No. 15-16682

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CONTEST PROMOTIONS, LLC,
Plaintiff-Appellant,

v.

CITY AND COUNTY OF SAN FRANCISCO,
Defendant-Appellee.

On Appeal from the United States District Court
for the Northern District of California
Honorable Susan Illston
Case No. 15-cv-0093

BRIEF OF AMICUS CURIAE PUBLIC CITIZEN, INC. IN SUPPORT OF DEFENDANT-APPELLEE AND AFFIRMANCE

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May 19, 2016

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, amicus curiae Public Citizen, Inc. states that it is a non-profit, non-stock corporation. It does not have a parent corporation, and no publicly held corporation owns 10% or more of its stock.

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INTEREST OF AMICUS CURIAE

Amicus curiae Public Citizen, Inc. is a non-profit consumer advocacy organization that appears on behalf of its members and supporters before Congress, administrative agencies, and courts on a wide range of issues. Public Citizen has long been involved with the development of commercial speech doctrine. Its attorneys have represented parties seeking to invalidate overbroad restraints on commercial speech when those restraints harmed competition and injured consumers, including in *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976), and *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985). Public Citizen has also defended commercial speech regulations as amicus curiae in cases where those regulations were important to protecting public health or served other important government and public interests, for example in *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525 (2001), and *POM Wonderful, LLC v. FTC*, 777 F.3d 478 (D.C. Cir. 2015). It recently filed an amicus brief in support of a pending petition for rehearing en banc in *Retail Digital Network, LLC v. Appelsmith*, 810 F.3d 638 (9th Cir. 2016), which addressed the level of scrutiny appropriate for content-based restrictions on commercial speech.

Public Citizen has become increasingly concerned that corporate and commercial interests are promoting stringent applications of commercial speech

doctrine to stifle legitimate economic regulatory measures. This case implicates this concern because plaintiff-appellant's position that the Court should apply strict scrutiny to content-based commercial speech regulations would unnecessarily tilt the First Amendment balance against laws and regulations that serve important public interests.

Counsel for the City and County of San Francisco (hereinafter, the City) has consented to the filing of this amicus brief. Counsel for Contest Promotions opposes the filing. A motion for leave to participate as amicus curiae in support of the City has been filed with this brief.[1]

BACKGROUND

This case is yet another episode in the long-running dispute between big advertising companies and cities that attempt to crack down on billboards and other outdoor advertising that cause the aesthetic degradation of communities and pose traffic safety hazards, among other potential harms.[2] *See, e.g.*, *Vanguard Outdoor, LLC v. City of Los Angeles*, 648 F.3d 737 (9th Cir. 2011); *World Wide*

[1] No party's counsel authored this brief in whole or in part, and no party or party's counsel, or any other person aside from amicus curiae and its members, contributed money intended for the preparation or submission of this brief.

[2] For one account of the recent history of this dispute, including the role of plaintiff-appellant Contest Promotions, see Christine Pelisek, *The Mad Men of Los Angeles*, L.A. Weekly, Mar. 18, 2010, *available at* http://www.laweekly.com/news/the-mad-men-of-los-angeles-2164188.

Rush, LLC v. City of Los Angeles, 606 F.3d 676 (9th Cir. 2010); *Metro Lights, LLC v. City of Los Angeles*, 551 F.3d 898 (9th Cir. 2009). Here, plaintiff-appellant Contest Promotions challenges a San Francisco sign ordinance on the ground that it violates the company's First Amendment right to engage in commercial speech.

Contest Promotions' business model appears designed to circumvent a feature of some localities' sign laws that distinguish between on-site and off-site advertising. That is, the laws permit businesses to use outdoor advertising on their own property for their products or services, but bar businesses from engaging in outdoor advertising on other premises. Contest Promotions leases outdoor advertising space, such as the side of a building, from another business. ER20-21. It places its advertisement there for a product or service not sold at the store along with a placard that directs passersby to enter the store and participate in a contest free of charge for a chance to win related prizes. ER21; *see also* Response Br. 2. Contest Promotions then seeks to have its ad treated as a permissible on-site business sign, not an off-site billboard, on the theory that its contest—referred to on the outside placard—is a business activity conducted on the premises of the store with which Contest Promotions has a lease. ER21.

San Francisco's ordinance bars Contest Promotions' practice. Like some other cities, San Francisco bans the use of off-site commercial signs, including

billboards. S.F. Planning Code § 611.[3] These "General Advertising Signs," as the City calls them, advertise products or services that are generally not sold on the premises where the signs are placed. *Id.* § 602.7. Again like some other cities, San Francisco's ordinance also permits on-site commercial signs, known as "Business Signs." Critically, however, San Francisco has closed the loophole that Contest Promotions seeks to exploit by providing that on-site signs must advertise the "primary" product, service, or other activity sold, offered, or conducted on the premises where the sign is placed. *Id.* § 602.3. If a company conducts multiple business activities in a single location, or sells multiple products or services there, only one-third "of the area of a business sign, or 25 square feet of sign area, whichever is the lesser, may be devoted to the advertising of one or more" of those businesses, activities, or products "by brand name or symbol as an accessory function of the business sign." *Id.*

Contest Promotions brought suit against the City, claiming that the ordinance's focus on primary versus all other business activities or products renders the ordinance an unconstitutional, content-based restriction on commercial speech. The district court dismissed Contest Promotions' claims. It reasoned that

[3] Public Citizen refers in this brief to the current version of the planning code, available at www.sf-planning.org (click on "Resource Center," and then "Complete San Francisco Planning Code"). The current version of § 602.3 is also reprinted in the City's Response Brief at p.9 (citing Ordinance No. 20-15, SER83).

the City's ordinance survives intermediate First Amendment scrutiny under *Central Hudson Gas & Electric Corp. v. Public Service Commission*, 447 U.S. 557 (1980). ER62. It rejected Contest Promotions' contention that the ordinance is a content-based restriction on speech that is subject to strict scrutiny under *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015). The district court concluded that "*Reed* does not concern commercial speech, and therefore does not disturb the framework which holds that commercial speech is subject only to intermediate scrutiny as defined by the *Central Hudson* test." ER8. In addition, it held that even if *Reed* applied to commercial speech, the City's ordinance is not content-based because its "distinction between primary versus non-primary activities is fundamentally concerned with the location of the sign relative to the location of the product which it advertises" and so does not "single out specific subject matter or specific speakers for disfavored treatment." ER9 (internal quotation marks and alterations omitted).

INTRODUCTION AND SUMMARY OF ARGUMENT

For nearly four decades, the First Amendment standard that applies to restrictions on commercial speech has been clear: The government may regulate commercial speech where it has "substantial" interests in the regulation, the regulation "advances these interests in a direct and material way," and "the extent of the restriction on protected speech is in reasonable proportion to the interests

served." *Edenfield v. Fane*, 507 U.S. 761, 767 (1993) (citing *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557, 564 (1980)). This standard—termed intermediate scrutiny or *Central Hudson* review—affords less protection for commercial speech than the strict scrutiny ordinarily applicable to fully protected speech, such as political or religious expression. This "common-sense distinction" between commercial and noncommercial speech stems from commercial speech's "subordinate position in the scale of First Amendment values." *Ohralik v. Ohio State Bar Ass'n*, 436 U.S. 447, 455-56 (1978) (internal quotation marks omitted).

In *Retail Digital Network, LLC v. Appelsmith*, 810 F.3d 638 (9th Cir. 2016), a panel of this Court held that under *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011), "heightened judicial scrutiny" now applies if a restriction on commercial speech is content-based, rather than content-neutral. 810 F.3d at 648. According to *Retail Digital Network*, "heightened" scrutiny lies somewhere between intermediate and strict scrutiny. It may be applied using the *Central Hudson* "framework" but requires a more stringent analysis of the fit between ends and means than does intermediate scrutiny. *See id.* at 648-49. A petition for rehearing en banc has been filed in *Retail Digital Network*, and Public Citizen submitted an amicus brief urging this Court to reconsider that erroneous decision. As that brief explains, *Retail Digital Network* misreads *Sorrell* and unnecessarily ratchets up the

level of First Amendment review in the commercial-speech context because *Central Hudson* already provides for a form of heightened review. *See Retail Digital Network*, No. 13-56069, Public Citizen Amicus Br. (filed Mar. 31, 2016).

Contest Promotions now asks this Court to go further than *Retail Digital Network* by holding that *strict scrutiny* applies to content-based restrictions on commercial speech. Its position cannot be squared with the case law of the Supreme Court and this Court and would have a devastating impact on the government's ability to regulate commercial speech in furtherance of important public interests. Contest Promotions' position should be rejected and the district court's decision reviewed under *Central Hudson* as that test has traditionally been applied or—if *Retail Digital Network* is not vacated and this Court determines that the regulation is content-based—under the modified standard set forth in that case.

ARGUMENT

I. *Reed v. Town of Gilbert* Does Not Require the Application of Strict Scrutiny to Content-Based Commercial Speech Regulations.

Contest Promotions contends that the Supreme Court's recent decision in *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), requires this Court to apply strict scrutiny to content-based commercial speech restrictions, including the City's ordinance. Opening Br. 21. Contest Promotions misunderstands *Reed* and the cases on which it relied and offers no compelling rationale for this Court to depart from existing precedent.

A. Even if this Court were to conclude that the City's ordinance is a content-based speech restriction, *but see* Response Br. 20-22, *Reed* would not require application of strict scrutiny. *Reed* is not even a commercial speech case. In *Reed*, the Supreme Court invalidated a local law that prohibited the display of outdoor signs without a permit but exempted twenty-three categories of signs, including political and ideological signs and, when displayed for a short amount of time, temporary directional signs. 135 S. Ct. at 2224-25. The law did not exempt from the permit requirement signs like the ones that the plaintiffs—a church and its pastor—sought to display for extended periods to tell the public about the time and location of upcoming church services. *Id.* at 2225.

The Court explained that "[g]overnment regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed." *Id*. at 2227. The Court found that the ordinance at issue was content-based because it "single[d] out specific subject matter for differential treatment." *Id.* at 2230. It accordingly applied strict scrutiny to the ordinance as a content-based regulation of noncommercial speech. *Id*. at 2231.

Critically, *Reed* did not hold that strict scrutiny would apply to a content-based commercial speech regulation that left noncommercial speech unregulated or that treated different categories of commercial speech in different ways. This Court recognized as much in *Sarver v. Chartier*, 813 F.3d 891 (9th Cir. 2016), which

cited *Reed* for the proposition that "[c]ontent-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests." *Id.* at 903. In an accompanying footnote, this Court remarked that the right-to-publicity law at issue in *Sarver* was "not . . . a law that governs commercial speech or speech that falls within one of a few traditional categories which receive lesser First Amendment protection." *Id.* at 903 n.5.

B. Contest Promotions recognizes that *Reed* did not address a commercial speech restriction but seeks to extend *Reed* to this context on the ground that "*Reed* drew its definition of content-based speech regulation from [two] commercial speech cases": *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011), and *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410 (1993). Opening Br. 21-22. Neither of those cases provides support for extending *Reed* as Contest Promotions urges.

In *Sorrell*, the Supreme Court struck down on First Amendment grounds a Vermont law that provided, with limited exceptions, that pharmacy records of doctors' prescribing practices "may not be sold, disclosed by pharmacies for marketing purposes, or used for marketing" by drug manufacturers. 564 U.S. at 557. The Supreme Court concluded that the law imposed a "speaker- and content-based burden on protected expression" by disfavoring pharmaceutical

manufacturers and marketing and that "heightened" scrutiny therefore applied. *Id.* at 571. However, the Court left open the question whether the law burdened only commercial speech or also burdened noncommercial speech because the outcome was "the same whether a special commercial speech inquiry or a stricter form of judicial scrutiny" applied. *Id.* Even under the lesser of the two standards, the restriction could not stand.

In *Retail Digital Network*, this Court read *Sorrell*'s reference to "heightened scrutiny" as a "modifi[cation]" of the *Central Hudson* test, 810 F.3d at 648, requiring something more than intermediate scrutiny where content-based commercial speech restrictions are at issue, *see id.* at 650–51. As noted above, Public Citizen believes that holding was in error because *Central Hudson* review is itself a form of heightened scrutiny. But even *Retail Digital Network* rejected the radical reading of *Sorrell* that Contest Promotions urges here. As *Retail Digital Network* recognized, a "district court need not apply strict scrutiny" to a content-based commercial speech restriction. *Id.* at 648 n.3. The "Supreme Court knows the words[] 'strict scrutiny,' and the *Sorrell* majority seem[ed] at pains to avoid them." *Id.* (citing *Sorrell*, 564 U.S. at 571).

Nor does *Discovery Network* provide support for applying strict scrutiny to a content-based commercial speech restriction. That case involved a city ordinance that barred distribution of "commercial publications through freestanding

newsracks on public property," but permitted distribution of newspapers in the same manner. 507 U.S. at 412. The city defended its distinction between commercial and noncommercial speech on the ground that "commercial speech has only a low value." *Id.* at 418-19.

The Supreme Court first assessed the validity of the ordinance under *Central Hudson* and determined that the city did not "establish a reasonable fit between its legitimate interests in safety and esthetics and its choice of a limited and selective prohibition of newsracks as the means chosen to serve those interests." *Id.* at 416 (internal quotation marks omitted). The Court held that the distinction between commercial publications and newspapers bore "no relationship *whatsoever* to the particular interests" the city asserted. *Id.* at 424. Each newsrack, whether containing 'newspapers' or 'commercial handbills,' [was] equally unattractive," *id.* at 425, and all newsracks were "equally responsible" for safety concerns, *id.* at 426-27. The Court therefore concluded that the restriction was not sustainable as a commercial speech regulation. *Id.* at 428.

Discovery Network then addressed the city's *alternative* argument that even if the ordinance could not be sustained as a commercial speech restriction, it was constitutional as a reasonable time, place, or manner restriction. Only in that context did the Court consider significant whether the ordinance was content-based. *See id.* at 429. The Court emphasized that, to be permissible, time, place, or

manner restrictions must be "justified without reference to the content of the regulated speech." *Id.* at 428 (internal quotation marks omitted). It held that the city ordinance could not meet that standard "because the very basis for the regulation [was] the difference in content between ordinary newspapers and commercial speech." *Id.*

Contest Promotions seeks to conflate the two separate inquiries addressed in *Discovery Network*. But *Discovery Network*'s consideration of the content-based nature of the restriction at issue in that case came only after the Court concluded that the ordinance would *not* have to be content-neutral to be sustained under *Central Hudson*'s commercial-speech standard. Indeed, a key reason that the ordinance failed *Central Hudson* review was that its restrictions were not tied to preventing harms attributable to the commercial content of the regulated publications. *Id*. at 426. *Discovery Network* thus makes clear that, even if this Court finds distinctions in the City's ordinance to be content-based, the Court should consider those distinctions and their justification as part of the *Central Hudson* inquiry.

In sum, *Sorrell* and *Discovery Network* refute rather than support Contest Promotions' contention that strict scrutiny applies to content-based commercial speech restrictions.

II. The Application of Strict Scrutiny to Content-Based Commercial Speech Regulations Would Eviscerate the Commercial Speech Doctrine.

Applying strict scrutiny because a given restriction on commercial speech is content-based would upend precedent, which has long recognized a "common-sense distinction between speech proposing a commercial transaction, which occurs in an area traditionally subject to government regulation, and other varieties of speech." *Ohralik*, 436 U.S. at 455-56 (internal quotation marks omitted); *see, e.g.*, *Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 506 (1981) (plurality op.) ("[W]e continue to observe the distinction between commercial and noncommercial speech, indicating that the former could be forbidden and regulated in situations where the latter could not be."); *id.* at 541 (Stevens, J., dissenting in part but joining quoted portion of plurality opinion). The Supreme Court has made express that, with "respect to noncommercial speech," content-based restrictions are sustained "only in the most extraordinary circumstances." *Bolger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 65 (1983). "By contrast, regulation of commercial speech based on content is less problematic." *Id.* The Court has explained that "regulation of [commercial speech's] content" is permissible in part because such "speech, the offspring of economic self-interest, is a hardy breed of expression that is not particularly susceptible to being crushed by overbroad regulation." *Cent. Hudson*, 447 U.S. at 564 n.6 (noting that, "[i]n most other contexts, the First Amendment prohibits regulation based on the content of the message").

In light of these longstanding principles, this Court has held on three separate occasions that strict scrutiny does *not* apply to content-based commercial speech restrictions, even though such scrutiny would apply to similar restrictions on noncommercial speech. *See Retail Digital Network*, 810 F.3d at 648 n.3; *Metro Lights, LLC v. City of Los Angeles*, 551 F.3d 898, 903 n.6 (9th Cir. 2009) (holding, in a case involving a commercial advertising ordinance, that "whether or not the City's regulation [was] content-based, the *Central Hudson* test still applie[d] because of the reduced protection given to commercial speech"); *accord Coyote Publ'g, Inc. v. Miller*, 598 F.3d 592, 599 n.10 (9th Cir. 2010).

The Supreme Court and this Court have also repeatedly applied *Central Hudson*, not strict scrutiny, to content-based speech regulations, and found that level of review sufficient to protect commercial speech where warranted. *See*, *e.g.*, *Greater New Orleans Broad. Ass'n, Inc. v. United States*, 527 U.S. 173, 176, 183-84 (1999) (striking down a statute that forbade broadcast advertising of casino gambling as applied to advertisements in jurisdictions where such gambling was legal); *Rubin v. Coors Brewing Co.*, 514 U.S. 476, 478, 482, 488 (1995) (invalidating federal law that prohibited labels for beer, but not wine or distilled spirits, from displaying alcohol content); *Florida Bar v. Went For It, Inc.*, 515 U.S. 618, 620, 635 (1995) (upholding rule that prohibited attorneys from sending written communications to prospective clients that "relate[d] to an accident or

disaster involving the person to whom the communication [was] addressed or a relative of that person, unless the accident or disaster occurred more than 30 days" before the communication); *Bolger*, 463 U.S. at 61, 68-69 (holding unconstitutional as applied a statute that prohibited the mailing of unsolicited advertisements for contraception); *In re R.M.J.*, 455 U.S. 191, 194, 205-07 (1982) (holding unconstitutional a rule that barred an attorney "from identifying the jurisdictions in which he [was] licensed to practice" but permitted the publication of ten other categories of information); *Ballen v. City of Redmond*, 466 F.3d 736, 740, 743-44 (9th Cir. 2006) (invalidating a sign ordinance that barred a bagel shop from using a portable sign but exempted other categories of advertising, including real estate signs).

Indeed, *Central Hudson* itself struck down a regulation that banned all "advertising intended to stimulate the purchase of utility services," which presumably would be treated as content-based under Contest Promotions' position and subject to strict scrutiny. *Cent. Hudson*, 447 U.S. at 559 (internal quotation marks omitted). There is no reason to believe that *Reed* sub silentio intended to overrule this case and the many others that have followed it.

Adopting Contest Promotions' position may—in addition to making a mess of the case law—have devastating consequences for the government's ability to adopt commonsense regulations that rein in corporate abuses. Regulations of

commercial speech frequently apply to specific market participants, such as food manufacturers, debt collectors, and drug companies, and they deal with problems unique to the industries in which those participants operate. For example, federal law limits the circumstances in which food manufacturers can make claims about the health benefits of their products, 21 C.F.R. § 101.14, or advertise the addition of vitamins to infant formula, *id.* § 107.10(b). It forbids debt collectors from advertising the sale of any debt to coerce a debtor to pay it and from publishing lists of consumers who allegedly refuse to pay debts. 15 U.S.C. § 1692d(3)-(4). Industry groups would surely argue that restrictions like these are content-based in the sense that they apply "to particular speech because of the topic discussed or the idea or message expressed," and that strict scrutiny applies as a result. *Reed*, 135 S. Ct. 2227.

In the disclosure context, too, the government frequently mandates speech on a particular subject and may even mandate that a commercial actor use specific language. For example, vehicle manufacturers must label, in accordance with regulations issued by the Environmental Protection Agency, each vehicle with the vehicle's fuel economy. 49 U.S.C. § 32908(b). Drug manufacturers must include "black box" warnings on the labeling of certain drugs to emphasize particular hazards. 21 C.F.R. § 201.57. And food manufacturers must disclose nutritional information about their products. *Id.* § 101.9.

The government would have a much higher burden to justify rules like these if they are deemed to be content-based and subject to strict scrutiny. It "is the rare case" in which the government "demonstrates that a speech restriction is narrowly tailored to serve a compelling interest," as required to satisfy strict scrutiny. *Williams-Yulee v. Fla. Bar*, 135 S. Ct. 1656, 1665-66 (2015) (internal quotation marks omitted). Indeed, in the noncommercial speech context, the Supreme Court has described content-based restrictions as "presumptively invalid." *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992). If accepted by this Court, Contest Promotions' position could obliterate many commercial speech restrictions that are longstanding and critical to the protection of consumers. And any change in scrutiny would be doubly harmful with respect to commercial speech *disclosure* requirements, which are normally subject to a level of constitutional scrutiny akin to rational-basis review. *See Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 650-52 (1985).

In addition, applying strict scrutiny to content-based commercial speech restrictions could have an unintended, harmful consequence for the protection of noncommercial speech. "To require a parity of constitutional protection for commercial and noncommercial speech alike could invite dilution, simply by a leveling process, of the force of the [First] Amendment's guarantee with respect to the latter kind of speech." *Ohralik*, 436 U.S. at 456. The position advanced by

Contest Promotions would call into question a slew of regulations on which the public has depended for decades. If those regulations are to stand, strict scrutiny as we know it might have to change, to the detriment of speakers engaged in fully protected expression.

Furthermore, application of strict scrutiny is not necessary to curb government excesses in the realm of commercial speech. If anything, the First Amendment pendulum in the commercial speech context has already swung too far in favor of corporate interests, at the expense of important public goals. One recent quantitative analysis of Supreme Court and court of appeals decisions found that, even under *Central Hudson*, "First Amendment cases in which businesses are the primary beneficiary have increasingly displaced cases in which individuals are the primary beneficiary." John C. Coates IV, *Corporate Speech & The First Amendment: History, Data, and Implications*, 30 Const. Commentary 223, 262 (2015). And companies "are increasingly able to persuade courts . . . to exploit the 'fit' requirement of the *Central Hudson* test to achieve de- or re-regulatory goals not obtainable through the political process"—a trend contributing to what the author referred to as a "corporate takeover of the First Amendment." *Id.* at 269.

Contest Promotions' position, if accepted by this Court, would make the takeover complete. It should be rejected.

CONCLUSION

For the foregoing reasons, this Court should affirm the district court's decision dismissing Contest Promotions' First Amendment challenge under commercial speech doctrine.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME, TYPEFACE AND TYPE STYLE REQUIREMENTS

I hereby certify that this brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because it contains 4,143 words. I further certify that this brief complies with the typeface requirements of Fed. R. App. P. 32(a)(6) because it was prepared in a proportionally spaced, 14-point typeface, Times New Roman.

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/s/ Scott L. Nelson
Scott L. Nelson

CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2016, I filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit using the appellate CM/ECF system. All parties in the case are represented by registered CM/ECF users and will be served by the appellate CM/ECF system.

May 19, 2016

/s/ Scott L. Nelson
Scott L. Nelson