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May 2, 2022

Hon. Scott S. Harris, Clerk
Supreme Court of the United States
One First Street, NE
Washington, D.C. 20543

Re: *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, No. 20-1199; *Students for Fair Admissions, Inc. v. University of North Carolina, et al.*, No. 21-707

Dear Mr. Harris:

Pursuant to Supreme Court Rule 32.3, Petitioner, Students for Fair Admissions (SFFA), seeks to lodge with the Court certain non-record materials in connection with the above cases.

SFFA is a 501(c)(3) voluntary membership organization that is dedicated to defending the right to racial equality in college admissions. In *Harvard* and *UNC*, SFFA sues on behalf of its members, including students who were denied admission to Harvard and UNC and who stand ready and able to apply to transfer to these universities if they stop racially discriminating. See SFFA *Harvard* Pet. 6; SFFA *UNC* Pet. 7.

In briefing at the certiorari stage, Harvard and UNC suggested that these cases might be moot because the members SFFA previously identified might have completed their undergraduate studies. See Harvard Supp. Br. 10; UNC BIO 38. In response, SFFA confirmed that it has members who were denied admission to Harvard and UNC and who stand ready and able to apply to transfer to these universities if they stop racially discriminating. SFFA stated that, if certiorari were granted, it would lodge any necessary materials to that effect with the Court under Rule 32.3. See SFFA *Harvard* Supp. Br. 5; SFFA *UNC* Reply Br. 6.

SFFA thus seeks to lodge with the Court the following documents. *First*, SFFA seeks to lodge a declaration from Edward J. Blum, who is the President of SFFA. Mr. Blum's declaration states that SFFA has members who applied for and were recently denied admission to Harvard and UNC and who are ready and able to apply to transfer to these universities if they stop racially discriminating. *Second*, SFFA seeks to lodge the declarations of the members identified by Mr. Blum, with their personally identifiable information redacted. These declarations state, among other things, that the students are members of SFFA,

were recently denied admission to Harvard or UNC, and are ready and able to apply to transfer to these universities if they stop racially discriminating.

Lodging these materials under Rule 32.3 is appropriate to confirm that these cases are not moot. In *Parents Involved in Community Schools v. Seattle School District No. 1*, 551 U.S. 701 (2007), the Court accepted non-record materials in nearly identical circumstances. There, Parents Involved, a membership organization, challenged the use of racial preferences at Seattle high schools. *Id.* at 718. In its brief in opposition, Seattle suggested that the case was moot because the students that Parents Involved had previously identified graduated high school. BIO at 20-21. After certiorari was granted, Parents Involved was granted permission under Rule 32.3 to “lodge an affidavit identifying other members of [Parents Involved] with young children currently in Seattle public schools who will likely be affected by the District’s race preferences when applying for high school admission.” Pet. Br. 10 n.5. Relying on that affidavit, this Court determined that Parents Involved had standing. *See Parents Involved*, 551 U.S. at 718 (citing *Aff. of Kathleen Brose*). The Court has allowed the lodging of similar materials in other cases too. *See, e.g., Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 271 (2015) (allowing the petitioner to lodge an affidavit identifying its members with standing). Here, the declarations SFFA seeks to lodge confirm that SFFA has a live claim against Harvard and UNC. *See Parents Involved*, 551 U.S. at 719; *Gratz v. Bollinger*, 539 U.S. 244, 262 (2003).

SFFA has provided Harvard and UNC with the declarations it proposes to lodge. As required by Rule 32.3, SFFA will not submit these declarations to the Court until this request is granted.

For the foregoing reasons, SFFA respectfully requests that the Court allow SFFA to lodge with the Court the non-record materials identified above.

Respectfully submitted

/s/ William S. Consvooy

Counsel of Record for Students
for Fair Admissions, Inc.

cc: Counsel of Record

CERTIFICATE OF SERVICE

I hereby certify that the foregoing letter requesting to lodge non-record materials under Rule 32.3 in 20-1199, *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College* and 21-707, *Students for Fair Admissions, Inc. v. University of North Carolina, et al.*, was sent via Next Day Service to the U.S. Supreme Court, and via Next Day and e-mail service to the following parties listed below, this 2nd day of May, 2022:

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