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November 28, 2023

Via ECF

United States Court of Appeals for the Sixth Circuit
ATTN: Kelly L. Stephens, Clerk
540 Potter Stewart U.S. Courthouse
100 E. Fifth Street
Cincinnati, Ohio 45202-3988

Re: *Friends of George's, Inc., v. Mulroy*, No. 23-5611

Dear Ms. Stephens:

Appellee, Friends of Georges, Inc., submits this letter under Federal Rule of Appellate Procedure 28(j) to notify the Court of a recent shadow docket decision of the Supreme Court of the United States.

Florida recently enacted a law that makes it a misdemeanor for a restaurant or bar to knowingly admit a child to an “adult life performance.” Fla. Stat. § 827.11 (2023). An Orlando restaurant known as Hamburger Mary’s brought a facial challenge to the law, arguing that it violated the First Amendment. The district court found that the law is likely unconstitutional and preliminarily enjoined Florida from enforcing the law. Florida sought a partial stay of the district court’s judgment pending appeal of the preliminary injunction. Specifically, Florida sought to limit the scope of the injunction to apply only to Hamburger Mary’s, leaving the State free to prosecute anyone else who violated the law. The Eleventh Circuit denied the State’s motion, and Florida sought relief from the Supreme Court.

On November 16, 2023, the Supreme Court denied Florida’s application for a partial stay in the case of *Melanie Griffin, Secretary of the Florida Department of Business*

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and Professional Regulation v. HM Florida-ORL, LLC, 601 U.S. _____ (2023), a copy of which is attached hereto as **Exhibit A**. Justice Kavanaugh issued a statement, in which he was joined by Justice Barrett. Justice Kavanaugh explained that, while the question of whether a district court may prohibit the government from enforcing a law against non-parties may warrant the Court’s review in the future, “the issue arises here in the context of a First Amendment overbreadth challenge, which presents its own doctrinal complexities about the scope of relief.” This is consistent with the Supreme Court’s prior holdings in First Amendment overbreadth cases that “any enforcement” of an overbroad restriction on speech is “totally forbidden.” *Broadrick v. Okla.*, 413 U.S. 601, 611-12 (1973).

Respectfully Submitted,

/s/Melissa J. Stewart

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CERTIFICATE OF SERVICE

I HEREBY certify that a true and correct copy of the foregoing has been served on all parties of record via this Court’s ECF system on November 28, 2023.

/s/ Melissa J. Stewart