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I. INTRODUCTION

1
2 The Court should deny Intervenor-Defendants’ Rule 60(b) motion, which seeks to cast
3 aside the remedial map less than three months before the election, in light of the U.S. Supreme
4 Court’s decision in *Louisiana v. Callais*, No. 24-109, 2026 WL 1153054 (U.S. Apr. 29, 2026).
5 *Callais* effectively overrules four decades of Section 2 precedent, and the State anticipates that
6 at some point this Court or the Ninth Circuit will need to apply *Callais* to this case. Nonetheless,
7 Intervenor’s request to set new district boundaries at this late date conflicts with the *Purcell*
8 principle and thus must be denied. Intervenor asks the Court to insert itself into an ongoing
9 primary by resetting legislative district lines and reopening candidate filing well past its statutory
10 deadline. These acts, in turn, will delay interlocking, federal and state-required deadlines—
11 risking serious disruption to the August primary election. In the prior words of Intervenor, such
12 relief “would inject chaos and delay in Washington’s elections system, leave voters confused,
13 and risk disenfranchising countless Washingtonians.” Dkt. # 61 at p. 1. The rules of the election
14 road should be clear and settled; the Court can and should deny Intervenor’s Rule 60(b) motion
15 based on *Purcell* alone.

16 The Court can deny the motion on other grounds too. First, Intervenor fails to meet
17 standards for Rule 60(b)(5) and (b)(6) relief because the equities and unique circumstances of
18 this case cut sharply against disrupting the status quo in the midst of an election cycle. Second,
19 the Supreme Court’s imminent consideration of Intervenor’s pending petition for a writ of
20 certiorari counsels against this Court changing the judgment before the Supreme Court decides
21 what it will do with the current judgment. The motion for relief should be denied.
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II. BACKGROUND

A. Plaintiffs Challenged Legislative District 15 Under Section 2 of the Voting Rights Act, and This Court Denied Their Motion for Preliminary Injunction Under the *Purcell* Principle

Plaintiffs filed this suit in January 2022 alleging that Legislative District 15 in the Yakima Valley diluted Hispanic voting strength in violation of Section 2 of the Voting Rights Act. Dkt. # 1. They alleged an intent claim and a results claim.

In February 2022, Plaintiffs filed a motion for preliminary injunction seeking to force the State to adopt Voting Rights Act (VRA)-compliant maps for the 2022 legislative elections. Dkt. # 38. While that motion was pending, Intervenors moved to intervene to defend LD 15 against the Section 2 claim. Dkt. # 57. While their intervention motion was pending, Intervenors filed a proposed opposition to Plaintiffs' PI motion in which they argued, among other things, that this Court should deny preliminary relief under the *Purcell* principle, under which, in Intervenors' words "the Supreme Court 'has repeatedly emphasized that federal courts ordinarily should not alter state election laws in the period close to an election[.]'" Dkt. # 61 at p. 3 (quoting *Democratic Nat'l Comm. v. Wis. State Leg.*, 141 S. Ct. 28, 30 (2020) (Kavanaugh, J., concurring)). As Intervenors put it, the *Purcell* principle required this Court to maintain the prevailing maps, even if they were arguably unlawful, to avoid "injecting chaos into Washington's upcoming primary elections," which were then just four months away. *Id.* at p. 24; *see also id.* at p. 3 ("Earlier this year, the Supreme Court invoked the *Purcell* principle to stay a district court injunction with respect to elections that were scheduled to begin four months later." (citing *Merrill v. Milligan*, 142 S. Ct. 879 (2022))).

On April 13, 2022, this Court denied Plaintiffs' motion, agreeing with Intervenors that, even assuming Plaintiffs were likely to succeed on the merits, the *Purcell* principle "compel[led] the conclusion that the Court should refrain from interfering in the current election cycle." *Palmer v. Hobbs*, No. 3:22-cv-05035-RSL, 2022 WL 1102196, at *4 (W.D. Wash. Apr. 13, 2022) (Dkt. # 66); *see also id.* at *2 n.4 ("For purposes of this analysis, the Court

1 assumes that plaintiffs have shown a likelihood of success on the merits of their VRA claim and
2 irreparable harm in the absence of injunctive relief.”). As this Court explained, “[r]edistricting
3 moves voters – and potentially candidates – from one district to another and alters everything
4 from precinct boundaries to voter records to ballot layouts.” *Id.* at *3. And implementing an
5 election, particularly one with new district boundaries, requires election administrators to meet
6 a series of cascading deadlines, beginning with creating precinct boundaries in February of an
7 election year, through candidate filing deadlines in May, certification deadlines, and creation
8 immediately thereafter of voter information, to ensure that ballots can begin going out to military
9 and overseas voters forty-five days before the August primary, as required by state and federal
10 law. *Id.* at *4-5. In short, “the difficulties facing the Secretary of State and local election officials
11 if a change in the legislative district maps is made at this late date”—i.e., in mid-April—“suggest
12 that we are too close to the [August] 2022 election to enjoin the use of the existing plan for this
13 election cycle.” *Id.* at *4.

14 **B. Plaintiffs Succeeded on Their Section 2 Challenge Under Prevailing VRA Precedent**

15 After the Court ordered the State of Washington to be added as a defendant, the State
16 prepared to defend against Plaintiffs’ challenge to LD 15. To that end, the State sought out a
17 highly respected expert, Dr. John Alford, with a history primarily of working for government
18 defendants in VRA cases. After carefully reviewing the evidence, Dr. Alford submitted an expert
19 report concluding that the three *Gingles* preconditions appeared to be met. Trial Ex. 601. Based
20 on Dr. Alford’s conclusions, the factual findings in other recent federal and state VRA cases in
21 the Yakima area, and other record evidence, the State notified the parties and the Court that it
22 had concluded that it could no longer “dispute at trial that *Soto Palmer* Plaintiffs have satisfied
23 the three *Gingles* preconditions for pursuing a claim under Section 2 of the VRA based on
24 discriminatory results[.]” or “that the totality of the evidence test likewise favors the *Soto Palmer*
25 Plaintiffs[.]” Dkt. # 194 at p. 10.
26

1 On August 10, 2023, this Court issued a Memorandum of Decision, finding that LD 15
2 had the effect of discriminating against Hispanic voters by denying them the equal right to elect
3 candidates of their choice. *Soto Palmer v. Hobbs*, 686 F. Supp. 3d 1213 (W.D. Wash. 2023)
4 (Dkt. # 218). Following the Supreme Court’s reaffirmance of the *Gingles* framework in *Allen v.*
5 *Milligan*, 599 U.S. 1 (2023), this Court analyzed the *Gingles* factors under then-prevailing
6 precedent and concluded that the *Soto Palmer* Plaintiffs had satisfied them all. *Soto Palmer*, 686
7 F. Supp. 3d at 1224-27.

8 On the first *Gingles* factor, the Court pointed to numerous “reasonably configured”
9 districts presented by Plaintiffs that afforded Hispanic voters “a realistic chance of electing their
10 preferred candidates[.]” *Id.* at 1224. On the second *Gingles* factor, the Court noted that “[e]ach
11 of the experts who addressed this issue, including Intervenors’ expert, testified that Latino voters
12 overwhelmingly favored the same candidate in the vast majority of the elections studied[.]” with
13 “statistical evidence show[ing] that Latino voter cohesion is stable in the 70% range across
14 election types and election cycles over the last decade.” *Id.* at 1226. And on the third *Gingles*
15 factor, the Court highlighted both Plaintiffs’ and the State’s experts’ conclusion “that white
16 voters in the Yakima Valley region vote cohesively to block the Latino-preferred candidates in
17 the majority of elections (approximately 70%)[.]” and that “Intervenors d[id] not dispute the data
18 or the opinions offered by” either. *Id.* at 1226.

19 Turning to the totality-of-circumstances analysis, the Court found that seven of the nine
20 Senate Factors “support the conclusion that the bare majority of Latino voters in LD 15 fails to
21 afford them equal opportunity to elect their preferred candidates.” *Id.* at 1234. Thus, the court
22 concluded, although “things are moving in the right direction thanks to aggressive advocacy,
23 voter registration, and litigation efforts that have brought at least some electoral improvements
24 in the area, it remains the case that the candidates preferred by Latino voters in LD 15 usually
25 go down in defeat given the racially polarized voting patterns in the area.” *Id.* (footnote omitted).
26

1 Accordingly, the Court entered judgment for Plaintiffs and ordered a remedial process to adopt
2 a new legislative map. *Id.* at 1235-36.

3 Intervenor moved to stay that order and the remedial process, and the Ninth Circuit
4 motions panel unanimously denied the motion. *See* Order Den. Mot., *Palmer v. Hobbs*,
5 Nos. 23-35595, 24-1602 (9th Cir. Dec. 21, 2023), DktEntry 45. Intervenor then petitioned the
6 Supreme Court for certiorari before judgment, and the Court denied their petition. *Trevino v.*
7 *Palmer*, 144 S. Ct. 873 (2024).

8 The case then moved to the remedial phase.

9 **C. This Court Adopts a Map Remediating the Section 2 Violation**

10 Following its liability order, this Court engaged in a lengthy remedial process to adopt a
11 new map, aided by extensive briefing and argument by the parties, an evidentiary hearing, and a
12 respected non-partisan redistricting expert.

13 On March 15, 2024, this Court ordered a new map, with a redrawn, newly labeled LD 14.
14 In a detailed order, the court explained that the remedy it adopted was necessary to remedy the
15 VRA violation it previously found. *Palmer v. Hobbs*, No. 3:22-cv-05035-RSL, 2024
16 WL 1138939, at *1-2 (W.D. Wash. Mar. 15, 2024) (Dkt. # 290). As the Court explained, “the
17 new configuration provides Latino voters with an equal opportunity to elect candidates of their
18 choice to the state legislature, especially with the shift into an even-numbered district, which
19 ensures that state Senate elections will fall on a presidential year when Latino voter turnout is
20 generally higher.” *Id.* at *2. Although Intervenor tried to characterize this reduction in Hispanic
21 Citizen Voting Age Population (CVAP) as “dilution,” the unchallenged evidence was that
22 enacted LD 15 did not permit Hispanic voters to elect candidates of their choice, while the new
23 LD 14 would. *Compare Soto Palmer*, 686 F. Supp. 3d at 1226-27, with Dkt. # 278.

24 Following the district court’s remedial order, Intervenor filed a second motion for a stay
25 in the Ninth Circuit, which was again unanimously denied. *See* Order Den. Mot. Stay, *Palmer v.*
26 *Hobbs*, Nos. 23-35595, 24-1602 (9th Cir. Mar. 22, 2024), DktEntry 18.1. In a last-ditch effort to

1 deny Hispanic voters relief in time for the 2024 elections, Intervenor then sought a stay from
 2 the Supreme Court. *See App. for Stay, Trevino v. Soto Palmer*, No. 23A862 (U.S. Mar. 25, 2024).
 3 The Court denied that stay application with no dissents noted. *Trevino v. Palmer*,
 4 144 S. Ct. 1133 (2024).

5 **D. The Ninth Circuit Unanimously Affirmed this Court’s Orders**

6 The Ninth Circuit unanimously affirmed this Court’s liability and remedial orders.

7 On the liability order, the Ninth Circuit concluded that “none of the Intervenor has
 8 standing to challenge the liability determination” because none alleged any harm that flowed
 9 from that order. *Palmer v. Hobbs*, 150 F.4th 1131, 1141 (9th Cir. 2025). On the remedial order,
 10 the Ninth Circuit concluded that Intervenor Trevino had standing to challenge that order as a
 11 racial gerrymander since he was moved into the remedial district, but it held that he failed to
 12 show this Court’s remedial map unconstitutionally sorted him by race. *Id.* at 1144-45, 1146.¹

13 Applying then-prevailing precedent, the Ninth Circuit held that “[n]othing in the record . . .
 14 supports a claim that race predominated in the redistricting process.” *Id.* at 1146. “To the
 15 contrary,” the court explained, “the district court accomplished three distinct, non-racial
 16 objectives when it adopted a map that: (1) starts with, and avoids gratuitous changes to, the
 17 enacted map while remedying the Voting Rights Act violation at issue; (2) keeps the vast
 18 majority of the lands that are of interest to the Yakama Nation together; and (3) is consistent
 19 with the other state law and traditional redistricting criteria.” *Id.* (internal quotations omitted).

20 The Ninth Circuit thus affirmed this Court’s remedial map on the merits.

21 Intervenor then petitioned for a writ of certiorari, which is currently pending.

22 **E. The Supreme Court’s *Callais* Decision Overruled Prior Section 2 Precedent**

23 On April 29, while Intervenor’s cert petition remained pending, the Supreme Court
 24 decided *Louisiana v. Callais*, 2026 WL 1153054, at *3, substantially altering how courts are

25 _____
 26 ¹ The Ninth Circuit concluded that Mr. Trevino failed to raise his racial gerrymandering argument during
 the remedial phase in this Court but nonetheless exercised its discretion to consider the argument for the first time
 on appeal. *Id.* at 1145-46.

1 supposed to address claims under Section 2 of the VRA. *See Callais*, 2026 WL 1153054, at
2 *15-16; *see also id.* at *20 (“The majority claims only to be ‘updat[ing]’ our Section 2 law, as
3 though through a few technical tweaks . . . But in fact, those ‘updates’ eviscerate the law.”)
4 (Kagan, J., dissenting). As a result, the Ninth Circuit and/or this Court may soon be called upon
5 to conduct a fresh analysis under the Supreme Court’s new test.

6 The State’s (and Plaintiffs’) response to Intervenors’ petition is currently due
7 June 2, 2026 in time for the Supreme Court to take action on Intervenors’ petition before the
8 October 2025 term ends. *See* Docket, *Trevino v. Hobbs*, No. 25-918,
9 <https://www.supremecourt.gov/docket/docketfiles/html/public/25-918.html> (last visited
10 May 8, 2026). Thus, the Supreme Court is likely to act on Intervenors’ petition next month.

11 **F. Intervenors Move to Change District Boundaries Just Three Months Before the**
12 **Primary Election, Even Though Election Preparation Is Already Underway**

13 Following *Callais*, Intervenors filed this motion seeking the very relief they vociferously
14 (and successfully) opposed on *Purcell* grounds four years ago. Dkt. # 309 at pp. 2, 11.
15 Specifically, they ask this Court to “restor[e] the redistricting plan adopted by the Commission”
16 in 2021 and grant other “relief to provide for legislative candidates to file and run for election
17 under the Commission’s map as soon as the 2026 primary and general election,” including
18 extending the candidate filing deadline to give effect to the 2021 legislative map. *Id.* at 2, 11;
19 *see also* Dkt. # 309-1 at p. 2.

20 The only difference is that the timeline is even tighter here than it was four years ago.
21 Indeed, the candidate filing deadline already passed on May 8. *See* Wash. Rev. Code
22 § 29A.24.050. And election day is less than three months away, on August 4, with ballots
23 required to go out as much as forty-five days ahead of time for military and overseas voters.
24 *See* 52 U.S.C. § 20302; Wash. Rev. Code § 29A.40.070. Between now and then, Washington
25 law sets a number of deadlines, including deadlines to certify candidates and for candidates to
26

1 provide information for voter information pamphlets. *See* Wash. Rev. Code § 29A.36.010;
2 Wash. Admin. Code § 434-381-120.

3 III. LEGAL STANDARD

4 Rule 60(b) provides that “[o]n motion and just terms, the court may relieve a party or its
5 legal representative from a final judgment, order, or proceeding for the following reasons”
6 Under Rule 60(b)(5), a court may grant relief when “the judgment has been satisfied, released,
7 or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying
8 it prospectively is no longer equitable[.]” Rule 60(b)(6) is a catchall provision for “any other
9 reason that justifies relief” besides the enumerated reasons set forth in Rule 60(b)(1)-(5). “A
10 movant seeking relief under Rule 60(b)(6) must show ‘extraordinary circumstances justifying
11 the reopening of a final judgment.’” *Hall v. Haws*, 861 F.3d 977, 987 (9th Cir. 2017) (quoting
12 *Gonzalez v. Crosby*, 545 U.S. 524, 535 (2005)).

13 IV. ARGUMENT

14 A. Granting Relief from the Judgment Would Violate the *Purcell* Principle

15 Intervenors’ request for Rule 60(b) relief from the judgment should be denied under
16 *Purcell*. Under *Purcell v. Gonzalez*, 549 U.S. 1 (2006), federal courts may not disrupt a state’s
17 voting rules close to an election. *See, e.g., Moore v. Harper*, 142 S. Ct. 1089 (2022)
18 (Kavanaugh, J., concurring) (“In light of the *Purcell* principle and the particular circumstances
19 and timing of the impending primary elections in North Carolina, it is too late for the federal
20 courts to order that the district lines be changed for the 2022 primary and general elections[.]”);
21 *Democratic Nat’l Comm.*, 141 S. Ct. at 31 (Kavanaugh, J., concurring) (“The Court’s precedents
22 recognize a basic tenet of election law: When an election is close at hand, the rules of the road
23 should be clear and settled . . . because running a statewide election is a complicated endeavor.”).
24 The Supreme Court recently invoked this principle in *Abbott v. League of United Latin American*
25 *Citizens*, 146 S. Ct. 418 (2025), staying the reinstatement of a prior map pending appeal, and
26 chiding the district court “for improperly insert[ing] itself into an active primary campaign,

1 causing much confusion and upsetting the delicate federal-state balance in elections.” *Id.* at 419.
2 There, the district court entered an injunction reinstating a 2021 map in November 2025 for a
3 March 2026 primary election and November 2026 general election. *See id.* at 428
4 (Kagan, J., dissenting).

5 Intervenor’s request for relief from judgment has an even sharper *Purcell* problem. The
6 primary election is less than three months away, on August 4, and mail ballots must be mailed
7 to military and overseas voters forty-five days before that election and mailed to other voters at
8 least eighteen days before that election. *See* 52 U.S.C. § 20302; Wash. Rev. Code § 29A.40.070.
9 Some election deadlines have already elapsed, including the requirement that filing officials
10 designate position numbers for legislative office, *see* Wash. Rev. Code § 29A.24.010, and
11 candidate filing. *See File for Office*, Washington Secretary of
12 State, <https://www.sos.wa.gov/elections/candidates/filing-resources/file-office> (last visited
13 May 8, 2026); Wash. Rev. Code § 29A.24.050 (setting candidate filing as occurring on the first
14 Monday in May and ending the following Friday). Thus, candidates have *already* filed for an
15 election based on the districts in which they live, and it is far too late to rejigger district lines for
16 the 2026 elections.

17 These filing deadlines trigger a cascade of deadlines for the Secretary of State’s Office.
18 For example, today before 5:00 p.m. is the deadline for a candidate to withdraw their declaration
19 of candidacy. Wash. Rev. Code § 29A.24.131. Tomorrow is the Secretary’s deadline to certify
20 candidates who filed declarations of candidacy for the primary to county auditors. *See*
21 Wash. Rev. Code § 29A.36.010 (“[n]ot later than the Tuesday following the regular filing
22 period”). Next Tuesday, May 19, is the deadline for candidates to provide statements and
23 photographs for the voters’ pamphlets. Wash. Admin. Code § 434-381-120 (statements due “no
24 later than 11 days following the last day of the filing period”).

25 If the Court were to grant Intervenor’s Rule 60(b) motion (despite their pending cert
26 petition), that decision would cause delays in candidate filing that will have cascading

1 consequences for election deadlines that the *Purcell* principle guards against. As the Secretary
2 of State’s Director of Elections previously declared:

3 Any change to the candidate filing dates would create significant impacts for my
4 office and for counties. Pushing back the candidate filing deadline will cost time
5 that we don’t have. It would force us to delay all other dates and deadlines related
6 to the election, including the election date itself.

7 Dkt. # 179 at p 4 ¶¶ 24-25.

8 Indeed, at an earlier stage of this case, this Court applied the *Purcell* principle to deny
9 Plaintiffs’ initial motion for a preliminary injunction. *See Palmer*, 2022 WL 1102196
10 (Dkt. # 66). This Court recognized Washington’s series of election deadlines—many fixed by
11 state and federal law—that cannot be altered, but Plaintiffs’ then-requested relief would have
12 disrupted. *See id.* at *3 (rejecting plaintiffs’ suggestion that “the Court can alter deadlines in a
13 schedule that are daisy-chained to later, fixed events without impacting the election”). This is in
14 accord with Intervenor’s position opposing Plaintiffs’ preliminary injunction, arguing that the
15 injunction then would “lead to voter confusion, frustration and even disenfranchisement.”
16 Dkt. # 61 at p. 21. Intervenor further emphasized that “equitable considerations might justify a
17 court in withholding the granting of immediately effective relief in a legislative apportionment
18 case, *even though the existing apportionment scheme was found invalid.*” Dkt. # 61 at p. 22
19 (quoting *Reynolds v. Sims*, 377 U.S. 533, 585 (1964)) (emphasis added by Intervenor).
20 Intervenor’s argument then applies with greater force now, given a closer-in-time primary
21 election.

22 *Purcell* militates against Intervenor’s requested relief.

23 **B. Intervenor’s Fail to Meet Rule 60(b)’s Standards**

24 Intervenor do not meet the high standards for relief from a final judgment under
25 Rule 60(b)(5) or (b)(6) because equitable principles weigh heavily against the relief Intervenor
26 seek.

1 Under Rule 60(b)(5), a court may grant relief when the prospective application of a final
2 judgment “is no longer equitable[.]” This determination “lies within the discretion of the trial
3 court, guided by traditional principles of equity jurisprudence.” *Safe Flight Instrument Corp. v.*
4 *United Control Corp.*, 576 F.2d 1340, 1343 (9th Cir. 1978). Here, the equities cut sharply in
5 favor of denying Intervenors’ requested relief because the enforcement of the current electoral
6 map is the only equitable outcome at this late date in the election cycle and the only permissible
7 course of action under *Purcell*. *Supra* Section IV.A.

8 Intervenors’ Rule 60(b)(6) request fares no better. To obtain relief under Rule 60(b)(6)’s
9 catch-all provision, a movant must “show extraordinary circumstances justifying the reopening
10 of a final judgment.” *Gonzalez*, 545 U.S. at 535, (2005) (quoting *Ackermann v. United States*,
11 340 U.S. 193, 199 (1950)). “This very strict interpretation of Rule 60(b) is essential if the finality
12 of judgments is to be preserved.” *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 873
13 (1988) (Rehnquist, J., dissenting). Accordingly, as Intervenors concede, the Ninth Circuit applies
14 this Rule “sparingly[.]” *Lal v. California*, 610 F.3d 518, 524 (9th Cir. 2010) (citation modified);
15 Dkt. # 309 at p. 4; *accord Riley v. Filson*, 933 F.3d 1068, 1071 (9th Cir. 2019).

16 Intervenors cannot clear this bar. “Intervening developments in the law by themselves
17 rarely constitute the extraordinary circumstances required for relief under Rule 60(b)(6)[.]”
18 *Agostini v. Felton*, 521 U.S. 203, 239 (1997). Intervenors rely heavily on *Phelps v. Alameda*,
19 569 F.3d 1120 (9th Cir. 2009)—a rare instance in which the Ninth Circuit concluded that a
20 change in the law warranted relief under Rule 60(b)(6). *See* Dkt. # 309 at pp. 4, 8. But *Phelps* is
21 of no assistance to Intervenors because it emphasized the need for a “case-by-case inquiry” to
22 determine whether an intervening change in law justified the reopening of a final judgment.
23 *Phelps*, 569 F.3d at 1133; *accord Henson v. Fid. Nat’l Fin., Inc.*, 943 F.3d 434, 444 (9th Cir.
24 2019) (requiring court to “evaluate the circumstances surrounding the specific motion before the
25 court” in determining whether an intervening change in the law warrants relief under Rule
26 60(b)(6)) (citation modified); *see also Riley*, 933 F.3d at 1071 (recognizing that “a change in the

1 law does not always supply sufficient conditions for granting” a Rule (60)(b)(6) motion). Here,
2 such an inquiry cuts decidedly against relief, because the *Purcell* principle precludes the Court
3 from disrupting a state’s voting rules on the eve of an election. *Supra* Section IV.A.

4 **C. The Supreme Court Will Soon Weigh in on the Judgement**

5 Intervenor’s have a petition for certiorari currently pending before the U.S. Supreme
6 Court, with the State’s response due by June 2, 2026. *See supra* Section II.E. The Supreme Court
7 will soon decide whether it will grant Intervenor’s’ petition; deny their petition; or grant their
8 petition, vacate the judgment of the lower court, and remand the case for further consideration
9 in light of *Callais*. The upshot of that process may well mean that this case will soon be back
10 before this Court to reconsider its prior rulings. There is no need for this Court to grant relief
11 from that judgment, when the Supreme Court will soon weigh in on that very judgment.

12 **D. The Court Need Not Issue an Indicative Order**

13 Federal Rule of Civil Procedure 62.1 limits the actions a district court may take when it
14 “lacks authority to grant [a motion for relief] because of an appeal that has been docketed and is
15 pending.” Fed. R. Civ. P. 62.1(a). “Rule 62.1 applies only when” an appeal “deprive[s] the
16 district court of authority to grant relief without appellate permission.” Fed. R. Civ. P. 62.1
17 Advisory Committee Notes on Rules 2009.

18 In this case, the Ninth Circuit decided the appeal and issued the mandate. *See Palmer*,
19 150 F.4th 1131; Dkt. #305 (mandate). The return of the mandate vested jurisdiction back to this
20 Court, and Intervenor’s’ pending cert petition has no jurisdiction-divesting effect. *See, e.g.,*
21 *United States v. Davis*, No. 2:98-cr-00114-KJM-AC, 2021 WL 1122574, at *1 (E.D. Cal.
22 Mar. 24, 2021) (“[B]ecause the Ninth Circuit’s mandate has issued, this court has jurisdiction to
23 consider [defendant’s] motion even though he has petitioned for certiorari in the Supreme
24 Court.”); *United States ex rel. Escobar v. Universal Health Servs., Inc.*, 842 F.3d 103, 106 n.1
25 (1st Cir. 2016) (“[T]he mere act of filing a petition for certiorari does not deprive the district
26

1 court of jurisdiction over the case.”); *United States v. Sears*, 411 F.3d 1240, 1242
2 (11th Cir. 2005) (per curiam) (same).

3 This Court has jurisdiction and cannot (and need not) issue an indicative ruling. The
4 Court should deny Intervenors’ Rule 60(b) motion for the reasons set forth above.

5 **V. CONCLUSION**

6 The Court should deny Intervenors’ Rule 60(b) motion.

7 DATED this 11th day of May, 2026.

8 I certify that this memorandum contains 4,200
9 words, in compliance with the Local Civil
10 Rules.

11 NICHOLAS W. BROWN
12 Attorney General

13 *s/ Cristina Sepe*

14 CRISTINA SEPE, WSBA No. 53609

15 Deputy Solicitor General

16 ANDREW R.W. HUGHES, WSBA No. 49515

17 ERICA R. FRANKLIN, WSBA No. 43477

18 Assistant Attorneys General

19 *Cristina.Sepe@atg.wa.gov*

20 *Andrew.Hughes@atg.wa.gov*

21 *Erica.Franklin@atg.wa.gov*

22 *Counsel for the State of Washington*