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VIA ELECTRONIC FILING

Office of the Clerk
James R. Browning Courthouse
U.S. Court of Appeals
95 Seventh Street
San Francisco, CA 94103-1526

Re: Parents for Privacy, et al. v. Dallas School District No. 2, et al.
Ninth Circuit Court of Appeals Case No. 18-35708
Oral Argument Date: Thursday, July 11, 2019 (Portland)

Dear Clerk:

Pursuant to FRAP 28(j) and Ninth Circuit Rule 28-6, Intervenor-Defendant-Appellee Basic Rights Oregon (“BRO”) respectfully wishes to alert the Court to the recent decision from this Court in *Karnoski v. Trump*, No. 18-35347, No. 18-7215, 2019 WL 2479442 (9th Cir. June 14, 2019).

In *Karnoski*, plaintiffs filed suit challenging the constitutionality of a 2017 Presidential Memorandum barring transgender individuals from serving in the military. The Ninth Circuit Court of Appeals held that discrimination against transgender individuals is subject to heightened scrutiny under the Equal Protection Clause based on “the factors ordinarily used to determine whether a classification affects a suspect or quasi-suspect class.” *Id.* at *14 (citing *Windsor v. United States*, 699 F.3d 169, 181 (2d Cir. 2012) (listing these factors), *aff’d on other grounds*, 570 U.S. 744 (2013)). This decision provides further support for BRO’s argument at pp. 25-30 of its answering brief that the relief Plaintiffs seek in this case—barring transgender students from the restroom facilities used by other students of their gender—would be subject to at least heightened scrutiny under the Equal Protection Clause.

Sincerely,

LANE POWELL PC

s/ Peter D. Hawkes

Peter D. Hawkes

PDH:sd

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