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Hon. Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: *Daniel Grand v. City of University Heights, Ohio, et al.*, No. 25-965

Dear Mr. Harris:

Pursuant to Supreme Court Rule 32.3, Petitioner Daniel Grand respectfully requests leave to lodge with the Court certain non-record materials in connection with his reply brief on the merits. The materials are necessary should the Court decide to address a mootness argument that Respondents (collectively, the "City") raised in their merits brief, arising from Grand's recent decision to sell his home and move outside of University Heights.

The City's mootness argument rests on two key assertions. The first is that Grand "failed to advance a claim for damages throughout the litigation." Resp.Br.33. The second is that Grand's recent move "mooted his claims for prospective relief." Resp.Br.31. Our reply explains why neither assertion has a basis in fact or law. But because the City's mootness arguments arise from a post-certiorari factual development, the current record does not contain all of the facts relevant to fully refuting each assertion. We therefore seek to lodge non-record materials demonstrating that (1) Grand has consistently sought damages since the inception of this case and the City has extensively litigated over damages; and (2) Grand still faces ongoing or imminent harms for which he could seek prospective relief. Those materials can be divided into two categories:

1. *Discovery materials.* We seek to lodge excerpts of discovery materials exchanged between the parties in the district court. These materials rebut the City's assertion that Grand never advanced a damages claim. As is common in trial litigation, these materials were not filed on the district court docket. They include (a) Grand's initial disclosures, which, under the heading "Calculation of Damages," stated that Grand "seeks economic, noneconomic, nominal, statutory, and punitive damages"; and (b) Grand's verified answers to the City's interrogatories, which itemized the damages he sought and identified a potential

expert on psychological damages. These materials are discussed at pages 5-6 of Grand's reply brief.

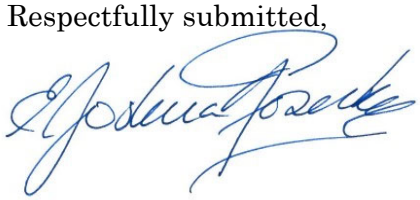
2. *Declaration of Daniel Grand.* Grand has executed a declaration addressing facts bearing on the availability of injunctive relief. The declaration explains that Grand now lives just 0.6 miles from the University Heights city line and that his religious, social, and civic life still centers on University Heights. He still has many Orthodox Jewish friends in the City who wish to host in-home prayer groups and to invite Grand to attend. But the City's threats have prevented Grand and his friends from joining each other in in-home prayer groups. For example, Grand has access to a University Heights home in a residential area where he wants to host Sabbath prayer groups, but cannot do so for fear of prosecution. He also has been invited to teach Torah classes in homes in University Heights, but fears doing so without an injunction. And he still attends synagogue three times daily in University Heights, subjecting him to an ongoing risk of surveillance by University Heights officials, including by the same police who previously surveilled him outside of his home. Grand's declaration is discussed at pages 5 and 25-26 of his reply brief.

Lodging these materials under Rule 32.3 is appropriate to confirm that this case is not moot. These materials address jurisdictional questions that arose after the appellate record was closed. This Court has accepted non-record materials in similar circumstances. *See Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 718 (2007) (relying on a lodged affidavit to resolve a mootness and standing question raised in the brief in opposition); *Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 271 (2015). And litigants have routinely sought leave to lodge declarations in comparable circumstances. *See, e.g.*, Rule 32.3 Ltr. (May 2, 2022), *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, No. 20-1199; Rule 32.3 Ltr. (Oct. 18, 2023), *Speech First, Inc. v. Sands*, No. 23-156; Rule 32.3 Ltr. (June 8, 2026), *Saadeh v. N.J. State Bar Ass'n*, No. 25-1002.

Copies of the materials have been provided to counsel for the City. As required by Rule 32.3, Grand will submit the materials to the Court once this request is granted.

For these reasons, Grand respectfully requests leave to lodge the non-record materials identified above.

Respectfully submitted,



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Proposed Attachments:
Ex. 1: Declaration of Petitioner Daniel Grand
Ex. 2: Plaintiff's Initial Disclosures (Jan. 16, 2023)
Ex. 3: Plaintiff's Verified Answers to Defendants' First Set of Interrogatories and Requests for Production, including Answers to Interrogatory Nos. 14 and 17 (March 14, 2023)

cc: Lisa S. Blatt, Counsel of Record for Respondents (via email, with proposed attachments)