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

STATE OF HAWAII ET. AL,
Plaintiffs/Appellees,
v.
DONALD J. TRUMP ET. AL,
Defendants/Appellants.

NO. 17-15589
**MOTION FOR
PERMISSION TO FILE
LATE AND CORRECTED
BRIEF ON BEHALF OF
AMICI CURIAE ONE
MILLIONKIDS FOR
EQUALITY AND AFRICAN
HUMAN RIGHTS
COALITION**

I. INTRODUCTION AND RELIEF REQUESTED

ONE MILLION KIDS and AFRICAN HUMAN RIGHTS COALITION,
by and through their attorney of record, does move this Court for extension of
time for submittal of opening brief under FRAP 31-2.2 and consistent with the
Court’s deficiency notice issued on May 1, 2017.

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II. STATEMENT OF FACTS RELEVANT TO MOTION¹

On April 11, 2017, the undersigned sought and received permission from the parties for filing a timely *amicus curiae* brief on behalf of One Million Kids for Equality (hereinafter “OMK”) and African Human Rights Coalition (AfricanHRC) in the above-captioned matter. Prior to that time, in early March 2017, counsel had consulted with Pamela Denzer, a representative of another organization, Immigration Equality (IE), which also advocates for lesbian, gay, transgender, immigrants to determine if they were indeed filing an *amicus curiae* brief in *State of Washington et al. v. Trump et al*, No. 17-35105 and/or other anticipated litigation. At that time, no brief was prepared and Ms. Denzer was not certain whether IE would be in a position to do so. She assured counsel that she would inform her of any briefing the organization chose to file to ensure there was no duplication of effort.

After the April 3, 2017 order of the Court, and when no communication from IE had occurred, the undersigned began to further research and write the *amicus* brief filed on April 29th.

¹ All facts are based on the record and the Declaration of Rose and Exhibit 1 to that Declaration that accompany this Motion.

1 Late on April 21, 2017, as the OMK/AfricanHRC brief was approaching
2 finalization and review by the organizational representatives, through the 9th
3 Circuit web site, OMK/AfricanHRC's counsel learned for the first time that IE
4 had indeed filed a brief at approximately 11:15 PM on Friday April 21st. *See*
5 ECF 223. Anxious to complement rather duplicate the efforts of IE, consistent
6 with the 9th Circuit's Advisory Committee's Note to Circuit Rule 29-1, the
7 undersigned counsel chose to significantly alter the structure and content of her
8 brief to emphasize issues related to the 120 day ban and countries outside of the
9 six targeted by the Executive Order and issues not fully briefed by IE. In doing
10 so, she knew that the deadline was imminent and might not be met.

14 Additionally, both OMK and African HRC have no paid staff and the
15 undersigned counsel is a solo practitioner with minimal resources to assist her in
16 the mechanical preparation of the brief. Because of a number of other
17 professional commitments (including participation in program planning for
18 national Labor and Employment Law Conference on April 26-28), counsel was
19 unable to provide the organizational representatives an opportunity to review the
20 brief until April 28th. Coupled with some technology challenges in finalizing the
21 Table of Authorities, the original brief was filed at the earliest opportunity at
22 3AM on April 29th.

26 AMICI'S MOTION FOR
PERMISSION TO FILE LATE
BRIEF-3

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1 On May 1, 2017, the Court issued a notice indicating that the original
2 brief's footnotes were too small and that the brief was submitted late and
3 requested this motion. Additionally, counsel for the government has requested
4 that counsel correct any misimpression that the federal defendants/appellees
5 consented to the filing of an *untimely* brief. See Exhibit 1 to Rose Declaration.
6

7 III. ARGUMENT AND AUTHORITY

8 A. Circuit Rule 31-2.2 permits good cause extensions for late 9 filed briefs or deviations from the Court's briefing schedule 10 in appropriate circumstances

11 As the Court is aware, this Circuit provides for extensions of time to file,
12 and late filing of briefs, when good cause is shown. Here, counsel's declaration
13 recounts the good cause reasons that caused the brief to be filed on April 29,
14 2017.
15

16 IV. CONCLUSION

17 No prejudice has occurred to the parties and particularly to the Appellants
18 as there have been no change or modifications to the argument presented. This
19 Court should permit filing of the corrected brief consistent with the Court's May
20 21 1, 2017 deficiency notice.
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Respectfully submitted this 2nd day of May 2017.

s/ Patricia S. Rose
Patricia S. Rose, WSBA #19046
Attorney for Amici Curiae
One Million Kids for Equality
African Human Rights Coalition

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AMICI'S MOTION FOR
PERMISSION TO FILE LATE
BRIEF-5

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CERTIFICATE OF SERVICE

I, Patricia S. Rose, certify that I am not a party to the above-captioned matter and am competent to testify to the following. On May 2, 2017, I electronically filed the forgoing Appellant’s Motion to File Late Amicus Brief and the Declaration of Patricia S. Rose with the Clerk of the Court using the CM/ECF system, which will send notice of such filing to counsel of record:

Dated this 2nd day of May, 2017.

s/ Patricia S. Rose
Patricia S. Rose