NOS. 19-1257

In the Supreme Court of the United States

MARK BRNOVICH,
ATTORNEY GENERAL OF ARIZONA, ET AL.,

Petitioners,

v.

DEMOCRATIC NATIONAL COMMITTEE, ET AL.,

Respondents.

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

BRIEF OF AMICUS CURIAE REPUBLICAN STATE LEADERSHIP COMMITTEE IN SUPPORT OF PETITIONERS

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page

CASES

TABLE OF AUTHORITIES – Continued

Page

TABLE OF AUTHORITIES – Continued

Page

CONSTITUTIONAL PROVISIONS

STATUTES

OTHER AUTHORITIES

STATEMENT OF INTEREST OF THE *AMICUS CURIAE*[1]

The Republican State Leadership Committee ("RSLC") is the largest caucus of Republican state officials in the country and the only national organization whose mission is to elect Republicans to various down-ballot, state-level offices. Since 2002, RSLC has worked to elect candidates to the offices of lieutenant governor, secretary of state, state legislator, the judiciary, and other down-ticket races. RSLC includes a Republican Secretaries of State Committee, which is committed to electing Republican secretaries of state across the Nation and to preserving the integrity of elections. Secretaries of state serve as the principal election officials in most states, and are charged with various aspects of the administration of federal, state, and local elections, and the integrity of those elections.

RSLC submits this brief in support of Petitioners because the Ninth Circuit's ruling, if allowed to stand, will significantly undermine the ability of states to safeguard election integrity and maintain voter confidence, and will cause paralyzing uncertainty as to the continued validity of innumerable facially-neutral time, place, and manner election regulations. This, in turn, will cause widespread confusion among those state

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[1] No counsel for any party authored this amicus brief in whole or in part, and no other entity or person, other than RSLC or its counsel, made any monetary contribution toward the preparation and submission of this brief. In compliance with Rule 37.2, the parties received timely notice of RSLC's intention to file this amicus brief and consented to the filing of this brief.

officials enacting and enforcing election laws, and amongst the voters themselves. Accordingly, RSLC respectfully urges this Court to grant the Petition for Writ of Certiorari.

SUMMARY OF THE ARGUMENT

The Ninth Circuit's ruling, which invalidated two facially-neutral time, place, and manner election regulations[2] under Section 2 of the Voting Rights Act by focusing narrowly on the perceived resulting disparate impact of these regulations, urgently requires this Court's review. First, the Ninth Circuit's ruling is a departure from recent decisions in other Circuit Courts of Appeals, and therefore creates confusion as to which standard applies to Section 2 vote denial claims. Such varying standards negatively impact states and election officials because absent clear guidelines as to what constitutes a Section 2 violation, states lose their ability to mitigate any potential Section 2 violations on the front end, and instead must address challenged laws through litigation—and usually last-minute litigation commenced after the election process has already begun. Second, the Ninth Circuit's wayward new standard threatens the validity of even widely-accepted neutral regulations which serve invaluable interests, and therefore paves the way for an increase in Section 2 challenges nationwide. Finally, the Ninth Circuit's ruling has the potential

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[2] This amicus brief focuses primarily on Arizona's ballot-collection policy, though much of the analysis herein also applies to Arizona's out-of-precinct policy.

to impose untenable limitations on states and election officials and operate as a one-way ratchet, suggesting that states may only modify their election regimes in such a way that avoids any incidental, non-invidious disparate impact, rather than promotes any other compelling state interest. The importance of these concerns, and this Court's review, is further emphasized by the existence of a potentially competing state interest of mitigating the current COVID-19 pandemic, which in many states prompted a new push to vote by mail to the fullest extent possible to limit person-to-person contact. Indeed, multiple lawsuits are presently pending nationwide which challenge various states' ballot-collection policies and the propriety of such policies in light of the pandemic.

ARGUMENT

I. THE DECISION BELOW ENTRENCHES A CIRCUIT SPLIT AND EXACERBATES ALREADY-PRESENT CHALLENGES IN DECIDING SECTION 2 VOTE DENIAL CLAIMS.

The Constitution vests the states with a "broad power to prescribe the 'Times, Places and Manner of holding Elections for Senators and Representatives.'" *Clingman v. Beaver*, 544 U.S. 581, 586 (2005) (quoting U.S. Const., art. I, § 4, cl. 1). "'Times, Places, and Manner,' . . . are 'comprehensive words,' which 'embrace authority to provide a complete code for . . . elections.'" *Arizona v. Inter Tribal Council of Ariz., Inc.*, 570 U.S. 1, 8-9 (2013) (quoting *Smiley v. Holm*, 285 U.S. 355, 366 (1932)). Certainly, "[c]ommon sense, as well as constitutional law, compels the conclusion that government

must play an active role in structuring elections; 'as a practical matter, there must be a substantial regulation of elections if they are to be fair and honest and if some sort of order, rather than chaos, is to accompany the democratic processes.'" *Burdick v. Takushi*, 504 U.S. 428, 433 (1992) (quoting *Storer v. Brown*, 415 U.S. 724, 730 (1974)). And while the importance of the right to vote cannot be overstated, "the right to vote is the right to participate in an electoral process that is necessarily structured to maintain the integrity of the democratic system." *Id.* at 441. Further, given our federal system of governance, state legislative authority over elections also serves important, practical goals in an ever-changing and varied legal landscape.

To that end, all states have enacted complex election laws that "invariably impose some burden upon individual voters." *Burdick*, 504 U.S. at 433. Indeed, "[e]very decision that a state makes in regulating its elections will, inevitably, result in somewhat more inconvenience for some voters than others." *Lee v. Virginia State Board of Elections*, 843 F.3d 592, 601 (4th Cir. 2016); *see also Frank v. Walker*, 768 F.3d 744, 749 (7th Cir. 2014) (emphasis in original) ("*[A]ny* procedural step filters out some potential voters."). This could be as innocuous as the fact that, for example, "every polling place will, by necessity, be located closer to some voters than to others." *Lee*, 848 F.3d at 601.

The decision below, which exacerbates the challenges that courts already face in applying Section 2 of the Voting Rights Act in cases alleging vote denial

claims,[3] will undermine this power. Specifically, as aptly discussed at length in the Petition, the circuits have divided over how to determine whether a law produces an unlawful "discriminatory burden" as prohibited by Section 2, as opposed to a mere disparate inconvenience. Recent Fourth, Fifth, Sixth, and Seventh Circuit decisions have held that Section 2 "does not condemn a voting practice just because it has a disparate effect on minorities" or produces a "statistical disparity." *Frank*, 768 F.3d at 753, 752; *see also Veasey v. Abbott*, 830 F.3d 216 (5th Cir. 2016); *Ohio Democratic Party v. Husted*, 834 F.3d 620 (6th Cir. 2016); *Lee*, 843 F.3d at 601. Rather, in line with Section 2(b)'s language, these circuits ask whether, considering "the entire voting and registration system," the practice at issue makes the election "*not equally open*" to minorities, or leaves them with "*less opportunity*" to vote. *Frank*, 768 at 753 (emphasis in original); *accord Lee*, 843 F.3d at 601; *Ohio Democratic Party*, 834 F.3d at 637-638; *Veasey*, 830 F.3d at 253-254. By contrast, the Ninth Circuit focused narrowly on the disparate impact of the challenged provisions, holding that the discriminatory-burden requirement is satisfied whenever "more than a de minimis number of minority voters" are disparately affected by a particular feature of election law, without due regard to their "opportunity" to vote. Pet.App.44, 46, 86-87.

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[3] *See, e.g.*, *Ohio Democratic Party v. Husted*, 834 F.3d 620, 636 (6th Cir. 2016) ("While vote-dilution jurisprudence is well-developed, numerous courts and commentators have noted that applying Section 2's 'results test' to vote-denial claims is challenging, and a clear standard for its application has not been conclusively established.").

II. WITHOUT GUIDANCE FROM THIS COURT, THE DECISION BELOW CREATES SIGNIFICANT UNCERTAINTY REGARDING THE VALIDITY AND ENFORCEMENT OF INNUMERABLE FACIALLY-NEUTRAL TIME, PLACE, AND MANNER RESTRICTIONS.

Absent guidance from this Court, the Ninth Circuit's ruling, and the circuit divide it entrenches, will lead to a host of significant legal and logistical problems undermining states' abilities to perform the critical tasks of structuring and regulating elections, safeguarding election integrity, and promoting voter confidence. Indeed, at the outset, it bears mention that nothing in Section 2's language limits plaintiffs to challenging only new election regulations—meaning that existing electoral regulations are also vulnerable. *See generally* 52 U.S.C. § 10301(a).

A. The Decision Below Emphasizes the Need for a Uniform Standard.

The decision below makes clear the need for an objective, uniform standard of Section 2 vote-denial cases that will enable states to determine, *ex ante*, whether an election law will impose an unlawful discriminatory burden in violation of Section 2. Specifically, the Ninth Circuit's ruling opens the door even further for plaintiffs to use Section 2 to invalidate necessary regulatory schemes that intricately balance undeniably important state interests, such as safeguarding election integrity and voter confidence, by targeting even facially-neutral election rules that may lead to small disparate results. This is unworkable in practice: Section 2 cannot be read to "sweep away all election rules that result in a disparity in the convenience of voting," and "it cannot be that states

must forever tip-toe around certain voting provisions that would have more effect on the voting patterns of one group than another." *Lee*, 843 F.3d at 601 (quotations omitted). Indeed, "[n]o state has exactly equal registration rates, exactly equal turnout rates, and so on, at every stage of its voting system." *Frank*, 768 at 754. Yet, by requiring "equal outcome" rather than "equal treatment," "if whites are 2% more likely to register than are blacks, then the registration system top to bottom violates § 2; and if white turnout on election day is 2% higher, then the requirement of in-person voting violates § 2." *Id.* As Judge Bybee expressed below:

> The majority's reading of the Voting Rights Act turns § 2 into a "one-minority-vote-veto rule" that may undo any number of time, place, and manner rules. It is entirely results-bound, so much so that under the majority's reading of the Voting Rights Act, the same rules that the majority strikes down in Arizona may be perfectly valid in every other state, even states within our circuit. It all depends on the numbers. Indeed, so diaphanous is the majority's holding, that it may be a temporary rule for Arizona. If Arizona were to reenact these provisions again in, say, 2024, the numbers might come out differently and the [challenged] rules would be lawful once again.

Pet.App.151 (Bybee, J., dissenting).

Such a results-bound approach necessarily hinders states' powers to regulate elections, and restricts states' abilities to look to one another for guidance, or even to presume that a valid law from another state would

pass muster in an upcoming election cycle. Such a result spoils the fruits yielded from states serving as laboratories of democracy, at least as it pertains to election regulations. As Justice Scalia observed in the context of a constitutional challenge to a state's voter identification law, "[a] case-by-case approach naturally encourages constant litigation." *Crawford v. Marion County Elections Board*, 553 U.S. 181, 208 (2008) (Scalia, J., concurring in the judgment).[4] Indeed, "[t]hat sort of detailed judicial supervision of the election process would flout the Constitution's express commitment of the task to the States." *Id.* (citing U.S. Const., art. 1, § 4). "It is for the state legislatures to weigh the costs and benefits of possible changes to their election codes, and their judgment must prevail unless it imposes a severe and unjustified overall burden upon the right to vote, or is intended to disadvantage a particular class." *Id.* Thus, "*[j]udicial review of their handiwork must apply an objective, uniform standard that will enable them to determine, ex ante, whether the burden they impose is too severe*." *Id.* (emphasis added). Applied here, the states must have an objective, uniform standard that will enable them to determine, *ex ante*, whether an election law

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[4] Courts appear to be divided in their application of *Crawford* to claims concerning Section 2 of the Voting Rights Act. *Compare Frank v. Walker*, 768 F.3d 744, 748 (7th Cir. 2014) (citing *Crawford* in its Section 2 analysis); *Lee v. Virginia State Bd. of Elections*, 843 F.3d 592, 600 (4th Cir. 2016) (citing *Crawford* in the context of its Section 2 analysis to conclude that the "minor inconvenience of going to the registrar's office to obtain an ID does not impose a substantial burden"); *with* Pet.App.144 (O'Scannlain, J., Dissenting) (observing, in the context of the Fifteenth Amendment intent analysis, that "the majority does not even mention *Crawford*, let alone grapple with its consequences on this case").

will violate Section 2. Only this Court can provide the clarification needed.[5]

B. The Decision Below Will Create Numerous Problems in Enforcement of Election Laws.

Further, absent guidance from this Court, the decision below will provide fodder for an increase in Section 2 challenges seeking to benefit from the Ninth Circuit's standard.

First, the Ninth Circuit's ruling makes clear that even election laws that are recommended and widely accepted are vulnerable to invalidation. Arizona's ballot-collection policy at issue provides an illustrative example of this point: the Ninth Circuit invalidated Arizona's ballot-collection policy even though it was neutral on its face, was "fully consonant" with the laws of multiple other states that regulate ballot collection, "follows precisely" the recommendation of the

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[5] Even before the decision below, as one commentator noted, beneath any superficial agreement as to a two-part test to analyze vote-denial claims under Section 2:

> [There remain] unanswered questions . . . [that] are no mere tangents. On the contrary, they strike at the heart of the emerging test for section 2 vote denial claims. They mean that fundamental issues about both of the test's prongs remain unresolved. They mean that courts lack concrete guidance as to matters that recur in almost every case. And, most relevant here, they mean that little deference is due to the judicial consensus in favor of the test. Superficial agreement that is, in fact, a facade for stark division is hardly worth heeding.

Nicholas O. Stephanopoulos, *Disparate Impact, Unified Law*, 128 Yale L.J. 1566, 1589 (2019).

bipartisan Carter-Baker Commission on Federal Election Reform (the "Carter-Baker Report"), and was a facially-neutral time, place, and manner restriction. Pet.App.167, 173 (Bybee, J., dissenting). If an election policy that "follows precisely" the Carter-Baker Report is invalid, then it stands to reason that innumerable facially-neutral time, place, and manner election regulations are also vulnerable under Section 2 as applied by the Ninth Circuit. *Cf. Crawford*, 553 U.S. at 194 n.10 ("The historical perceptions of the Carter-Baker Report can largely be confirmed."); *id.* at 241 (Breyer, J., dissenting) ("observing that the findings of the Carter-Baker Report "are highly relevant to both legislative and judicial determinations of the reasonableness of a photo ID requirement. . . . "); *contra id.* at 240 (Breyer, J., dissenting) ("The record nowhere provides a convincing reason why Indiana's photo ID requirement must impose greater burdens than those of other States, or than the Carter-Baker Commission recommended nationwide.").

Indeed, the Ninth Circuit's ruling significantly eases the burden of bringing a successful challenge to a facially-neutral time, place, and manner election regulation under Section 2, suggesting success for plaintiffs showing only a marginal racially disproportionate impact (and, as a practical matter, many aspects of electoral systems will by necessity have some incidental impact),[6] along with a general history of discrimination

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[6] *See, e.g.*, *Veasey v. Abbott*, 830 F.3d 216, 310 (5th Cir. 2016) (Jones, J., dissenting) (noting, as potential examples of voter regulations that "disproportionately affect[ ] minority voters" "polling locations; days allowed and reasons for early voting; mail-in ballots; time limits for voter registration; language on absentee ballots; the number of vote-counting machines a county

in that state, without due regard to causation or opportunity to vote. Pet.App.44, 46, 86-87; *see generally id.* at 149-150 (Bybee, J., dissenting) ("Rather than simply recognizing that Arizona has enacted neutral, color-blind rules, the majority has embraced the premise that § 2 of the VRA is violated when any minority voter appears to be adversely affected by Arizona's election laws.").

Second, the inconsistent standards entrenched by the Ninth Circuit's ruling will undermine states' abilities to safeguard election integrity and run orderly elections that promote voter confidence. "Confidence in the integrity of our electoral processes is essential to the functioning of our participatory democracy." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006). "While that interest is closely related to the State's interest in preventing voter fraud, public confidence in the integrity of the electoral process has independent significance, because it encourages citizen participation in the democratic process." *Crawford*, 533 U.S. at 197.

However, the Ninth Circuit's invalidation of Arizona's ballot-collection policy again illustrates the practical ramifications of the Ninth Circuit's ruling. States have varying procedures governing the absentee ballot voting process, which is a months-long process. Among other things, the prerequisites for requesting absentee ballots and the deadlines for doing so vary across the states. *Voting Outside the Polling Place: Absentee, All-Mail and Other Voting at Home Options*, NCSL (updated May 19, 2020), *available at* https://www.ncsl.org/research/elections-and-campaigns/

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must have; registering voters at a DMV (required by federal Motor Voter law); holding elections on a Tuesday.").

absentee-and-early-voting.aspx. After a voter has applied for an absentee ballot and the voter's application has been verified, election officials mail out the absentee ballots in varying timeframes: eight states[7] begin mailing absentee ballots to voters more than 45 days before the election; fifteen states[8] mail them 45 days before the election; twelve states[9] mail them 30-45 days before the election; and fifteen states[10] mail them 30 days before the election. *See Table 7: When States Mail Out Absentee Ballot*s, NCSL (updated April 29, 2020), *available at* https://www.ncsl.org/research/elections-and-campaigns/vopp-table-7-when-states-mail-out-absentee-ballots.aspx. Thirty-two states permit election officials to begin processing absentee/mailed ballot envelopes prior to the election; eleven states and D.C. permit election officials to begin processing absentee/mailed ballots on Election Day, but prior to the closing of the polls; four states do not permit the processing of absentee/mailed ballots until after the polls close on Election Day. *Voting Outside the Polling Place*, *supra*.

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[7] Arkansas, Kentucky, Minnesota, North Carolina, Pennsylvania, South Dakota, West Virginia, and Wisconsin.

[8] Alabama, Delaware, Georgia, Idaho, Indiana, Louisiana, Michigan, New Jersey, Oklahoma, Rhode Island, Tennessee, Texas, Vermont, Virginia, and Wyoming.

[9] California, Connecticut, Illinois, Maine, Mississippi, Missouri, Nebraska, New Hampshire, New York, North Dakota, Ohio, and South Carolina.

[10] Alaska, Arizona, Colorado, Florida, Hawaii, Iowa, Kansas, Maryland, Massachusetts, Montana, Nevada, New Mexico, Oregon, Utah, and Washington.

The extensive timeline of the absentee voting process, combined with the fact that multiple states regulate ballot collection in some way, means that challenges to states' ballot-collection policies stemming from the Ninth Circuit's ruling (particularly during an election year) have the potential to create logistical nightmares for election officials. One can readily imagine scenarios in which states' varying ballot-collection policies are challenged or enjoined at varying points in the above-described months-long absentee ballot process, creating opportunities for absentee ballot fraud during an injunction, or confusion over the legitimacy of absentee ballots collected during any suspension of a state's law—particularly in close elections. *Cf. generally, e.g.*, *Waters v. Nago*, No. SCEC-18-0000909, 2019 WL 325547, at *21 (Haw. Jan. 25, 2019) ("The counting of these 350 invalidly received absentee ballots potentially altered the election results for Council District IV and, inasmuch as they have been inseparably commingled with the other ballots, a recount that would exclude the invalid votes is not possible. Consequently, a correct result without the inclusion of the 350 ballots cannot be ascertained."); *Keeley v. Ayala*, 179 A.3d 1249, 1254-55 (Conn. 2018) ("Because the number of absentee ballots invalidated as a result of our disposition of the issues remains sufficiently high to place the reliability of the November 14, 2017 special primary results seriously in doubt, we affirm the judgment of the trial court ordering a new special primary.").

Such difficulties stand to overwhelm election officials who are already tasked with ensuring continued compliance with laws governing voter registration, the use of voting technology, and numerous other laws

designed to ensure the integrity of elections. "Court orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase." *Purcell*, 549 U.S. at 4-5. Yet, the Ninth Circuit's ruling, which diverges from recent decisions in other circuits and applies a standard that makes it significantly easier to challenge numerous facially-neutral election regulations, will almost certainly increase the number of Section 2 vote-denial challenges.

The concerns discussed herein are particularly poignant in the midst of the current COVID-19 pandemic. *Cf. generally, e.g.*, *DeCola v. Starke Cty. Election Bd.*, No. 20A-MI-709, 2020 WL 2390983, at *1 (Ind. Ct. App. May 12, 2020) ("Even under optimal circumstances, it is highly unlikely we would order a county election board to start from scratch on absentee ballots three weeks before an election. We certainly will not do so with the pandemic ongoing, with Indiana's reopening effort still in its early stages, and with a growing number of absentee ballots having already been sent to voters."). The pandemic has already resulted in an unprecedented increase of absentee ballot requests, *cf. Democratic Nat'l Comm. v. Bostelmann*, No. 20-cv-249-WMC, 2020 WL 1638374, at *4 (W.D. Wis. Apr. 2, 2020), statewide measures to mail absentee ballot applications, *Texas Democratic Party v. Abbott*, No. SA-20-CA-438-FB, 2020 WL 2541971, at *3 n.9 (W.D. Tex. May 19, 2020), and challenges to who may qualify for an absentee ballot application. *See generally id.* As the number of votes by absentee ballot increases, logic dictates that the potential for

absentee ballot fraud proportionally increases.[11] So, too, does the need to protect against widespread voter confusion, which will already necessarily be present as the pandemic creates novel and constantly-evolving election-related issues. Indeed, where election officials will already be struggling to keep up with an unprecedented deluge of mailed-in ballots, uncertainty caused by the Ninth Circuit's ruling as discussed herein strongly cuts against any notion that "some sort of order, rather than chaos, is to accompany the democratic processes." *Burdick*, 504 U.S. at 433.

These concerns are not mere hypotheticals. There are presently lawsuits pending around the country challenging states' ballot collection policies in the context of COVID-19. *See, e.g.*, *Nielson v. DeSantis*, No. 4:20-cv-00236-MW-MJF (N.D. Fla. May 4, 2020), *Complaint* at 15-16, 52-57, 65-73 (challenging Florida law regulating ballot collection); *DCCC v. Ziriax*, No. 4:20-cv-00211, 2020 WL 2525752 (N.D. Okla. May 18, 2020), *Complaint* (challenging, *inter alia*, Oklahoma's ballot-

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[11] The Ninth Circuit's ruling is unduly dismissive of voter fraud concerns. Even though this Court has held that a state's interest in safeguarding election integrity is facially important, *see, e.g.*, *Crawford*, 553 U.S. at 195-196, the Ninth Circuit's ruling calls into question the extent to which a state can enact legislation to protect such interests. Pet.App.92 (finding that Arizona's ballot-collection law violates Section 2 in part because of the absence of documented history of voter fraud *in Arizona*). This is contrary to this Court's rulings, at least in the context of constitutional challenges, that "Legislatures . . . should be permitted to respond to potential deficiencies in the electoral process with foresight rather than reactively," *Munro v. Socialist Workers Party*, 479 U.S. 189, 195 (1986), and that fraud need not have occurred in the state enacting an election law to justify that law. *Crawford*, 553 U.S. at 194-195. That reasoning from *Crawford* and *Munro* applies equally here, too.

collection law, and referencing the Ninth Circuit's ruling in support); *Driscoll v. Stapleton*, No. DV 20-408 (Mont. Thirteenth Jud. Dist. Ct., May 22, 2020), *Findings of Fact, Conclusions of Law, Memorandum, and Order Granting Plaintiffs' Motion for Preliminary Injunction* (granting plaintiffs' motion for preliminary injunction and restraining Defendants from enforcing Montana's Ballot Interference Prevention Act); *Crossey v. Boockvar*, No. 266-MD-2020 (Pa. Commw. Ct. Apr. 22, 2020), *Complaint*, (challenging Pennsylvania laws regulating ballot collection); *Corona v. Cegavske*, No. 20-OC-00064-1B (Nev. First Jud. Dist. Ct. Apr. 16, 2020), *Complaint* at 17-18, 30-35 (challenging Nevada law regulating ballot collection).

C. The Ninth Circuit's Ruling Also Imposes Multiple Untenable Limitations on States.

Finally, guidance from this Court is needed because the Ninth Circuit's ruling, if allowed to stand, could lead to a number of outcomes that significantly undermine states' powers to regulate elections. Indeed, the ruling can be read to prevent states from repealing or altering any law that is disproportionately used or preferred by minority voters—even if the statute were altered to address election integrity or COVID-19 public health concerns. *Cf. generally, e.g.*, *Ohio Democratic Party*, 834 F.3d at 620 (rejecting, in the context of applying the *Anderson-Burdick* balancing test, the argument "that any expansion of voting rights must remain on the books forever," and observing that "[s]uch a rule would have a chilling effect on the democratic process: states would have little incentive to pass bills expanding access if, once in place, they could never be modified in a way that might arguably burden some segment of the voting population's right

to vote"). The Ninth Circuit's ruling could also be read to require that states must offer any means of participation that may provide even a statistically-minimal increase in minority turnout, such as third-party ballot collection, or else be deemed discriminatory—and, again, without regard to the states' interest in ensuring election integrity. While these are just a few of the practical implications of the decision below, state election officials would significantly benefit to the extent this Court considered the propriety of the Ninth Circuit's application of Section 2.

CONCLUSION

Amicus curiae respectfully requests that this Court grant Petitioners' writ of certiorari.

Respectfully submitted,

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