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June 25, 2019

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: *Department of Commerce, et al. v. New York, et al.*, No. 18-966

Dear Mr. Harris:

Please accept this letter in response to the June 25, 2019 letter from the Solicitor General requesting that this Court address the equal protection claims at issue in the consolidated cases *La Unión del Pueblo Entero (LUPE) v. Ross*, No. 8:18-cv-01570-GJH (D. Md.) (“*LUPE*”) and *Kravitz v. Department of Commerce*, 8:18-cv-01041 (D. Md.) (“*Kravitz*”). This Court should deny the request and allow proceedings to continue in the lower courts, for at least three reasons.

First, the Solicitor General’s request would require this Court to render an improper advisory opinion on issues that have not been briefed or argued before this Court, relating to cases that are not before this Court, based on a trial record that is not before this Court. The Solicitor General filed a Petition for a Writ of Certiorari Before Judgment to the Court of Appeals for the Second Circuit in *Department of Commerce, et al. v. New York, et al.*, No. 18-966, and a Petition for Writ of Certiorari Before Judgment to the Court of Appeals for the Ninth Circuit in the related case of *Ross v. State of California*, No. 18-1214. The Solicitor General could have, but did not file a similar Petition in *LUPE* and *Kravitz*. Because the Solicitor General did not do so, the full record in these consolidated cases is not before this Court and there is no basis for this Court to adjudicate the equal protection claims asserted in *LUPE* and *Kravitz*.

Second, the only evidence in the record concerning the deadline to finalize the 2020 Census questionnaire is the testimony of Census Bureau Chief Scientist, Dr. John Abowd, who testified that with additional resources, the final date for locking down the content of the census questionnaire could be extended to October 31, 2019. J.A. 906. The Solicitor General’s assertion that June 30 is an immovable deadline is unsupported by the record and does not require this Court to adjudicate an issue that is not properly before it.

Third, even if Defendants had to finalize the questionnaire by June 30, 2019 without a citizenship question, they would suffer no injury. The Census Bureau has concluded that using “reliable federal administrative records” — which are

“verified” based on legal documents concerning citizenship status — “best meets DOJ’s stated uses, is comparatively far less costly than [adding a citizenship question], and does not harm the quality of the census count.” J.A. 117, J.A. 105. The Census Bureau will be able to provide the Department of Justice with citizenship data of at least equal or better quality if the 2020 Census questionnaire does not include a citizenship question.

We would appreciate your circulating this letter to Members of this Court.

Sincerely,

/s/ Denise M. Hulett

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CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2019, the foregoing motion was served on the following parties through their counsel of record through the appellate CM/ECF system.

SERVICE LIST: No. 18-966, *Department of Commerce, et al. v. New York, et al.*

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CORPORATE DISCLOSURE STATEMENT

Pursuant to this Court's Rule 29.6, all Plaintiffs in *La Unión Del Pueblo, et al. v. Ross, et al.*, No. 8:18-cv-01570-GJH (D. Md.), state that they have no parent corporation and that no publicly held company owns 10% or more of their stock.