www.pewtrusts.org/~media/legacy/uploadedfiles/pes_assets/2012/pewupgradingvoterregistrationpdf.pdf).

<sup>2</sup> U.S. Census Bureau, *Voting and Registration*, Table 4b. (2014) <http://www.census.gov/data/tables/time-series/demo/voting-and->

national registration rates for naturalized, young, and low-income citizens. In 2014, just over 65% of U.S.-born citizens reported that they were registered to vote compared with only 55.9% of naturalized citizens.<sup>3</sup> Likewise, only 39.1% of young citizens aged 18-24 reported being registered. Lower income is also associated with lower registration rates. Only 51.7% of voting-age citizens with a family income of \$10,000 or less reported being registered to vote in 2014, while the rate was nearly 80% for citizens with a family income of \$100,000 or more.<sup>4</sup>

The affected states are not exempt from this unequal pattern. Citizens of color in Kansas, Alabama, and Georgia are *all* underrepresented on voter rolls. In Kansas, only 56.3% of African-American citizens and 55.8% of Latino citizens reported being registered to vote in 2014, compared with 70% of White, non-Hispanic citizens.<sup>5</sup>

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registration/p20-577.html (last visited, Jul. 19, 2016) (hereinafter “*Voting & Registration 2014*”) (all percentages of “citizens” cited refer to voting-age citizens).

<sup>3</sup> *Id.*

<sup>4</sup> *Voting and Registration 2014*, *supra* note 2, at Table 7.

<sup>5</sup> *Voting and Registration 2014*, *supra* note 2, at Table 4b.

Asian American citizens also reported lower registration rates than White, non-Hispanic citizens.<sup>6</sup> As a whole, only 58% of Kansas's racial minority citizens were registered to vote in 2014, a full twelve percentage points lower than White, non-Hispanic citizens. Rates for minority citizens in Georgia and Alabama are similarly low. In Georgia, for example, Asian American citizens had a reported registration rate of only 44.5%, over twenty percentage points lower than the reported rate for White, non-Hispanic citizens.<sup>7</sup>

Similar disparities apply to young voters. In Alabama, young citizens aged 18 to 24 had a reported registration rate of 40.2%, while older voters aged 45 to 64 had a much higher reported registration rate of 74.5%.<sup>8</sup> In fact, all three affected states have extremely low reported registration rates for young voters. The reported registration rate for voters ages 18-24 was only 36.1% in Kansas, 40.2% in Alabama, and 42%

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<sup>6</sup> *Id.*

<sup>7</sup> *Voting and Registration 2014, supra note 2, at Table 4b.*

<sup>8</sup> *Voting and Registration 2014, supra note 2, at Table 4c.*

in Georgia.<sup>9</sup> Given the Court's extremely expedited briefing schedule, *amici* were not able to obtain detailed information about registration rates by income level and naturalization status in affected states. If national trends are similar in the affected states, however, then Kansas, Georgia, and Alabama will also have lower rates of registration for poor and low-income and naturalized citizens.

The underlying inequity in voter rolls has immediate consequences for the upcoming November elections both nationally and in the affected states. To give only one example, Asian American and Latino citizens form one of the fastest growing segments of the electorate.<sup>10</sup> Young Asian

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<sup>9</sup> *Id.* In comparison, the reported registration rate for voters ages 45-64 was much higher at 77.2% in Kansas, 74.5% in Alabama, and 65.8% in Georgia. *Id.*

<sup>10</sup> WALTER A. EWING, PH.D. & GUILLERMO CANTOR, PH.D., NEW AMERICANS IN THE VOTING BOOTH (American Immigration Council, 2014) [http://www.immigrationpolicy.org/sites/default/files/docs/new\\_americans\\_in\\_the\\_voting\\_booth\\_the\\_growing\\_electoral\\_power\\_of\\_immigrant\\_communities\\_final.pdf](http://www.immigrationpolicy.org/sites/default/files/docs/new_americans_in_the_voting_booth_the_growing_electoral_power_of_immigrant_communities_final.pdf).

American and Latino citizens, primarily the U.S. born children of immigrants, drive this demographic shift.<sup>11</sup>

But these young Asian American and Latino citizens are still severely underrepresented on voter rolls. Nationally, only 34.4% of Asian American citizens and 34.9% of Latino citizens 18 to 24 years old reported being registered to vote in 2014, compared to 66.9% of non-Hispanic Whites.<sup>12</sup> This directly impacts the electorate in each of the affected States, where one out of every eight Kansas residents, and one out of every ten Georgia residents, is Asian American or Latino.<sup>13</sup> Moreover, immigrants and their children, particularly U.S. citizen children of Asian

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<sup>11</sup> *Id.*

<sup>12</sup> *Voting and Registration 2014*, *supra* note 2, at Table 4b.

<sup>13</sup> See American Immigration Council, *New Americans in Kansas*, 1, [http://immigrationpolicy.org/sites/default/files/docs/new\\_americans\\_in\\_kansas\\_2015.pdf](http://immigrationpolicy.org/sites/default/files/docs/new_americans_in_kansas_2015.pdf) (last visited Jul. 19, 2016) (reflecting 322,424 Latinos and 73,219 Asian Americans in 2013); see also American Immigration Council, *New Americans in Georgia*, 1, [http://www.immigrationpolicy.org/sites/default/files/docs/new\\_americans\\_in\\_georgia\\_2015.pdf](http://www.immigrationpolicy.org/sites/default/files/docs/new_americans_in_georgia_2015.pdf) (last visited Jul. 19, 2016) (showing 907,400 Latinos and 354,384 Asian Americans in 2013).

American and Latino immigrants, represent fast growing shares of the population of all of the affected states.<sup>14</sup>

As this data illustrates, equal and improved access to voter registration is a pressing priority. Equal access is especially important *now* if voters in the upcoming November elections are going to reflect the diversity and viewpoints of all American citizens—particularly young Asian Americans and Latinos citizens who may be eligible to participate in the electoral process for the first time. The requested state proof-of-citizenship requirements must be analyzed in this context, against a backdrop where citizens in certain disenfranchised groups are already underrepresented due to lower registration rates. Any registration requirement that *increases* obstacles for citizens in underrepresented groups will deepen existing inequities and further skew the electorate.

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<sup>14</sup> See New Americans in Kansas, *supra* note 13, at 1; New Americans in Georgia, *supra* note 13, at 1; see also American Immigration Council, New Americans in Alabama, 1, [http://www.immigrationpolicy.org/sites/default/files/docs/new\\_american\\_s\\_in\\_georgia\\_2015.pdf](http://www.immigrationpolicy.org/sites/default/files/docs/new_american_s_in_georgia_2015.pdf) (last visited Jul. 19, 2016).



**B. Citizenship Documentation Requirements  
Impose Disproportionate Burdens on Citizens in  
Disenfranchised and Disadvantaged Groups.**

The EAC has already determined that documentary proof-of-citizenship requirements “impose burdens on *all registrants*” (JA 1110 emphasis added). That finding alone warrants rejection of these requirements in this case. Beyond that, though, remains the fact that the harms of proof-of-citizenship requirements are not evenly distributed. The burdens will be imposed most heavily upon citizens in traditionally disenfranchised and disadvantaged groups, and create even greater deterrents to voter registration for already-vulnerable populations.

Citizens in minority groups are most likely to lack the required documentation to prove citizenship. They also face the most substantial challenges trying to obtain required documentation in time to register to vote. By enacting the NVRA, Congress recognized that “discriminatory and unfair registration laws” can “disproportionately harm voter participation by various groups, including racial minorities.” 52 U.S.C. §20501(a)(3). The proof-of-citizenship requirements in this case are an example of disproportionate harm. Rather than facilitating the process of

registration for underrepresented citizens, the new requirements perversely discourage registration and political participation by disenfranchised and disadvantaged groups. And for those citizens who do not currently possess requisite documents, the new proof-of-citizenship requirements make registration harder and require more effort from citizens who often don't have the ability to shoulder these burdens—a result deeply inconsistent with the NVRA.

- 1. Citizens in certain minority groups are particularly likely to lack documentary proof of citizenship.**

There is no single, universal document in the United States that provides proof of citizenship. Instead, citizens must rely on a patchwork of different documents. And these documents are not equally available or accessible to all citizens. A substantial document gap exists. National surveys indicate that up to 7% of U.S. citizens lack “ready access to citizenship documents.”<sup>15</sup> The documentation gap is also wider for citizens in certain groups, and those citizens will have trouble satisfying proof-of citizenship requirements at even higher rates.

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<sup>15</sup> BRENNAN CTR FOR JUSTICE, *CITIZENSHIP WITHOUT PROOF*, 2 (2006).

Birth certificates, for example, can satisfy the new state proof-of-citizenship requirements. But groups of citizens born outside hospitals, including citizens born in rural areas or on Native American reservations are less likely to have qualifying birth certificates.<sup>16</sup> Elderly citizens—particularly those from minority groups—are also less likely to have birth certificates. One study found that 20% of African-Americans born in 1930-1940 were not issued a birth certificate.<sup>17</sup> Modification of the federal form would be especially burdensome to citizens in these groups.

Birth certificates may also be inadequate documentation because of misspellings or discrepancies in the spelling of birth names. This problem is particularly acute for women, who often change surnames upon marriage. Nationwide, less than half of voting-age women have ready

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<sup>16</sup> *Id.* at 1.

<sup>17</sup> S. Shapiro, *Development of Birth Registration and Birth Certificates in the United States*, 4 *Population Studies* 86 (1950), cited in Ira Rosenwaike and Mark E. Hill, *The Accuracy of Age Reporting Among Elderly African-Americans: Evidence of a Birth Registration Effect*, 3 (Population Aging Research Center, Univ. of Penn., Working Paper No. 95-04 (1995), available at [http://parc.pop.upenn.edu/sites/parc.pop.upenn.edu/files/parc/PARCwps\\_95-04.pdf](http://parc.pop.upenn.edu/sites/parc.pop.upenn.edu/files/parc/PARCwps_95-04.pdf).

access to a birth certificate that accurately reflects their current legal name.<sup>18</sup> And, of course, naturalized citizens will not be able to use a birth certificate to prove citizenship.

Naturalized citizens will have to mainly rely on certificates of naturalization or citizenship, but not all eligible citizens will possess the required certificates. And beyond naturalized citizens, documentary proof-of-citizenship requirements create a distinct obstacle for “derivative citizens”—foreign-born minors who become citizens automatically when their parents naturalize, or when they are adopted by U.S. citizens. *See* 8 U.S.C. §1431 (2006). Qualifying minors may, but

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<sup>18</sup> *See* CITIZENSHIP WITHOUT PROOF, *supra* note 15, at 2.

are not required, to apply for a certificate of citizenship.<sup>19</sup> Many will likely not have obtained the optional certificate, since the fee is \$600.<sup>20</sup>

Other naturalized citizens may lack documentation because their original certificates have been lost or destroyed. The cost of ordering a replacement certificate of naturalization is \$345,<sup>21</sup> far higher than the fee

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<sup>19</sup> U.S. Dep't of Homeland Sec., Office of Immigration Statistics, Population Estimates: Estimates of the Legal Permanent Resident Population in 2011, at 2 (July 2012) ("DHS LPR Statistics 2011"), available at [http://www.dhs.gov/xlibrary/assets/statistics/publications/ois\\_lpr\\_pe\\_2011.pdf](http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_lpr_pe_2011.pdf).

<sup>20</sup> U.S. Dep't of Homeland Sec., Form G-1055, Fee Schedule (revised Nov. 23, 2010) (fee associated with form N-600), available at <http://www.uscis.gov/files/form/g1055.pdf>.

An increase to the fee for processing a Form N-600 has been proposed to take place over the following months, and it would significantly increase the relevant fee. Under this proposal, the current fee of \$600 would increase by \$570 (95%) to \$1,170. *See Proposed Fees by Immigration Benefit*, 81 Fed. Reg. 26,904, 26,927 (May 4, 2016) (to be codified at 8 C.F.R. pt. 103).

<sup>21</sup> The fee to obtain a replacement naturalization certificate (N-565) is significant, and a raise from \$345 to \$555 (an increase of 66%) has been proposed. *See id.*

Overall, the fees for obtaining naturalization and citizenship documents from the U.S. Citizenship and Immigration Services (USCIS) are scheduled to increase by an average of over 20%, making it harder for citizens to obtain documents to meet proof-of-citizenship requirements

for replacing other identifying documents.<sup>22</sup> Naturalized citizens with low income or other economic constraints may find it cost prohibitive to apply for replacement documents and have no urgent reason to do so, since they are rarely asked to produce official naturalization paperwork.

Passports present many of the same issues. Passports are expensive and difficult to obtain, and they are only available to citizens who already have other documentary proof of citizenship. To obtain a passport, a first-time applicant must also appear in person, provide other documentary proof of citizenship, and pay a \$135 fee.<sup>23</sup> Only 39% of

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for voter registration. *See* U.S. Citizenship & Immigration Services Fee Schedule, 81 Fed. Reg. 26904, 26904 (May 4, 2016), <https://www.gpo.gov/fdsys/pkg/FR-2016-05-04/pdf/2016-10297.pdf> (amending 8 C.F.R. pt. 103, 204). Fee waivers are available for qualifying low-income applicants. But to take advantage of the waiver, applicants must know about the option and also be prepared to submit proof of eligibility.

<sup>22</sup> U.S. Dep't of Homeland Sec., Form G-1055, Fee Schedule (revised Nov. 23, 2010) (fee associated with Form N-565), *available at* <http://www.uscis.gov/files/form/g1055.pdf>.

<sup>23</sup> *See* U.S. Dep't of State, First Time Applicants, [http://travel.state.gov/passport/get/first/first\\_8\\_30.html](http://travel.state.gov/passport/get/first/first_8_30.html) (last visited, Dec. 28, 2012).

citizens have a passport,<sup>24</sup> and citizens in disadvantaged groups are far less likely to have a passport that can be used to verify citizenship.

Driver's licenses are also not a solution. The overwhelming majority of driver's licenses today do not indicate citizenship on "the face" of the license (JA 808) because citizenship is not a requirement to obtain a license. While state-issued enhanced drivers licenses can provide proof of U.S. citizenship, *see* <https://www.dhs.gov/enhanced-drivers-licenses-what-are-they>, none of the affected states offer this option.<sup>25</sup> *See* Tim

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<sup>24</sup> U.S. Dep't of State, *Passport Statistics*, <https://travel.state.gov/content/passports/en/passports/statistics.html> (last visited, Jul. 18, 2016) (125,907,176 passports in circulation in 2015); U.S. Census Bureau, *National Totals: Vintage 2015*, at Table 2, <http://www.census.gov/popest/data/national/totals/2015/index.html> (last visited, Jul. 18, 2016) (showing 321,418,820 citizens, including native-born and naturalized citizens).

<sup>25</sup> Other categories of citizens also face additional barriers complying with proof-of-citizenship requirements because they are more likely to lack acceptable documentation. Citizens that have been homeless often have lost possessions and identifying documents, making it more difficult to obtain or replace proof of citizenship. Transgender citizens also face particular problems updating their IDs and records, presenting a potential obstacle to voter registration if strict proof-of-citizenship requirements are enforced. In Georgia, 39% of the transgender voting-eligible population (4,429 individuals) has no updated IDs or records. In Kansas, this number is 26%, or 870 people.

Harlow, *Minnesota Becomes Fifth State to Offer Enhanced Driver's Licenses and ID Cards*, Star Tribune (Feb. 10, 2014), available at <http://www.startribune.com/minnesota-to-offer-enhanced-driver-s-licenses-id-cards/244738141/>.

**2. The obstacles to registration are especially high for citizens lacking documents, and the burdens are greatest for the most vulnerable citizens.**

For those citizens lacking documents for whatever reason, proof-of-citizenship requirements present a new and formidable obstacle to voter registration. And the obstacles are greatest for the most vulnerable citizens who may lack the resources or ability to track down and obtain documents verifying their citizenship. For citizens who lack documents in the affected states, the contrast between registering under the original and modified federal form is stark.

Under the original form, citizens can register to vote by filling in a simple, postcard-sized form without having to provide copies of any

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Jody L. Herman, *The Potential Impact of Voter Identification Laws on Transgender Voters*, the Williams Institute 6 (April 2012), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Herman-Voter-ID-Apr-2012.pdf>.



documentation. The only cost associated with registering is the nominal cost of postage, and the entire process can easily be completed in an hour or less from the comfort of the citizen's own home. When a proof-of-citizenship requirement is introduced into the process, however, voter registration becomes neither simple nor convenient for citizens who lack documents. Instead, citizens potentially have to expend hundreds of dollars, devote many hours if not multiple days, and be prepared to travel in-person to government offices to secure acceptable documents verifying their citizenship.

These obstacles can be daunting. In addition to the financial expense of application fees, see *supra* at Part I.B.1, the application process for documents verifying citizenship (such as a replacement birth certificate or certificate of naturalization) is far more complex than filling out the federal voter registration form. Citizens who need additional documents to register, particularly those in rural areas or areas lacking public transportation, may also have to travel long distances to government offices to apply for documents or seek assistance. Those offices often have limited hours, forcing applicants to miss work, perhaps

for multiple days, in an effort to navigate bureaucratic hurdles and complete paperwork.

Even after successfully applying, citizens must also be prepared to endure potentially lengthy delays to obtain requisite documents. For example, it can take upwards of a year to process a Form N-600, Certificate of Citizenship.<sup>26</sup> Obtaining a new birth certificate can also be a lengthy process, particularly if the citizen now resides outside their birth state.<sup>27</sup> Most naturalized U.S. citizens reportedly also face a months-long process when obtaining replacement naturalization certificates.<sup>28</sup>

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<sup>26</sup> See United States Citizenship & Immigration Services, *USCIS Processing Time Information*, <https://egov.uscis.gov/cris/processTimesDisplay.do> (last visited, Jul. 19, 2016) (reporting on the process times for various forms by field office, including the N-600).

<sup>27</sup> See GAO, STATES REPORTED THAT CITIZENSHIP DOCUMENTATION REQUIREMENT RESULTED IN ENROLLMENT DECLINES FOR ELIGIBLE CITIZENS AND POSED ADMINISTRATIVE BURDENS 18 (2007) (noting that it could take six months or more to obtain a birth certificate from another state).

<sup>28</sup> See Immigration Direct, *What is the processing time for the N565 application?*, <http://kb.immigrationdirect.com/Knowledgebase/What-is-the-processing-time-for-the-N-565-application> (last visited Jul. 20, 2016)

These practical difficulties highlight the fundamental inequity in implementing the new state proof-of-citizenship requirements. The compliance burdens are higher on citizens who lack documents, and those individuals are disproportionately members of disadvantaged and traditionally disenfranchised groups. And for citizens facing a documentation gap, the personal effort required to timely obtain proof of citizenship increases if a citizen is economically disadvantaged, or unique in any way that makes it more difficult for them to obtain documents using common pathways.

To give two examples:

For a single parent supporting a family on a minimum-wage job, the \$345 fee for a replacement certificate of naturalization represents more a week's wages, working full-time, in all three affected states. The application must also be accompanied by photographs, and in some cases other official supporting documentation. A full English translation (along

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(reporting wait time for Form N-565, Application for Replacement Naturalization Document, as six months with potential one year extension).

with translator's certification) must be provided for any supporting materials containing information in a foreign language. And if the parent needs any part of the application or instructions read to him or her in a different language, an interpreter's certification must also be provided.<sup>29</sup> In addition, a single parent would have to manage to get all these steps completed months in advance to realistically obtain a replacement certificate in time to register for an upcoming election, requiring a significant investment of time and careful advance planning.

Similar burdens fall on young citizens. A young derivative citizen, for example, lacking preexisting documents also faces significant barriers in registering to vote with state proof-of-citizenship requirements in place. As discussed, *supra* Part I.B.1, the cost of obtaining a new certificate of citizenship can be upwards of \$600, more than *two weeks'* *salary* for a teenager working full-time and earning the minimum wage

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<sup>29</sup> U.S. Citizenship and Immigration Services (2015). *Instructions for Application for Replacement Naturalization/Citizenship Document*. Retrieved from <https://www.uscis.gov/sites/default/files/files/form/n-565instr.pdf>.

in the affected states. Moreover, given the typical months-long wait time,<sup>30</sup> a young derivative citizen must also apply for citizenship papers at or before the age of 17 in order to register to vote by age 18.

These examples illustrate how state proof-of-citizenship requirements impose a disproportionate burden on particular groups of eligible voters. Some—simply by virtue of their circumstance—will have to expend a far greater percentage of their income and time, and also act much further in advance, to successfully register using the federal form. This substantially burdens political participation, actively discourages the right to vote, and frustrates the NVRA’s goal of removing barriers to voter registration.

All eligible citizens should have equal access to the right to vote. But proof-of-citizenship requirements erect higher barriers to registration for certain categories of citizens. Citizens who are members of traditionally disenfranchised groups, as well as citizens who face unique challenges—whether by virtue of age, gender, income, disability,

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<sup>30</sup> *See supra*, note 28.

language-proficiency, or naturalization status—are more likely to be deterred or prevented from registering.

Each of these factors makes it more likely that a citizen will lack qualifying documentary proof of citizenship and also find it substantially harder, if not impracticable, to satisfy state proof-of-citizenship requirements. The result is the opposite of what Congress intended. Modifying the federal form to include state proof-of-citizenship requirements will *reduce*, not expand the number of citizens that register to vote, and also entrench existing inequalities in voter representation.

## **II. PROOF-OF-CITIZENSHIP REQUIREMENTS IMPAIR AND FRUSTRATE ORGANIZED VOTER REGISTRATION EFFORTS**

The harm imposed by documentary proof-of-citizenship requirements also extends to organized voter registration efforts, a key mechanism under the NVRA for expanding voter registration. This case is important to *amici* and other voter registration organizations because community-based registration efforts overwhelmingly rely on the federal form. Many eligible citizens remain unregistered to vote because they do not understand registration procedures or deadlines, or because of

English language difficulties.<sup>31</sup> Other eligible citizens indicate that they are too busy to register or cite other reasons associated with convenience and ease of registration procedures.<sup>32</sup>

Community-based voter registration efforts are designed to reach these eligible voters. Through in-person events held at schools, community organizations, and churches, as well as through online and mail outreach, voter registration organizations go to, and directly contact, potential voters, helping to simplify and aid the registration process.

Organized outreach plays an especially important role among groups with traditionally low registration rates. African-American, Asian American, and Latino citizens—as well as naturalized citizens and young citizens aged 18-24—all report higher than average use of community-

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<sup>31</sup> GLENN MAGPANTAY, CHI-SER TRAN WITH KATIE WANG, LANGUAGE ACCESS FOR ASIAN AMERICANS UNDER THE VOTING RIGHTS ACT IN THE 2012 ELECTIONS (ASIAN AMERICAN LEGAL DEF. AND EDUC. FUND, 2012); *see also* Thom File and Sarah Crissey, U.S. Census Bureau, *Voting and Registration in the Election of November 2008*, 14 (July 2012).

<sup>32</sup> PEW RESEARCH CTR., WHO VOTES, WHO DOESN'T, AND WHY 4 (2006).

based registration methods.<sup>33</sup> Citizens in these underrepresented groups were more likely to report that they registered at a school, hospital, or campus.<sup>34</sup> They also reported higher use of registration booths.<sup>35</sup> Data also confirms that non-White citizens are twice as likely as White citizens to register through a voter registration drive.<sup>36</sup> In addition, many voter registration groups specifically focus on assisting traditionally disenfranchised communities.

The simplicity and ease of the federal form for community outreach purposes—and to reach underrepresented voters in particular—is not serendipity. The form was developed to eliminate barriers to voting. (Appellants’ Br. at 7-9.) A uniform federal form helps maximize outreach

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<sup>33</sup> U.S. Census Bureau, *Voting and Registration in the Election of November 2004*, Table 14 (2005) <https://www.census.gov/hhes/www/socdemo/voting/publications/p20/2004/tables.html> (last visited, Jul. 20, 2016).

<sup>34</sup> See *Voting and Registration 2014*, *supra* note 2, at Table 12.

<sup>35</sup> See *id.*

<sup>36</sup> Douglas R. Hess & Jody Herman, Representational Bias in the 2008 Electorate, PROJECT VOTE, Table 3 (Nov. 2009), available at [http://www.voterparticipation.org/wpcontent/uploads/2011/10/Project\\_Vote\\_-\\_Representational\\_Bias\\_the\\_2008\\_Electorate.pdf](http://www.voterparticipation.org/wpcontent/uploads/2011/10/Project_Vote_-_Representational_Bias_the_2008_Electorate.pdf)



efforts by registration organizations in multiple ways. The federal form can be distributed to large numbers of eligible voters. And the form allows the entire registration process to be completed by the end of a community event or voting drive. Organizations can even mail completed forms for applicants. By using the federal form, organizations can reach eligible voters in the community and successfully register voters, even if eligible individuals were not specifically planning to register in advance, and without requiring follow-up by eligible citizens.

Modification of the federal form to add a state-imposed proof-of-citizenship requirement fundamentally alters the community outreach process. Community-based registration is successful precisely because it reaches eligible citizens in the communities where they live, providing a convenient opportunity for registration that does not require any additional, affirmative steps by an applicant.

Adding a proof-of-citizenship requirement changes that framework. Organizations must now undertake to explain state-specific requirements to eligible voters and answer questions based on the unique circumstances of each individual potential voter. Some citizens will lack

necessary documents. Other citizens with documents will likely not have the documents on their person, since it is uncommon to carry documents such as birth certificates, naturalization documents, or passports when conducting routine, everyday activities.

Instead of helping eligible voters complete mail-in registration forms on-site, without extensive time commitment, organizations will have to devote additional resources to reviewing personal documents with applicants, helping applicants track down and potentially apply for documents, and conducting later follow-up on applications. None of these steps are simple. Many *amici* have decades-long experience with voter outreach. But that experience does not make *amici* experts at document analysis or assisting individuals in obtaining documents attesting to their citizenship. Fulfilling that advisory and assistance function is beyond the present capacity and resources of many voter registration organizations.

Proof-of-citizen requirements also frustrate community outreach efforts on a more basic level. Additional documentary requirements slow and lengthen the voter registration process, often requiring applicants to

take additional steps and complete the registration process on their own. The delay and complication will deter and prevent eligible voters from registering. Proof-of-citizen requirements also alienate eligible voters. The federal form already asks applicants to attest to their citizenship status under penalty of perjury. As a result, many new voters will rightly view the additional proof-of-citizenship requirements as a challenge to their legitimacy and truthfulness. This alone might deter them from registering. Others may not welcome repeated inquiries into highly personal information, nor be willing to share their birth certificates or naturalization documents with outreach organizations, viewing attempts at contact by community groups as intrusive.

The threat to organized voter registration efforts is not speculative. Evidence from Arizona's prior enforcement of proof-of-citizenship-requirements for voter registration confirms that community outreach efforts were significantly impaired. Registration through community-based voter drives in Arizona's largest county dropped 44%, for example,

after Arizona’s proof-of-citizenship requirement went into effect.<sup>37</sup> In 2014, the EAC also specifically found that state proof-of-citizenship requirements “would *thwart* organized voter registration programs” (JA 1111, emphasis added).

*Amici* are united in warning the court about the detrimental consequences of upholding the challenged action. This case sets a dangerous precedent for the upcoming election and beyond. If states are permitted to modify the federal form to impose new and varying state-specific documentation requirements, the utility of the federal form will be lost. The ability of voter registration organizations to conduct community outreach will also be fatally impaired. Organizations would increasingly have to serve as legal advisors and advocates for individual applicants—to help applicants overcome documentary hurdles—rather than focusing on their core mission of civic engagement and broad outreach to eligible voters and underrepresented groups.

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<sup>37</sup> See, e.g., *The State of the Right to Vote After the 2012 Election Before the S. Comm. on the Judiciary*, 112th Cong. (2012) (statement of Nina Perales, Vice President of Litigation, Mexican American Legal Defense and Education Fund).

### III. LACK OF NOTICE AND COMMENT DEPRIVED EAC OF KEY INFORMATION

Because appellee Newby acted unilaterally in this case, without public notice or an opportunity for public comment, full information on the burden that would be imposed by new proof-of-citizenship requirements was not available to the agency. Instead, the federal form was modified solely on the limited information and one-sided claims made by the requesting states, without an opportunity for other parties like *amici* to present opposing evidence and data. This unusual procedure violates the Administrative Procedure Act (see Appellant's Br. at 34-36).

Full information on the burdens to eligible voters and to organized voter registration efforts is critical given the scant rationale for the state modification requests. Kansas, Georgia, and Alabama assert that additional proof of citizenship is required to respond to the threat of non-citizen voter fraud. But the EAC has already rejected that argument, concluding that the federal form contains sufficient safeguards to prevent non-citizens from registering (JA 1097-1100). Moreover, available reports confirm that registration and voting by non-citizens is extremely rare,

including in the requesting states.<sup>38</sup> A federal court, for example, recently reviewed available data and concluded that rates of prior non-citizen voter fraud in Kansas were “at best nominal”.<sup>39</sup> And election officials in Georgia have also previously reported no known instances of non-citizens fraudulently registering to vote.<sup>40</sup>

When prior state requests were made, the EAC provided notice and opportunity for comment. And the agency rejected state requests to impose proof-of-citizenship requirements based on evidence of burden and hindrance provided by commenting parties. Here, the agency should not be permitted to reverse course without providing a full explanation (Appellants’ Br. at 36-38), and without granting parties a similar opportunity to document the burden to eligible voters and the absence of justification for modifying the federal form.

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<sup>38</sup> *E.g.*, JA 1105.

<sup>39</sup> *Fish v. Kobach*, No. 16-2105-JAR-JPO, 2016 WL 2866195, at \*43 (D. Kan. May 17, 2016), *appeal docketed*, No. 16-3175 (10th Cir. June 16, 2016).

<sup>40</sup> KRISTEN BAKER & NELLY WARD, SURVEY OF GEORGIA ELECTIONS OFFICIALS ON VOTING BY NON-CITIZENS 1 (2009).

***Conclusion***

For all of these reasons, the Court should reverse the judgment of the district court and grant Appellants' motion for a preliminary injunction.

Dated: July 21, 2016

Respectfully submitted,

By: /s/ Eugene Chay  
Eugene Chay (Counsel of Record,  
admission pending)

Cecelia C. Chang  
ASIAN AMERICANS ADVANCING  
JUSTICE | AAJC  
1620 L Street N.W., Suite 1050  
Washington D.C. 20036  
(202) 296-2300 x 140

Javeria Jamil  
ASIAN AMERICANS ADVANCING  
JUSTICE | ATLANTA  
6040 Unity Drive, Suite E  
Norcross, Georgia 30071

# APPENDIX



## **Appendix A: Statements of Interest of *Amicus Curiae***

**Asian Americans Advancing Justice | AAJC** is a nonprofit, nonpartisan organization that seeks to promote a fair and equitable society for all by working for civil and human rights and empowering Asian American, Native Hawaiian, and Pacific Islander (AANHPI) communities. Advancing Justice | AAJC advances its mission through advocacy, public policy, public education, and litigation. Advancing Justice | AAJC has maintained a strong interest in the voting rights of AANHPIs and strives to protect AANHPI's access to the polls. Advancing Justice | AAJC was a key player in collaborating with other civil rights groups to reauthorize the Voting Rights Act in 2006, and, in past elections, has conducted poll monitoring and voter protection efforts across the country. Advancing Justice | AAJC has a long-standing history of serving the interests of immigrant and language minority communities, and is very concerned with issues of discrimination that might face them.

**Asian Americans Advancing Justice | Atlanta** is the first legal and policy advocacy center dedicated to promoting the civil rights of Asian Americans, Native Hawaiians and Pacific Islanders in Georgia and the Southeast. Advancing Justice | Atlanta's efforts particularly focus on civic engagement and voter mobilization work to increase Asian voter participation in Georgia. This case directly impacts the voting rights of the communities Advancing Justice | Atlanta serves. Therefore, Advancing Justice | Atlanta has a strong interest in the outcome of this case.

**Asian Americans Advancing Justice | Asian Law Caucus**, founded in 1972, is the nation's first legal and civil rights organization serving low-income Asian Americans. Advancing Justice | ALC strives to create informed and educated Asian American communities empowered to assert their rights and to participate actively in American society. As such, Advancing Justice | ALC has for several decades operated a voting rights program that ensures equal access to voter registration, language assistance in voting for limited-English proficient voters, and fair redistricting that empowers Asian American communities. Based on this commitment to protecting the voting rights

of marginalized communities, Advancing Justice | ALC has a strong interest in the outcome of this case.

**Asian Americans Advancing Justice | Chicago** is a pan-Asian non-profit organization whose mission is to empower the Asian American community through advocacy, coalition-building, education, and research. Founded in 1992, Advancing Justice | Chicago leads the largest non-partisan poll monitoring effort in the Midwest that is focused on protecting the voting rights of immigrants. Advancing Justice | Chicago has also advocated for redistricting that fairly recognizes minority communities, improved language assistance for limited English proficient voters, and increased democratic participation through policies such as Automatic Voter Registration. Based on this commitment to protecting the voting rights of marginalized communities, Advancing Justice | Chicago has a strong interest in the outcome of this case.

**Asian Americans Advancing Justice | Los Angeles** was founded in 1983 and is the nation's largest nonprofit public interest law firm devoted to the Asian American, Native Hawaiian and Pacific Islander community. Advancing Justice | LA provides direct legal services to indigent members of our community and uses impact litigation, policy advocacy, community education and leadership development to obtain, safeguard and improve the civil rights of Asian Americans, Native Hawaiians and Pacific Islanders. Advancing Justice | LA's civil rights litigation has covered a broad range of issues such as racial polarized voting, race and national origin discrimination, access to higher education, immigration and naturalization, language rights and garment worker rights. Advancing Justice | LA has a long history of working to protect the voting rights of historically disenfranchised communities and thus has a strong interest in the outcome of this case.

**American-Arab Anti-Discrimination Committee (ADC)** is the country's largest Arab American grassroots civil rights organization. Founded in 1980 by U.S. Senator James Abourezk, ADC consists of members from all 50 states and has multiple chapters nationwide, including Georgia, Kansas, and Alabama. ADC conducts legal and policy work on voting rights in the Arab American community, communities of color, and communities with immigrant background. ADC's interest in

this Case arises from the impact this Case decision will have on our constituents' fundamental right to vote.

The **Asian American Legal Defense and Education Fund (AALDEF)** is a 42-year-old national civil rights organization based in New York City that promotes and protects the civil rights of Asian Americans through litigation, legal advocacy, and community education. AALDEF has monitored elections through annual multilingual exit poll surveys since 1988. A significant component of AALDEF's mission is to ensure that Asian Americans have an equal opportunity to participate in the voting process. To that end, AALDEF advocates on behalf of Asian American voters and conducts voter registration drives, voter education events and voter protection activities.

The **Campaign Legal Center (CLC)** is a nonpartisan, nonprofit organization that works in the area of election law, generally, and voting rights law, specifically, generating public policy proposals and participating in state and federal court litigation regarding voting rights. CLC currently represents plaintiffs in an ongoing challenge to the strict voter ID requirement in Texas, *Veasey v. Abbott*, and has served as amicus curiae in numerous voting rights cases before the Supreme Court, including *Wittman v. Personhuballah*, No. 14-1504; *Harris v. Arizona Independent Redistricting Commission*, No. 14-232; *Evenwel v. Abbott*, No. 14-940; *Arizona State Legislature v. Arizona Independent Redistricting Commission*, 135 S. Ct. 2652 (2015); *Shelby County v. Holder*, 133 S. Ct. 2612 (2013); and *Crawford v. Marion County*, 553 U.S. 181 (2008).

**Common Cause** is a nonpartisan, grassroots, citizens organization dedicated to fair elections and making government at all levels more democratic, open, and responsive to the interests of all people. With over 400,000 members nationwide and local chapters in 35 states, Common Cause has been a leader in the fight for open, honest, and fair elections.

**Dēmos** is a national public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. Removing barriers to voter registration and political participation and ensuring full representation of our country's

diverse citizenry are central to Dēmos' mission. Dēmos has a particular interest in proper interpretation and vigorous enforcement of the National Voter Registration Act of 1993, and engages in litigation and advocacy throughout the country to ensure that this important federal voting rights law is fully implemented to further Congress's goal of increasing the numbers of eligible persons who register and vote.

**The Mexican American Legal Defense and Education Fund (MALDEF)** is a national civil rights organization established in 1968. Its principal objective is to secure the civil rights of Latinos living in the United States through litigation, advocacy, and education. MALDEF's mission is to foster sound public policies, laws, and programs to safeguard the civil rights of Latinos living in the United States and to empower the Latino community to participate fully in our society.

**The National Asian Pacific American Bar Association (NAPABA)** is the national association of Asian Pacific American attorneys, judges, law professors, and law students, representing the interests of seventy five state and local Asian Pacific American bar associations and nearly 50,000 attorneys who work in solo practices, large firms, corporations, legal services organizations, nonprofit organizations, law schools, and government agencies. Since its inception in 1988, NAPABA has served as the national voice for Asian Pacific Americans in the legal profession and has promoted justice, equity, and opportunity for Asian Pacific Americans. NAPABA recognizes the disparate impact that restrictions on voting rights and efforts to make it harder to register to vote have on minority and low-income communities.

**The National Association of Latino Elected and Appointed Officials (NALEO) Educational Fund** is the leading national nonprofit organization that facilitates full Latino participation in the American political process, from citizenship to public service. Our constituency encompasses more than 6,100 Latino elected and appointed officials nationwide, and includes Independents, Republicans, and Democrats. For several decades, the NALEO Educational Fund has worked to eliminate disparities in civic engagement by mobilizing eligible Latinos to register and vote, and by advocating federal, state, and local

voter registration policies that lead to new and historically underrepresented Americans' robust involvement in elections.

The **National Council of Jewish Women (NCJW)** is a grassroots organization of 90,000 volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children, and families and by safeguarding individual rights and freedoms. NCJW's Resolutions state that NCJW resolves to work for "Election laws, policies, and practices that ensure easy and equitable access and eliminate obstacles to the electoral process so that every vote counts and can be verified." Consistent with our Principles and Resolutions, NCJW joins this brief.

The **People For the American Way Foundation (PFAWF)** is a nonpartisan civic organization established to promote and protect civil and constitutional rights, including the right to vote. Founded in 1981 by a group of civic, educational, and religious leaders, PFAWF now has hundreds of thousands of members nationwide. Over its history, PFAWF has conducted extensive education, outreach, litigation, and other activities to promote these values and to help overcome barriers to voting and political participation. In particular, PFAWF has conducted and continues to conduct significant voter education, registration, and mobilization activities aimed at traditionally disenfranchised persons, and those efforts would be materially harmed by state imposition of proof-of-citizenship requirements in contrast to the National Voter Registration Act, at issue in this case. Many of these PFAWF efforts have been and are conducted through its African American Ministers Leadership Council (AAMLC), which has been active since 1997 in promoting participation in our democracy through voting. PFAWF and AAMLC accordingly join this brief.

The **Service Employees International Union (SEIU)** represents nearly 2 million men and women who work in service industries throughout the United States. Directly and through its affiliated local unions, SEIU members and their families participate in federal, state and local elections, and promote efforts to ensure full participation in the political process to all citizens, including through voter registration drives. SEIU has a substantial interest in the outcome

of this litigation because the workers it represents are a diverse cross-section of the United States in terms of race and ethnicity. Many SEIU members face barriers to voter registration, and would be adversely impacted by the proof-of-citizenship documentation requirement at issue in this case.

The **Southern Coalition for Social Justice** is a 501(c)(3) nonprofit public interest law organization founded in 2007 in Durham, North Carolina. SCSJ partners with communities of color and economically disadvantaged communities in the south to defend and advance their political, social, and economic rights through the combination of legal advocacy, research, organizing and communications. One of *amicus*' primary practice areas is voting rights. *Amicus* SCSJ frequently represents clients in cases brought under the VRA and NVRA challenging voting laws and practices that hinder open and accessible voter registration for all eligible voters.

**CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME  
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1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B) and Circuit Rule 32(a).

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July 21, 2016

By:   /s/ Eugene Chay    
Eugene Chay  
(Counsel of Record, admission pending)  
Counsel for Amici Curiae

**United States Court of Appeals  
for the District of Columbia Circuit**

*League of Women Voters, et al v. Brian Newby, et al*, No. 116/5196

**CERTIFICATE OF SERVICE**

I, Robyn Cocho, being duly sworn according to law and being over the age of 18, upon my oath depose and say that:

Counsel Press was retained by ASIAN AMERICANS ADVANCING JUSTICE | AAJC, Attorneys for *Amici Curiae* to print this document. I am an employee of Counsel Press.

On **July 21, 2016**, counsel has authorized me to electronically file the foregoing **Brief of *Amici Curiae* Asian Americans Advancing Justice | AAJC, et al.** with the Clerk of Court using the CM/ECF System, which will serve, via e-mail notice of such filing, to any of the following counsel registered as CM/ECF users:

Jonathan D. Janow  
D.C. Bar No. 1002399  
KIRKLAND & ELLIS LLP  
655 Fifteenth Street, NW  
Suite 1200  
Washington, DC 20005  
202 879-5000  
jonathan.janow@kirkland.com  
*Counsel for Appellants  
League of Women Voters of the  
United States, et al.*

Dale Ho, Director  
ACLU Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
Dale.ho@aclu.org  
*Counsel for Appellants  
George State Conference of the  
NAACP, et al.*



John A. Freedman  
R. Stanton Jones  
Andrew M. Treaster  
Arnold & Porter LLP  
601 Massachusetts Avenue, NW  
Washington, DC 20001-3743  
202-942-5000  
John.Freedman@aporter.com  
stanton.jones@aporter.com  
andrew.treaster@aporter.com  
*Counsel for Appellant*  
*Project Vote*

Daniel Tenny  
Mark B. Stern  
U.S. Department of Justice  
Civil Division, Appellate Staff  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
202-514-2000  
daniel.tenny@usdoj.gov  
mark.stern@usdoj.gov  
*Counsel for Appellees*  
*Brian D. Newby, et al.*

Garrett Robert Roe  
Office of the  
Kansas Secretary of State  
120 SW 10th Avenue  
Memorial Hall, First Floor  
Topeka, KS 66612  
785-296-8473  
garrett.robert.roe@gmail.com  
*Counsel for Intervenor-Appellee*  
*Kansas Secretary of State*

Kaylan Lytle Phillips  
Public Interest Legal Foundation  
209 W. Main Street  
Plainfield, IN 46168  
317-203-5599  
kphillips@publicinterestlegal.org  
*Counsel for Intervenor-Appellee*  
*Public Legal Foundation*

A courtesy copy has also been mailed, via Express Mail to the above listed counsel.

Unless otherwise noted, 8 paper copies have been filed with the Court on the same date via hand delivery before noon.

July 22, 2016

/s/ Robyn Cocho  
Robyn Cocho  
Counsel Press