No. 25-427

In the Supreme Court of the United States

WALID ABDELAZIZ, IN HIS INDIVIDUAL CAPACITY AS A POLICE OFFICER FOR THE CITY OF OAKLAND, CALIFORNIA, ET AL., *Petitioners*,

v.

ESTATE OF DECEDENT LOMANIA SOAKAI, ET AL., *Respondents.*

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

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BRIEF FOR *AMICUS CURIAE* CALIFORNIA ASSOCIATION OF JOINT POWERS AUTHORITIES IN SUPPORT OF PETITIONERS

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STATEMENT OF INTEREST[1]

California Association of Joint Powers Authorities ("CAJPA") is a statewide association for risk-sharing pools that has served as an information and educational network for joint-powers authorities ("JPAs") since 1981. CAJPA provides leadership, education, advocacy and assistance to public-sector risk pools to enable them to enhance their effectiveness and it advocates both in court and in the Legislature on behalf of JPAs. Its membership consists of more than 80 JPAs representing municipalities, school districts, transit agencies, fire agencies and similar public entities throughout the State of California.

CAJPA and its members have a significant interest in the outcome of this case because the decision in question by the Ninth Circuit has a direct and negative impact on many public entities, including (but not limited to) those whom CAJPA represents. Accordingly, CAJPA supports the certiorari petition ("Pet.") filed by Walid Abdelaziz and Jimmy Marin-Coronel ("Petitioners").

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[1] Pursuant to Supreme Court Rule 37.6, *amicus curiae* states that no counsel for any party authored this brief, in whole or in part, and that no entity or person (aside from *amicus curiae*, its members and its counsel) made any monetary contribution toward the preparation or submission of this brief. *Amicus curiae* provided counsel of record for all parties timely notice of the intent to file this brief pursuant to Supreme Court Rule 37.2, and no counsel of record for any party communicated any objection to this filing.

ARGUMENT

This case presents two related questions. First, whether bystanders injured by a fleeing criminal suspect have a substantive due process claim under the Fourteenth Amendment against the pursuing police officers for accidental injuries the officers did not intend. Second, whether the so-called state-created-danger doctrine, as articulated and broadened by the United States Circuit Court of Appeals for the Ninth Circuit ("Ninth Circuit"), conflicts with this Court's determination that "a State's failure to protect an individual against private violence . . . does not constitute a violation of the Due Process Clause." *DeShaney v. Winnebago Cnty. Dep't of Soc. Servs.*, 489 U.S. 189, 197 (1989).

In this case, the Ninth Circuit expanded even further this dubious state-created-danger exception. The incorrect expansion of this would-be exception is untenable. *See Doe v. Covington County Sch. Dist.*, 675 F.3d 849, 866 (5th Cir. 2012) (en banc) (refusing to find liability "under the state-created danger theory, even if that theory were viable in this circuit"); *id.* at 874 (Higginson, J., concurring in the judgment) (explaining that the Fifth Circuit has avoided this theory because embracing it would amount to an improper "judicial enlargement of liability").

That is because the expansion of this misguided exception is a drastic departure from this Court's well-established jurisprudence on an important question of law. *See County of*

Sacramento v. Lewis, 523 U.S. 833, 855 (1998) (mandating that a state defendant's conduct must "shock the conscience" to support substantive due process liability); *Collins v. City of Harker Heights*, 503 U.S. 115, 125 (1992) (reiterating that courts must be "reluctant to expand the concept of substantive due process because guideposts for responsible decisionmaking in this unchartered area are scarce and open-ended"); *Paul v. Davis*, 424 U.S. 693, 701 (1976) (rejecting a similar expansion that would "make the Fourteenth Amendment a font of tort law to be superimposed upon whatever systems may already be administered by the States").

As noted by Petitioners, all of the other circuits that have considered this issue have come down against the Ninth Circuit's ever widening application of this problematic doctrine. *See* Pet. 19-22 (citing, *inter alia*, *Mahdi v. Salt Lake Police Dep't*, 54 F.4th 1232, 1239 (10th Cir. 2022), *Bublitz v. Cottey*, 327 F.3d 485, 491-492 (7th Cir. 2003), *Helseth v. Burch*, 258 F.3d 867, 872 (8th Cir. 2001), *Claybrook v. Birchwell*, 199 F.3d 350, 360 (6th Cir. 2000)).

If left uncorrected, the perpetuation of this invalid and poorly defined exception, as well as the Ninth Circuit's ill-advised expansion of it, will harm public entities throughout the nation as well as the public that such entities are there to serve. The negative impacts of permitting the Ninth Circuit to continue misapplying this exception stretch far beyond the parties in this case and well past CAJPA's members in California.

Indeed, the State of California's Commission on Peace Officer Standards and Training reliably confirms on its website listing Peace Officer Certification Statistics (https://post.ca.gov/Peace-Officer-Certification-Reporting) that this year there are over 82,000 fulltime peace officers employed in the Golden State alone. Both of the questions raised in this matter will impact those peace officers.

Expanding the tally beyond law enforcement, the California State Controller's Office's inventory of State Employee Demographics (https://sco.ca.gov/ppsd_empinfo_demo.html) shows that there were over 247,000 active public employees in that state in in September 2025 – and that figure does not even include the number of public employees at state universities and municipalities. Consequently, hundreds of thousands of employees at government agencies throughout the Ninth Circuit who make run-of-the-mill mistakes with little or no culpability are subject to liability for would-be constitutional violations under the Ninth Circuit's dilation of this dubious state-created-danger doctrine.

Broadly imposing such liability on a vast range of official conduct simply because it negligibly increases some risks to some members of the public is a slippery slope to highly undesirable outcomes. States and local government agencies are and will continue to be forced to expend substantial public resources in defending these types of claims, which typically result in protracted litigation.

At the same time, permitting this short-sighted exception runs a great risk of promoting a wide variety of undesirable conduct by state actors (particularly those in law enforcement). For instance, the prospect of avoiding the risk of liability to third parties would incentivize some police officers to intervene more forcefully or extensively in intense situations. In other words, to diminish the risk of exposure to a lawsuit by third parties, those police officers would employ more aggressive and dangerous tactics in the hope of ending the pursuit of a fleeing suspect more quickly.

On the other hand, that same motivation would incentivize some police officers to refrain from providing certain services that might require quick judgments with limited information. Still other officers might be paralyzed by indecisiveness in trying to determine which path would most likely diminish the risk of such liability.

CAJPA members, as well as other public entities in California, already are subject to a carefully crafted yet complex scheme detailing when public employees can—and cannot—be held liable for tortious conduct. *See*, *e.g.*, Cal. Gov't Code §§ 814-895.8 (charting the procedure for pursuing such claims and establishing various immunities). Permitting expansion of this judicially created and unwieldy exception will add to that complexity and intrude on principles of federalism.

CONCLUSION

For these reasons, this Court should grant the petition and reverse the decision below.

Respectfully submitted,

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