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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

KELSEY CASCADIA ROSE JULIANA, *et al.*,

Case No. 6:15-cv-01517-TC

Plaintiffs,

**DEFENDANTS' NOTICE OF
ORDER OF UNITED STATES
SUPREME COURT**

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Defendants respectfully provide notice of the attached order issued by the United States Supreme Court on Monday, July 30, 2018.

That order denied Defendants' request for relief "without prejudice." Ex. 1. It then observed that the "breadth of [Plaintiffs'] claims is striking," and that "the justiciability of those claims presents substantial grounds for difference of opinion." *Id.* The order consequently

directed this Court to “take these concerns into account in assessing the burdens of discovery and trial, as well as the desirability of a prompt ruling on the Government’s pending dispositive motions.” *Id.* Defendants respectfully submit that the Supreme Court’s order has two immediate implications for this case.

First, the Court’s ruling is relevant to Defendants’ pending request that this Court certify for interlocutory appeal any denial of the two pending dispositive motions. *See* Mot. for Summ. J. at 30, ECF No. 207 (“At a minimum, the Court should certify for interlocutory appeal any denial of Defendants’ motion.”); Defs.’ Reply in Supp. of Mot. for J. on the Pleadings at 19, ECF No. 302 (same). Such certification is warranted when a ruling (1) “involves a controlling question of law” that (2) presents a “substantial ground for difference of opinion[.]” and (3) “an immediate appeal from the order may materially advance the ultimate termination of the litigation.” 28 U.S.C. § 1292(b). The Supreme Court has now concluded that the second requirement is satisfied here. And, as Defendants have explained, the first and third requirements are obviously satisfied as well: Defendants’ motions raise pure questions of law that are controlling (*i.e.*, “dispositive”), and granting those motions would result in the termination of the litigation.

Second, the Court should make the “prompt ruling” to which the Supreme Court expressly referred. That ruling should encompass both of the dispositive motions pending before the Court. *See* Defs.’ Mot. for J. on the Pleadings, ECF No. 195; ECF No. 207. Indeed, in light of the Supreme Court’s admonition, it would be particularly inappropriate for this Court to defer until trial a ruling on Defendants’ pending motion for summary judgment.

Dated: August 1, 2018

Respectfully submitted,

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/s/ Sean C. Duffy

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