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April 30, 2026

Molly C. Dwyer
Clerk of Court
U.S. Court of Appeals for
the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119

Re: *Richards v. Newsom*, No. 25-693
Citation of Supplemental Authority
Argued and submitted on February 2, 2026 - Before Judges LEE, KOH, and DE ALBA

Dear Ms. Dwyer:

On April 29, 2026, the Supreme Court reaffirmed the First Amendment's protections of associational anonymity rights in *First Choice Women's Resource Centers, Inc. v. Davenport*, No. 24-781 ("Op."). The Court found an organization has standing to challenge a government subpoena demanding identification of its supporters, "'discourag[ing] … associati[on]....'" Op.4. Similarly, Appellants alleged that Cal. Penal Code § 26806's 24/7 audiovisual surveillance "chill[s] … associational rights of those who … gather and discuss the Second Amendment" or "criticize … politicians...." Compl. ¶70. Such surveillance "deters

political association...." Appellants' Opening Brief ("A.O.B.") at 32. And whereas Appellees demurred that "access to the recordings" is "limited," Appellee's Answering Brief ("A.A.B.") at 43, *First Choice* found irrelevant that the government "promise[d] to refrain from making … donor information public...." Op.15.

Moreover, *First Choice* found the subpoena "'objectively chill[ed]' First Amendment rights" even though "any legal duty to produce records arises only when a court agrees to enforce" it. Op.14-15. Here, Appellees similarly defended that recording access is "limited by statute[,] … administrative inspection," or "pursuant to a warrant or court order." A.A.B.43. But the chilling of associational rights "occurs not just when a demand is enforced, but when it is made and for as long as it remains outstanding." Op.12; *cf.* A.A.B. at 16 (claiming no search occurs "upon the 'creation' of the recordings," but only when accessed and viewed). Indeed, "'[t]he value of a sword of Damocles is that it hangs – not that it drops.'" Op.15.

Thus, irrespective of whether disclosure was "immediately enforceable or depended on subsequent … action, the most [the organization] could say … was that [donor] privacy might be protected –

or it might not. Objectively reasonable people … would 'not lightly disregard' such a distinct possibility of disclosure." Op.15. Likewise, under Section 26806, all a gun store can say to visitors is that a recording of their associational activities may stay private – or not.

Because the district court dismissed, claiming Appellants' "allegations of a chilling affect [sic] are objectively unfounded" (Doc. 49 at 9), this Court should reverse and remand on this basis alone.

Sincerely yours,

Stephen D. Stamboulieh

cc: By ECF to all counsel of record