No. 11-17634

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

RANDOLPH WOLFSON,
Plaintiff-Appellant

v.

COLLEEN CONCANNON, IN HER OFFICIAL CAPACITY AS A MEMBER OF THE ARIZONA COMMISSION ON JUDICIAL CONDUCT, *et al.*,
Defendants-Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

BRIEF OF *AMICI CURIAE* THE BRENNAN CENTER FOR JUSTICE AT NYU SCHOOL OF LAW, THE ARIZONA JUDGES' ASSOCIATION, THE AMERICAN JUDICATURE SOCIETY, JUSTICE AT STAKE, AND THE CAMPAIGN LEGAL CENTER IN SUPPORT OF DEFENDANTS-APPELLEES' PETITION FOR REHEARING EN BANC

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RULE 26.1 STATEMENT

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IDENTITY AND INTERESTS OF *AMICI CURIAE*[1]

Amicus curiae the Brennan Center for Justice at NYU School of Law is a non-profit, nonpartisan public policy and law institute that recognizes that fair and impartial courts are the ultimate guarantors of liberty in our constitutional system and works to protect them from the undue influence of partisan politics.

Amicus curiae the Arizona Judges' Association is comprised of judicial officers who seek to improve the State's administration of justice by promoting policies that preserve fair and impartial courts, facilitate public understanding of how the judiciary operates, and encourage cooperation among all stakeholders to build a more effective judicial system.

Amicus curiae the American Judicature Society ("AJS") is a non-profit, nonpartisan organization that works to promote an independent and impartial judiciary throughout the United States. For more than 100 years, AJS has been a

[1] This *amicus curiae* brief is filed with the consent of all parties to this proceeding. No party's counsel authored any portion of this brief. No party or party's counsel contributed money intended to fund this brief's preparation or submission. No person other than the *amici curiae*, their members, or their counsel contributed money that was intended to fund this brief's preparation or submission. This brief does not purport to represent the position of NYU School of Law. No judicial member of AJS participated in the decision to file this brief or in its preparation. No inference should be drawn that any judge member of AJS's board of directors has participated in the adoption or endorsement of the positions of this brief.

leader in the establishment and preservation of ethical standards for judges and judicial candidates.

Amicus curiae Justice at Stake is a non-profit, nonpartisan national partnership of more than fifty organizations that focuses exclusively on keeping courts fair and impartial through public education, litigation and reform.

Amicus curiae The Campaign Legal Center is a non-profit, nonpartisan organization that represents the public interest in administrative and legal proceedings to promote the enforcement of governmental ethics, campaign finance and election laws.

Each *amici* has an interest in this case because of its exceptional importance in protecting the reality and appearance of judicial impartiality and independence.

SUMMARY OF ARGUMENT

In states that choose their judges through elections, judicial codes of conduct are "'[t]he principal safeguard against judicial campaign abuses' that threaten to imperil 'public confidence in the fairness and integrity of the nation's elected judges.'" *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 889 (2009) (citation omitted). For this reason, it is universally acknowledged that judicial codes further "a vital state interest." *Id.*

In *Republican Party of Minnesota v. White*, 536 U.S. 765 (2002) ("*White I*"), the Supreme Court held that this vital state interest must yield under a strict

scrutiny standard where the state code at issue proscribes a category of speech "'at the core of our First Amendment freedoms'—speech about the qualifications of candidates for public office." *Id.* at 774 (citation omitted). *White I*, however, "left open myriad questions of implementation and litigation has ensued across the country in those states that give the voters some say in choosing judges." *Bauer v. Shepard*, 620 F.3d 704, 706 (7th Cir. 2010). Recognizing the exceptional importance of these questions, the Eighth Circuit has twice granted *en banc* rehearing in cases where divided panels wrestled with the interplay between the First Amendment and a state's compelling interest in maintaining the public's confidence that its elected judges are dispensing justice impartially, independent of undue political influence. *See Wersal v. Sexton*, 674 F.3d 1010 (8th Cir. 2012) (en banc); *Republican Party of Minn. v. White*, 416 F.3d 738 (8th Cir. 2005) (en banc).

This is the first case in which these issues have reached this Court and here, too, the panel divided 2-to-1. This case is exceptionally important to Arizona and to the six other states in this Circuit that regulate judicial elections to promote public confidence in the impartiality and independence of their judges. *En banc* rehearing is warranted for at least three reasons:

First, the majority decision parted company with every other Court of Appeals decision to date by intimating that a state cannot regulate the campaign activities of aspiring judges to the same extent it can regulate the activities of

sitting judges seeking reelection. But the state's interest is just as compelling in the case of non-incumbent judicial candidates as it is in the case of judges running for reelection.

Second, the panel's application of strict scrutiny to test the constitutionality of Arizona's rules is contrary to the less stringent "balancing test" applied by the Seventh Circuit where the campaign activities regulated do not constitute core First Amendment speech of the type at issue in *White I*. Whether this Circuit should apply a more accommodating rule to interests as important as due process and public confidence in the judiciary is worthy of *en banc* consideration.

Third, even under strict scrutiny, the dissent would have upheld three of Arizona's rules. It is exceptionally important for the full Court to determine whether the majority misapplied the strict scrutiny standard, thereby spawning "an elective free-for-all that undermines respect for the third branch of government." Opinion at 47 (Tallman, J., dissenting).

ARGUMENT

THIS CASE RAISES QUESTIONS OF EXCEPTIONAL IMPORTANCE WARRANTING *EN BANC* REVIEW

I. THE PANEL DECISION CREATES AN UNPRECEDENTED AND UNWARRANTED DICHOTOMY BETWEEN ASPIRING AND SITTING JUDGES

As the panel recognized "[e]very court to consider the issue has affirmed that states have a compelling interest in the appearance and actuality of an

impartial judiciary." Opinion at 20. This interest "is compelling because it protects the due process rights of litigants." *White I*, 536 U.S. at 775. "[T]he appearance of evenhanded justice . . . is at the core of due process." *Mayberry v. Pennsylvania*, 400 U.S. 455, 469 (1971) (Harlan, J. concurring). In addition, the appearance of an impartial judiciary "is compelling because it preserves public confidence in the judiciary." *White I*, 536 U.S. at 775.

The state also has a compelling interest in the actuality and appearance of a judiciary independent of the other two branches of government so that it can discharge, and be perceived as discharging, its duty as a check (rather than a rubber stamp) on executive and legislative actions. "Judges remain different from legislators and executive officials, even when all are elected, in ways that bear on the strength of the state's interest in restricting their freedom of speech." *Buckley v. Ill. Jud. Inquiry Bd.*, 997 F.2d 224, 228 (7th Cir. 1993). To maintain separation of powers, Arizona requires that its "judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence." 17A A.R.S, Sup. Ct. Rules, Rule 81, Code of Jud. Conduct, Rule 4.1, Cmt. 1 (2009).

The panel acknowledged Arizona's "compelling interest in an uncorrupt judiciary that appears to be and is impartial to the parties who appear before its judges," Opinion at 21, at least as it relates to sitting judges. The panel, however,

rejected the argument that the same interest was equally compelling in the case of non-incumbent judicial candidates. "[W]e do not find persuasive" Arizona's contention that it "'has a compelling interest in preventing candidates . . . from trampling on the interests of impartiality and public confidence.'" *Id.*[2]

This differentiation is unprecedented. Neither the Supreme Court nor any other Court of Appeals has suggested, much less held, that a state's interest in the actuality and appearance of an impartial judiciary is less compelling in the case of non-incumbent judicial candidates than in the case of incumbent judicial candidates.[3]

Equally perplexing is the panel's rationale: "This argument is, essentially, that states have a compelling interest in regulating candidates' speech; we do not

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[2] This holding belies the majority's assertion that "[n]either the Commission nor the State Bar Counsel has argued that Arizona has a compelling state interest in applying the same election regulations to incumbent sitting judges as to candidates who are not sitting judges. . . ." Opinion at 13.

[3] The Supreme Court's holding in *White I* considered a challenge by an aspiring judicial candidate to the constitutionality of a judicial code provision and did not turn on any distinction between non-incumbent and sitting judge candidates. Likewise, the Eighth Circuit's decision in *Wersal* and decisions of the Sixth and Eleventh Circuits considering challenges by aspiring judicial candidates to the constitutionality of judicial code provisions, do not depend on distinctions between types of judicial candidates. *See Carey v. Wolnitzek*, 614 F.3d 189 (6th Cir. 2010); *Weaver v. Bonner*, 309 F.3d 1313 (11th Cir. 2002). The Seventh Circuit's decision in *Bauer*, involving both an aspiring judicial candidate and a sitting judge, does not draw any distinction between those plaintiffs in analyzing the constitutionality of the judicial code provisions at issue there.

find an interest in regulating speech per se to be compelling." *Id.* To be sure, a state's interest comes under some level of scrutiny whenever it seeks to further a compelling interest by regulating speech. But the *strength* of the state's interest is not dependent on whether the state regulates speech to further that interest. If that were the law, a state's interest could never be deemed compelling, contrary to the unbroken line of authority acknowledged by the panel.

A. Contrary to the Panel's Ruling, Arizona's Rule 4.1 Furthers the State's Compelling Interest in the Actuality and Appearance of an Impartial Judiciary by Regulating Election Campaigns of Both Aspiring and Incumbent Judges

In her concurrence, Judge Berzon observed that "[t]he spectacle of sitting judges aiding partisan allies in their political struggles corrodes the public repute of the judiciary *in a way that the participation of a mere candidate never can*." *Id.* at 43 (Berzon, J., concurring) (emphasis added). Yet, the nationwide data suggesting that the increasing politicization of judicial races has undermined public confidence in the impartiality and independence of state judiciaries does not support the notion that the public draws any distinction between the campaigns of sitting judges and non-incumbent judicial candidates.[4]

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[4] As Justice Sandra Day O'Connor, the last Supreme Court member who sat as an elected state court judge explained, "motivated interest groups are pouring money into judicial elections in record amounts. . . . [T]hese efforts threaten the integrity of judicial selection and compromise public perception of judicial decisions." Sandra Day O'Connor, *Justice for Sale*, Wall St. J., Nov. 15, 2007, at A25,
(continued...)

In fact, there is no reason to believe that the public views a successful judicial candidate who endorses a non-judicial office-seeker during her campaign any differently if the judge wins her seat running as an incumbent or a non-incumbent. In either case, "[a]n endorsement links the judicial candidate's political fortunes to a particular person, who may then come to hold office in a coordinate branch of government" and such a "*personal* affiliation between a member of the judiciary and a member of the political branches raises the specter—readily perceived by the general public—that the judge's future rulings will be influenced by this political dependency." *Wersal*, 674 F.3d at 1034 (Loken, J., concurring) (emphasis in original). Put differently, in either case, the "publicly visible interdependence" between a judge and an elected executive official or legislator "corrodes confidence in judicial autonomy," which Judge Berzon

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available at http://online.wsj.com/article/SB119509262956693711.html. The Conference of Chief Justices, which represents 58 chief justices from every state and U.S. territory, agrees: "As judicial election campaigns become costlier and more politicized, public confidence in the fairness and integrity of the nation's elected judges may be imperiled." Brief of the Conference of Chief Justices as *Amicus Curiae* in Support of Neither Party at 4, *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009) (No. 08-22), *available at* http://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1053&context=scb.

concedes the state has "a powerful interest" in avoiding. Opinion at 40 (Berzon, J., concurring).

The same holds true for Arizona's prohibitions on aspiring and sitting judges making speeches on behalf of political organizations and taking part in political campaigns other than their own. Absent these restrictions, "the public would have good reason to believe that the judge is deciding according to the party's platform rather than the rule of law," which "would poison the reputation of the whole judiciary and seriously impair public confidence, without which the judiciary cannot function." *Bauer*, 620 F.3d at 712-13. Significantly, that negative public perception would arise whether the judge was a challenger or an incumbent when she engaged in the prohibited activities.

Similarly, the state's interest in restricting personal solicitation of campaign contributions is as compelling in the case of aspiring judges as it is in the case of incumbent judges running for reelection. In a 2013 national survey, 87% of respondents worried that campaign contributions influence judges' decisions while only 2% believed they did not. *See* 20/20 Insight LLC, *National Registered Voter Survey*, Oct. 22-24, 2013, at 3, *available at* http://www.justiceatstake.org/file.cfm/media/news/toplines337_B2D51323DC5D0.pdf. Contributions personally solicited by a successful judicial candidate have the same adverse impact on the public's perception of the judiciary whether the judge

who solicited them campaigned for her seat as a non-incumbent or incumbent candidate.

In short, the panel failed to recognize that Rule 4.1 furthers the state's compelling interest in the actuality and appearance of judicial impartiality by regulating the election activities of both non-incumbent and incumbent judicial candidates.[5] Consequently, the panel's decision undermines the state's long-recognized compelling interest in preserving public confidence in the impartiality and independence of Arizona's judiciary.

B. The Panel's Ruling Creates a Bifurcated System for Regulating Judicial Campaigns

Because only an aspiring judicial candidate brought this suit, the panel declined on prudential grounds to address the constitutionality of Arizona's restrictions as applied to incumbent judges. Opinion at 11-13. However, Judges Paez and Berzon both suggested that in the case of sitting judges, the restrictions might well survive a First Amendment challenge, despite their invalidation of the

[5] In analogous circumstances, the Supreme Court has held that the government has the same interest in applying campaign finance regulations to challengers and incumbents: "Since the danger of corruption and the appearance of corruption apply with equal force to challengers and to incumbents, Congress had ample justification for imposing the same fund-raising constraints upon both." *Buckley v. Valeo*, 424 U.S. 1, 33 (1976).

restrictions as applied to non-incumbent judicial candidates.[6] In fact, unless and until those rules are invalidated as applied to incumbent judges, they remain binding on every sitting judge who runs for reelection in Arizona. Consequently, candidates competing head-to-head in the same election will be subject to different rules—a situation antithetical to the notion of a fair election.

In particular, Arizona judges seeking reelection cannot personally solicit contributions for their own campaigns or those of non-judicial candidates and cannot endorse, speak in favor of or otherwise campaign for non-judicial candidates. Yet, their non-incumbent challengers can freely engage in all these political activities. Whether such differentiated treatment serves the state's compelling interest in an elected judiciary that is perceived by the public as impartial and independent is a question worthy of *en banc* consideration.

C. The Court Should Hear This Case *En Banc* Because It Will Impact Judicial Elections in Other Ninth Circuit States

The deleterious effects of the panel's ruling will not be limited to Arizona. The panel's invalidation of Arizona's campaign restrictions as applied to non-

[6] *See* Opinion at 12 (Paez, J.) ("There is a meaningful distinction in how the Rules actually apply to judges versus non-judge candidates that may warrant different levels of scrutiny."); *id.* at 32 (Berzon, J., concurring) ("The analytic framework applicable to political restrictions on sitting judges may well differ from the one we apply today. And the compelling state interest that could well justify such restrictions differs from the one emphasized in the majority opinion.").

incumbent judicial candidates will undoubtedly spur challenges to the judicial codes in the six other states in this Circuit that apply their substantially similar judicial code provisions to aspiring judicial candidates and sitting judges:

- Idaho, Oregon and Washington prohibit aspiring judicial candidates and sitting judges from personally soliciting campaign contributions.[7]
- California, Idaho, Montana, Nevada and Washington prohibit aspiring judicial candidates and sitting judges from making speeches for a political organization.[8]

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[7] *See* Idaho Code of Jud. Conduct, Canon 5C(2) ("A candidate [for judicial office] shall not solicit campaign contributions in person."); Or. Code of Jud. Conduct, Rule 5.1(E) ("a judge or judicial candidate shall not . . . personally solicit or accept campaign contributions other than through a lawfully established campaign committee. . . ."); Wash. Code of Jud. Conduct, Rule 4.1(A)(7) ("a judge or judicial candidate shall not . . . personally solicit or accept campaign contributions other than through a campaign committee. . . .").

[8] *See* Cal. Code of Jud. Ethics, Canon 5A(2) ("Judges and candidates for judicial office shall not . . . make speeches for a political organization or candidate for non-judicial office. . . ."); Idaho Code of Jud. Conduct, Canon 5A(1)(c) ("a judge or a candidate for election or appointment of judicial office shall not . . . make speeches on behalf of a political organization"); Mont. Code of Jud. Conduct, Rule 4.1(A)(2) ("a judge or a judicial candidate shall not . . . make speeches on behalf of a political organization or any partisan or independent non-judicial office-holder or candidate for public office"); Nev. Code of Jud. Conduct, Rule 4.1(A)(2) ("a judge or judicial candidate shall not . . . make speeches on behalf of a political organization"); Wash. Code of Jud. Conduct, Rule 4.1(A)(2) ("a judge or judicial candidate shall not . . . make speeches on behalf of a political organization or non-judicial candidate").

- California, Idaho, Montana, Nevada, Oregon and Washington prohibit aspiring judicial candidates and sitting judges from publicly endorsing or opposing candidates for non-judicial office.[9]
- California, Idaho, Montana, Nevada, Oregon and Washington prohibit aspiring judicial candidates and sitting judges from soliciting funds for a political organization or candidates for non-judicial office.[10]

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[9] *See* Cal. Code of Jud. Ethics, Canon 5A(2) ("Judges and judicial candidates shall not . . . publicly endorse or publicly oppose a candidate for non-judicial office"); Idaho Code of Jud. Conduct, Canon 5A(1)(b) ("a judge or candidate for election or appointment of judicial office shall not . . . publicly endorse or publicly oppose another candidate for public office"); Mont. Code of Jud. Conduct, Rule 4.1(A)(3) ("a judge or judicial candidate shall not . . . publicly endorse or oppose a partisan or independent candidate for any non-judicial public office"); Nev. Code of Jud. Conduct, Rule 4.1(A)(3) ("a judge or judicial candidate shall not . . . publicly endorse or oppose a candidate for any public office"); Or. Code of Jud. Conduct, Rule 5.1(A)(1) ("a judge or a judicial candidate shall not . . . publicly endorse or oppose a candidate for any public office other than judicial office"); Wash. Code of Jud. Conduct, Rule 4.1(A)(3) ("a judge or a judicial candidate shall not . . publicly endorse or oppose a non-judicial candidate for any public office").

[10] *See* Cal. Code of Jud. Ethics, Canon 5A(3) ("Judges and candidates for judicial office shall not . . . personally solicit funds for a political organization or non-judicial candidate. . . ."); Idaho Code of Jud. Conduct, Canon 5A(1)(e) ("a judge or candidate for election or appointment of judicial office shall not . . . solicit funds for, pay an assessment to or make a contribution to a political organization or candidate"); Mont. Code of Jud. Conduct, Rule 4.1(A)(4) ("a judge or judicial candidate shall not . . . solicit funds for, pay an assessment to, or make a contribution to a political organization, or to or on behalf of any partisan or independent office-holder or candidate for public office"); Nev. Code of Jud. Conduct, Rule 4.1(A)(4) ("a judge or a judicial candidate shall not . . . solicit funds for a political organization or a candidate for public office"); Or. Code of Jud. Conduct, Rule 5.1(A)(2) ("a judge or a judicial candidate shall not . . . personally (continued...)

The Court's ruling in this case will govern the constitutionality of all the above-listed restrictions as applied to non-incumbent judicial candidates.

II. *EN BANC* REHEARING IS WARRANTED TO ADDRESS WHAT STANDARD SHOULD APPLY TO THE RESTRICTIONS AT ISSUE AND HOW THAT STANDARD SHOULD APPLY

A. The Panel's Strict Scrutiny Standard Conflicts with the Seventh Circuit's Balancing Test

The panel applied the strict scrutiny standard to every challenged restriction in Arizona's judicial code, thus equating all the proscribed activities with the core First Amendment speech at issue in *White I*, *i.e.*, "speech about the qualifications for public office." Opinion at 13-19. As Defendants-Appellees' Rehearing Petition demonstrates, the panel's across-the-board application of strict scrutiny conflicts with Seventh Circuit decisions applying a "balancing test" that affords greater deference to the state's compelling interest in an impartial and independent judiciary. *See* Defendants-Appellees' Petition for Rehearing En Banc [Dkt. No. 51] ("Rehearing Petition") at 6-13.[11] Additionally, a balancing test distinguishes

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solicit funds, services or property for a political organization or any other organization promoting or opposing the passage of a law, or for any candidate for public office"); Wash. Code of Jud. Conduct, Rule 4.1(A)(4) ("a judge or a judicial candidate shall not . . . solicit funds for, pay an assessment to, or make a contribution to a political organization or a non-judicial candidate for public office").

[11] In *McConnell v. Federal Election Commission*, 540 U.S. 93, 133 (2003), the Supreme Court applied "closely drawn" scrutiny, rather than strict scrutiny, to legislation "prohibiting national party committees and their agents from soliciting, (continued...)

between the communicative value of core First Amendment speech and speech that does not relate directly to a candidate's qualifications for public office. *See*, *e.g.*, *Bauer*, 620 F.3d at 713; *Siefert v. Alexander*, 608 F.3d 974, 984 (7th Cir. 2010). Which of these standards should govern the regulation of judicial election campaigns presents a question of exceptional importance.

B. The Panel Misapplied the Strict Scrutiny Standard

1. The Strict Scrutiny Standard as Applied by the Majority Can Never Be Satisfied

As Judge Tallman's dissent maintains, even if the Seventh Circuit's balancing test is inapplicable, the panel applied strict scrutiny in a manner that was impossible to satisfy for at least three of Arizona's restrictions. Opinion at 46 (Tallman, J., dissenting). For that reason, as the Defendants-Appellees' show, rehearing *en banc* is warranted. *See* Rehearing Petition at 13-17.

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receiving, directing or spending any soft money." The Court rejected the argument that prohibitions on solicitation must be subject to strict scrutiny: "Plaintiffs contend that we must apply strict scrutiny to § 323 because many of its provisions restrict not only contributions but also the spending and solicitation of funds raised outside of FECA's contribution limits. But for purposes of determining the level of scrutiny, it is irrelevant that Congress chose in § 323 to regulate contributions on the demand rather than the supply side." *Id.* at 138.

2. The Panel Misapprehended the Basis for the Supreme Court's Conclusion That the Regulations in *White I* Were "Underinclusive"

The majority's conclusion that Arizona's political activities restrictions are "underinclusive" misconstrues that element of the strict scrutiny test as explicated in *White I*. Specifically invoking *White I*, the majority found the political activities clauses "underinclusive because they only address speech that occurs beginning the day after a non-judge candidate has filed his intention to run for judicial office." Opinion at 26.[12]

In fact, *White I* did not hold that the provision at issue there—prohibiting judicial candidates from announcing their positions on issues—was underinclusive because it applied only after a candidate had declared her intention to run. On the contrary, the Court found the provision underinclusive because it prohibited a judicial candidate from announcing his positions only during a judicial campaign even though such a candidate "may say the very same thing . . . up until the very day before he declares himself a candidate, *and may say it repeatedly (until litigation is pending) after he is elected*." *White I*, 536 U.S. at 779 (emphasis

[12] The panel used the phrase "political activities clauses" to refer collectively to the restrictions set forth in Rules 4.1(A)(2)-(5) on "speechifying for another candidate or organization, endorsing or opposing another candidate, fundraising for another candidate or organization, or actively taking part in any political campaign other than his or her own." Opinion at 25.

added). As Justice Scalia explained, a judge may have announced a legal view in "an opinion while on the bench" and "judges often state their views on disputed legal issues outside the context of adjudication—in classes they conduct, and in books and speeches." *Id.* In other words, under the provision at issue in *White I*, judges could engage in the restricted speech at any time before or after they took the bench, except during a judicial campaign. In contrast, Arizona's political activities restrictions apply to all candidates during judicial campaigns as well as to sitting judges after their election to the bench. Under *White I*, Arizona's restrictions are not underinclusive.

CONCLUSION

For the reasons set forth above and in Defendants-Appellees' Petition for Rehearing, this Court should grant the petition.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Cir. R. App. P. 40-1(a), I certify that this brief contains 4,179 words. This brief has been prepared using Microsoft Word in Times New Roman 14-point font size. This brief has been scanned and is virus free.

/s/ Randolph Sherman
Randolph Sherman

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 16, 2014.

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