

No. 17-72917

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

In re UNITED STATES OF AMERICA, *et al.*,
Petitioners.

UNITED STATES OF AMERICA; DONALD J. TRUMP, President of the United States; U.S.
DEPARTMENT OF HOMELAND SECURITY; and ELAINE DUKE, Acting Secretary of
Homeland Security,
Petitioners-Defendants,

v.

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA,
Respondent,

REGENTS OF THE UNIVERSITY OF CALIFORNIA; JANET NAPOLITANO, President of
the University of California; STATE OF CALIFORNIA; STATE OF MAINE; STATE OF
MARYLAND; STATE OF MINNESOTA; CITY OF SAN JOSE; DULCE GARCIA; MIRIAM
GONZALEZ AVILA; SAUL JIMENEZ SUAREZ; VIRIDIANA CHABOLLA MENDOZA;
NORMA RAMIREZ; and JIRAYUT LATTHIVONGSKORN,
Real Parties in Interest-Plaintiffs.

**MOTION FOR LEAVE TO FILE
AMICUS BRIEF FOR UNITED WE DREAM
IN SUPPORT OF OPPOSITION TO
PETITION FOR A WRIT OF MANDAMUS
AND EMERGENCY MOTION FOR STAY**

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**MOTION FOR LEAVE TO FILE AMICUS BRIEF FOR UNITED WE
DREAM IN SUPPORT OF OPPOSITION TO PETITION FOR A WRIT OF
MANDAMUS AND EMERGENCY MOTION FOR STAY**

Pursuant to Rule 29 of the Federal Rules of Appellate Procedure and Circuit Rule 29-3, proposed Amicus Curiae United We Dream (UWD) hereby respectfully moves to file a 12-page amicus brief in support of the Real Parties in Interest-Plaintiffs' Opposition to the Government's Petition for a Writ of Mandamus and Emergency Stay.

1. UWD is a national nonprofit, nonpartisan, membership-based organization comprising more than 300,000 immigrant youth and their allies, with 52 affiliate organizations in 25 states. UWD's primary purpose is to advocate for the dignity and fair treatment of immigrant youth and their families, regardless of their immigration status. Many UWD members are beneficiaries of the Deferred Action for Childhood Arrivals (DACA) initiative announced on June 15, 2012. Because the Government action in this case threatens to undo the protections DACA affords — protections that hundreds of thousands of immigrant youth have relied upon in their most consequential life decisions — UWD has a substantial interest in the proper resolution of the issues presented in this case.

2. UWD seeks leave to file this amicus brief in support of the Real Parties in Interest, the plaintiffs in the underlying suit who are seeking to protect DACA against the government's efforts to unlawfully rescind the program. The

goal of this brief is not to reiterate their legal arguments, but rather to provide the Court with factual context about what is at stake in this case. In particular, UWD seeks leave to submit this brief to provide a glimpse into the hundreds of thousands of young men and women who placed their trust in, and organized their lives around, DACA. As evident from the countless stories of DACA recipients since the program's initiation in 2012, the Government's action threatens to cause massive disruption to these individuals, their families, and their communities. UWD's proposed brief provides but a small sample of those stories.

3. The Real Parties in Interest-Plaintiffs have consented to UWD's filing of an amicus brief and the Government has informed us that it does not oppose this filing.

4. In an abundance of caution, UWD files this motion to request leave to file this 12-page brief, as neither the Federal Rules of Appellate Procedure nor this Court's Rules explicitly authorize the filing of an amicus curiae brief in connection with a petition for a writ of mandamus and motion for a stay, even when the parties have consented to its filing.

5. Consistent with Fed. R. App. P. 29(a)(5), which applies to amicus briefs on the merits, this brief is less than half the maximum length of a petition for a writ of mandamus (and less than half the length of the Government's 30-page petition in this case).

6. The proposed brief is also being timely filed. By Order dated October 20, 2017, this Court directed the Real Parties in Interest-Plaintiffs to respond to the Government's petition by October 24, 2017 at 9:00 a.m. PST. UWD filed this motion and proposed brief by that same deadline.

CONCLUSION

United We Dream respectfully requests that the Court grant its motion for leave to file an amicus curiae brief and accept for filing the amicus curiae brief attached as Exhibit A.

Dated: October 24, 2017

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By /s/ Peter Karanjia

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CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this motion:

(i) complies with the typeface requirements of Fed. R. App. P. 29(d) and 32(a)(5), and the type style requirements of Rule 32(a)(6), because it has been prepared using Microsoft Office Word 2010 and is set in Times New Roman font in a size equivalent to 14 points or larger and,

(ii) complies with the length requirement of Rule 27(d)(2) because it contains 527 words, relying on the word count function of the word-processing system used to prepare this document.

Executed this 24th day of October, 2017.

/s/ Peter Karanjia

Peter Karanjia

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 October 24, 2017.

I certify that all parties in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Executed this 24th day of October, 2017.

/s/ Peter Karanjia _____
Peter Karanjia

EXHIBIT A

**IN THE UNITED STATES COURT OF APPEALS
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CORPORATE DISCLOSURE

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, United We Dream (“UWD”) certifies that it does not have a parent corporation and that no publicly held corporation holds 10% or more of its stock.

STATEMENT OF INTEREST¹

UWD is a national nonprofit, nonpartisan, membership-based organization comprising more than 300,000 immigrant youth and their allies, with 52 affiliate organizations in 25 states. UWD’s primary purpose is to advocate for the dignity and fair treatment of immigrant youth and their families, regardless of their immigration status. Many UWD members are beneficiaries of the Deferred Action for Childhood Arrivals initiative announced on June 15, 2012. Because the Government action in this case threatens to undo the protections DACA affords — protections that hundreds of thousands of immigrant youth have relied upon in their most consequential life decisions — UWD has a substantial interest in the proper resolution of the issues presented in this case.

INTRODUCTION

When the United States Government established the Deferred Action for Childhood Arrivals (“DACA”) program in 2012, it made a promise to more than a

¹ Amicus curiae UWD states that no counsel for a party authored this brief in whole or in part, and no person other than amicus or its counsel made a monetary contribution to the brief’s preparation or submission. Counsel for all parties have consented to the filing of this brief.

million undocumented young people: if they applied for and met the program's eligibility criteria, they could rest assured that they would not be subject to governmental efforts to upend their lives by uprooting them from the United States. The Government promised these immigrants they would not face removal proceedings for a renewable two-year period. But in practice, the program — which reflected the “low priority” associated with the removal of “certain young people who were brought to this country as children and know only this country as home” — did more than guarantee enrollees deferred action. Memorandum from Janet Napolitano, Secretary of Homeland Security, *Exercising Prosecutorial Discretion With Respect to Individuals Who Came to the United States as Children* (June 15, 2012). DACA allowed its recipients to obtain work authorization, a Social Security number and, in many states, driver's licenses and in-state tuition at public universities. DACA enabled recipients to open bank accounts, apply for credit cards, buy homes and cars, and conduct other aspects of daily life that are often impossible for undocumented immigrants. DACA thus enabled its recipients to fully participate in their communities and local economies.

United We Dream submits this amicus brief in support of the Real Parties in Interest, the plaintiffs in the underlying suit who are seeking to protect DACA against the government's efforts to unlawfully rescind the program. The goal of this brief is not to reiterate their legal arguments, however, but rather to provide the

Court with factual context about what is at stake in this case. In particular, UWD respectfully submits this brief to provide a glimpse into the hundreds of thousands of young men and women who placed their trust in, and organized their lives around, DACA. As is evident from the countless stories of DACA recipients since the program's initiation in 2012, the Government's action threatens to cause massive disruption to these individuals, their families, and their communities. This brief provides but a small sample of those stories.

ARGUMENT

Through DACA, thousands of young immigrant adults can give back to their communities. DACA recipients become teachers, community leaders, and small business owners. They provide for themselves and their families, support their friends, and are closely knit into the fabric of the lives of those around them. Arbitrarily and abruptly undoing DACA protections for these individuals harms not only DACA recipients, but also their families and communities at large.

A. DACA Recipients Are Integral to The Lives and Livelihood of Their Families

With the greater job opportunities that come with work authorizations, DACA recipients are better able to shoulder the financial burden for themselves and their families. Indeed, over 60 percent of surveyed DACA recipients reported that, as a result of obtaining work authorization through DACA, they could make enough money to financially support their family. Tom K. Wong *et al.*, *Results of*

*Tom K. Wong, United We Dream, National Immigration Law Center, and Center for American Progress National Survey, at 2 (Oct. 2016).*²

But work authorization is not the only benefit that makes DACA so important to family life. A driver's license — something common to most Americans — is a prized commodity to an undocumented household. In the case of *V.D.*, for example, the driver's license he qualified for as a result of DACA allowed him to drive his father to and from the hospital for doctor appointments after a serious heart attack, as well as to take care of his disabled younger sister. DACA has also provided *V.D.* the financial means to take care of his family. *V.D.*, who studies computer science at the University of Illinois, uses the savings from his summer technology jobs to both pay for his tuition and help support his family.

Like *V.D.*, *P.Z.* is also deeply committed to taking care of his family — and DACA provided him with the initial opportunity to do so. With undocumented parents suffering from an array of health problems, *P.Z.*'s responsibility was a heavy one, especially as an undocumented immigrant. But thanks to DACA, *P.Z.* got a job at Twitter, which allows him to provide his parents health insurance so they can receive the care they need. And, to be able to help his parents even more, *P.Z.* is saving money to help them move close to him in San Francisco.

² Available at <https://cdn.americanprogressaction.org/content/uploads/2016/10/>.

The benefits DACA provides to families are not limited to the families of *V.D.*, *P.Z.*, or the other young immigrants identified in this brief. Hundreds of thousands of DACA recipients benefit from DACA, from having work authorization to accessing employer-provided health insurance to providing financially for their families every day. DACA recipients help relieve their families from the stress of ordinary daily tasks that most U.S. citizens and other authorized immigrants need not think twice about. From picking up children at school to taking relatives to the doctor to paying the cable bill, young immigrants who receive DACA status can provide constant, stable support for their families. The Government now threatens to undermine the foundations of thousands of families across the United States.

B. DACA Recipients Contribute to Their Local Communities

DACA offers thousands of immigrants the chance to succeed in their chosen careers and contribute to their communities. Young entrepreneurs like *D.A.*, for example, rely on DACA to create and innovate. After the Government granted *D.A.* DACA status, she was able to obtain higher paying jobs, which allowed her to save money and eventually start her own business. With a business partner, *D.A.* bought a landscaping company and hired two employees to help her meet demand. In addition, to maximize the potential of the new venture, *D.A.* also enrolled in classes on small business management at the local community college. As *D.A.*'s

company continues to grow and prosper, its success and impact on the community will be closely entwined with the continuation of DACA.

For *R.P.*, DACA provided the opportunity and confidence to become a leader in his local community. A Filipino immigrant who came to the United States when he was one year old, *R.P.* has lived in the United States almost his entire life. But only after receiving DACA status could he truly contribute to his larger community in Georgia. Because of DACA, *R.P.* was offered and accepted a job with a non-profit group assisting Asian immigrants and refugees. And with the driver's license *R.P.* was able to obtain as a result of DACA, he is finally able to travel freely and board a plane, a simple privilege otherwise reserved for those with valid Government identification. The trips *R.P.* takes are not just for vacation. *R.P.* recently travelled to a Christian leadership conference where he could further develop skills necessary to growing as a leader in his local community. Without DACA, *R.P.*'s ability to openly and deeply involve himself in his community would be dramatically limited.

In the Arkansas hospital where he works, the people who meet *L.A.* do not know him as a formerly undocumented Mexican immigrant who now enjoys the benefits of DACA; they know him as their nurse. But *L.A.*'s story, and the integral role he plays in the lives of his patients in the hospital's cardiovascular Intensive Care Unit, would not have been possible without DACA. In 2010, while *L.A.* was

still a nursing student, the State of Arkansas passed a law making it impossible for any individual to obtain a nursing license without a Social Security card. For *L.A.*, who came to the United States at age seven and lacked formal authorization or lawful status, that requirement was an insurmountable obstacle. Everything changed in 2013, when the Government granted *L.A.* deferred action under DACA. As a result, *L.A.* obtained a Social Security number, received his nursing license, and soon thereafter, was offered a position as a nurse in the cardiovascular Intensive Care Unit. Because of DACA, *L.A.* was able to fulfill his dream of being able to provide medical care to his community.

D.R., a medical student at the Icahn School of Medicine at Mount Sinai in New York, has a similar dream. As an undergraduate at the University of California, Berkeley, *D.R.* worked 30 hours per week as a waitress to support herself through school. A talented student, *D.R.* was a double major in Integrative Biology and Sociology who graduated from Berkeley with a 3.6 GPA and until DACA, she was undocumented. *D.R.*'s ability to complete a medical residency and be employed as a doctor depends on the work authorization she has because of DACA. The program has allowed *D.R.* to pursue a goal that would otherwise have been unattainable.

DACA recipients have served their communities in a wide range of endeavors. *J.S.* arrived in the United States as an 11-year-old to pick grapes in the

Central Valley of California. Although he arrived in California with only a third-grade education and spoke no English (and limited Spanish), *J.S.* applied himself scholastically, successfully taking English Language Development classes by the time he was a high school junior. Because he lacked a Social Security number, *J.S.* was unable to apply to many colleges and for many scholarships. Nevertheless, *J.S.* worked three jobs to pay his way through community college, and eventually completed his Bachelor's degree. Immediately after being granted DACA status and work authorization, *J.S.* — who comes from a family of indigenous Mexican origin that speaks Zapotec — used his work authorization to serve in state and federal courts as the nation's only court interpreter in the Zapotec dialect. In this capacity, he has traveled across California and New Mexico to ensure that Zapotec-speaking defendants are able to understand the legal proceedings in which they are involved. Without *J.S.*'s unique language skills to overcome linguistic obstacles, courts would face further delays — and immigration detainees longer detentions.

Just as DACA enabled Zapotec-speaking defendants access to a fluent court interpreter, the program has also given students at an Austin, Texas high school the guidance of a valuable teacher and mentor. *A.Z.* — a high-school salutatorian who graduated from the University of Texas on a full scholarship — teaches Spanish in the Austin Independent School District. And for *A.Z.*, teaching is a family affair.

When she is not in her classroom, she works with her older brothers, also DACA recipients, as they finish their teaching degrees at the University of Texas. Because of DACA, both A.Z. and her brothers are able to play an important part in the lives of hundreds of students.

Like the young immigrants described above, DACA has enabled hundreds of thousands of previously undocumented individuals to improve their lives and also become integral parts of their communities. According to one survey, after receiving DACA status, 42.5 percent of DACA recipients got their first job. Wong *et al.*, *supra* at 7. About 61 percent pursued educational opportunities previously unavailable to them. *Id.* at 3. Indeed, 55 percent of DACA recipients surveyed are pursuing undergraduate degrees. *Id.* at 8. And 12 percent bought a home, 54 percent bought a car, and 14 percent paid off some or all their student loans. *Id.* at 2. For these individuals, DACA has opened a world of financial independence and opportunity that was previously unavailable.

C. DACA Recipients Are Deeply Ingrained in the American Fabric

The individuals described above are representative of DACA recipients across the country. Indeed, as of 2016, all fifty states, as well as the District of Columbia and several territories, were home to at least one of the nearly 800,000 DACA recipients. See *infra* note 3. Because of DACA, these individuals — who

were brought to the United States at a young age from countries across the world³ — have access to better jobs, better education, and more stable financial positions.

According to one survey, more than two-thirds of DACA recipients were able to find a first job, or a job with better pay, after receiving DACA. Wong *et al.*, *supra* at 7. They have increased their hourly wages by an average of nearly one-third, and pay taxes. Five percent of DACA recipients surveyed had started their own business. *Id.* at 2, 3. Over 50 percent applied for and received their first credit card, and nearly 50 percent opened a bank account. *Id.* at 3.

Without a doubt, DACA offers greater access to higher education. For example, DACA enables students to enroll in public colleges and universities in states like Alabama and South Carolina, which undocumented students are otherwise barred from attending, *see* Ala. Code § 31-13-8; S.C. Code Ann. § 59-101-430, and to apply for in-state tuition in Virginia, *see* Zenen Jaimes Pérez, *How DACA Has Improved the Lives of Undocumented Young People*, Center for American Progress, at 4 (Nov. 19, 2014), *available at* <http://ampr.gs/1O7iTHA>. In addition, several states — including Texas, California, and New York — allow undocumented immigrants and DACA recipients to attend public colleges and

³ To date, DACA recipients are originally from over 20 countries, including Mexico, Poland, South Korea, and India. U.S. Citizenship and Immigration Services (“USCIS”), *Number of I-821D, Consideration of Deferred Action for Childhood Arrivals by Fiscal Year, Quarter, Intake, Biometrics and Case Status: 2012-2016* (Sept. 30, 2016).

universities at in-state or reduced tuition rates and to receive state and institutional financial assistance so long as they meet certain criteria. *Id.* Although they remain ineligible for financial aid in many states and under federal programs, DACA recipients can fill out the Free Application for Federal Student Aid, which schools use to determine financial need and eligibility for scholarships and institutional financial aid.

CONCLUSION

As these stories demonstrate, the elimination of DACA would disrupt the lives of individuals, families, and whole communities, all of whom have grown to rely on DACA in organizing their daily lives. The rescission of DACA would remove shopkeepers from their businesses; doctors and nurses from their hospitals; teachers from their classrooms; children from their parents' homes; and young men and women who have done nothing wrong from the only country they have ever known. This is what is at stake in this case.

Dated: October 24, 2017

Respectfully submitted,

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By /s/ Peter Karanjia

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) and Fed. R. App. P. 29(a)(5) because it is no more than one-half the maximum length authorized for the Government's petition.

I further certify that the attached amici curiae brief complies with the type-face requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 14-point Times New Roman font.

Executed this 24th day of October, 2017.

/s/ Peter Karanjia
Peter Karanjia

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 October 24, 2017.

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/s/ Peter Karanjia _____
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