No. 17-1355

In The
Supreme Court of the United States

TERESA R. MANNING, fka TERESA R. WAGNER,

Petitioner,

v.

CAROLYN JONES AND GAIL B. AGRAWAL,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Eighth Circuit

MOTION AND BRIEF *AMICI CURIAE* OF THE NATIONAL ASSOCIATION OF SCHOLARS; THE REASON FOUNDATION; AND LEGAL SCHOLARS IN SUPPORT OF PETITIONER

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MOTION FOR LEAVE TO FILE

Pursuant to Rule 37(2)(b) of this Court, the National Association of Scholars and other signatories move for leave to file the attached *amicus* Brief in support of Petitioner.

All parties were timely notified of the intent to file the attached *amicus* Brief as required by Rule 37(2)(a). No blanket consents are on file with the Clerk of Court.

This case involves the question of whether or not a State actor law school dean should have been judicially estopped from maintaining at trial that she was *not* the hiring decision-maker when she admitted on appeal that she *was*.

However, the underlying questions and conditions of the case concern our First Amendment right of free expression at our law schools, including the right to be free of employment discrimination for expressing differing points of view (discrimination which was already proven in this case).

This dimension of the case – the freedom to think, to speak and to be free of ideological imposition – is of critical interest to *amici*; it is one of the main reasons the National Association of Scholars (NAS) exists.

This Brief is intended to alert the Court to the context of Petitioner's claims and to provide information that the parties would not ordinarily provide, to be of service to the Court and to justice in this case.

Petitioner's case arrives at a time when the First Amendment is in great jeopardy within our institutions of higher education and likely soon within the larger public square, which makes it all the more timely for this Court to consider.

Accordingly, *amici* respectfully request that this Court grant this Motion for Leave to file this *amicus* Brief.

Respectfully submitted,

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ABOUT *AMICI CURIAE* AND *AMICI* INTEREST[1]

The National Association of Scholars (NAS) is a network of scholars and citizens united by a commitment to academic freedom, disinterested scholarship, and excellence in American higher education, which includes the freedom to question and think independently and freedom from ideological imposition.

The Reason Foundation is a nonpartisan and nonprofit public policy think tank, founded in 1978. Reason's mission is to promote free markets, individual liberty, equality of rights, and the rule of law – "Free Minds and Free Markets."

Signatories are legal scholars and attorneys who teach, research or publish in the fields of law or public policy and who are committed to the First Amendment and the quality of teaching and scholarship within legal education, and who are also concerned about the lack of viewpoint diversity, particularly political diversity, among faculty and administrators within most of America's law schools.

This political conformity is detrimental to students, faculty, the profession and the public.

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[1] All counsel of record received timely notice of the intent to file this Brief, pursuant to United States Supreme Court Rules and no response and no consent was received. No monetary contribution to this Brief has been made by anyone or any group other than the National Association of Scholars and no counsel for a party authored this brief in whole or in part. *See* United States Supreme Court Rule 37(6).

Amici hope that this Brief will provide the Court with the broader context and conditions of current legal education, including the standard political profile at most American law schools, to clarify the context in which Petitioner's claims arise.

Amici are also gravely concerned that Petitioner in this case has already proven, to a jury, political discrimination in violation of the First Amendment but is being deprived of a favorable verdict because of subterfuge by Dean Jones about her hiring authority.

First Amendment claims are always against state actors – formidable opponents by definition. If government artifice such as this is allowed to stand to defeat claims like Petitioner's, there is little hope of restoring intellectual and political balance not only to the Iowa College of Law but in almost all American law schools, to the great disservice of the legal academy and the legal profession and the public they are supposed to serve.

This Brief therefore supports Petitioner's request for review by this United States Supreme Court and supports such other relief and remedy for Petitioner to do justice in this case.

BRIEF SUMMARY OF FACTS AND ARGUMENT

Petitioner Manning claims the Iowa College of Law Dean, Carolyn Jones, refused to hire her as a law

professor of legal research and writing because of Petitioner's pro-life and other socially conservative views, in violation of the First Amendment. The Iowa College of Law ("the law school") is known to be liberal and had only one Republican on its 50-member faculty.[2]

The law school sought to fill two open positions for professors to teach in its legal writing program and Petitioner applied, becoming one of two finalists. She received unanimous recommendations from both the Faculty Appointments Committee and from students, including recommendations after her interview, which was taped. Petitioner was known to have socially conservative views. The other finalist, Matt Williamson, was a self-described "off the charts" liberal with inferior credentials to Manning, according to the job

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[2] Former Justice Antonin Scalia of this Court, for example, was protested and shouted down so much during his lecture to the law school that he was not able to complete his visit there: "Scalia did not go to a reception scheduled after the speech because Iowa College of Law Dean William J. Hines said they could not guarantee Scalia's safety." Jessica Davidson, "Demonstrators Prevented From Interrupting Scalia Address," in *The Daily Iowan*, Sept. 18, 1990; *see also* Anne Marie Williams, "Local Groups Plan Protest of Scalia's Visit," in *The Daily Iowan*, September 17, 1990 "We want to send a strong message to the court . . . Iowa City is a pro-choice town. . . ."). Attempts – often successful – to shout down non-left leaning speakers at universities, including at law schools and often with violence and profanity, have now become alarmingly routine. *See* William A. Jacobson, "F*ck the law – CUNY Law Students Attempt Shout-Down of Conservative Law Prof.," in *Legal Insurrection.com* (Apr. 12, 2018). For a list of such events, *see* Stanley Kurtz, "Year of the Shout-Down: Worse Than You Think for Campus Free Speech," in *National Review*, May 31, 2017.

announcement – he had no prior law school teaching experience, no experience in legal practice, and no published legal writings, while Manning did.

Williamson, however, was hired *instead* of Manning, despite two openings, and the law school filled the other vacancy with adjuncts of lesser experience. The law school's Associate Dean emailed Dean Jones after the hiring decision, stating his worry that Manning's rejection by the law school was "because they so despise her politics." Dean Jones received a second such notice later, verbally, by another Associate Dean, but she did nothing in response – did not open a file or document these communications, did not call counsel and did not conduct any investigation.

The law school recycled Manning's interview tape within a month of the final hiring decision and Williamson left the position within the year because of student complaints.

In defense, Dean Jones claimed at trial that Manning flunked her interview and also that the faculty are responsible for hiring, not the Dean.

At trial, Manning convinced the jury that she suffered political discrimination, but the jury deadlocked on whether only the Dean could be held responsible. The jury forewoman, Carol Tracey, stated, "I will say that everyone in that jury room believed that she had been discriminated against. . . . why are you only suing

Carolyn Jones? . . . ALL felt Teresa Wagner was discriminated against."[3]

However, on appeal, Dean Jones admitted that she had hiring authority, stating emphatically that she was the individual decision-maker – "absolutely."

The issue now before this Court is whether the Dean should have been judicially estopped from maintaining at the subsequent trial that she was *not* the hiring decision-maker when she admitted on appeal that she *was*.

This Brief submits that the intellectual and political culture within most American law schools is overwhelmingly liberal, even what has been called "radical," and is also hostile to opposing views such as Petitioner's; and, many within legal education state explicitly that this state of affairs is due to political animus and political discrimination against conservative and libertarian faculty candidates, consistent with Petitioner's proven claims.

If this Court allows the outcome of this case to stand despite Petitioner having convinced a jury of her discrimination claims and because of Dean Jones' inconsistencies about her hiring authority – which judicial estoppel could have addressed – it will not only be unjust to Petitioner and unseemly for State actors, but a missed opportunity to be serious about the First

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[3] Jason Clayworth, "Jurors in political bias case blame University," *The Des Moines Register*, Nov. 20, 2012.

Amendment in higher education and restore much-needed balance to American legal education.

ARGUMENT

I.

IN *GRUTTER v. BOLLINGER*, THIS COURT RECOGNIZED THE IMPORTANCE OF VIEWPOINT DIVERSITY IN HIGHER EDUCATION

This Court has explicitly affirmed the educational benefits which flow from diversity in higher education and has also explicitly affirmed that this diversity includes a variety of viewpoints and ideas.

In *Grutter v. Bollinger*, 539 U.S. 306 (2003), the Court wrote:

> [N]umerous studies show that student body diversity promotes learning outcomes, and "better prepares students for an increasingly diverse workforce and society, and better prepares them as professionals.[4]
>
> These benefits are not theoretical but real, as major American businesses have made clear that *the skills needed in today's increasingly*

[4] Citing Brief for American Educational Research Association et al. as *Amici Curiae* 3; *see*, *e.g.*, W. Bowen & D. Bok, The Shape of the River (1998); Diversity Challenged: Evidence on the Impact of Affirmative Action (G. Orfield & M. Kurlaender eds. 2001); Compelling Interest: Examining the Evidence on Racial Dynamics in Colleges and Universities (M. Chang, D. Witt, J. Jones, & K. Hakuta eds. 2003).

> *global marketplace can only be developed through* ***exposure to widely diverse people, cultures, ideas, and viewpoints***.[5] (emphasis added)

The *Grutter* Court mentioned in particular *the obligation of law schools to be diverse*, given their role in forming leaders:

> Moreover, universities, and in particular, law schools, represent the training ground for a large number of our Nation's leaders. *Sweatt v. Painter*, 339 U.S. 629, 634 (1950) (describing law school as a "proving ground for legal learning and practice"). Individuals with law degrees occupy roughly half the state governorships, more than half the seats in the United States Senate, and more than a third of the seats in the United States House of Representatives. *See* Brief for Association of American Law Schools as *Amicus Curiae* 5-6.
>
> The pattern is even more striking when it comes to highly selective law schools. A handful of these schools accounts for 25 of the 100 United States Senators, 74 United States Courts of Appeals judges, and nearly 200 of the more than 600 United States District Court judges. *Id.*, at 6.
>
> ***In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry***, it is necessary that the path to leadership be

[5] Citing brief for 3M et al. as *Amici Curiae* 5; Brief for General Motors Corp. as *Amicus Curiae* 3-4.

> visibly open to talented and qualified individuals. . . . ***All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions that provide this training.***
>
> As we have recognized, law schools "cannot be effective in isolation from the individuals and institutions with which the law interacts." *See Sweatt v. Painter*, *supra*, at 634.[6] *Id.* (emphasis added)

This Brief addresses the alarming lack of viewpoint diversity among law professors at most of America's law schools and submits that this state of affairs is bad for students, faculty, the profession and the public.

This Brief furthermore shares with the Court statements by those within legal education who attribute this intellectual and political conformity to viewpoint discrimination against conservative and libertarian faculty candidates, consistent with the proven claims of Petitioner in this case.

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[6] *See* text, *infra* p. 18 regarding application of such principles to professors on faculty: "The principles articulated to support student body diversity seem even more compelling as applied to faculty, given how influential professors are not just with the intellectual and moral development of students, but in their ability to shape an academic and professional culture."

II.

"ELITE LAW FACULTIES ARE OVERWHELMINGLY LIBERAL": INTELLECTUAL DIVERSITY, AND ESPECIALLY POLITICAL DIVERSITY, DOES NOT EXIST AMONG MOST LAW PROFESSORS AND THEREFORE AT MOST LAW SCHOOLS

In the instant case, the record shows that the Iowa College of Law has 50 professors on faculty, with only one registered Republican.

This profile of political imbalance is not unique to the Iowa College of Law but is, in fact, the norm at most of America's law schools, and especially at those of more elite status.

As explained by Georgetown University Law Center Professor Nickolas Rosenkranz:

> Elite law faculties are overwhelmingly liberal. Jim Lindgren has proven the point empirically. I will just add my impressions from Georgetown Law School to reinforce the point. We are a faculty of 120, and, to my knowledge, the number of professors who are openly conservative, or libertarian, or Republican or, in any sense, to the right of the American center, is three – three out of 120.
>
> There are more conservatives on the nine-member United States Supreme Court than there are on this 120-member faculty.
>
> Moreover, the ideological median of the other 117 seems to lie not just left of center, but

> closer to the left edge of the Democratic Party. Many are further left than that.
>
> But at least there are three. And the good news is that this number has tripled in the last decade. The bad news, though, is that, at Georgetown, the consensus seems to be that three is plenty – and perhaps even one or two too many.

Nicholas Quinn Rosenkranz, "Intellectual Diversity in the Legal Academy," 37 *Harv. J. of Law & Public Policy*, 137-143 (2015).

The empirical study by Professor James Lindgren of Northwestern University School of Law is probably the most comprehensive and definitive analysis of political diversity among law faculty yet carried out. It compared the political diversity of law professors with that of the general population using population surveys, general social surveys and a modified version of census surveys dating from the 1990s to the present and appears as "Measuring Diversity: Law Faculties in 1997 and 2013," in 39 *Harv. J. of Law & Public Policy*, 89-151 (2015).

The findings confirm that Republicans are the most under-represented group among law professors, after Protestants:

> In Table 3, the most underrepresented groups are not minorities. Rather . . . Over half of the top twenty-six [under-represented groups] are Republican and most are also Christian. The most underrepresented group overall is

> Protestants, followed by Republicans. *Id.* at pp. 111-112.

Even more noteworthy for the instant case was the finding regarding *Republican women*, who are not merely under-represented among law professors but "almost missing":

> The data show that in 1997, women and minorities were underrepresented compared to some populations, ***but Republicans*** and Christians were usually more underrepresented.
>
> For example, by the late 1990s, the proportion of the U.S. population that was neither Republican nor Christian was only 9%, but the majority of law professors (51%) was drawn from that small minority.
>
> Further, though women were strongly underrepresented compared to the full-time working population, ***all of that underrepresentation was among Republican women, who were – and are – almost missing from law teaching***. *Id.* (emphasis added)

Professor Lindgren updated his data using information from the American Bar Association release of the 2013-2014 academic year and continued to find that Democrats far outnumber Republicans in law school teaching:

> In an Afterword, I update the race and gender data on law faculty diversity, incorporating the most recent ABA release for the 2013-2014 academic year. . . . *In terms of absolute*

> *numbers, the dominant group in law teaching today remains Democrats, both male and female.*
>
> Because in the general public both white women and white men tend now to vote Republican, *law faculties are probably less representative ideologically than they have been for several decades – a disappointing result after four decades of hiring intended to make law professors more representative of American society.* (emphasis added)

Lindgren's findings have been corroborated by numerous other studies which have used voter registration, political donations and faculty publications to verify and cross-check the leftward political leanings among law faculty with one study author later claiming that "Conservatives need not apply."[7] *See*, for example, John O. McGinnis, et al., *The Patterns and Implications of Political Contributions by Elite Law School Faculty*, 93 Geo. L.J. 1167, 1177 (2005) (finding campaign contributions by law professors overwhelmingly favoring Democrats over Republicans).

A later study confirmed the continuation of this trend: *See The Legal Academy's Ideological Uniformity*, Northwestern Public Law Research Paper No. 17-12 (Nov. 17, 2017); University of Chicago Coase-Sandor Institute for Law & Economics Research Paper No.

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[7] John O. McGinnis & Matthew Schwartz, Op. Ed. "Conservatives Need Not Apply," *Wall Street Journal*, Apr. 1, 2003.

806; HKS Working Paper No. RWP17-023.[8] Based off of campaign donations, this study found that only 15% of American law professors are conservative. A related study by the same authors also found that, on average, the legal academy is more liberal than any other type of lawyer in the legal profession – more liberal than public defenders, civil rights lawyers, environmental lawyers, and all the rest. Adam Bonica, Adam S. Chilton & Maya Sen, *The Political Ideologies of American Lawyers*, 8 J. Leg. Analysis 277, 318 (2016).

See similar studies corroborating findings by voter registration showing, for example, that the ratio of Democrats to Republicans among law faculty is 8.6 to 1 in *Faculty Voter Registration in Economics, History, Journalism, Law and Psychology* by Mitchell Lanbert, Anthony J. Quain and Daniel B. Klein Econ. Journal Watch 13(3) Sept. 2016, 422-451.

One recent corroborating study which found that liberals outnumber conservatives 7 to 1 among *newly hired* law faculty allegedly caused so much fury from the left that the publication was removed from its online website and the author removed from the project.[9]

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[8] Available at SSRN: https://ssrn.com/abstract=2953087 or http://dx.doi.org/10.2139/ssrn.2953087 Bonica, Chilton, Rozema, and Sen (last revised Feb. 23, 2018).

[9] *See* George Dent, "The Official Ideology of American Law Schools," 24 Acad. Questions 185 (2011) at footnote 14. ("Ideological Diversity and Law School Hiring," by James C. Philips and Douglas Spencer, finding that liberals outnumber conservatives seven to one among newly hired law professors, "The study was

What's more, these findings show that the lack of political diversity tends to be most pronounced at the more highly ranked law schools. As Yale law professor Peter Schuck summarized:

> When we turn to the elite law schools, the Democratic political bias is even more pronounced. Consider a study published this year in the Georgetown Law Journal by Northwestern professor John McGinnis and two coauthors. Their subject was federal campaign contributions made by law professors. Surveying the 21 schools top-ranked by *U.S. News & World Report* in 2002, they identified all contributions of $200 or more in any year between 1992 and 2002. Of the 29 percent who made such contributions, fully 81 percent contributed to Democratic candidates. (These figures turn out to be fairly good proxies for these professors' political affiliations.)
>
> The Democratic bias was even stronger at the highest-rated law schools. At Yale, my own institution, 43 percent of the faculty made such contributions, and of those, 81 percent gave only to Democrats; another 12 percent gave mostly to Democrats.
>
> At Stanford, 94 percent gave only to Democrats; for the supposedly more conservative Harvard, the figure was 88 percent. Moving

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posted online. It drew so much fury from the left that it was withdrawn from the Internet and Spencer was dissociated from the project." *See* Paul L. Caron, *Law Schools Overwhelmingly Hire Liberals as Law Professors*, TAXPROF BLOG (Nov. 9, 2010).

> down the pecking order, these percentages tend to be somewhat lower but still a preponderance; even the lowest (the University of Virginia) is 50 percent.
>
> When the authors compared these figures to the contribution patterns of other Americans with comparable education and income, the elite law professors were, again, markedly more Democratic.[10]

This is noteworthy because while many law schools look to peer-level institutions (those similarly ranked) to evaluate their policies and practices by an industry standard, most also seek to imitate the most prestigious law schools precisely to climb in those rankings.

On this point and relevant to the instant case regarding claims of discrimination because of Petitioner's pro-life views:

Yale Law School appears to have no law professors on faculty who take the pro-life position.[11]

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[10] "Do law schools need ideological diversity? The Peter Schuck and Brian Leiter Debate" *Legal Affairs: The Magazine at the Intersection Between Law and Life* (Jan. 23, 2006) found at: http://legalaffairs.org/webexclusive/debateclub_diversity0106.msp.

[11] Michael Stokes Paulsen, "The Uneasy Case for Intellectual Diversity," 37 *Harv. J. of Law & Public Policy*, 145-164 (2015) at footnote 12 and accompanying text. "Yale Law School appears to have no law professors on its faculty who take the pro-life position: Every member of the Yale law faculty supports a legal right to abortion," *citing* Sherif Girgis, "How the Law School Can Succeed – An Invitation," 37 *Harv. J. of Law & Public Policy*, 187, 188 (2014).

III.

LAW PROFESSORS OFTEN REPRESENT THE "HARD" OR "RADICAL" LEFT WITH NO COUNTERBALANCING, CONSERVATIVE VIEWPOINTS ON FACULTY

In addition to the documented underrepresentation of Republicans among law professors is the finding that Democrats on law school faculties are often not just liberal, but far to the left even of the Democratic party, with no counterbalancing conservative view on faculty.

As Professor Rosenkrantz's observation regarding the ideological median of his colleagues made clear (many are "closer to the left edge of the Democratic Party. Many are further left than that."), these professors create what Ohio Northern University Professor Scott Gerber has called the "radicalization" of legal education in his 2005 essay titled, *The Radicalization of American Legal Education: Why the Left's Dominance is Bad for Law Schools and the Law*.[12]

Again, Professor Lindgren's findings are helpful:

> Those leaning Democrat or Republican were classified as Democratic or Republican, rather than Independent. This was particularly justified for law professors, where Independents and members of other parties are often not in

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[12] *See*: http://supreme.findlaw.com/legal-commentary/the-radicalization-of-american-legal-education-why-the-lefts-dominance-is-bad-for-law-schools-and-the-law.html (May 30, 2005).

> the middle of the spectrum, but rather to the left of the Democratic Party.
>
> Indeed, there were more socialists in my survey than there were white female Republican Protestants (the largest four way group in the US population). As to religion, there were also more Buddhists and more "pagans" who believe in many gods than white female Republican Protestants.[13]

Likewise, in the Bonica et al. study, the researchers found that while "61 percent of liberal lawyers . . . are moderately liberal," only 27 percent of liberal law professors . . . are moderately liberal," "suggest[ing] that law professors hold more extreme views than lawyers." Bonica et al. at 13.

IV.

THIS POLITICAL IMBALANCE HAS RESULTED IN AN INTELLECTUAL CONFORMITY WHICH CAN THREATEN A SPIRIT OF FREE INQUIRY AND THEREFORE CAN THREATEN THE QUALITY OF LEGAL EDUCATION

The exact effects of the intellectual conformity and radicalization of America's law schools, resulting from the Leftward politicization of faculty, is an area of study outside the scope of this Brief, since this Brief has aimed solely to put before the Court the

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[13] Lindgren, "Measuring Diversity," at p.106, footnote 60 and corresponding text.

documentation and discussion of this phenomenon and its relevance for Petitioner's case.

What's more, this Court has already affirmed the educational benefits of viewpoint diversity in *Grutter v. Bollinger*, 539 U.S. 306 (2003), as explained above, and in particular within law schools, with the implication that intellectual and political conformity has less educational benefit and may even do harm. The principles articulated to support student body diversity seem even more compelling as applied to faculty, given how influential professors are not just with the intellectual and moral development of students, but in their ability to shape an academic and professional culture.

But, at the very least, it should be recognized that this lack of viewpoint diversity can threaten the spirit of free inquiry which should exist within a university and especially within legal education:[14] Our justice system is adversarial and requires attorneys to encounter and engage with those of different – indeed, opposing – views in court, in political life and in public

[14] The issue of institutional identity, where specific viewpoints are openly favored or disfavored by the institution itself, is not implicated in this case since the University of Iowa College of Law is, like the University of Michigan Law School in *Grutter*, a public institution, designed to be open to "all members of our heterogeneous society." *See Grutter*; *see also* discussion in Paulsen, *supra* note 11, at pp. 161-163 (exploring the difference between private and public law schools and universities: "[T]rue intellectual diversity means the obligation of public law schools not to exclude competing viewpoints – as a matter of First Amendment constitutional requirement."

discourse generally. For this reason alone, the development is cause for concern.

But there are, of course, even graver concerns when one considers the implications and effects of leftist bias for so many who are affected by law school culture – not just the intellectual development for students but also for faculty, policy leaders, government officials and also judges.

V.

POLITICAL DISCRIMINATION IN FACULTY HIRING COULD EXPLAIN THE CURRENT IDEOLOGICAL CONFORMITY AND MANY WITHIN LAW SCHOOLS STATE EXPLICITLY THAT IT DOES, CONSISTENT WITH PETITIONER'S PROVEN CLAIMS IN THIS CASE

The question of how law faculties have become so politically and intellectually one-sided is also its own area of study and an in-depth exploration of that issue is also beyond the scope of this brief.

Self-evidently, however, political discrimination is one possible reason – as not only alleged in this case, but already proven to a jury – and has been proffered as the probable cause by many within legal academe and has been strongly asserted as a matter of fact by others.

Among the most explicit such assertions include those from Northern Ohio State law professor Scott

Gerber in the above-cited article on law school radicalization. He writes:

> Many of the same law professors who teach students in their First Amendment classes about the evils of viewpoint discrimination practice it . . . the same institutions that tout tenure as a way to encourage free thought, censor it by not allowing conservative candidates who think freely to get in the door.[15]

Case Western Reserve University School of Law Professor George Dent is similarly plainspoken:

> Law school faculties tilt heavily to the political left; and there is no plausible explanation for this tilt other than discrimination against scholars who are politically incorrect.[16]

A less emphatic but still definitive assertion comes from the Conclusion of an article on precisely the question, "Why Are There So few Conservatives and Libertarians in Legal Academia? An Empirical of Three Hypotheses," by James C. Phillips, which states:

> In legal academia, conservatives and libertarians are a rare breed . . . This study finds that the few who do make it are, on average, more qualified, publish at statistically significant higher levels, and are cited at statistically significant higher level than their peers.

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[15] *Supra* note 12.

[16] George Dent, "Toward Improved Intellectual Diversity in Law Schools," 37 *Harv. J. of Law & Public Policy*, 165-177.

> In other words, conservative and libertarian law professors are less common, more qualified and more productive and influential.
>
> These findings call into question the explanation that they cannot cut it, make the explanation that they are not interested less believable, and supports the explanation that some form of bias against them exists, whether deliberate or unconscious.
>
> Indeed, this explanation is the only theory that explains all three of this study's findings.[17]

CONCLUSION

For the foregoing reasons, we respectfully ask that this Court grant Petitioner's request for review and grant such other relief and remedy deemed appropriate to do justice to Petitioner in this case.

Respectfully submitted,

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[17] In 39 *Harv. J. of Law & Public Policy*, 153-207.