No. 18-1492

In the
Supreme Court of the United States

KATHERINE MILLER,
Petitioner,

v.

JAY INSLEE, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF WASHINGTON, et al.,
Respondents.

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

BRIEF AMICUS CURIAE OF PACIFIC LEGAL FOUNDATION IN SUPPORT OF PETITIONER

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QUESTION PRESENTED

The Court recently held that a state "requir[ing] that a union serve as exclusive bargaining agent for its employees [is] itself a significant impingement on associational freedoms . . . that would not be tolerated in other contexts." *Janus v. AFSCME, Council 31*, 138 S. Ct. 2448, 2478 (2018). The state of Washington compels individuals who operate state subsidized home-based childcare businesses, and who are not government employees, to accept an exclusive representative that speaks for them in petitioning, lobbying, and contracting with the state over public policies that affect their professions.

The question presented is whether Washington's compelling nonmember providers to accept a private organization as their exclusive representative for dealing with the state over public policy is one of the "other contexts" in which the "significant impingement on associational freedoms" is not tolerated by the First Amendment.

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INTEREST OF AMICUS CURIAE

Pacific Legal Foundation (PLF) was founded in 1973 and is widely recognized as the largest and most experienced nonprofit legal foundation of its kind.[1] Among other matters affecting the public interest, PLF has repeatedly litigated in defense of the First Amendment rights of workers. PLF attorneys were counsel of record in *Keller v. State Bar of Cal.*, 496 U.S. 1 (1990); *Brosterhous v. State Bar of Cal.*, 12 Cal. 4th 315 (1995); and *Cumero v. Pub. Emp't Relations Bd.*, 49 Cal. 3d 575 (1989). PLF has participated as amicus curiae in all of the most important cases involving the application of the First Amendment freedoms of speech and association to instances of government compulsion, from *Abood v. Detroit Bd. of Educ.*, 431 U.S. 209 (1977), to *Knox v. Serv. Emps. Int'l Union, Local 1000*, 567 U.S. 298 (2012), *Harris v. Quinn*, 134 S. Ct. 2618 (2014), *Friedrichs v. Cal. Teachers Ass'n*, 136 S. Ct. 1083 (2016), and *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, 138 S. Ct. 2448 (2018).

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[1] Pursuant to this Court's Rule 37.2(a), all parties have consented to the filing of this brief. Petitioner received more than 10 days' notice of the filing of this brief. While the Respondents received fewer than 10 days' notice of the filing of this brief, all parties agreed to waive any complaints about timeliness so as to permit this brief to be filed prior to the conference on June 20 (eight days before the response date designated by the Court upon docketing the petition).

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

INTRODUCTION AND SUMMARY OF REASONS TO GRANT THE PETITION

The State of Washington helps low-income families afford childcare through state programs that provide subsidies to participating childcare providers.[2] Until it passed the Access to Quality Family Child Care Act (Act) in 2004, the state alone determined the amount of this childcare subsidy, as well as other policies related to childcare.[3] The Act significantly altered the relationship between subsidized childcare providers and the state by deeming the providers to be public employees solely for the purpose of collective bargaining.[4]

The Act authorizes providers to elect an exclusive representative to negotiate with the state about all providers' health and welfare benefits, professional development and training, grievance procedures, manner and rate of subsidy and reimbursements, labor management committees, and other economic matters.[5] The Service Employees International Union, Local 925 (SEIU) is the exclusive representative for all subsidized childcare providers in Washington, and it negotiates collective bargaining agreements with the state that are binding on all

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[2] *See* RCW § 43.215.135.

[3] *See* RCW § 74.15.030; *see also* RCW § 41.56.028(1).

[4] *See* RCW § 41.56.028(1).

[5] RCW § 41.56.028(2)(a)-(b); *see also* Collective Bargaining Agreement, State of Washington and SEIU 925 (CBA), https://www.ofm.wa.gov/sites/default/files/public/legacy/labor/agreements/15-17/nse_childcare.pdf (last visited June 10, 2019).

providers, regardless of whether they are union members or not.[6]

Petitioner Katherine Miller is a private licensed childcare worker who contracts with the Washington State Department of Early Learning to provide subsidized childcare to low-income families under one of several state assistance programs.[7] Miller is not an SEIU member and does not wish to be associated with or represented by the union. Pet. App. 38a. Miller contends that the Act violates her First Amendment right to choose which organization, if any, speaks and contracts for her in her relationship with the state, as well as her right to not have others speak on her behalf. Pet. App. 39a–40a, 41a.

The district court rejected Miller's arguments, holding that *Minnesota State Bd. for Community Colleges v. Knight*, 465 U.S. 271 (1984), controls and that the First Amendment is no barrier whatsoever to the state's ability to grant a third party the power to exclusively speak for and represent individuals in their relations with their government. Pet. App. 27a–28a. The Ninth Circuit affirmed, holding that *Knight* remains unaffected by *Janus*, exclusive representation does not violate Miller's First Amendment rights, and that *Janus*'s reference to exclusive representation as a "significant impingement on associational freedoms that would not be tolerated in other contexts"[8] is merely dictum. Pet. App. 12a–18a.

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[6] *See* CBA § 1.1; *see also* RCW §§ 41.56.028; 41.56.080, 41.56.100.
[7] WAC §§ 170-290-0001, 170-290-0240.
[8] *Janus*, 138 S. Ct. at 2478.

However, Miller's case presents just such an "other context," and affords this Court the opportunity to squarely examine exclusive representation in light of its impact on workers' First Amendment freedoms of speech and association.

The Petition also presents a strong vehicle for this Court to consider whether *Knight* is still good law in light of the Court's recent decisions rejecting compelled funding of labor unions' political speech. The courts below found *Knight* to be a closer fit in the instant case than *Janus*, concluding in a broad reading of *Knight* that the state has not impinged on Miller's First Amendment rights in part because she is not compelled to pay a mandatory fee to the union. However, after this Court's decisions in *Harris* and *Janus*, *Knight* can no longer support such an extensive infringement on Miller's constitutional right of free association.

The petition for a writ of certiorari should be granted.

REASONS TO GRANT THE PETITION

I

EXCLUSIVE REPRESENTATION IMPINGES UPON WORKERS' FIRST AMENDMENT RIGHTS

A. The Intertwined Freedoms of Speech and Association Demand Equally Rigorous Constitutional Protection

This Court did not cite *Knight* in *Janus*, leaving the question of how to apply the First Amendment principles that governed *Janus* a matter of recurring debate. This case is the latest in a lengthening series of petitions asking this Court to determine the extent, if any, to which *Knight* remains good law. The petitions are arising in cases from coast to coast and the issue is presented in multiple cases still being litigated in lower courts. *See Riffey v. Pritzker*, 910 F.3d 314 (7th Cir. 2018), *petition for cert. filed* Feb. 25, 2019 (No. 18-1120); *D'Agostino v. Baker*, 812 F.3d 240 (1st Cir.), *cert. denied*, ___ U.S. ___, 136 S. Ct. 2473 (2016); *Bierman v. Dayton*, 900 F.3d 570 (8th Cir. 2018), *cert. denied sub nom Bierman v. Walz*, ___ U.S. ___, 2019 WL 2078110 (mem.); *Hill v. Service Employees Int'l Union*, 850 F.3d 861 (7th Cir.), *cert. denied*, ___ U.S. ___, 138 S. Ct. 446 (2017); *Jarvis v. Cuomo*, 660 Fed. Appx. 72 (2d Cir. 2016), *cert. denied*, ___ U.S. ___, 137 S. Ct. 1204 (2017); *Uradnik v. Inter Faculty Org.*, 2018 WL 4654751 (D. Minn. Sept. 27, 2018), *aff'd* U.S. Ct. App., No. 18-3086 (8th Cir. Dec. 3, 2018), *cert. denied*, ___ U.S. ___, 139 S. Ct. 1618 (2019); *Branch v. Commonwealth Employment Relations Board*, 481 Mass. 810 (2019); *Reisman v. Associated Faculties of the Univ. of Maine*, 356 F.

Supp. 3d 173 (D. Me. 2018). This Court should not delay answering the question any further.

The First Amendment encourages an "open marketplace" where the ideas of individuals and groups are free to compete without government interference. *N.Y. State Bd. of Elections v. Torres*, 552 U.S. 196, 208 (2008). The Constitution firmly guards the First Amendment rights of individuals and groups—the state may not prohibit ideas it disfavors or compel endorsement of ideas it approves, *see Brandenburg v. Ohio*, 395 U.S. 444, 447–48 (1969) (per curiam), or "place obstacles" to a person's exercise of his or her First Amendment freedoms, *see Regan v. Taxation with Representation of Wash.*, 461 U.S. 540, 549–50 (1983). A governmental interest in favoring one form of speech over another is constitutionally illegitimate. *Carey v. Brown*, 447 U.S. 455, 468 (1980).

Freedom of association, like the freedom of speech, "lies at the foundation of a free society." *Shelton v. Tucker*, 364 U.S. 479, 486 (1960). In large part this is because the right to associate "makes the right to express one's views meaningful." *Knight*, 465 U.S. at 309. The right to associate logically includes a corresponding right *not* to associate. *Knox*, 567 U.S. at 309 ("Freedom of association … plainly presupposes a freedom not to associate."); *see also Riley v. Nat'l Fed'n of the Blind of N.C., Inc.*, 487 U.S. 781, 797 (1988) ("[F]reedom of speech . . . necessarily compris[es] the decision of both what to say and what not to say.").

An association takes on the characteristics and preferences of its membership, and its speech can be powerful. *See Federal Election Comm'n v. Colorado Republican Federal Campaign Comm.*, 533 U.S. 431, 448 n.10 (2001) ("We have repeatedly held that

political parties and other associations derive rights from their members."). This premise underlies the concept of associational standing, which recognizes that "the primary reason people join an organization is often to create an effective vehicle for vindicating interests that they share with others." *Int'l Union, United Auto., Aerospace and Agric. Implement Workers of America v. Brock*, 477 U.S. 274, 290 (1986). Labor unions, as one of those "other associations," derive their right to speak from the rights of their union members. Miller, and other childcare providers like her, are not union members, and therefore the state must not grant to the union the extraordinary right to speak on their behalf.

In fact, the right to speak on behalf of another without that person's consent is so extraordinary that this Court forbids it in most other contexts. For example, when condemned murderer Gary Gilmore declined to appeal his death sentence, the Court refused to allow his mother to act as his "next friend" and speak for him by means of initiating an appeal on his behalf. *Gilmore v. Utah*, 429 U.S. 1012–14 (1976). Even with Gilmore's life on the line, the Court would not allow a competent man to be spoken for by someone who would choose a course of action that differed from his own. *See id.* at 1014–16 (Burger, C.J., concurring). In a First Amendment case, *Arkansas Writers' Project v. Ragland*, 481 U.S. 221, 227 (1987), this Court struck down a state sales tax on general interest magazines that exempted certain types of specialty publications as violating the freedom of the press. The Court rejected the argument that there was no violation because the content of the taxed magazines could be obtained from other, non-taxed publications: "It hardly answers one person's

objection to a restriction on his speech that another person, outside his control, may speak for him." *Id.* at 231 (quoting *Regan*, 461 U.S. at 553 (Blackmun, J., concurring)). This Court consistently protects individuals from those who wish to speak on their behalf, even in matters of life or death. Individuals like Miller, whose free speech rights are threatened by an exclusive representative, deserve no less protection.

The right to speak and associate and the corresponding right to refrain from speaking and associating are protected by the First Amendment through closely intertwined analyses. *See Eu v. San Francisco County Democratic Cent. Comm.*, 489 U.S. 214, 224 (1989) ("Barring political parties from endorsing and opposing candidates not only burdens their freedom of speech but also infringes upon their freedom of association."). The link between freedom of speech and freedom of association is most commonly seen in the context of political speech. For instance, political parties may determine who is entitled to membership and, conversely, the parties are not presumed to speak for those who may be eligible for membership but choose not to participate. *Tashjian v. Republican Party of Connecticut*, 479 U.S. 208, 214 (1986) (An individual voter has the right to associate with the political party of his or her choice and a political party has a right to "identify the people who constitute the association."). In this case, there's no question that Miller's right to refrain from speaking—via a union mouthpiece—is infringed.

B. Exclusive Representation Deprives Non-Members of the Right To Communicate with the State

Unions designated as exclusive representatives have special privileges not available to non-members. *See Janus*, 138 S. Ct. at 2467. Exclusive representation allows the SEIU, and the SEIU alone, to determine the employment terms and conditions of Washington subsidized childcare providers, and purports to represent the entire workforce in its lobbying efforts. *See NLRB v. Allis-Chambers Mfg. Co.*, 388 U.S. 175, 180 (1967); *Am. Commc'ns Ass'n v. Douds*, 339 U.S. 382, 401 (1950) ("[I]ndividual employees are required by law to sacrifice rights which, in some cases, are valuable to them" under exclusive representation, and "[t]he loss of individual rights for the greater benefit of the group results in a tremendous increase in the power of the representative of the group—the union."). If unions "have no constitutional entitlement to the fees of nonmember-employees," *Davenport v. Wash. Educ. Ass'n*, 551 U.S. 177, 185 (2007), how can unions be entitled to the forced association of non-member employees through exclusive representation laws? *See* Martin H. Malin, *The Legal Status of Union Security Fee Arbitration After Chicago Teachers Union v. Hudson*, 29 Boston Coll. L. Rev. 857, 870 n.87 (1988) ("One cannot distinguish the constitutional validity of the fee from the constitutional validity of the exclusive representation principle.").

Exclusive representation "extinguishes the individual employee's power to order his own relations with his employer and creates a power vested in the chosen representative to act in the interests of all

employees." *NLRB*, 388 U.S. at 180. Justice Stevens expanded on this point in his dissent in *Knight*. While the majority in that case rested on a unique theory that the government is not bound to listen just because people choose to speak, *Knight*, 465 U.S. at 283, the dissenting Justices' view reflected the reality that a government communicative prohibition based on the identity of a speaker in favor of a communicative monopoly for a preferred speaker is odious to the First Amendment. *Id.* at 301 (Stevens, J., dissenting).[9]

While it is true that the government is under no affirmative duty to listen, preventing citizens from competing in the marketplace of ideas renders their speech futile. *Id.* at 308–09 (Stevens, J., dissenting) ("[T]he First Amendment was intended to secure something more than an exercise in futility—it guarantees a meaningful opportunity to express one's views."). By extension, the freedom of association is protected by the First Amendment because it "makes the right to express one's views meaningful." *Id.* at 309 (Stevens, J., dissenting). A government grant of a communicative monopoly stands directly at odds with the well-recognized principle that government endorsing one form of speech over another is illegitimate. *Carey*, 447 U.S. at 468; *see also Police Dep't of the City of Chicago v. Mosley*, 408 U.S. 92, 95 (1972) ("[A]bove all else, the First Amendment means that the government has no power to restrict expression because of its message, its ideas, its subject matter, or its content."); *Whitney v. Cal.*, 274 U.S. 357, 375 (1927) (Brandeis, J., concurring) ("[I]t is

[9] Justices Brennan and Powell joined Justice Stevens in this portion of his dissent.

hazardous to discourage thought, hope, and imagination; [the Founders understood] that fear breeds repression; that repression breeds hate; that hate menaces stable government; that the path of safety lies in the opportunity to discuss freely supposed grievances and proposed remedies[.]").

Particularly in the context of a labor union, a decision that no constitutional infringement arises if dissenters or non-members can speak on their own invites retribution from union loyalists if those dissenters *do* speak. George Schatzki, *Majority Rule, Exclusive Representation, and the Interests of Individual Workers: Should Exclusivity be Abolished?*, 123 U. Pa. L. Rev. 897, 927–28 (1975) (describing reality of union coercion applied to employees who would not otherwise support union activities and speech). Unions rely heavily on peer pressure, intimidation, coercion, and inertia to prevent dissenting members and non-members from opposing union political activities. *See* Murray N. Rothbard, *Man, Economy, and State* 626 (Nash ed., 1970) (1962); Friedrich A. Hayek, *The Constitution of Liberty* 274 (1960); Linda Chavez & Daniel Gray, *Betrayal: How Union Bosses Shake Down their Members and Corrupt American Politics* 44–46 (2004).

This is why nonconformists like Miller must rely on the Constitution for protection. *See, e.g., W. Va. State Bd. of Education v. Barnette*, 319 U.S. 624, 638 (1943); *Washington v. Seattle Sch. Dist. No. 1*, 458 U.S. 457, 486 (1982) (The judiciary has a special duty to intercede on behalf of political minorities who cannot hope for protection from the majoritarian political process.). While the First Amendment union cases have thus far focused largely on compelled

financial subsidization, *e.g.*, *Janus*, 138 S. Ct. 2448; *Harris*, 134 S. Ct. 2618; *Knox*, 567 U.S. 298, the exclusive representation aspect equally forces non-union workers to be used as "an instrument for fostering public adherence to an ideological point of view [they] find[] unacceptable." *Lehnert v. Ferris Faculty Ass'n*, 500 U.S. 507, 522 (1991) (quoting *Wooley v. Maynard*, 430 U.S. 705, 715 (1977)).

The lower court in this case held that exclusive representation laws are a carve-out from normal constitutional scrutiny of infringements on First Amendment guarantees like freedom of association. That holding conflicts with this Court's jurisprudence that requires the government to provide compelling justifications for silencing those who would address their government. As Judge Learned Hand explained, the First Amendment "presupposes that right conclusions are more likely to be gathered out of a multitude of tongues, than through any kind of authoritative selection. To many this is, and always will be, folly; but we have staked upon it our all." *United States v. Associated Press*, 52 F. Supp. 362, 372 (S.D.N.Y. 1943).

II

HARRIS AND *JANUS* SUPERSEDE *KNIGHT*

The lower court supported its conclusion that *Janus* is inapplicable to *Knight* in part by noting that in *Janus*, this Court "expressly distinguished between compelling non-members to pay agency fees (constitutionally permissible) and mandating that any union representation be exclusive, which the Court suggested is a tolerated impingement of nonunion members' First Amendment rights." Pet. App. 10a.

This attempt to limit *Janus*'s applicability to the compelled funding of speech, thus leaving *Knight* intact to allow compelled speech via exclusive representation, merits this Court's attention. There is no appreciable difference between compelled speech and the compelled funding of speech. After this Court's decisions in *Harris* and *Janus*, *Knight* is no longer good law to the extent it supports such an extensive infringement on Miller's constitutional rights.

A. Compelled Speech Is the Same as the Compelled Funding of Speech

Compelled speech, like the kind inflicted on Miller by SEIU's exclusive representation, presents the same dangers as the compelled funding of speech. *Harris*, 134 S. Ct. at 2639; *Knox*, 567 U.S. at 309. The compelled funding of speech of quasi-public workers specifically and public employees generally was definitively struck down in *Harris* and *Janus*. *See Harris*, 134 S. Ct. at 2639 ("If we allowed *Abood* to be extended to those who are not full-fledged public employees, it would be hard to see just where to draw the line, and we therefore confine *Abood's* reach to full-fledged state employees."); *see also Janus*, 138 S. Ct. at 2486 ("Neither an agency fee nor any other payment to a union may be deducted from a nonmember's wages, nor any other attempt made to collect such a payment, unless the employee affirmatively consents to pay."). The lower court in the instant case erroneously distinguished compelled speech from the compelled funding of speech, allowing exclusive representation to survive the sea-change in this Court's conception of an employee's First Amendment rights after *Janus*. This Court should

grant certiorari in this case to squarely consider the effects of *Janus* on *Knight* in particular and excusive representation more generally.

This Court's decision in *Knight* was based largely upon *Abood*, 431 U.S. 209. *Abood* was significantly called into question by *Harris*, 134 S. Ct. at 2632 ("The *Abood* Court's analysis is questionable on several grounds."), and outright overruled by *Janus*, 138 S. Ct. at 2486. *Abood* wrongly permitted states to allow unions to violate public employees' First Amendment rights, and any case built upon that foundation, like *Knight*, must be reconsidered and overruled. *Bosse v. Oklahoma*, 137 S. Ct. 1, 2 (2016) (Only this Court has the "prerogative . . . to overrule one of its precedents.").

Abood was the first time in American history that the Court held that the state had no affirmative obligation to show a compelling interest when a state law intruded upon protected speech, *Abood*, 431 U.S. at 263, and was based upon a misreading of precedent, *Harris*, 134 S. Ct. at 2632 ("The *Abood* Court seriously erred in treating *Hanson* and *Street* as having all but decided the constitutionality of compulsory payments to a public-sector union."). *Abood* relaxed First Amendment protections based on two justifications: the preservation of "labor peace" and the prevention of "free riders." *Harris*, 134 S. Ct. at 2631. These justifications were held to be insufficiently compelling in *Janus*. 138 S. Ct. at 2466–69 (noting that labor peace can be achieved "through means significantly less restrictive of associational freedoms," and that "avoiding free riders is not a compelling interest"). If the justifications for impinging on the First Amendment are not present, then the case advancing those justifications is inapplicable. And if the *Abood*

foundation is removed, the entire structure of *Knight* as applied to this case must fall.

B. *Knight* Cannot Support Infringement on Freedom of Association

Further, *Knight* only briefly touches upon the question of freedom of association, which is central to the instant case. In *Knight*, the Court likens the pressure to join a public-sector union with the pressure to join a majority political party, which is "inherent in our system of government." 465 U.S. at 290. This brief comment, addressing a tangential issue to the main question of the case and directed squarely at public employees, and not "quasi-public" employees like Miller, *Harris*, 134 S. Ct. at 2638, has been seized upon and advanced by pro-unionization advocates in recent years.

Nowhere does *Knight* suggest that this limited observation was intended to apply across the board to all non-union members at all possible times. Since it was decided in 1984, *Knight* has been overwhelmingly cited for the proposition that the right to speak does not guarantee a commensurate right to be heard by the government. *See*, *e.g.*, *Bridgeport Way Cmty. Ass'n v. City of Lakewood*, 203 F. App'x 64, 66 (9th Cir. 2006) ("The Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy."). The D.C. Circuit's rationale in *Autor v. Pritzker* explicitly recognizes this limited scope. 740 F.3d 176, 181 (D.C. Cir. 2014) ("[T]he Supreme Court recognized [in *Knight*] that the government may choose to hear from some groups at the expense of others . . .."). This application of *Knight* to infringe on the First Amendment freedoms of privately employed, non-government employees does

not represent *Knight* as traditionally applied, but rather constitutes an unwarranted interpretation that this Court should reject in light of its recent cases applying the First Amendment to instances of union compulsion.

Stare decisis should not deter this Court from reconsideration of *Knight*. An exceptionally important constitutional issue is presented in this case: whether the exclusive representation of a quasi-public employee by a public employee union impinges on her First Amendment rights. Stare decisis is a high bar to overcome, but "not an inexorable command." *Pearson v. Callahan*, 555 U.S. 223, 233 (2009). The doctrine applies "with perhaps least force of all to decisions that wrongly denied First Amendment rights: 'This Court has not hesitated to overrule decisions offensive to the First Amendment (a fixed star in our constitutional constellation, if there is one.')". *Janus*, 138 S. Ct. at 2478 (quoting *Fed. Election Comm'n v. Wisconsin Right to Life, Inc.*, 551 U.S. 449, 500 (2007) (Scalia, J., concurring in part and concurring in judgment). It is particularly appropriate to overrule previous decisions when intervening changes have "removed or weakened the conceptual underpinnings from the prior decision." *Patterson v. McLean Credit Union*, 491 U.S. 164, 173 (1989). In this case, *Harris* and *Janus* have significantly weakened the concepts underpinning *Knight*, and this Court should review *Knight* in light of those intervening changes.

With the compelled funding of speech now firmly dismantled, the tenuous distinction between compelled speech and the compelled funding of speech must fall. It does not matter that Miller is not forced to financially support the SEIU; her forced association

with the SEIU as a bargaining unit member and the union's speech on her behalf as the exclusive representative is unconstitutional. To the extent *Knight* supports such schemes, it should be overruled, and this Court should seize this opportunity to address this important and recurring issue.

CONCLUSION

This Court is fully cognizant of the "preferred place given in our scheme to the great, the indispensable democratic freedoms secured by the First Amendment." *Thomas v. Collins*, 323 U.S. 516, 530 (1945). Exclusive representation severely infringes on these rights of workers who would use their own voice to state their employment preferences. This Court should grant the petition for a writ of certiorari and uphold Miller's First Amendment rights.

DATED: June 14, 2019.

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