

IN THE SUPREME COURT OF THE UNITED STATES

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No. 19-251

AMERICANS FOR PROSPERITY FOUNDATION, PETITIONER,

v.

XAVIER BECERRA, ATTORNEY GENERAL OF CALIFORNIA

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No. 19-255

THOMAS MORE LAW CENTER, PETITIONER,

v.

XAVIER BECERRA, ATTORNEY GENERAL OF CALIFORNIA

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ON WRITS OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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MOTION OF THE UNITED STATES  
FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE  
AND FOR DIVIDED ARGUMENT

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Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Acting Solicitor General, on behalf of the United States, respectfully moves for leave to participate in the oral argument in these consolidated cases as amicus curiae and for divided argument, and requests that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting vacatur and remand. Respondent has

consented to this motion and has agreed to cede five minutes of his argument time to the United States. Petitioners consent to cede five minutes on the assumption that doing so will not prejudice their motion to divide argument between themselves or their request to expand oral argument time. The United States does not oppose an enlargement of argument time or a division of argument time between petitioners, but maintains for the reasons below that it should be allotted ten minutes of argument time regardless of how the Court rules on petitioners' motion.

These cases concern a constitutional challenge to California's requirement that certain charitable organizations that fundraise in the State disclose to the state Attorney General's office the identities of their substantial contributors. Federal law generally requires disclosure of the same information to the Internal Revenue Service by organizations exempt from federal taxation as described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3). Although that federal reporting provision has not been challenged in these cases, the United States has a substantial interest in the proper interpretation of the constitutional standards that apply to the disclosure of that same information to state officials. At the

Court's invitation, the United States filed an amicus brief at the petition stage of these cases.

The United States often is a party to cases involving questions about the constitutionality of compelled-disclosure requirements, e.g., Buckley v. Valeo, 424 U.S. 1 (1976); Citizens United v. FEC, 558 U.S. 310 (2010), and it also has participated in oral argument as amicus curiae in other cases involving compelled actions that allegedly infringe First Amendment rights, e.g., National Institute of Family and Life Advocates v. Becerra, 138 S. Ct. 2361 (2018); Janus v. American Federation of State, County, and Municipal Employees, Council 31, 138 S. Ct. 2448 (2018). The participation of the United States in oral argument is therefore likely to be of material assistance to the Court.

Respectfully submitted.

ELIZABETH B. PRELOGAR  
Acting Solicitor General  
Counsel of Record

MARCH 2021