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

Re: *Eastman v. State Bar*, No. 26-336, Amicus Brief of Profs. Rebecca Roiphe et al.

November 5, 2026

Dear Mr. Harris:

I regret to say that I erred in the two-sentence carryover paragraph on pp. 10-11 in the amicus brief I filed in this case on behalf of Profs. Rebecca Roiphe, Nadine Strossen, and myself. That paragraph currently reads,

> This Court has also held that "the speech of lawyers representing clients in pending cases may be regulated under a less demanding standard than" strict scrutiny, and, in particular, that it can be restricted to prevent speech that poses a "substantial likelihood of material prejudice" to the proceeding. *Gentile* v. *State Bar of Nev.*, 501 U.S. 1030, 1074, 1075 (1991). But unlike in *Gentile*, Eastman's words ran no risk of interfering with an ongoing proceeding, because there was no "pending case[]."

It should instead read,

> This Court has also held that "the speech of lawyers representing clients in pending cases may be regulated under a less demanding standard than" strict scrutiny in order to protect "the right to a fair trial by 'impartial' jurors," and, in particular, that it can be restricted to prevent speech that poses a "substantial likelihood of material prejudice" to a proceeding through "comments that are likely to prejudice the jury venire." *Gentile* v. *State Bar of Nev.*, 501 U.S. 1030, 1074, 1075 (1991). But unlike in *Gentile*, Eastman's words ran no risk of interfering with such an ongoing proceeding, because there was no "pending case[]" involving a jury that was likely to be prejudiced.

I apologize for the error, and I hope that this erratum can be passed along together with the original brief to correct the error; a conversation with the Clerk's Office suggested that this can indeed be done. If I need to do something else instead to remedy this, please let me know.

Sincerely,



Eugene Volokh
Counsel for *Amici*