

IN THE SUPREME COURT OF THE UNITED STATES

No. 16-1140

NATIONAL INSTITUTE OF FAMILY AND LIFE ADVOCATES, DBA NIFLA,
ET AL., PETITIONERS

v.

XAVIER BECERRA, ATTORNEY GENERAL OF CALIFORNIA, ET AL.

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

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

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae, respectfully moves that the United States be granted leave to participate in oral argument in this case and that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting neither party. Petitioners and respondents do not object to this motion, and both have agreed to cede five minutes of argument time from each party to the United States, for a total of ten minutes.

1. This case concerns whether a state law, the California Reproductive Freedom, Accountability, Comprehensive Care, and Transparency Act (FACT Act), 2015 Cal. Stat. 5351-5354 (Cal. Health & Safety Code §§ 123470 et seq. (West Supp. 2018)), that compels family-planning clinics to make certain disclosures violates the First Amendment, applicable to the States through the Fourteenth Amendment. Two provisions of the FACT Act are at issue. First, the Act requires certain state-licensed medical facilities to inform their clients that California offers public assistance for various family-planning and pregnancy related services (Licensed Notice). Cal. Health & Safety Code § 123472(a) (West Supp. 2018). Second, the Act requires certain facilities that are not licensed by the State and that do not employ licensed medical providers to disclose those facts to their current and prospective clients (Unlicensed Notice). Id. § 123472(b). The United States has filed a brief as amicus curiae supporting neither party, contending that the Licensed Notice violates the First Amendment's Free Speech Clause but the Unlicensed Notice does not.

2. The United States has significant interests in this case. As a general matter, the United States has a substantial interest in the preservation of federal constitutional rights of free expression. In addition, the United States has a substantial interest in the application of numerous federal statutory and regulatory requirements that persons disclose information to the

public related to goods or services they provide. The United States is thus well positioned to address the application of First Amendment principles and this Court's precedents to the FACT Act's disclosure requirements. The United States' participation in oral argument is therefore likely to be of material assistance to the Court.

Respectfully submitted.

NOEL J. FRANCISCO
Solicitor General
Counsel of Record

FEBRUARY 2018