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IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

GUAM SOCIETY OF OBSTETRICIANS AND GYNECOLOGISTS, *et al.*, Plaintiffs vs. LOURDES A. LEON GUERRERO, *et al.*, Defendants.	CIVIL CASE NO. 90-00013 **MEMORANDUM IN SUPPORT OF MOTION TO INTERVENE AS PLAINTIFFS**

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INTRODUCTION

Pursuant to Federal Rule of Civil Procedure 24(a)(2) and (b)(1)(B), Dr. Shandhini Raidoo, Dr. Bliss Kaneshiro, and Famalao'an Rights (together, "Proposed Intervenors") respectfully submit this Memorandum of Law in support of their Motion to Intervene as Plaintiffs in the above-captioned case. Additionally, they join in Plaintiff Dr. William Freeman's opposition to the Attorney General Moylan's motion to vacate the permanent injunction against Public Law 20-134 and dismiss this case with prejudice, filed concurrently with this motion.

The Attorney General has taken the extraordinary action of moving to vacate the more than three-decades old permanent injunction against Public Law 20-134 (the "Ban"), which criminalizes providing, obtaining, and "soliciting" abortions. If the Attorney General's motion is granted, and the Ban takes effect, it will have a devastating impact on Proposed Intervenors' work to protect and advance reproductive health in Guam. For example, Proposed Intervenors Drs. Raidoo and Kaneshiro would be forced to stop providing medication abortions via telemedicine to pregnant people in Guam, and are concerned that the Ban's solicitation prohibition would also prohibit them from counseling patients on their full range of reproductive health options, including obtaining abortion in Hawai'i, where it is legal. Proposed Intervenor Famalao'an Rights' mission will also be undermined, as the Ban's solicitation prohibition would criminalize much of their existing advocacy for abortion access and education efforts. Famalao'an Rights' members would also be prohibited from accessing abortion care in Guam.

Because Proposed Intervenors 1) have timely moved to intervene following the Attorney General's motion; 2) have legally protectable interests in the Ban remaining enjoined, which would be impaired if the injunction is vacated; and 3) will not be adequately represented by existing parties, who neither provide nor have an interest in accessing abortion care, Proposed Intervenors request that this Court grant their motion to intervene as of right. In the alternative,

this Court should grant their motion for permissive intervention.

FACTUAL & PROCEDURAL BACKGROUND[1]

Proposed Intervenors incorporate by reference the Factual and Procedural Background section of Plaintiff's Opposition to Defendant Moylan's 60(b)(5) Motion. *See* Pl. and Proposed Intervenors' Opp'n to Def.'s Rule 60(B)(5) Mot., *filed concurrently*, ("Opp'n") 1–5. They include here additional facts relevant to Proposed Intervenors' Motion to Intervene as Plaintiffs.

When this case was first initiated on March 23, 1990, the plaintiffs challenging the Ban included a pregnant woman whose abortion was cancelled due to the Ban going into effect, two associations of health care providers whose members provided abortion care, and three physicians who performed abortions, among others. *See* Compl. ¶¶ 5–11, ECF No. 1. As over three decades have passed since this case was first filed, the only remaining active plaintiff is Dr. William Freeman, one of the then-abortion providers. *See* Decl. of Anita P. Arriola, attached as Ex. 1 ("Arriola Decl.") ¶ 2. The other individual named physician-plaintiffs have passed away, and the Guam Society of Obstetricians and Gynecologists no longer operates. *Id.* While the Guam Nurses Association technically remains a plaintiff, it is no longer represented by plaintiff's counsel in this matter and did not join Dr. Freeman's opposition to the Attorney General's motion. *Id.* Additionally, while Dr. Freeman maintains an active Guam medical license, and provides clinical care to patients with high-risk pregnancies approximately 2–3 times year, he currently resides in the Philippines, is semi-retired, and has not provided abortion care on Guam—or anywhere else—since 2018. *See* Decl. of William Freeman, M.D., attached as Ex. 2 ("Freeman Decl.") ¶ 3.

Proposed Intervenors Dr. Shandhini Raidoo and Dr. Bliss Kaneshiro are two highly qualified OB/GYNs licensed in Hawai'i and Guam, and located on O'ahu. Decl. of Shandhini Raidoo, M.D., attached as Ex. 3 ("Raidoo Decl.") ¶ 1; Decl. of Bliss Kaneshiro, M.D., attached as Ex. 4 ("Kaneshiro Decl.") ¶ 1. When Dr. Freeman retired his practice in 2018, leaving no

[1] Unless otherwise noted, all emphasis is added and all internal quotation marks are omitted.

abortion providers on-island in Guam, Drs. Raidoo and Kaneshiro stepped in to provide abortions via telemedicine to pregnant people in Guam. Raidoo Decl. ¶¶ 26–27, 32–34; Kaneshiro Decl. ¶¶ 27–28, 33–35.[2] Drs. Raidoo and Kaneshiro have thirty years of combined experience providing a full spectrum of reproductive health care, including pre-natal care, labor delivery, and abortion care. Raidoo Decl. ¶¶ 1–2; Kaneshiro Decl. ¶¶ 1, 3.

When the last abortion provider on Guam retired in 2018, Drs. Raidoo and Kaneshiro saw an increase in calls from patients in Guam seeking information and counseling about abortion, as well as an increase in patients traveling from Guam to Hawai‘i to receive abortion care at their clinic on O’ahu. Raidoo Decl. ¶¶ 28–31; Kaneshiro Decl. ¶¶ 28–31. In January 2022, when Drs. Raidoo and Kaneshiro extended their telemedicine practice to Guam, they also started counseling pregnant patients in Guam about this option, assessing their eligibility for medication abortion, explaining the medication abortion process, and prescribing the medication abortion—all via telemedicine. Raidoo Decl. ¶¶ 9–21; Kaneshiro Decl. ¶¶ 10–22. To date, they have provided medication abortions to over 65 patients in Guam. Raidoo Decl. ¶ 9; Kaneshiro Decl. ¶ 10. Drs. Raidoo and Kaneshiro wish to continue providing abortions via telemedicine to Guam patients, but would no longer be able to do so if the Ban’s criminal prohibition on abortion goes into effect. Raidoo Decl. ¶¶ 37–39; Kaneshiro Decl. ¶¶ 38–40. They are also concerned that the Ban’s criminal prohibitions on providing and obtaining abortions would apply to themselves and their patients from Guam even if the doctors provide their patients with abortion care in Hawai‘i, where abortion is legal. Raidoo Decl. ¶¶ 37, 41–42; Kaneshiro Decl. ¶¶ 38, 42–43. Additionally, they fear that the Ban’s solicitation prohibition would criminalize counseling their pregnant patients about the full range of reproductive health care options, including obtaining an abortion in Hawai‘i. Raidoo Decl. ¶¶ 44–49; Kaneshiro Decl. ¶¶ 45–50.

Proposed Intervenor Famalao’an Rights is a non-profit reproductive justice organization

[2] *See also Raidoo v. Camacho*, No. CV 21-00009, 2021 WL 4076772 (D. Guam Sept. 3, 2021).

based in Guam, focused on addressing the lack of reproductive healthcare within Guam's island community. Decl. of Stephanie Lorenzo, attached as Ex. 5 ("Lorenzo Decl.") ¶ 9. The organization and its members are dedicated to advancing reproductive justice in Guam through education, advocacy, and service to their community. *Id.* ¶ 4. Famalao'an Rights uses its social media presence to post educational materials on reproductive health topics and to advocate in favor of legislation that supports abortion access, among other related issues. *Id.* ¶¶ 22, 27–28. Famalao'an Rights organizes protests in favor of abortion rights, interviews legislative candidates about their stance on reproductive rights and posts their replies to their social media channels, and educates young people about sexual health issues, including abortion. *Id.* ¶¶ 24–27. If the Ban goes into effect, Famalao'an Rights would need to dramatically shift its work to address the impact of pregnant people on Guam being deprived of access to abortion care. *Id.* ¶¶ 30–35. The Ban's solicitation prohibition also raises serious concerns as to whether Famalao'an Rights and its members can continue their outspoken advocacy on the topic of abortion. *Id.* ¶¶ 36–37. The Ban would further jeopardize the organization's ability to apply for funding. *Id.* ¶¶ 38–39. And crucially, the Ban would put Famalao'an Rights' members at risk; the organization currently has 10 Guam-based members, all of them are capable of becoming pregnant, and all of them may need an abortion. *Id.* ¶¶ 16, 30, 40.

ARGUMENT

I. PROPOSED INTERVENORS ARE ENTITLED TO INTERVENE AS OF RIGHT.

Courts must permit anyone to intervene who meets the requirements of Rule 24(a)(2). In the Ninth Circuit, a nonparty is entitled to intervention as of right under Rule 24(a)(2) when it: "(i) timely moves to intervene; (ii) has a significantly protectable interest related to the subject of the action; (iii) may have that interest impaired by the disposition of the action; and (iv) will not

be adequately represented by existing parties." *W. Watersheds Project v. Haaland*, 22 F.4th 828, 835 (9th Cir. 2022). While "the applicant seeking intervention bears the burden of showing that these four elements are met, [courts] interpret these requirements broadly in favor of intervention." *Id.*

"In addition to mandating broad construction, [the court's] review is guided primarily by practical considerations, not technical distinctions." *Id.* (quoting *Citizens for Balanced Use v. Mont. Wilderness Ass'n*, 647 F.3d 893, 897 (9th Cir. 2011)). This "'liberal policy in favor of intervention serves both efficient resolution of issues and broadened access to the courts.'" *Wilderness Soc'y v. U.S. Forest Serv.*, 630 F.3d 1173, 1179 (9th Cir. 2011) (en banc) (alteration in original) (quoting *United States v. City of Los Angeles*, 288 F.3d 391, 397–98 (9th Cir. 2002)). In considering a motion to intervene, courts are to "take all well-pleaded, nonconclusory allegations in the motion to intervene, the proposed complaint or answer in intervention, and declarations supporting the motion as true absent sham, frivolity or other objections." *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810, 820 (9th Cir. 2001).[3]

Proposed Intervenors meet all of the requirements to intervene as of right under Rule 24(a)(2). First, their motion to intervene is timely; the Attorney General's 60(b)(5) motion has changed the circumstances of the litigation, requiring that timeliness be measured against when that motion was filed. Second, Proposed Intervenors' legally protected interests under current Guam law and the U.S. Constitution would be impaired if they were prohibited from providing, accessing, or speaking about abortion under the Ban. Third, the current parties cannot properly represent Proposed Intervenors' unique interests. The Governor represents a broader public interest in the proper understanding and administration of Guam law, and the sole remaining

[3] Given the stage and posture of proceedings, Proposed Intervenors do not attach a pleading to their motion, as they are "content to stand on the pleading" filed by plaintiffs. *Westchester Fire Ins. Co. v. Mendez*, 585 F.3d 1183, 1188 (9th Cir. 2009) (quoting 7C Charles A. Wright et al., Fed. Prac. & Proc. § 1914 (3d ed. 2009)). Proposed Intervenors respectfully request the opportunity to file separate pleadings, should this Court determine that it is necessary.

active Plaintiff, Dr. Freeman, is not similarly situated to the Proposed Intervenors by virtue of his retirement from performing abortions.

A. Proposed Intervenors' Motion to Intervene Is Timely.

Proposed Intervenors' motion comes just over a month after the Attorney General moved to re-open a case that had been closed for over thirty years and to vacate a permanent injunction that Proposed Intervenors had previously relied upon to engage in constitutionally protected conduct. Under these circumstances, their request is undoubtedly timely.

The Ninth Circuit considers three factors in determining timeliness: "(1) the stage of the proceeding at which an applicant seeks to intervene; (2) the prejudice to other parties; and (3) the reason for and length of the delay." *United States v. Alisal Water Corp.*, 370 F.3d 915, 921 (9th Cir. 2004) (quoting *Cal. Dep't of Toxic Substances Control v. Com. Realty Projects, Inc.*, 309 F.3d 1113, 1119 (9th Cir. 2002)). "In analyzing these factors, however, courts should bear in mind that '[t]he crucial date for assessing the timeliness of a motion to intervene is when proposed intervenors should have been aware that their interests would not be adequately protected by the existing parties.'" *Smith v. Los Angeles Unified Sch. Dist.*, 830 F.3d 843, 854 (9th Cir. 2016) (quoting *Smith v. Marsh*, 194 F.3d 1045, 1052 (9th Cir. 1999)). "[T]he mere lapse of time, without more, is not necessarily a bar to intervention." *Alisal*, 370 F.3d at 921.

The Ninth Circuit's holding that a motion to intervene was timely in *Smith v. Los Angeles*—even though it was filed two decades after the case was initiated—is squarely on point. In *Smith*, parents filed a class action in 1993 to bring a school district's special education program into compliance with federal law. 830 F.3d at 847–48. Over the next 20 years, the parties entered into multiple rounds of negotiations and agreements. *Id.* at 848–51. Early in the case, parents of children enrolled in "special education centers" served a motion to intervene on the parties when they tried to eliminate the centers, but agreed not to move forward with the motion when class

counsel withdrew the plan. *Id.* at 848–49. Then, in 2012, the parties agreed to decrease special education center enrollment, but did not give impacted parents any notice of the change until Spring 2013, and many parents did not learn of the full impact of the new plan until Fall 2013. *Id.* at 850–52. Following meetings with the parties in early August 2013, parents of children enrolled in the centers determined their interests were not being represented, and moved to intervene in October 2013. *Id.* at 853.

Although intervenors in *Smith* filed their motion *20 years after the case commenced*, the Ninth Circuit held that their motion was timely: "Where a change of circumstances occurs, and that change is the 'major reason' for the motion to intervene," courts must take that change into account as part of the "totality of the circumstances" when determining the timeliness of the motion. *Id.* at 854. The court noted that the 2012 amendment to the parties' agreement "marked the commencement of a 'new stage' in the" litigation, so "it was error to measure the timeliness of Appellants' motions by reference to stages of litigation pre-dating the change in circumstances that motivated Appellants' motion to intervene." *Id.* at 856. Likewise, the court narrowed the consideration of "prejudice" against the existing parties to what was attributable to intervenors' delay between when they learned of the change in circumstances in August and when they moved to intervene in October, rendering any prejudice "nominal at best." *Id.* at 859. Finally, the court held that any delay in intervention should have been measured from when intervenors received actual notice that their interests were no longer being represented in August 2013. *Id.* at 854, 861.

Here, as in *Smith*, Proposed Intervenors' motion is timely when measured against the change in circumstances that prompted their motion: the Attorney General's motion to vacate the permanent injunction on the Ban, which newly puts Proposed Intervenors' and others' reliance on that permanent injunction in jeopardy. As explained further below, all timeliness factors weigh in favor of intervention: 1) Proposed Intervenors seek to join at this new stage of litigation

initiated by the Attorney General's motion; 2) existing parties will not be prejudiced because Proposed Intervenors have moved to intervene promptly following the motion; and 3) Proposed Intervenors have not delayed in seeking intervention now, as they could not have joined the case earlier, have joined Plaintiff Freeman's opposition to the Attorney General's motion (also filed today), and have not filed additional opposition briefs to which the Attorney General must respond, thus creating no further delay to the existing schedule.

1. The Attorney General's motion has initiated a new stage of the proceeding.

Courts addressing the "stage of proceeding' factor use[] a 'nuanced, pragmatic approach' to examine whether 'the district court has substantively—and substantially—engaged the issues in the case,'" and "[n]either the formal 'stage' of the litigation . . . nor the length of time that has passed since a suit was filed is dispositive." *Kalbers v. U.S. Dep't of Just.*, 22 F.4th 816, 826 (9th Cir. 2021) (internal citations omitted). In cases such as this, "[w]here a change of circumstances occurs, and that change is the 'major reason' for the motion to intervene, the stage of proceedings factor should be analyzed by reference to the change in circumstances, and not the commencement of the litigation." *Smith*, 830 F.3d at 854.

Although the motion to intervene comes late in the overall timeline of the case, it is filed at the very beginning of a new stage of litigation. The Attorney General's motion has suddenly reopened a case that has been closed for over thirty years, after summary judgment was granted and a permanent injunction against the Ban was entered, and all appeals were exhausted, *see Guam Soc'y of Obstetricians & Gynecologists v. Ada*, 776 F. Supp. 1422 (D. Guam 1990), *aff'd*, 962 F.2d 1366 (9th Cir. 1992), *as amended* (June 8, 1992), *cert. denied*, 506 U.S. 1011 (1992), drastically altering the circumstances of the case and triggering Proposed Intervenors to seek to join the suit to defend the injunction. The Attorney General's motion was just filed just over a month ago, *see* Def.'s Mot. To Vacate Permanent Inj., ECF No. 357 ("Mot."), briefing on

the motion is ongoing, and the Court has not yet engaged in the merits of the motion. Accordingly, the intervention motion is timely at this stage of the proceeding, measured against when the Attorney General's motion was filed. As in *Smith*, Proposed Intervenors "are not seeking to reopen decades of litigation," *see* 830 F.3d at 856, and, if anything, the change in circumstances is even more dramatic here: In *Smith*, the case had been active throughout the twenty years between its inception and the motion to intervene, whereas this case has been closed for 30 years. "This change of circumstance, which suggests that the litigation is entering a new stage, indicates that the stage of the proceeding and reason for delay are factors which militate in favor of granting the application." *United States v. Oregon.*, 745 F.2d 550, 552 (9th Cir. 1984) (collecting cases).

2. *Existing parties will not be prejudiced as Proposed Intervenors moved promptly to intervene following the Attorney General's motion.*

Prejudice to existing parties is "the most important consideration in deciding whether a motion for intervention is untimely," *id.*, and here *none* of the relevant considerations suggest that Proposed Intervenors' motion will prejudice the existing parties. The "only 'prejudice' that is relevant" for courts' consideration under this factor is prejudice that "flows from a prospective intervenor's failure to intervene after he knew, or reasonably should have known, that his interests were not being adequately represented—and not from the fact that including another party in the case might make resolution more 'difficult[].'" *Smith*, 830 F.3d at 857 (quoting *Oregon.*, 745 F.2d at 552–53). That intervenors could make resolution more difficult because they "might raise new, legitimate arguments is a reason to grant intervention, not deny it." *W. Watersheds Project*, 22 F.4th at 839. By contrast, courts may find prejudice "if granting a belated motion to intervene would threaten the delicate balance reached by existing parties after protracted negotiations," or if parties have already expended resources based on a pending resolution, but only if those concerns relate back to a prospective intervenor's delay in intervening—otherwise those

difficulties would have arisen "regardless of when the intervention occurred." *Smith*, 830 F.3d at 857–58. In such cases, the objections are "unrelated to timeliness, and cannot support a finding of prejudice." *Id.*; *see also Kalbers*, 22 F.4th at 825 ("[E]very motion to intervene will complicate or delay a case to some degree—three parties are more than two. That is not a sufficient reason to deny intervention.").

Granting intervention to Proposed Intervenors will not prejudice any existing party, as they moved promptly to intervene following the Attorney General's initiation of this new stage of litigation. There have been no negotiations between the parties that Proposed Intervenors would jeopardize, nor has a party expended additional costs in reliance on a particular resolution. All that has happened so far is that the Attorney General filed his Rule 60(b)(5) motion, which the Governor, and now the sole remaining Plaintiff, have opposed. *See generally* Mot.; Gov.'s Opp'n to Def.'s Mot., ECF No. 382 (Gov.'s Opp'n"); Opp'n. Because, at this stage of the proceedings, the Proposed Intervenors are merely intervening in order to join the sole remaining Plaintiff's concurrently filed opposition, *see* Opp'n, they are not causing any undue delay or complications. It is the Attorney General's motion which upsets a long-settled matter, creating the necessity that Proposed Intervenors join a case that was resolved decades ago, and where the original plaintiffs have either died, ceased to exist, or are semi-retired. Accordingly, to the extent there is any "prejudice" to the parties, it can be traced back to the Attorney General's attempt to revive this litigation; he "cannot complain about delay or prejudice caused by [his] own efforts" to resurrect a decades-old case. *Smith*, 830 F.3d at 858.

3. *Proposed Intervenors' minimal delay moving to intervene once they knew their interests were not adequately represented weighs in favor of timeliness.*

It is self-evident that Proposed Intervenors' motion, filed just over a month after the Attorney General's Rule 60(b) motion, would have been futile had it been filed earlier in the

litigation. "To decide whether the length of the delay weighs in favor of or against timeliness, [courts] must first determine what constitutes the relevant period of delay." *Kalbers*, 22 F.4th at 823. "[T]his rule is clear: 'Delay is measured from the date the proposed intervenor should have been aware that its interests would no longer be protected adequately by the parties, *not the date it learned of the litigation*.'" *Id.* (quoting *United States v. Washington*, 86 F.3d 1499, 1503 (9th Cir. 1996)). In other words, courts err when they "rel[y] on events predating the change in circumstances that prompted [the] . . . motion to intervene." *Smith*, 830 F.3d at 859.

Proposed Intervenors obviously could not have intervened until the Attorney General moved to re-open this case because, until that point, the case was closed.[4] For the past thirty years, Proposed Intervenors have been protected by the permanent injunction, and not only was there no reason to intervene, any such attempt would have been procedurally improper (if not impossible).

Accordingly, any delay should be measured from the Attorney General's February 1, 2023 60(b)(5) motion, as that is the date whereupon Proposed Intervenors both learned of the risk that they would be subject to the Ban, Raidoo Decl. ¶¶ 6–8; Kaneshiro Decl. ¶¶ 7–9; Lorenzo Decl. ¶¶ 6–8, and that the sole remaining Plaintiff, Dr. Freeman, could not represent their interests. *See infra* Part I.C. Where, as here, Proposed Intervenors' "asserted interests were initially protected by the existing parties," a "several-week delay in filing this motion to intervene has caused no prejudice to any of the other parties and [is] entirely reasonable." *California v. Health & Hum. Servs.*, 330 F.R.D. 248, 252–53 (N.D. Cal. 2019); *see also Peruta v. County of San Diego*, 824 F.3d 919, 940–41 (9th Cir. 2016). Indeed, courts have confronted far longer delays, and nonetheless found them to weigh in favor of timeliness—particularly "[w]here—as here—both

[4] Moreover, when this case was first litigated, Proposed Intervenors' interests were represented by the then-plaintiffs, who included abortion providers and advocacy groups. Compl. ¶¶ 6–7, 10–11. And as a practical matter, Proposed Intervenors were not yet even engaging in activities covered by the Ban at that time: the providers were not yet practicing medicine—let alone providing abortions on Guam—and Famalao'an Rights did not yet exist—indeed, some of its members were not even born. Raidoo Decl. ¶¶ 1, 9; Kaneshiro Decl. ¶¶ 1, 10; Lorenzo Decl. ¶¶ 2–5, 14.

the first and second timeliness factors weigh in favor of intervention." *Smith*, 830 F.3d at 859–61 (permitting intervention where motion was filed "one year after the change in circumstances prompting their motion but . . . only weeks [71 and 79 days, respectively] after definitively learning that their interests were not adequately represented by the existing parties"); *see also W. Watersheds Project*, 22 F.4th at 840 (permitting intervention where motion was filed two years after the start of litigation and three months after intervenors discovered its interest was involved).

Accordingly, Proposed Intervenors' motion is timely.

B. Proposed Intervenors Possess Legally Protectable Interests That Would Be Harmed If the Injunction Against the Ban Is Vacated.

"To determine whether a putative intervenor demonstrates the significantly protectable interest necessary for intervention of right," the "operative inquiry" is "whether the interest is protectable under some law, and whether there is a relationship between the legally protected interest and the claims at issue." *Wilderness Soc.*, 630 F.3d at 1176. As the Ninth Circuit explained recently in *California Dep't of Toxic Substances Control v. Jim Dobbas, Inc.*, 54 F.4th 1078 (9th Cir. 2022), the *en banc* court in *Wilderness Society* recognized that an "interest" under Rule 24 was cabined to "legally protected interests." *Id.* at 1088. However, the *en banc* court noted that it has "held that Rule 24(a)(2) does not require a specific legal or equitable interest"; for example, "a prospective intervenor's asserted interest need not be protected by the statute under which the litigation is brought." *Wilderness Soc.*, 630 F.3d at 1179. Rather, "the 'interest' test is primarily a practical guide to disposing of lawsuits by involving as many apparently concerned persons as is compatible with efficiency and due process," and "[i]t is generally enough that the interest is protectable under some law, and that there is a relationship between the legally protected interest and the claims at issue." *Id.* Furthermore, a prospective intervenor should be entitled to intervene "if it will suffer a practical impairment of its interests as a result of the pending litigation." *Id.*

Once a significant protectable interest has been identified, courts have "little difficulty concluding that the disposition of th[e] case may, as a practical matter, affect it." *Citizens for Balanced Use*, 647 F.3d at 898.

As set forth below, Proposed Intervenors have significant protectable interests in providing and obtaining abortions, counseling patients, and advocating in favor of abortion under existing federal constitutional and Guam law, and those interests would be directly and adversely impacted if the Attorney General's motion is granted and the Ban goes into effect.

1. *Proposed Intervenors' interests under current Guam abortion laws would be harmed by the Ban.*

As Guam-licensed physicians, Drs. Raidoo and Kaneshiro "may" perform abortions consistent with Guam law, 9 G.C.A. § 31.20(b), and have been providing medication abortions via telemedicine to patients in Guam since January 2022, Raidoo Decl.¶ 34; Kaneshiro Decl. ¶ 35; *see also* Order, *Raidoo v. Camacho*, No. CV 21-00009, 2021 WL 4076772 (D. Guam Sept. 3, 2021), ECF No. 27 (court-ordered settlement recognizing telemedicine permitted under 9 G.C.A. §§ 31.20, 31.21). They thus have a legally protectable interest in providing abortions "within 13 weeks after the commencement of the pregnancy." 9 G.C.A. § 31.20(b). The patients in Guam that Drs. Raidoo and Kaneshiro treat, as well as all of the members of Famalao'an Rights, also have an interest under the law in accessing abortions. Raidoo Decl. ¶ 8; Kaneshiro Decl. ¶ 9; Lorenzo Decl. ¶ 8.

If the Attorney General's motion is granted in whole or in part, the current law under which Proposed Intervenors provide and obtain abortions would be repealed and rewritten so that the use of any means "with intent thereby to cause an abortion," P.L. 20–134, § 3, as well as any pregnant person soliciting and submitting to an abortion, *id.* § 4, would be criminalized in Guam, subjecting Drs. Raidoo and Kaneshiro, their patients, and the members of Famalao'an Rights to

criminal and licensing penalties for providing or obtaining abortions in Guam, or even in Hawai‘i where abortion would remain legal. Drs. Raidoo and Kaneshiro would therefore be forced to cease providing medication abortion via telemedicine to patients in Guam altogether, and would be stripped of the legal protections under which they currently practice. *See, e.g.*, *Smith*, 830 F.3d at 862 (finding a protectable interest in receiving free appropriate public education consistent with federal law); *GHP Mgmt. Corp. v. City of Los Angeles*, 339 F.R.D. 621, 623–24 (C.D. Cal. 2021) (finding a protectable interest in the law's protections). Their patients and Famalao'an Rights' members would likewise be deprived of the legally protected interests they currently enjoy under Guam law to obtain abortions in Guam.

2. Proposed Intervenors' constitutional rights would be impacted by the Ban.

Drs. Raidoo and Kaneshiro also have a legally protected interest in counseling their patients about abortion, which is protected by the First Amendment. Drs. Raidoo and Kaneshiro counsel all of their pregnant patients who are seeking abortions about their reproductive health care options, including explaining their medical or procedural abortion care options. Raidoo Decl. ¶ 15; Kaneshiro Decl. ¶ 16. In cases where Guam patients are unable to obtain or do not prefer a medication abortion, Drs. Raidoo and Kaneshiro counsel those patients about their other options, including traveling to Hawai‘i for treatment, where their clinic is located. Raidoo Decl. ¶¶ 15, 36; Kaneshiro Decl. ¶¶ 16, 37. Further, as part of their mission to educate the public and make reproductive health care more accessible, Drs. Raidoo and Kaneshiro routinely speak with local Guam media about abortion and the services they provide. Raidoo Decl. ¶ 50; Kaneshiro Decl. ¶ 51.

In the case of Famalao'an Rights, it is core to the organization's and its members' mission to advocate in favor of destigmatizing abortion as a form of reproductive health care. Lorenzo Decl. ¶¶ 11, 24. Members of Famalao'an Rights engage on social media and in the local and

national press about abortion and related issues, advocate for legislative solutions to expand access to abortion care, and share educational resources for young people in Guam. *Id.* ¶¶ 21–28, 37. As part of their grassroots outreach to community members in Guam, they frequently field questions about how to access abortion on the island. *Id.* ¶¶ 23, 37.

If Section 5 of the Ban goes into effect, then the solicitation of any person to submit to, or the use of any means to cause an abortion, would be criminalized. P.L. 20–134, § 5. Under the Ban, anyone that engages in such speech is guilty of a misdemeanor, *id*., which could subject physicians to disciplinary penalties or license revocation—not just in Guam, but in Hawai‘i as well. Raidoo Decl. ¶¶ 38, 44; Kaneshiro Decl. ¶¶ 39, 45. As explained in Plaintiff's Opposition, Section 5 of the Ban would prohibit Drs. Raidoo and Kaneshiro from engaging in speech protected by the First Amendment. *See* Opp'n Part I.B.i. Given the overbreadth of Section 5, both doctors are concerned they would not be able to counsel their patients in Guam about their pregnancy options—a core part of their work as physicians—including traveling off-island to Hawai‘i or another place where abortion is legal. Raidoo Decl. ¶¶ 8, 44–49; Kaneshiro Decl. ¶¶ 9, 45–50. And all Proposed Intervenors are concerned they would be prohibited from advocating to destigmatize and expand access to abortion, generally. Raidoo Decl. ¶ 50; Kaneshiro Decl. ¶ 51; Lorenzo Decl. ¶¶ 36–37. Proposed Intervenors have an interest in engaging in protected speech about abortion with their patients and the public, which would be jeopardized if the Attorney General's motion is granted and the Ban is allowed to go into effect. *See, e.g.*, *City of Los Angeles*, 288 F.3d at 402 n.5; *Oregon Prescription Drug Monitoring Program v. U.S. Drug Enf't Admin.*, No. 3:12-CV-02023-HA, 2013 WL 12325112, at *3 (D. Or. Mar. 31, 2013) (finding legally protectable interest where constitutional right at risk).

Additionally, if the Ban were to go into effect, it would implicate Proposed Intervenors' rights under the Due Process Clause of the Fourteenth Amendment. First, Section 4 of the Ban

appears to criminalize the person who obtains an abortion, even where the abortion occurs off-island where abortion is legal. *See* Opp'n Part I.B.ii. Accordingly, to the extent Section 4 seeks to criminalize otherwise-lawful conduct outside of Guam, it violates Drs. Raidoo's and Kaneshiro's patients', and Famalao'an Rights' members', legally protectable rights to due process protected by the Fourteenth Amendment. *Id.* Second, the same legal principles are applicable to Section 3, to the extent it purports to criminalize the provision of abortion outside of Guam. *Id.* 30 n.19. If the Ban takes effect, Drs. Raidoo and Kaneshiro intend to continue to provide abortion care to Guam residents who travel to Hawai'i, where they are licensed and the care they provide would remain legal. *See* Raidoo Decl. ¶¶ 37, 41–42; Kaneshiro Decl. ¶¶ 38, 42–43. If Guam were to criminalize them for providing this care in Hawai'i, it would violate Drs. Raidoo's and Kaneshiro's due process rights under the Fourteenth Amendment, as well as implicate their legally protectable interests in providing abortion care under Hawai'i laws. *See* Haw. Rev. Stat. Ann. § 453-16.

C. Proposed Intervenors' Interests Will Not Be Adequately Represented by the Existing Parties.

"The burden on proposed intervenors in showing inadequate representation is minimal, and would be satisfied if they could demonstrate that representation of their interests 'may be' inadequate." *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003), *as amended* (May 13, 2003) (citing *Trbovich v. United Mine Workers*, 404 U.S. 528, 538 n.10 (1972)). The Ninth Circuit considers three factors to evaluate adequacy of representation:

> (1) whether the interest of a present party is such that it will undoubtedly make all of a proposed intervenor's arguments; (2) whether the present party is capable and willing to make such arguments; and (3) whether a proposed intervenor would offer any necessary elements to the proceeding that other parties would neglect.

W. Watersheds Project, 22 F.4th at 840–41 (quoting *Citizens for Balanced Use*, 647 F.3d at 898). Here, there is no presumption of adequate representation, because Proposed Intervenors' interests are not identical to any party to the lawsuit. Further, all remaining factors weigh in favor of intervention by Proposed Intervenors.

1. *No presumption of adequacy applies because the existing parties' interests are not identical to Proposed Intervenors' interests.*

In the past, the Ninth Circuit has applied a "presumption of adequacy of representation" when proposed intervenors "have the same ultimate objective" as an existing party. *Arakaki*, 324 F.3d at 1086. Additionally, courts have applied "an assumption of adequacy when the government is acting on behalf of a constituency that it represents." *Id.* However, the Supreme Court's recent decision in *Berger v. North Carolina State Conference of the NAACP*, 142 S. Ct. 2191 (2022), "calls into question whether the application of such a presumption is appropriate." *Callahan v. Brookdale Senior Living Communities, Inc.*, 42 F.4th 1013, 1021 n.5 (9th Cir. 2022). At a minimum, the Supreme Court has clarified that "[w]here 'the absentee's interest is similar to, but not identical with, that of one of the parties,' that normally is not enough to trigger a presumption of adequate representation." *Berger*, 142 S. Ct. at 2204 (quoting 7C Charles A. Wright et al., Fed. Prac. & Proc. § 1909 (3d ed. Supp. 2022)); *see also Callahan*, 42 F.4th at 1020–21 (applying a presumption of adequacy where interests of proposed intervenor and existing party are "identical"). Ninth Circuit precedent prior to *Berger* likewise held that no presumption applied where the interests were not identical. *See, e.g.*, *Citizens for Balanced Use*, 647 F.3d at 899; *Arakaki*, 324 F.3d at 1086.

No presumption of adequate representation applies here, because Proposed Intervenors' interests are not identical to any party to the lawsuit. It is without question that the Attorney General does not represent Proposed Intervenors' interests, as he is seeking to vacate the very

injunction on which Proposed Intervenors rely to provide and obtain abortions, counsel pregnant people on Guam about abortion as an option, and advocate for abortion without fear of criminal penalty. Raidoo Decl. ¶¶ 7–8; Kaneshiro Decl. ¶¶ 8–9; Lorenzo Decl. ¶¶ 7–8. Similarly, while the sole remaining active Plaintiff in this case, Dr. Freeman, provided abortions when this case was initiated, Compl. ¶ 10, thirty years have passed since this case was filed and Dr. Freeman has since retired from providing abortions and no longer resides on Guam. Freeman Decl. ¶¶ 2–3. Accordingly, while he opposes the Attorney General's motion, *see* Opp'n, he does not face the same risks from enforcement of the Ban that Proposed Intervenors do and his interests are no longer "identical" to Proposed Intervenors. The Guam Nurses Association, to the extent they remain a plaintiff, also does not have identical interests to Proposed Intervenors as they are not engaged in advocacy in favor of abortion access. *See* Lorenzo Decl. ¶ 29.

The Governor's opposition to the Attorney General's motion likewise does not raise a presumption of adequacy, because the Governor's interests are also distinct from Proposed Intervenors'. Proposed Intervenors do not seek to join a case "alongside" the Governor. *Berger*, 142 S. Ct. at 2204. Rather, Proposed Intervenors seek to join the case as plaintiffs—specifically, as the parties upon whom the Ban would be enforced—while the Governor remains a defendant. And while Proposed Intervenors oppose the motion because the Attorney General's requested relief threatens them with criminal penalties and jeopardizes their legally protected interests central to their work and missions, Raidoo Decl. ¶¶ 7–8; Kaneshiro Decl. ¶¶ TK; Lorenzo Decl. ¶¶ 7–8, the Governor has explained her interest is "to develop our government's understanding of its duties and limitations, and to provide our people with appropriate notice of their rights, and the conduct Guam law proscribes." *See* Request for Declaratory Judgment at 3, *In Re: Request of Lourdes A. Leon Guerrero, I Maga'hågan Guåhan, Relative to the Validity & Enforceability of Public Law No. 20-134*, No. CRQ23-001 (Guam Jan. 23, 2023). The Governor's interests thus

extend beyond the injunction or the legality of abortion in Guam, as "the issue holds broader implications regarding the continued validity (or lack thereof) of legislation that was unconstitutional at the time of its passage" and similar questions that "are critical to the administration of justice on Guam." *Id.* at 14.

As such, while the Governor's "representation of the public interest" has led her to "occupy the same posture in the litigation" as Proposed Intervenors, it cannot raise the presumption of adequate representation because the Governor's interests are not "identical to the individual parochial interest" of Proposed Intervenors. *Citizens for Balanced Use*, 647 F.3d at 899; *see also Citizens Allied for Integrity & Accountability, Inc. v. Miller*, No. 1:21-CV-00367-DCN, 2022 WL 1442966, at *3–5 (D. Idaho May 5, 2022) (distinguishing Ninth Circuit precedent and holding presumption of adequacy does not apply where government was interested in "protecting its entire statutory scheme as a whole" that was broader than intervenor's discrete interest); *Portland Gen. Elec. Co. v. State by & through Oregon Dep't of State Lands*, No. 3:22-CV-533-SI, 2022 WL 2527758, at *3 (D. Or. July 7, 2022) (collecting cases where governments' "broader public interests" did not adequately represent proposed intervenor's parochial interests). Because no existing party's interests are identical to Proposed Intervenors' interests, Proposed Intervenors need only meet a "minimal" burden in showing inadequate representation. *See Arakaki*, 324 F.3d at 1086.

2. Proposed Intervenors make a very compelling showing that their interests will not be represented by existing parties.

Proposed Intervenors more than satisfy the minimal showing required to demonstrate their interests are not adequately represented. Indeed, even assuming that a presumption of adequacy applies here, Proposed Intervenors still make a "very compelling showing" of inadequate representation. *See Oakland Bulk & Oversized Terminal, LLC v. City of Oakland*, 960 F.3d 603,

620 (9th Cir. 2020). Considering Proposed Intervenors' particular interests and the arguments the parties have already made, all three adequacy factors weigh in favor of intervention. *See W. Watersheds Project*, 22 F.4th at 840–41 (considering whether (1) present party will make all proposed intervenor's arguments, (2) present party is able and willing to make such arguments, and (3) proposed intervenor would offer anything necessary that present parties would neglect).

As to the first factor, for the reasons described above, *see supra* Part I.C.3, Proposed Intervenors' interests are sufficiently divergent from the present parties that they will not "undoubtedly" make all of the proposed intervenors' arguments. *See W. Watersheds Project*, 22 F.4th at 840–41. Again, the Attorney General is arguing in favor of lifting the injunction against the Ban, *see generally* Mot., which is directly opposed to Proposed Intervenors' arguments that the Ban should remain enjoined, *see generally* Opp'n.

While Proposed Intervenors and the Governor both argue that the Attorney General does not meet the standard to vacate a permanent injunction under Rule 60(b)(5), Proposed Intervenors' arguments diverge from the Governor's in many key respects. For example, Proposed Intervenors argue that the Attorney General cannot show that a legal change warrants modification of the permanent injunction because the Ban was void when it was enacted, because it exceeded the Guam Legislature's authority under the Organic Act. *See* Opp'n Part I.A. Proposed Intervenors also argue that the Attorney General's proposed modification of the injunction is not suitably tailored, because Section 4 of the Ban criminalizes pregnant people accessing otherwise-legal abortions outside of Guam, in violation of the right to due process protected by the Fourteenth Amendment. *See* Opp'n Part I.B.ii. The Governor does not make any of these arguments in opposing the Attorney General's motion.

Further, Proposed Intervenors interpret Section 4's prohibitions differently than the Governor. The Governor interprets Section 4 to "make criminal *any* discussion between a woman

and her doctor concerning the need for, and access to, abortion care." Gov.'s Opp'n at 30. By contrast, Proposed Intervenors contend that Section 4 does not criminalize *the speech* of the pregnant person, standing alone, but instead criminalizes *the act* of obtaining an abortion. *See* Opp'n 26. Finally, while Proposed Intervenors and the Governor are both arguing that the solicitation prohibition of the Ban, Section 5, is unconstitutionally overbroad on its face, Proposed Intervenors are also arguing that Section 5 is unconstitutional as applied to their conduct based on their ongoing engagement and activity related to abortion. *Compare* Opp'n 25–26, *with* Gov.'s Opp'n at 29–32. Proposed Intervenors are accordingly requesting that, at the very least, the injunction be maintained to preclude the unconstitutional applications of Section 5, Opp'n 25–26, while the Governor does not seek such relief. *See* Gov.'s Opp'n at 29–32. These divergent interpretations and arguments "are far more than differences in litigation strategy" between the Governor and Proposed Intervenors, because how the Court resolves these questions could significantly impact the extent of the criminal liability Proposed Intervenors face under the Ban, which is more than sufficient to show that Proposed Intervenors have overcome the presumption that the Governor will represent their interests. *See California ex rel. Lockyer v. United States*, 450 F.3d 436, 444–45 (9th Cir. 2006). Regardless of whether any of "these arguments are likely to prevail," that Proposed Intervenors have raised "colorable" arguments establishes the "compelling showing necessary to warrant intervention as of right." *W. Watersheds Project*, 22 F.4th at 841.

With respect to the sole remaining active plaintiff in this case, while Proposed Intervenors have joined Plaintiff Dr. Freeman's opposition to the Attorney General's motion, they will not "undoubtedly" make all the same arguments as the case progresses. *W. Watersheds Project*, 22 F.4th at 840. This is because, as discussed above, they are differently situated with respect to the impact of the Ban. Unlike Proposed Intervenors, Dr. Freeman does not provide abortions

anymore, no longer permanently resides on Guam, and is not himself interested in accessing abortion care. Freeman Decl. ¶ 3. Based on these differences, Dr. Freeman supports Proposed Intervenors joining as parties so that they can represent their own interests. *Id.* ¶¶ 5–6. And while the Guam Nurses Association technically remain a Plaintiff, they are no longer represented by Plaintiff's counsel in this matter and did not join Dr. Freeman's opposition to the Attorney General's motion, meaning they have not made any of Proposed Intervenors' arguments. Arriola Decl. ¶ 2.

Finally, as to the third factor, Proposed Intervenors would undoubtably bring "a unique perspective to this litigation that existing parties may neglect." *See W. Watersheds Project*, 22 F.4th at 842 (permitting intervention by company with "more narrow interests" even where existing party represents general interests of companies like intervenor). In fact, Proposed Intervenors *already have* made legal arguments the Governor did not make, as described above. Proposed Intervenors also "offer[] a perspective which differs materially from that of the present parties." *See Sagebrush Rebellion, Inc. v. Watt*, 713 F.2d 525, 528–29 (9th Cir. 1983) (reversing denial of intervention). As noted, no current party is providing abortion care, seeking abortion care, or engaging in public advocacy in favor of abortion access. Proposed Intervenors are most likely to be the ones against whom the Ban will be enforced, and Proposed Intervenors' work and missions are uniquely jeopardized by the Ban. As such, Proposed Intervenors are "uniquely well-positioned to explain" many of the constitutional infirmities of the Ban, as well as demonstrate the extent to which Section 5 of the Ban is unconstitutionally overbroad by criminalizing protected speech. *See Kalbers*, 22 F.4th at 828. This further weighs in favor of finding that existing parties will not adequately represent Proposed Intervenors' interests. *See id.*

* * *

Proposed Intervenors meet all the necessary elements to intervene as of right, because they have timely moved to intervene following the Attorney General's motion; have statutorily and constitutional legally protectable interests that would be impaired if the injunction is vacated; and will not be adequately represented by existing parties, who do not provide abortions nor have an interest in accessing abortion care.

II. ALTERNATIVELY, PROPOSED INTERVENORS ARE ENTITLED TO PERMISSIVE INTERVENTION.

Even if Proposed Intervenors are not entitled to intervene as a matter of right, this Court should nonetheless grant permissive intervention pursuant to Federal Rule of Civil Procedure 24(b)(1)(B). The Ninth Circuit has articulated three threshold requirements for permissive intervention: "(1) an independent ground for jurisdiction; (2) a timely motion; and (3) a common question of law and fact between the movant's claim or defense and the main action." *Freedom from Religion Found., Inc. v. Geithner*, 644 F.3d 836, 843 (9th Cir. 2011). If a proposed intervenor meets these initial conditions, courts are then "entitled to consider other factors," *Callahan*, 42 F.4th at 1022, as "[p]ermissive intervention is committed to the broad discretion of the district court" and reviewed for abuse of discretion. *Cosgrove v. Nat'l Fire & Marine Ins. Co.*, 770 F. App'x 793, 794 (9th Cir. 2019).

The first of these threshold requirements, the jurisdictional requirement, "drops away" when, as here, "the proposed intervenor in a federal-question case brings no new claims." *Freedom from Religion*, 644 F.3d at 844 (citing 7C Charles A Wright et al., Fed. Prac. & Proc. § 1917 (3d ed. 2010)). At this time, Proposed Intervenors are intervening to oppose the Attorney General's motion, which does not require the introduction of new claims.[5] Second, for the reasons

[5] While Proposed Intervenors have joined in Plaintiff Dr. Freeman's request for the opportunity to amend the complaint, *should this Court grant the Attorney General's motion in full*, Opp'n 1 n.1, at that point the Court would exercise its independent obligation to assure its jurisdiction over any new claims, as it would in any case, regardless of *how* the parties joined the suit.

already set out above, *see supra* Part I.A, the motion is timely, as it was filed shortly after circumstances in this case changed because the Attorney General moved to vacate the permanent injunction that has been in place for over thirty years. Third, Proposed Intervenors share common questions of law and fact with the main action, as they also seek to oppose the Attorney General's motion to lift the permanent injunction on the Ban. Indeed, they seek intervention now to step into the shoes of the abortion providers and advocacy organizations that originally served as plaintiffs, but are no longer able to litigate in this matter as they have passed away or no longer exist. Accordingly, Proposed Intervenors overcome the threshold conditions for permissive intervention.

Since these conditions have been satisfied, permissive intervention is warranted here for many of the same reasons Proposed Intervenors are entitled to intervene as of right. Specifically, this Court may consider the following factors in exercising its discretion:

> the nature and extent of the intervenors' interest, their standing to raise relevant legal issues, the legal position they seek to advance, and its probable relation to the merits of the case. The court may also consider . . . whether the intervenors' interests are adequately represented by other parties, whether intervention will prolong or unduly delay the litigation, and whether parties seeking intervention will significantly contribute to full development of the underlying factual issues in the suit and to the just and equitable adjudication of the legal questions presented.

Callahan, 42 F.4th at 1022 (quoting *Spangler v. Pasadena City Bd. of Educ.*, 552 F.2d 1326, 1329 (9th Cir. 1977)). These factors are nonexclusive, *id.*, but all weigh in favor of permitting intervention here. As described above, Proposed Intervenors have a significant protectable legal interest in providing their Guam patients with thorough counseling and abortion care, accessing abortion care, and advocating for the right to access abortion. *See supra* Part I.B. They would suffer serious injury if the Ban goes into effect, as those same activities would be prohibited, which is directly related to the merits of this challenge to the Ban. Raidoo Decl. ¶ 37–50;

Kaneshiro Decl. ¶ 38–51; Lorenzo Decl. ¶ 30–39. Further, Proposed Intervenors will not unduly delay litigation, as they are opposing the Attorney General's brief at the same time as the Plaintiff. *See* Opp'n.

Crucially, Proposed Intervenors' interests are not adequately represented by the current parties, and they will present a unique perspective on factual issues critical to the disposition of this litigation. *See supra* Part I.C. It is unquestionable that their perspectives as the only physicians currently providing abortions in Guam and as people who may need abortions in the future are critical to this litigation, because these are the very perspectives represented by the original plaintiffs in this case. *See* Compl. ¶¶ 5–7 , 10–11; *cf. Stebbins v. Polano*, No. 21-CV-04184-JSW, 2022 WL 2668371, at *3 (N.D. Cal. July 11, 2022) (granting permissive intervention to intervenor defendants where sole remaining defendants defaulted). Resolution of the Attorney General's motion will bear directly on the health of the people on Guam served by Proposed Intervenors, and directly impact Proposed Intervenors' ability to advocate for pregnant people's ability to access abortion—both on and off-island—and exercise their constitutional rights. As such, Proposed Intervenors' intervention is necessary to ensure that those interests, which go to the heart of this lawsuit, are adequately protected.

CONCLUSION

For the foregoing reasons, Proposed Intervenors respectfully request that the Court grant their motion for intervention as of right pursuant to Federal Rule of Civil Procedure 24(a), or, in the alternative, their motion for permissive intervention pursuant to Rule 24(b).

Dated: March 8, 2023

By: /s/ *Anita P. Arriola*

Anita Arriola, Esq.
Attorney for Plaintiff and Proposed Intervenors

CERTIFICATE OF SERVICE

I, Anita P. Arriola, declare under penalty of perjury that on March 8, 2023, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court of Guam, and to be served upon registered parties, using the CM/ECF system.

Defendant Arthur U. San Agustin has been served via hand-delivery, as well as via service to Leslie A. Travis, attorney for Defendant Governor Guerrero, who I understand Mr. Agustin has agreed may accept service in this matter on his behalf.

Executed this 8th day of March, 2023

By: /s/ Anita P. Arriola_____
ANITA P. ARRIOLA, ESQ.
Attorney for Plaintiff and Proposed Intervenors