

September 6, 2019

Via CM/ECF

Molly C. Dwyer  
Clerk of the Court  
U.S. Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94103-1526

Re: *Kelsey Cascadia Rose Juliana, et al. v. United States, et al.*,  
No. 18-36082

Dear Ms. Dwyer,

Pursuant to Federal Rule of Appellate Procedure 28(j) and Circuit Rule 28-6, Plaintiffs-Appellees submit *Atlas Life Insurance Co. v. W.I. Southern, Inc.*, 306 U.S. 563, 568 (1939), as supplemental authority. This case is relevant to Defendants-Appellants' attempt to create a new, unfounded jurisdictional barrier limiting equitable "Cases" and "Controversies" under Article III to those recognized at the English Court of Chancery, Doc. 16 at 12, 24-27, and Plaintiffs-Appellees' response thereto, Doc. 37 at 29-32.

Unlike Article III's "'Cases' and 'Controversies'" requirement, which is a matter of the 'limits [of] the jurisdiction of federal courts,' *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 559 (1992), "in equity suits[,] the principles of the system of judicial remedies which had been devised and was being administered by the English Court of Chancery . . . does not define the jurisdiction of the . . . federal courts . . ." *Atlas Life Ins. Co.*, 54 U.S. at 568. Instead, it "prescribes the body of doctrine which is to guide their decisions and enable them to determine whether" a suit "is an appropriate one for the exercise of the extraordinary powers of a court in equity." *Id.* "[T]he issue is not one of jurisdiction but of the need and propriety of equitable relief . . ." *Id.* at 570.

As explained in Plaintiffs-Appellees' brief, the body of doctrine of English chancery demonstrates the propriety of this suit because "the ability to sue to enjoin unconstitutional actions by state and federal officials is the creation of courts of equity, and reflects a long history of judicial review of illegal executive action, tracing back to England." Doc. 37 at 29 (quoting *Armstrong v. Exceptional Child Ctr., Inc.*, 135 S.Ct. 1378, 1384 (2015)). As Plaintiffs-Appellees explained, the "need

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and propriety of equitable relief,” *Atlas Life Ins. Co.*, 54 U.S. at 570, is “to be determined by the nature and scope of the constitutional violation,” and therefore would be amply justified upon a finding of the profound constitutional violations presented here. Doc. 37 at 30 n. 19 (quoting *Missouri v. Jenkins*, 515 U.S. 70, 88 (1995)).

Respectfully submitted,

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