

No. 23-16030

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

HELEN DOE, parent and next friend of Jane Doe, et al.,

*Plaintiffs-Appellees,*

V.

THOMAS C. HORNE, in his official capacity as  
State Superintendent of Public Instruction, et al.,

*Defendants-Appellants,*

And

WARREN PETERSEN, Senator, President of the  
Arizona State Senate;  
BEN TOMA, Representative, Speaker of the  
Arizona House of Representatives,

*Real Parties In Interest.*

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Appeal from the United States District Court  
District of Arizona

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**MOTION TO CONSOLIDATE APPEALS**

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Pursuant to Federal Rule of Appellate Procedure 3(b)(2), movant Thomas C. Horne, in his capacity as State Superintendent of Public Instruction (“Superintendent Horne”) requests consolidation of appeal 23-16030 with appeal 23-16026.

The District Court in this matter issued its ruling on a Motion for Preliminary Injunction on July 20, 2023. [District Court Dkt. 127] The next day, Defendants-Intervenors President Warren Petersen and Speaker Ben Toma (“Legislative Intervenors”) filed their Notice of Appeal in the District Court on Friday, July 21, 2023. [District Court Dkt. 129] The following court-day, Superintendent Horne filed his Notice of Appeal in the District Court on Monday, July 24, 2023. [District Court Dkt. 133] On July 24, 2023, the Office of the Clerk, Ninth Circuit, served a letter on all counsel designating the appeal noticed by the Legislative Intervenors as 23-16026. [DktEntry: 1-1] On July 25, 2023, the Office of the Clerk served a letter on all counsel designating the appeal noticed by Superintendent Horne as 23-16030. [DktEntry: 1-1]

Both 23-16026 and 23-16030 appeal the same ruling in the same District Court matter. In the interest of efficiency and clarity, Superintendent Horne respectfully requests that the two matters be consolidated.

RESPECTFULLY SUBMITTED this 3<sup>rd</sup> day of August, 2023.

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

**Form 8. Certificate of Compliance for Briefs**

9th Cir. Case Number(s) 23-16030 and 23-16026

I am the attorney or self-represented party.

This brief contains 198 words, including 0 words manually counted in any visual images, and excluding the items exempted by FRAP 32(f). The brief's type size and typeface comply with FRAP 32(a)(5) and (6).

I certify that this brief (select only one):

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Signature: /s/ Dennis Wilenchik

Date: August 3, 2023

**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 using the appellate CM/ECF system on August 3, 2023.

In addition, a courtesy copy of the foregoing has been provided via email to the following counsel for Plaintiffs and other real parties in interest:

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