The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FAITH INTERNATIONAL ADOPTIONS, a Washington State non-profit corporation; AMAZING GRACE ADOPTIONS, a North Carolina non-profit corporation; and ADOPT ABROAD INCORPORATED, a Pennsylvania non-profit corporation,

Plaintiffs,

v.

MICHAEL R. POMPEO, Secretary for the United States Department of State, in his official capacity; CARL C. RISCH, Assistant Secretary of State for Consular Affairs, in his official capacity; THEODORE R. COLEY, Director of the Office of Children's Issues, in his official capacity; UNITED STATES DEPARTMENT OF STATE, and COUNCIL ON ACCREDITATION FOR CHILDREN AND FAMILY SERVICES, INC., a New York not-for-profit corporation,

Defendants.

No. 2:18-cv-00731-RBL

BRIEF OF THE NATIONAL COUNCIL FOR ADOPTION AND THE CHILD ADVOCACY PROGRAM AT HARVARD LAW SCHOOL AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

TABLE OF CONTENTS

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

TABLE OF AUTHORITIES

Page(s)

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

INTEREST OF THE *AMICI CURIAE*

The **National Council For Adoption ("NCFA")** is a nonprofit advocacy organization promoting a culture of adoption. Its mission is: "Passionately committed to the belief that every child deserves to thrive in a nurturing, permanent family, National Council For Adoption's mission is to meet the diverse needs of children, birth parents, adopted individuals, adoptive families, and all those touched by adoption through global advocacy, education, research, legislative action, and collaboration." Since its founding in 1980, NCFA has provided guidance and education on best practices in adoptive placements. It serves children, birthparents, adoptive families, adult adoptees, adoption agencies, U.S. and other governments, policymakers, media and the public. NCFA has trained more than 20,000 people on counseling expectant parents on the option of adoption and created a curriculum that many communities use for this purpose.

The Child Advocacy Program ("CAP") at Harvard Law School is a premier academic program focused on children's rights. CAP is committed to the highest ethical, professional and scholarly standards in the advancement of children's rights through facilitating productive interaction between academia and the world of policy and practice, through training students to contribute in their future careers to a better understanding of the rights of children, and to law and policy reform promoting children's rights in the United States and around the world. In 2009 CAP issued its International Adoption Policy Statement and Supporting Report, endorsed by many child-welfare and human-rights experts and organizations with adoption expertise.

Given their specialized expertise, NCFA and CAP are able to provide this Court with critical insight about the important interests implicated by this case.

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

STATEMENT OF FACTS

The plaintiffs' motion for preliminary injunction (Dkt. 20) sets forth the factual background essential to resolving the motion. *Amici curiae* provide additional, focused background regarding the international agreement, federal statutes, and administrative practice governing the provision of cross-border adoptions.

1. The Hague Convention on Intercountry Adoption, The Intercountry Adoption Act Of 2000, And COA's Accreditation Role

The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption entered into force in the United States on April 1, 2008. In this brief, we refer to this international treaty as "the Hague Convention." The Hague Convention was drafted to respond to the phenomenon of cross-border adoption, which expanded slowly after the conclusion of World War II, and increased considerably in the 1970s. The signatory countries drafted and entered into the Hague Convention so that the leading nations of the world were applying a consistent, multilateral approach to ensure that intercountry adoptions take place in the best interests of the child.

Under the Hague Convention, the right of a child to grow up in a family is paramount. This is clear from the very first words of the Convention: "Recognising that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding . . . ." Accordingly, the Hague Convention contains certain rules to ensure that adoptions take place in the best interests of the child, and with respect for his or her fundamental rights.

Chapter III of the Convention, entitled "Central Authorities and Accrediting Bodies," contains several requirements germane to this dispute. Under Article 6(1), each "Contracting State"—here, that is the United States of America—must "designate a Central Authority" to carry out the duties imposed on Hague Convention signatories. In the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, codified at 42 U.S.C. § 14901 *et seq.* (2000), passed after the Senate gave advice and consent to the Convention, the United States carried out the

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

Convention's requirements, and designated the State Department as the Central Authority "[f]or purposes of the Convention and this chapter." 42 U.S.C. § 14911(a)(1).

A Central Authority must ensure that only competent authorities perform functions under the Convention. Accordingly, Article 10 allows "accredited bodies"—here, this means adoption agencies—to perform some of the functions of Central Authorities. The Intercountry Adoption Act, in turn, empowers the Secretary to designate accrediting entities by "enter[ing] into agreements with one or more qualified entities under which such entities will perform the duties [of an accrediting entity] in accordance with the Convention, this subchapter, and the regulations . . . ." 42 U.S.C. § 14922(a)(1). A nonprofit entity may qualify to become an "accrediting entity" only if, *inter alia*, it "has expertise in developing and administering standards for entities providing child welfare services." *Id.* § 14922(a)(2)(A).

Pursuant to the Intercountry Adoption Act, in 2008 the Secretary of State designated the Council on Accreditation, or "COA," a named defendant in this suit, as the entity that would perform the accreditation function for all United States adoption agencies. COA has performed the function of accrediting adoption agencies to conduct intercountry adoptions since 2008; since 2013, it has been the *only* accrediting entity for intercountry adoption agencies. When an adoption agency was accredited, that accreditation generally would remain valid for four years, *see* 22 CFR § 96.60(a), at which time the agency would have to apply for reaccreditation. And, as plaintiffs have shown (Mot. at 3), COA regularly would, in the exercise of discretion granted under 22 CFR § 96.63(c), defer decisions on accreditation renewals past the prior accreditation's expiration date with no interruption of the agency's ability to conduct adoptions.

2. The State Department Changes Its Approach To Intercountry Adoption

In September 2014, Ms. Trish Maskew was appointed as the Chief of the State Department's Adoption Division, a position she holds to this day. Prior to her appointment, Ms. Maskew was the president of a non-profit organization devoted to "adoption reform," and in that capacity she advocated for even more regulations governing intercountry adoption, including authoring a law-review article entitled *The Failure of Promise: The U.S. Regulations on*

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

Intercountry Adoption Under the Hague Convention, 60 Admin. L. Rev. 487 (2008). In September 2016, now as Chief of the Adoption Division, she proposed a series of regulations that would have made intercountry adoption significantly more difficult, burdensome, and expensive. COA, the Obama Administration's Small Business Administration, and more than 80 intercountry adoption agencies operating in the U.S. opposed these proposed regulations. With the advent of the current administration and its proscription on new regulations, *see* Executive Order 13771, 82 Fed. Reg. 9339 (Jan. 30, 2017), the proposed regulations have been shelved, but it now appears that their proposed restrictions are being implemented by other means, including by the agency actions at the heart of this case.

a. The State Department Seeks To Replace COA With An Unqualified Accrediting Entity

On August 8, 2017, the Department of State designated a second accrediting entity. The Intercountry Adoption Accreditation and Maintenance Entity, Inc., or "IAAME," a newly created entity, was incorporated that same day. Since it was brand new, it obviously had no "expertise," prior or demonstrated, "in developing and administering standards for entities providing child welfare services" as required by the Act. 42 U.S.C. § 14922(a)(2)(A); *see also* 22 CFR § 96.5(a) (accrediting entity "must" have "expertise in developing and administering standards for entities providing child welfare services"). IAAME's lack of qualifications is under investigation by the State Department's Inspector General. *See* Letter from Sen. Roger F. Wicker to Assistant Secretary Carl Risch (Feb. 14, 2018), *available at* https://bit.ly/2MqffPp.

Shortly thereafter, COA announced its intent to resign as an accrediting entity. However, IAAME was not then, and is not now, ready to act as an accrediting entity; indeed, its website repeatedly indicates that it is not currently processing accreditation requests. *See* Accredited/Approved Agencies/Persons, *available at* https://bit.ly/2N6xBGb ("Once IAAME begins to accredit and approve agencies and person [*sic*] IAAME will post to this page required information regarding all accredited and approved providers."

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

COA could not precipitously resign and halt its accrediting duties, particularly in light of the fact that IAAME lacks expertise and is unable, at least at present, to immediately step into COA's shoes. Accordingly, the State Department announced that COA would cease its duties as an accrediting entity in December 2018, "unless COA and the State Department reach an alternative, mutually acceptable date for COA to cease such operations." Thus, after December 2018 (or earlier), when COA ceases to be an accrediting entity, there will be no valid accrediting entity at all under the Hague Convention and the Intercountry Adoption Act, if (as it appears) IAAME was appointed in violation of the Act.

b. The State Department Leaves Plaintiffs Unaccredited, And With No Place To Turn To Seek Accreditation

This case concerns the State Department's changes to the longstanding reaccreditation procedures followed by COA with the blessing of the State Department. On April 2, 2018, the State Department issued a Notice indicating that because the three plaintiff agencies' accreditations had "expired while their renewal applications were pending" with COA, their "renewal applications have been refused and they are no longer accredited." U.S. Dep't of State, Adoption Notice: Accreditation Renewal Refusal for Amazing Grace Adoptions, Adopt Abroad International, and Faith International Adoption, Inc. (Apr. 2, 2018). The three plaintiff agencies were informed that they could file new applications for accreditation (not reaccreditation) with IAAME, which is not presently ready to act on such applications —and, because of its lack of the required "expertise," likely will never become a legitimate accrediting entity under the statute and the regulations. The agencies are not allowed to present their applications for accreditation afresh to COA; they must wait until IAAME, or some other legitimate accrediting entity, comes on line and can process their new applications.

The State Department, apparently recognizing that IAAME's legitimacy hangs on dubious threads, has issued a barely veiled threat against challenges to IAAME. On March 22, 2018, Assistant Secretary of State for Consular Affairs Carl C. Risch, a defendant here, issued a "Message from the Assistant Secretary – Intercountry Adoption" (available at

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

https://bit.ly/2yNx74J). Assistant Secretary Risch's "Message" was clear: "Were efforts to disrupt the AE [accrediting entity] transition effective, the Department would be left with no AE, and accreditation and approval of ASPs [adoption services providers] would cease until a new AE could be found, absent a change in the legislation governing intercountry adoptions. Such an outcome would almost certainly result in the interruption of intercountry adoption to the United States."

As a result of the State Department's precipitous change in policy, coupled with the present unavailability of a viable accrediting entity, the plaintiff agencies cannot conduct intercountry adoptions unless or until freshly accredited (not reaccredited) by a legitimate accrediting entity, endangering their continuing survival. Currently, there is no such entity that can process an accreditation application.

But these adoption agencies are not the only ones injured by the State Department's actions: Prospective American adoptive parents, either those whose applications or adoptions were in progress with the three plaintiff agencies, or those wishing to utilize these agencies to conduct intercountry adoptions, will be irretrievably damaged. And this says nothing about the most important issue involved: the plight of the children in these other countries, who have spent their lives in institutions, without the physical, psychological and social benefits of being raised in loving families. Social science evidence is clear that such deprivation negatively impacts well-being outcomes throughout these children's lives.

ARGUMENT

I. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS

The plaintiff agencies have made a compelling case that they are likely to succeed on the merits of their claims, thereby satisfying the first preliminary-injunction factor. Mot. at 10-18. *Amici* will not repeat or reargue the points set forth in plaintiffs' motion. *Amici* simply underscores the basic fact that, with no warning to plaintiffs (or, it appears, to defendant COA), the State Department pulled the rug out from under these agencies' businesses. Where, prior to

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

March 30, 2018, they had every reason to expect a smooth reaccreditation process with no interruption to their adoption practices, the plaintiff agencies are now scrambling to figure out how to survive on a day-by-day basis, and are considering bankruptcy, deferring or eliminating salaries, or even shuttering. These adoption agencies now face a Kafkaesque bureaucracy, in which they must apply for accreditation to survive, but the bureaucracy has ensured that there is no one for them to apply to now, and, by appointing a new accrediting entity with no expertise, there may be no valid accrediting entity to apply to in the foreseeable future. As the plaintiff adoption agencies have so well demonstrated, the Administrative Procedure Act does not countenance this kind of sandbagging on the part of a federal agency. Mot. at 15.

II. THE IRREPARABLE HARM BEING VISITED ON THE PLAINTIFF ADOPTION AGENCIES, AND THE HARMS TO AMERICAN ADOPTIVE FAMILIES, UNADOPTED CHILDREN, AND THE PUBLIC, CEMENT THE CASE FOR AN IMMEDIATE INJUNCTION

The other preliminary-injunction factors—irreparable harm, the balance of equities, and the public interest—all speak to the equity of granting a preliminary injunction. *See Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312-13 (1982). In this case, they point powerfully in favor of granting the requested injunction—so powerfully, in fact, that the Court should still grant the requested injunction even on a lesser showing of likely success on the merits, *e.g.*, "a substantial case on the merits." *Hilton v. Braunskill*, 481 U.S. 770, 778 (1987); *Lair v. Bullock*, 697 F.3d 1200, 1204 (9th Cir. 2012) ("'reasonable probability,' 'fair prospect,' 'substantial case on the merits,' and 'serious legal questions ... raised,' are largely interchangeable" and will suffice where the other, equitable, factors are strongly demonstrated).

Again, *Amici* will not repeat the showings made in plaintiff's motion (at 18-22), but will instead use this brief to amplify, for the Court's benefit, the vastness of the tragic and irreparable harms that the State Department's illegal actions are causing—harms to agencies, prospective parents, waiting children, and the public at large—harms reaching all corners of the globe.

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

A. Irreparable Harm. The plaintiffs' motion makes out a compelling case that they are suffering immediate and potentially irremediable harm—their businesses are unlikely to survive if relief is delayed. *See* Mot. at 18-20. An imminent threat of bankruptcy, or other loss of an established business, and all of the good will that goes along with it, is a textbook case of irreparable harm. *Doran v. Salem Inn, Inc.*, 422 U.S. 922, 932 (1975) (plaintiffs alleged "substantial loss of business and perhaps even bankruptcy" to support preliminary injunction; Court held that "[c]ertainly the latter type of injury sufficiently meets the standards for granting interim relief, for otherwise a favorable final judgment might well be useless").

If the plaintiff

will agencies were forced into bankruptcy or closure, it would continue a disturbing pattern of closures of U.S. intercountry adoption agencies. In 2004, 22,884 children were adopted by U.S. parents from other countries. Miriam Jordan, *Overseas Adoptions by Americans Continue to Decline*, N.Y. Times, Apr. 14, 2017, at A10, *available at* https://nyti.ms/2outsQL. In Fiscal Year 2017, only 4,714 children were adopted intercountry to the United States, the smallest number since 1973. U.S. Dep't of State, *Annual Report on Intercountry Adoptions*, at 1 (Mar. 30, 2018), *available at* https://bit.ly/2Kemu0n. This has corresponded with a decrease from more than 200 accredited intercountry adoption agencies a decade ago, to fewer than 150 accredited agencies today.

But the irreparable harm from an agency's closure extends far beyond the administration, staff, and employees of the agency. Indeed, the harm extends even beyond the unavailability of the agency to serve the interests of potential adoptive parents in the agency's system, or those who had hoped to avail themselves of the agency's assistance in the future. Adoption agencies are often repositories of critical records, which may need to be available to adoptees or birth parents alike. When an agency closes, those records may disappear, making it impossible, where the law allows, for adoptees to seek information about their birth parents, including what may be

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

vital health and genetic information. In addition, adoption agencies often provide post-adoption services to families. They serve as liaisons between adoptive and birth families, allowing for the confidential and efficient exchange of letters, photographs, and the like. And many agencies provide counseling and other services to assist U.S. adoptive parents with concerns unique to intercountry adoption, ranging among such issues as separation anxieties, fetal alcohol exposure, or cultural adaptation. When the agency ceases to exist, so do those post-adoption services.

Indeed, the State Department's 2016 Report on Intercountry Adoptions sought to blame the lack of post-adoption reports from agencies as a reason that other countries have decreased or eliminated intercountry adoptions to the United States: "Several countries have conditioned the resumption of intercountry adoptions on receiving post adoption reports from parents who previously adopted children from that country." U.S. Department of State, *Annual Report on Intercountry Adoptions Narrative* at 3 (Oct. 31, 2016), *available at* https://bit.ly/2MujZ6F. It should go without saying that a defunct adoption agency not be able to fulfill this obligation.

B. Balance of Equities. As the plaintiff adoption agencies have shown (Mot. at 20-21), their claims of injury vastly outweigh any conceivable harm to the defendants. For purposes of considering this factor, *amici* urges the Court to keep in mind that the only valid interests possessed by the defendants are limited by the Hague Convention's, and the statute's, commands that the best interests of children are paramount in the interpretation and application of those legal instruments. And it is undeniable, as *amici* show below, that, faced with a choice of bringing willing American adoptive families together with adoptable children, or not, the Court should favor joining parents and children and making families, rather than leaving potential parents unfulfilled and potential adoptees in orphanages or similar institutions.

C. The Public Interest. The final preliminary-injunction factor is the one that looks beyond the interests of the particular parties to the lawsuit, and asks what outcome is best for the broader public. Here, going beyond plaintiffs' showings (Mot. at 21-22), the Court should consider not just the interests of non-profit adoption agencies such as plaintiffs, and

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

governmental and accrediting entities such as the defendants, but to cast its gaze more broadly, to the people willing to become parents, and the children who need, but do not yet have, families.

We could start with the words of the Supreme Court, which "has frequently emphasized the importance of the family." *Stanley v. Illinois*, 405 U.S. 645, 651 (1972). It has called family "essential" (*Meyer v. Nebraska*, 262 U.S. 390, 399 (1923)); one of the "basic civil rights of man" (*Skinner v. Oklahoma*, 316 U.S. 535, 541 (1942)); and a right "far more precious . . . than property rights." *May v. Anderson*, 345 U.S. 528, 533 (1953). The reason for this is simple: "[T]he custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

This same recognition undergirds both the Hague Convention and the Act. The Convention starts with a series of recitations, among which are the recognitions "that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding," and "that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her State of origin." Hague Convention, prefatory recognitions. "The Convention recognises that growing up in a family is of primary importance and is essential for the happiness and healthy development of the child. It also recognises that intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin." Outline, Hague Intercountry Adoption Convention, at 1, *available at* https://bit.ly/2tGDGAo. *See also* 42 U.S.C. § 14901(b)(2)-(3) ("ensur[ing] that [intercountry] adoptions are in the child's best interest," and "improv[ing] the ability of the Federal Government to assist United States citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States" are two principal "purposes" of the Act).

These encomiums to the family are not just lofty prose; they are grounded in fact and science. By way of example, the University of Minnesota's International Adoption Project has

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

engaged in a lengthy series of studies demonstrating that the longer a child is institutionalized without the care of a family at the beginning of his or her life, the more developmental problems will follow—among others, the absence of a permanent family structure is associated with problems with behavior, physical development, depression, nutrition, social engagement, executive functioning (*i.e.*, neurologically-based skills involving mental control and self-regulation), sensory development, and reactivity to stress. (We will not burden the Court with citations to all of these scientific authorities, except to note that they are available at https://bit.ly/2tADraE/.)

Similarly, when the Ceausescu regime fell in 1999, approximately 170,000 children were left in 700 overcrowded and impoverished orphanages across Romania. The Bucharest Early Intervention Project (BEIP), a vast and rigorous investigation, studied 136 abandoned infants and toddlers, half of whom had been placed in foster care (similar to what we know as adoption in the United States), while the other half remained in their institutions. The BEIP found that the institutionalized children were severely impaired in IQ and manifested a variety of social and emotional disorders, as well as changes in brain development. However, the earlier an institutionalized child was placed into foster care, the better the recovery, because of the critical role that early experience plays in brain development: "genes code for the basics and experience does the fine tuning . . . [and] when this principle is violated, brain development can be undermined, leading to profound alterations in behavioral development." Charles A. Nelson, Nathan A. Fox, & Charles H. Zeanah, *Romania's Abandoned Children: Deprivation, Brain Development, and the Struggle for Recovery* 4 (2014).

These studies do not represent the only research in the area; far from it. But they are illustrative of a principle that should be self-evident: Children are better off in families than in institutions. The longer a child is kept from being raised in a permanent family, the more damage is done to the child, and the likelihood that this damage becomes permanent increases dramatically with time, in every measurable respect. It is in the public interest to place these children with the willing parents who want them to become part of a family.

YARMUTH WILDSON PLLC
1420 FIFTH AVENUE, SUITE 1400
SEATTLE, WA 98101
PHONE (206) 516-3800
FAX (206) 516-3888

Granting the requested injunction will serve this important public interest.

CONCLUSION

Amici curiae urge the Court to grant the requested injunction.

Respectfully submitted,

Dated: June 28, 2018

YARMUTH WILSDON PLLC

By: */s/ Diana S. Breaux*
Diana S. Breaux, WSBA No. 46112
1420 Fifth Avenue, Suite 1400
Seattle, WA 98101
Phone: (206) 516-3800
Email: dbreaux@yarmuth.com

Gregory A. Castanias (*pro hac vice* pending)
JONES DAY
51 Louisiana Ave., N.W.
Washington, D.C. 20001-2113
Phone: (202) 879-3939
Email: gcastanias@jonesday.com

Attorneys for Amici Curiae National Council For Adoption and The Child Advocacy Program at Harvard Law School

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

Dated: June 28, 2018.

By: *s/Diana S. Breaux*

Diana S. Breaux, WSBA No. 46112
YARMUTH WILSDON PLLC
1420 Fifth Avenue, Suite 1400
Seattle, WA 98101
Phone: 206.516.3800
Email: dbreaux@yarmuth.com