

No. 25-496

In the  
**Supreme Court of the United States**

LAWYERS FOR FAIR RECIPROCAL ADMISSION,  
*Petitioner*,

v.

UNITED STATES OF AMERICA, et al.,  
*Respondents*.

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

**PETITION FOR REHEARING**

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January 2, 2026

## **PETITION FOR REHEARING**

**INTRODUCTION TO THE FIRST  
AMENDMENT PETITION THE UNITED  
STATES GOVERNMENT FOR THE REDRESS  
OF GRIEVANCES QUESTION PRESENTED  
THAT THIS HONORABLE COURT HAS A  
SUPERVISORY AND CONSTITUTIONAL  
DUTY TO NOT TO TRANSFER TO A THREE  
MEMBER PANEL OF SEVENTY-EIGHT YEAR  
OLD WHITE MEN WHO HAVE NOT BEEN  
APPOINTED BY THE PRESIDENT, NOT  
CONFIRMED BY THE UNITED STATES  
SENATE, AND NOT TAKEN A SUPREME  
COURT JUSTICE OATH OF OFFICE**

Justice Amy Coney BARRETT in her book *Listening to the Law*, (Penguin Random House 2025), represents to the American People, “Supreme Court decisions affect the whole country rather than a portion of the Midwest.” *Id.* at 14. “We might take the law for granted. But it is not a given. It’s a gift that each generation of Americans inherits to protect, and I am honored to play a small part in the process.” *Id.* at 15.

Justice BARRETT writes, Massachusetts adopted the “Miracle in Philadelphia” after John Hancock recommended amendments as a formula that six of the remaining seven states followed. The Bill of Rights was thus added to pit ambition against ambition as the *sine qua non* to our more perfect Union.

The First Amendment, in pertinent part, provides:

**Congress shall make no law ...  
abridging the freedom of speech, ... or  
the right of the people peaceably to  
assemble, and to petition the  
government for a redress of  
grievances.** (Emphasis added).

Justice BARRETT confirms, “The Court’s primary responsibility is to ensure that federal law is uniform across the country. Things get unwieldy (and unfair) if federal law dictates one outcome in California and another in New York. So when the courts of appeal or state Supreme Court’s are divided about an issue of federal law, the Supreme Court takes the case to give a single answer that will apply nationwide. *Id.* at 94.

Similarly, in *The Essential Scalia*, Edited by Jeffrey S Sutton and Edward Whelan (Crown Forum 2020), Justice SCALIA is quoted:

One of the most important of these competing values, which often contradicts the search for truth, is the appearance of equal treatment. As a motivating force of the humans spirit, that value of equal treatment cannot be overestimated. Try to let one brother or sister watch television when others do not, and you will feel the fury of the fundamental sense of justice unleashed. The Equal Protection Clause epitomizes justice more than any other provision of the Constitution. *Id.* at 6.

As Justice SCALIA has stated: “When the Bill of Rights was passed, as now, to abridge “meant to contract, to diminish; to deprive of.” *National Endowment for the Arts v. Finley*, 524 U.S. 569, 595 (1998). (Cleaned up.) The inherent worth of the speech in terms of its capacity for informing the public does not depend upon the identity of its source, whether corporation, association, union, or individual. *First National Bank of Boston v Bilotti*, 435 U.S. 765, 777 (1978). The premise of the First Amendment is that the American people are neither sheep nor fools, and hence fully capable of considering both the substance of the speech presented to them and its proximate and ultimate source. The local Rules presume lawyers licensed in forty-nine states are fools and all citizens, associations, and corporations in all fifty states are sheep. This Court has an unflagging duty to protect the People’s First Amendment rights, including the rights to petition and association.

The appearance of justice and the equal freedom to petition the United States government for the redress of grievances is the central issue presented in this case. The freedom to petition the United States is a distinct and separate freedom. The right to petition is more than free speech. It encompasses the freedoms to associate and assemble. It is also constitutionally protected *conduct*. It is at the apex of the First Amendment freedoms. It is the fundamental right to be treated equally. It is the fundamental right to object to unequal treatment. While there may be no textually embedded constitutional right to speak and associate with a

doctor or therapist, the right to petition the U.S. government is textually embedded in the Constitution. There would be no Constitution without this sacred freedom. The panel holds the right to petition can be abridged on any rational basis. Petitioner respectfully submits this Court has a supervisory and constitutional duty to enforce the We the People's right to petition the United States government.

Here, a panel of three seventy-eight year old white men have strangely concluded that the right to petition textually embedded in the First Amendment is not First Amendment protected. They claim the First Amendment freedoms, including the right to petition, can be abridged based on any rational basis.

## **GROUNDS FOR REHEARING**

Petitioner respectfully petitions for rehearing on three grounds: (1) reasonable appearance of procedural due process violation because government defense counsel was furloughed<sup>i</sup> during the longest government shutdown in history and the Solicitor General filed a waiver the same day counsel sent a detailed request explaining the reasons the SG should support certiorari; (2) intervening Sixth Circuit authority deepening the circuit split on the professional speech standard of review at issue where six circuits have applied strict scrutiny and others have applied rational basis; and (3) conflicts between federal court rules and executive policy requiring Solicitor General to provide guidance when the U.S. Courts of Appeal adopt conflicting standards of review. 28 U.S.C. § 538. This statutory delegation of duty to the SG when circuit conflicts

arise ensures that the government's litigation strategy is consistent and reflects broader national interests rather than the narrower interests of individual agencies. *Federal Election Com'n v. NRA Political Victory Fund*, 513 U.S. 88 (1994))

## **FACTUAL BACKGROUND**

This case presents a pure question of law on a facial and as applied First Amendment challenge. This Court has de novo review of the facts and law. The question presented is whether the standard of review on a professional attorney speech licensing and petition the government for redress of grievances challenge is strict scrutiny as six circuits have held, or rational basis review as the Ninth Circuit held in this case and the Tenth Circuit held in *Chiles v. Salazar*, Supreme Court docket No. 24-539 (oral argument heard October 7, 2025.)

The Ninth Circuit sent counsel an email that government defense counsel below was furloughed. The shutdown occurred from October 1, 2025, to November 12, 2025.

On November 7, 2025, counsel sent an eleven-page letter to Solicitor General D. John Sauer requesting that the SG file a response recommending review. *See Exhibit A*. This letter was emailed to the SG on November 7, 2025, at 10:15 a.m. The letter demonstrates that this case presents the identical First Amendment professional speech standard of review issue the Solicitor General endorsed and argued in *Chiles v. Salazar*, No. 24-539. The SG argued the standard of review should be strict scrutiny and not rational basis.

The letter informed the SG that the Ninth Circuit panel in this case is virtually the same panel that created the professional speech circuit split at issue in *Chiles*.

The letter further documented three conflicts requiring Solicitor General guidance: conflicts with the January 21, 2025, Executive Order ensuring merit based opportunities; conflicts within the federal judiciary (sixty percent of district courts applying non-reciprocal rules versus forty percent applying reciprocal rules); and the conflict between the Ninth Circuit's rational basis review and the Solicitor General's *Chiles* position requiring strict scrutiny.

On the same day—November 7, 2025—before the Solicitor General could have received or responded to Petitioner's request, the Solicitor General filed a waiver to respond. Petitioner contend that the forty-three day government shutdown (from October 1, 2025, to November 12, 2025) affected office operations and prevented proper due process coordination. Five days later, on November 12, 2025, this case was set for conference. On December 8, 2025, this Court denied review.

## **GROUND ONE: PROCEDURAL DUE PROCESS VIOLATION**

This Court's denial following the Solicitor General's premature waiver filed during a government shutdown created the appearance of a procedural due process right violation. The Solicitor General has an institutional duty to provide guidance in cases

presenting conflicts between United States government standards and policies.

#### **A. Conflict with Executive Order**

The challenged local rules directly contradict January 21, 2025, Executive Order titled "Ending Illegal Discrimination and Restoring Merit-Based Opportunity." This Executive Order mandates that all federal agencies terminate discriminatory preferences and promote individual initiative, excellence, and hard work based on merit. The Order specifically directs the Attorney General to investigate and combat illegal discrimination in "State and local bar associations."

Yet sixty percent of federal district courts maintain local admission rules that categorically exclude attorneys based solely on state of licensure rather than individual merit. An attorney with decades of federal experience licensed in California cannot practice in Nevada federal court without retaking an entry-level bar examination, while a recent Nevada law graduate with zero federal experience can practice immediately. This exemplifies the arbitrary geographic discrimination the Executive Order condemns.

These local Rules have nothing to do with individual merit because novice forum state attorneys are categorically granted District Court *general* admission while all experienced lawyers from forty-nine states are categorically denied District Court *general* admission. Moreover, the American Bar Association has concluded that this guild-like protectionism is not necessary, drives up the cost of litigation, and interferes with the client's rights to

counsel and petition. Forty states waive the bar exam for attorneys with three years of experience, and forty states waive the bar exam for attorneys with less than three years experience who have passed the Uniform Bar Exam. Testing experts have concluded it is almost impossible for essay graders to agree on subjective test results. *See* Dr. Geoff Norman, "So What Does Guessing the Right Answer Out of Four Have to Do With Competence Anyway?" *The Bar Examiner*, p. 21 (Nov 2008) ("Study after study has shown that it is almost impossible to get judges to agree on scores for essay answers.") Everyone knows there is a direct correlation with competence and experience, sometimes known as the 10,000 hour rule.

### **B. Conflict Within Federal Judiciary**

The challenged rules create conflicts within the federal judiciary. Forty percent of federal district courts maintain "reciprocal" admission rules welcoming all licensed attorneys. Sixty percent maintain "non-reciprocal" rules categorically excluding attorneys based on geography. This creates a nationwide patchwork where identical attorneys receive vastly different treatment based solely on which district they seek to practice in, affecting uniform administration of federal justice.

### **C. Conflict with Solicitor General's Legal Position**

The Solicitor General has already taken a clear position on the identical legal issue presented in this case. In *Chiles v. Salazar*, the Solicitor General filed an amicus brief arguing that the Tenth Circuit committed reversible error by applying rational

basis review to content-based restrictions on professional speech. The Solicitor General wrote: "When speech triggers a law that regulates conduct, the level of First Amendment scrutiny that applies depends on how the law operates. In general, if the speech is covered because of its communicative content, then the law is subject to strict scrutiny." Brief for the United States as Amicus Curiae Supporting Petitioner at 8, *Chiles v. Salazar*, No. 24-539 (June 2025).

The Ninth Circuit in this case committed precisely the same error the Solicitor General identified in *Chiles*. The Ninth Circuit held that "bar admission restrictions [are subject] to rational basis review." *Lawyers For Fair Reciprocal Admission v. United States*, 141 F.4th 1056, 1063 (9th Cir. 2025). Yet the challenged admission restrictions are content-based: they restrict attorneys from practicing federal law based on the content of their professional speech (federal law and procedure) and operate as speaker-based discrimination (against out-of-state attorneys).

Petitioner's November 7 letter specifically brought this direct conflict to the Solicitor General's attention, noting that "the Ninth Circuit panel in our case is virtually the same panel that created the professional speech circuit split in *Chiles*." The premature waiver prevented the Solicitor General from addressing this conflict and providing guidance consistent with the Department of Justice's position in pending Supreme Court litigation.

## **GROUND TWO: INTERVENING AUTHORITY DEEPENS CIRCUIT SPLIT**

After this Court denied certiorari on December 8, 2025, the Sixth Circuit issued a published decision on December 17, 2025, that directly addresses and significantly deepens the circuit split on the standard of review for professional speech restrictions. In *Catholic Charities of Jackson, Lenawee, and Hillsdale Counties v. Whitmer*, 2025 WL 3653774 (6th Cir. Dec. 17, 2025), the Sixth Circuit held that Michigan's ban on conversion therapy—which restricts "talk therapy" consisting solely of spoken words—is subject to strict scrutiny under the First Amendment.

### **A. The Sixth Circuit's Holding and Reasoning**

The Sixth Circuit began with foundational First Amendment principles: "As a general matter, the First Amendment means that government has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Id.* (citing *Ashcroft v. ACLU*, 535 U.S. 564, 573 (2002)). The court held that Michigan's law regulates speech by its "function or purpose" because it "bans counseling 'that seeks to change an individual's sexual orientation or gender identity.'" *Id.*

Moreover, the Sixth Circuit found viewpoint discrimination: "the Michigan law discriminates based on viewpoint—meaning the law permits speech on a particular topic only if the speech expresses a viewpoint that the government itself approves." *Id.* The court explained that while the law "forbids counseling that 'seeks to change' a child's 'sexual orientation or gender identity' to align with

the child's religious beliefs or biological sex," it "expressly permits 'counseling that provides assistance to an individual undergoing a gender transition.'" *Id.* This viewpoint discrimination means the law "codifies 'a particular viewpoint' and prohibit[s] therapists from advancing any other perspective." *Id.*

### **B. Application of *Holder* and Strict Scrutiny**

The Sixth Circuit explicitly applied this Court's holding in *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010), which the Solicitor General also relies upon in *Chiles*. The court held: "when the putative conduct 'triggering coverage under the statute consists of communicating a message,' the restriction is treated as one on speech." *Id.* (quoting *Holder*, 561 U.S. at 28). The court explained that "the communication of a message is exactly what speech is," and held: "HB 4616 proscribes counseling based solely on the therapist's message: if the counseling 'seeks to change an individual's sexual orientation or gender identity,' the therapist can lose her license; but if the counseling supports 'a gender transition,' the counseling is lawful. As applied to these plaintiffs, therefore, the Michigan law restricts speech, not conduct." *Id.*

The Sixth Circuit held that such content-based restrictions are "presumptively invalid, and the Government bears the burden to rebut that presumption." *Id.* (citing *United States v. Stevens*, 559 U.S. 460, 468 (2010)). The court emphasized that "viewpoint discrimination is itself 'an egregious form of content discrimination,'" and when "the government targets 'particular views taken by

speakers on a subject, the violation of the First Amendment is all the more blatant." *Id.* (quoting *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819, 829 (1995)).

### **C. Rejection of Rational Basis Review**

The Sixth Circuit explicitly rejected the argument that professional licensing regulations receive only rational basis review. The court noted that "the defendants argue that HB 4616 'is subject to only rational basis review,'" but held that traditional state regulatory power does not exempt speech restrictions from First Amendment scrutiny. *Id.* The court explained that even "centuries-old tradition of regulation" must "yield[] to the First Amendment's protections" when speech is at issue. *Id.* A "more general tradition of regulation—of 'licensed professionals' or of 'treatment'—is not good enough" to avoid strict scrutiny. *Id.*

### **D. Conflict with This Court's Petition the Government Precedent**

The Solicitor General and the decision below ignore *Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc.*, 508 U.S. 49 (1993), where in construing the right to *petition*, the Court held "that litigation could only be enjoined when it is a sham. To be a sham, first, it must be objectively baseless in the sense that no reasonable litigant could expect success on the merits; second, the litigant's subjective motive must conceal an attempt to interfere with the business relationship of a competitor ...using government process — as opposed to the outcome of that process — as an anti-competitive weapon." *Id.* at 60-61. The local Rules,

on their face and as applied, violate the Petition Clause because they constitute a prior restraint and presume all licensed lawyers from forty-nine states will file sham petitions for an anti-competitive purpose and only file sham petitions. The government has the burden of proof under the strict scrutiny standard as the Solicitor General argues in *Chiles*.

### **RELIEF REQUESTED**

In a case where they are judging their own circuit's rules, a self-interested three member panel of senior judges on behalf of 348 million Americans nationwide has absurdly and irrationally concluded that the constitutionally embedded right to petition the government is not a constitutional right; that the right to petition can be preempted based on any conceivable rational basis. This Court cannot deny certiorari review without directly breaching its oath of office to supervise the lower courts and enforce We the People's constitutionally protected right to petition the government for the redress of grievances.

In view of the foregoing, this case presents exceptional circumstances warranting rehearing. Petitioner respectfully requests that this Court:

1. Grant this petition for rehearing;
2. Vacate the order denying certiorari;
3. Grant review and hold this case pending this Court's pending decision in *Chiles v. Salazar*.

4. Alternatively, call for the views of the Solicitor General (CVSG) to obtain the United States' position on the issues presented.

Respectfully submitted,

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**CERTIFICATE OF PETITIONER'S COUNSEL**

I hereby certify that this Petition for Rehearing  
is presented in good faith and not for delay and is  
restricted to the grounds specified in Rule 44.2.

Joseph Polat, Esq.  
12-26-25

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<b>Appendix A:</b> Letter from Joseph Robert Giannini to U.S. Solicitor General D. John Sauer, November 8, 2025. . . . .	1a
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November 8, 2025

The Honorable D. John Sauer  
Solicitor General of the United States  
United States Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Re: *Lawyers For Fair Reciprocal Admission v. United States*, et al. Supreme Court Docket No. 25-496  
Request for United States to File Brief Supporting Certiorari Ninth Circuit Case No. 24-2213

Dear General Sauer:

I write on behalf of Petitioner Lawyers For Fair Reciprocal Admission ("LFRA") to respectfully request that the United States file a brief supporting our Petition for Writ of Certiorari in the above-referenced case, or alternatively, that the United States support granting certiorari if the Court invites the Solicitor General's views.

This case presents the identical First Amendment professional speech issue you successfully argued in

Chiles v. Salazar, Supreme Court Docket No. 24-539, at oral argument on October 7, 2025. Moreover, the challenged local rules directly contravene the principles embodied in the January 21, 2025 Executive Order, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity," which mandates federal agencies terminate discriminatory preferences and promote merit-based opportunity.

#### **I. THE NINTH CIRCUIT COMMITTED THE SAME ERROR YOU IDENTIFIED IN CHILES**

In your amicus brief supporting petitioner in *Chiles v. Salazar*, you argued that the Tenth Circuit erred by applying rational basis review to a content-based restriction on professional speech. You wrote:

"When speech triggers a law that regulates conduct, the level of First Amendment scrutiny that applies depends on how the law operates. In general, if the speech is covered because of its communicative content, then the law is subject to strict scrutiny, notwithstanding that it also covers non-speech conduct."

Brief for the United States as Amicus Curiae Supporting Petitioner at 8, *Chiles v. Salazar*, No. 24-539 (June 2025).

You further argued:

"A professional conduct regulation that is applied to restrict speech based on its content is thus generally subject to strict scrutiny, even if it also covers non-speech conduct." *Id.* at 9.

The Ninth Circuit panel in our case committed precisely the same error. The panel applied rational basis review to professional speech licensing restrictions, holding that "bar admission restrictions [are subject] to rational basis review." *Lawyers For Fair Reciprocal Admission v. United States*, 141 F.4th 1056, 1063 (9th Cir. 2025) (App. 15a).

As you noted in *Chiles* at page 11, our Petition for Writ of Certiorari identifies that this is "virtually the same panel" that created the professional speech circuit split in *Chiles*. The Ninth Circuit's application of rational basis review in our case exemplifies exactly the error you argued requires correction: treating professional speech restrictions as mere conduct regulation to avoid strict scrutiny.

## **II. THE CASES ARE LEGALLY IDENTICAL**

Both cases involve:

### **A. Content-Based Restrictions on Professional Speech**

In *Chiles*, Colorado prohibited mental health professionals from engaging in talk therapy that "attempts or purports to change" a minor's sexual orientation or gender identity based on the

communicative content of the therapy.

In our case, federal courts prohibit attorneys from practicing federal law based on their state of licensure—a restriction that operates as content discrimination, speaker discrimination, and viewpoint discrimination against out-of-state counsel's professional speech in federal court.

#### **B. Misapplication of the "Incidental Burden" Exception**

In *Chiles*, you argued the Tenth Circuit erroneously concluded the speech restriction was merely "incidental" to conduct regulation simply because the statute also regulated non-speech conduct. Brief at 27-30.

In our case, the Ninth Circuit made the identical error, concluding that categorical exclusion of attorneys based on geography was merely incidental regulation of professional conduct, despite the fact that an attorney's practice of law consists entirely of speech—advocacy, counseling, drafting, and oral argument.

#### **C. *Holder v. Humanitarian Law Project* Governs Both Cases**

You argued in *Chiles*: "Holder rejected the argument that the material-support statute should receive less-than-strict scrutiny 'because it generally functions as a regulation of conduct.'" Brief at 14.

The same principle applies here. As this Court held in *Holder*, "the conduct triggering coverage under the statute consists of communicating a message." 561 U.S. at 28. An attorney's admission to federal court triggers coverage based on the content of their professional speech—their advocacy of federal law and procedure in federal court.

#### **D. Professional Speech Is Not a Separate Category**

You argued in *Chiles*: "Because 'professional speech' is not subject to different First Amendment rules under NIFLA, the *Holder* rule applies equally in the context of professional regulation." Brief at 16.

Our case involves the identical principle. The Ninth Circuit treated attorney licensing as exempt from First Amendment scrutiny simply because it involves "professional" regulation—precisely the error NIFLA rejected.

### **III. THE EXECUTIVE ORDER MANDATES FEDERAL COMPLIANCE**

The January 21, 2025 Executive Order directly implicates the discriminatory local rules challenged in our petition. The Order provides:

"It is the policy of the United States to protect the civil rights of all Americans and to promote individual initiative, excellence, and hard work. I therefore order all executive departments and agencies

(agencies) to terminate all discriminatory and illegal preferences, mandates, policies, programs, activities, guidance, regulations, enforcement actions, consent orders, and requirements." Executive Order § 2 (emphasis added).

The Order further directs the Attorney General to investigate and combat illegal discrimination in "State and local bar... associations." Executive Order § 4(b)(iii).

The challenged local rules violate the Executive Order's mandate in three ways:

**A. Geographic Discrimination Violates Merit-Based Principles**

The Executive Order emphasizes "individual merit, aptitude, hard work, and determination" over arbitrary classifications. Executive Order § 1. Yet the challenged rules categorically exclude attorneys based solely on state of licensure—not individual merit, federal court experience, or qualifications.

Example: An attorney with decades of federal court experience licensed in California cannot practice in Nevada federal court without retaking a bar examination, while a recent Nevada law graduate with zero federal experience can practice immediately in the same court. This is the antithesis of merit-based opportunity.

## **B. The Rules Create "Illegal Preferences" for Local Attorneys**

The Executive Order prohibits "illegal preferences" that deny opportunities based on protected classifications. Sixty percent of federal district courts maintain "non-reciprocal" rules that categorically prefer locally-licensed attorneys over equally or more qualified out-of-state counsel.

This creates precisely the "identity-based spoils system" the Executive Order condemns—where geographic identity determines opportunity rather than individual excellence.

## **C. Federal Courts Are Subject to Executive Policy**

The challenged rules are federal court local rules adopted pursuant to the Rules Enabling Act, 28 U.S.C. §§ 2071-2075. Federal courts are part of the federal government and should comply with federal anti-discrimination policy.

The Executive Order mandates that federal agencies—including the courts—terminate discriminatory preferences. Federal district courts maintaining geographic discrimination in direct contradiction to executive policy creates an indefensible inconsistency in federal government operations.

## **IV. THE CIRCUIT SPLIT REQUIRES RESOLUTION**

As you recognized in Chiles, lower courts have split on whether professional speech restrictions trigger strict scrutiny or rational basis review. Our petition presents the identical circuit split in a different professional context:

- The Ninth Circuit applies rational basis review to professional speech licensing restrictions. *Lawyers For Fair Reciprocal Admission*, 141 F.4th at 1063.
- Other circuits apply heightened scrutiny to content-based restrictions on professional speech. See Petition at 16-20 (discussing circuit split).
- This Court granted certiorari in Chiles to resolve this exact circuit split regarding the standard of review for professional speech restrictions.

Our case presents the flip side of the same coin: If content-based restrictions on mental health professionals' speech require strict scrutiny under Chiles, then content-based restrictions on attorneys' speech must also require strict scrutiny. The First Amendment does not distinguish between professions.

## **V. THIS CASE PRESENTS ADDITIONAL COMPELLING REASONS FOR REVIEW**

Beyond the professional speech issue you argued in Chiles, our petition presents several additional questions of exceptional national importance:

### **A. Rules Enabling Act Uniformity Requirements (28 U.S.C. §§ 2071-2075)**

The challenged local rules violate express congressional commands that federal rules "shall be consistent" and "shall not abridge, enlarge or modify any substantive rights." The Ninth Circuit held these statutory uniformity requirements are "irrelevant" to local rules. This statutory interpretation issue affects every federal court and warrants this Court's review independent of the First Amendment question.

**B. Nationwide Injunctive Effect (*Trump v. Casa*, 145 S. Ct. 2540 (2024))**

Each non-reciprocal admission rule operates as a nationwide restraint on qualified attorneys' practice rights—exactly the type of "disuniformity" and "chaos" this Court condemned in *Trump v. Casa*. An attorney licensed in California faces categorical exclusion from sixty percent of federal district courts nationwide based solely on geography.

**C. Constitutional Uniformity (*Siegel v. Fitzgerald*, 596 U.S. 464 (2022))**

In *Siegel*, this Court unanimously held that constitutional uniformity requirements prohibit arbitrary geographic discrimination in federal court access. The same principle applies here with greater force.

**D. This Court's Precedent (*Frazier v. Heebe*, 482 U.S. 641 (1987))**

This Court has already held that federal district courts cannot categorically exclude qualified attorneys

based on office location or residence. *Frazier*, 482 U.S. at 649-651. The challenged rules resurrect the same discrimination under a different label (state of licensure rather than state of residence).

## **VI. THE NINTH CIRCUIT'S PUBLISHED DECISION REQUIRES CORRECTION**

The Ninth Circuit's published decision creates binding precedent in the nation's largest circuit that:

- Professional speech restrictions are subject to rational basis review
- Federal uniformity requirements are "irrelevant" to local court rules
- Content-based discrimination against attorneys receives no First Amendment protection
- Geographic preferences trump individual merit in federal court access

Without this Court's intervention, these holdings will govern all federal courts in nine western states and two territories, affecting thousands of attorneys and millions of federal litigants.

## **VII. THE QUESTION PRESENTED PARALLELS YOUR ARGUMENT IN CHILES**

The Question Presented in our petition directly tracks your argument in *Chiles*:

Whether federal district and bankruptcy court professional speech local rules—that create a nationwide patchwork of conflicting licensing standards, effectively imposing nationwide injunctions on the practice rights of qualified attorneys in violation of the Rules Enabling Act's uniformity requirements and *Trump v. Casa's* prohibition on lower court nationwide injunctions and the First Amendment freedoms to speech, association, and to petition the government for the redress of grievances—are subject to rational basis review?

Your answer in *Chiles* was clear: No. Content-based professional speech restrictions require strict scrutiny, not rational basis review. The same answer applies here.

## **VIII. THE SOLICITOR GENERAL'S PARTICIPATION WOULD BE INVALUABLE**

The United States' participation would benefit the Court's consideration of this petition in several ways:

### **A. Consistency with *Chiles* Position**

The United States has already argued that rational basis review is improper for content-based professional speech restrictions. Supporting certiorari here would maintain consistency with that position across professional contexts.

### **B. Executive Order Implementation**

The United States has a direct interest in ensuring federal courts comply with the Executive Order's mandate to eliminate discriminatory preferences and promote merit-based opportunity. The challenged local rules directly contravene that mandate.

### **C. Federal Court Administration**

As a party to this litigation (the United States is a named respondent), the federal government has a substantial interest in ensuring federal court rules comply with constitutional and statutory requirements.

### **D. Rules Enabling Act Interpretation**

The United States has expertise in federal court rulemaking and can provide valuable guidance on the proper interpretation of the Rules Enabling Act's uniformity requirements.

### **E. Professional Speech Doctrine Development**

The United States' briefing in Chiles demonstrated sophisticated understanding of professional speech doctrine. That expertise would assist the Court in addressing the broader implications of professional licensing restrictions on First Amendment rights.

## **IX. TIMING CONSIDERATIONS**

### **A. *Chiles* Decision Expected**

The Court heard oral argument in *Chiles* on October 7, 2025. A decision is expected by June 2026. Our petition presents the identical legal issue and would benefit from being decided in tandem with *Chiles* to ensure doctrinal consistency.

### **B. Executive Order Recently Issued**

The January 21, 2025 Executive Order is less than ten months old. Federal courts maintaining discriminatory local rules in defiance of the Order creates an urgent need for resolution.

### **C. Published Ninth Circuit Decision**

The Ninth Circuit's published decision became final on July 30, 2025, when the court denied rehearing en banc. The decision is now binding precedent in the nation's largest circuit, affecting federal practice across nine states.

## **X. REQUESTED RELIEF**

We respectfully request that the Solicitor General:

1. File a brief supporting our Petition for Writ of Certiorari, urging the Court to grant review; or
2. If the Court invites the Solicitor General's views (CVSG), file a brief recommending that the Court grant certiorari; and

3. Emphasize in any filing:

- a. The identity of the legal issue with *Chiles v. Salazar*;
- b. The Ninth Circuit's misapplication of rational basis review to content-based professional speech restrictions;
- c. The conflict between the challenged local rules and the January 21, 2025 Executive Order; and
- d. The need for this Court to resolve the circuit split and provide uniform guidance on professional speech doctrine.

## **XI. CONCLUSION**

This case presents the identical First Amendment professional speech issue you successfully argued in *Chiles v. Salazar*, with the added dimension that the challenged rules violate the recent Executive Order's mandate to eliminate discriminatory preferences and promote merit-based opportunity.

The Ninth Circuit panel that decided our case is the same panel that created the circuit split in *Chiles*. The panel applied rational basis review to content-based professional speech restrictions—precisely the error you argued requires correction.

Federal courts should not maintain local rules that:

- Discriminate based on geography rather than merit
- Create a nationwide patchwork of conflicting standards
- Violate express congressional uniformity requirements
- Impose content-based restrictions on professional speech
- Contradict federal anti-discrimination policy

If the Court agrees with your position in Chiles that professional speech restrictions require strict scrutiny, then it should grant certiorari here to ensure doctrinal consistency across professional contexts.

The challenged local rules exemplify precisely the type of "illegal preferences" the Executive Order condemns. They deny opportunities to qualified attorneys based on state citizenship rather than "individual merit, aptitude, hard work, and determination."

"If all Americans are created equal, it follows all American lawyers are created equal." Petition at Para 92. The discriminatory local rules at issue deny that fundamental principle.

We respectfully urge the United States to support

our petition and help restore uniformity, merit-based opportunity, and First Amendment protections to federal court practice nationwide.

Thank you for your consideration of this request. I am available to discuss this matter at your convenience and would welcome the opportunity to provide any additional information that would be helpful.

Respectfully submitted,

/s/JOSEPH ROBERT GIANNINI  
Counsel of Record  
Lawyers For Fair Reciprocal  
Admission

Enclosures:

- Petition for Writ of Certiorari (filed October 20, 2025)
- Executive Order: Ending Illegal Discrimination and Restoring Merit-Based Opportunity (January 21, 2025)
- Comparison Chart