No. 20-55734

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

AMERICAN SOCIETY OF JOURNALISTS AND AUTHORS, INC.
and NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION,

Appellants,

v.

ROB BONTA,
in his official capacity as Attorney General of the State of California,

Appellee.

On Appeal from the United States District Court
for the Central District of California, Los Angeles
The Honorable Philip S. Gutierrez, District Judge

APPELLANTS' PETITION FOR REHEARING EN BANC

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FRAP 35(B) STATEMENT

Appellant-Plaintiffs American Society of Journalists and Authors, Inc. (ASJA), and the National Press Photographers Association (NPPA), respectfully request rehearing en banc.

The panel decision conflicts with the Supreme Court's decisions in *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), *Sorrell v. IMS Health, Inc.*, 564 U.S. 552 (2011), and *Arkansas Writers' Project, Inc. v. Ragland*, 481 U.S. 221 (1987), and this Court's decision in *Pacific Coast Horseshoeing School, Inc. v. Kirchmeyer*, 961 F.3d 1062 (9th Cir. 2020). The panel decision failed to apply the rule set out in those cases: Laws that impose financial burdens based on the "function or purpose" of speech are subject to strict scrutiny. Consideration en banc is necessary to secure and maintain uniformity of this Court's decisions. *See* FRAP 35(b)(1)(A).

INTRODUCTION

Sections 2775–2787 of the California Labor Code govern employee classification. An exemption in Section 2778 "[]favors marketing, that is, speech with a particular content," *Sorrell*, 564 U.S. at 564, by applying less restrictive freelancing rules when writers, photographers, or videographers sell speech that the state deems "marketing." *See* Cal. Labor Code § 2778(b)(2)(A). Exemptions also exist for speech deemed fine art, graphic design, or related to sound recordings and musical compositions (but not music videos). *Id*. §§ 2778(b)(2)(D)–(F), (I)(i);

2780(a)(1). Section 2778 is therefore a content-based law "defining regulated speech by its function or purpose." *Reed,* 576 U.S. at 163. The only way to know how Section 2778 applies to anything a freelancer produces is through "official scrutiny of the content of publications," *Arkansas Writers' Project*, 481 U.S. at 229, to determine the "function or purpose" of the speech, *Reed*, 576 U.S. at 163. Section 2778 "favors particular kinds of speech and particular speakers through an extensive set of exemptions." *Pacific Coast*, 961 F.3d at 1072. "That means [Section 2778] necessarily disfavors all other speech and speakers." *Id*. Imposing financial and regulatory burdens based on "official scrutiny of the content of publications … is entirely incompatible with the First Amendment." *See Arkansas Writers' Project*, 481 U.S. at 229–30.

The panel opinion "skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face." *Reed*, 576 U.S. at 165. This would have been a straightforward inquiry: "marketing … is speech with a particular content." *Sorrell*, 564 U.S. at 564. The panel also ignored *Arkansas Writers' Project* and its direct application to Section 2778's speech-based financial burdens. And, perhaps most troubling for maintaining the uniformity of this Court's decisions, the panel disregarded *Pacific Coast*'s point-by-point refutation of the panel's reasoning. The panel disregarded *Pacific Coast*, *Reed*, and *Sorrell* because it held the First Amendment imposition here was a mere burden, rather than a ban

on speech; that distinction has no support in the case law, and it was also explicitly rejected as "not essential" in *Pacific Coast*. 961 F.3d at 1071 n.5. This Court must correct the panel decision.

BACKGROUND

ASJA and NPPA are two of the leading voices for freelance writers and visual journalists in the United States. ER 071, 076. ASJA is the nation's largest professional organization of independent nonfiction writers. ER 071. NPPA is the nation's leading professional organization for visual journalists in print, television, and electronic media. ER 076. These organizations brought this lawsuit to vindicate their members' rights to speak as independent professional freelancers.

California Labor Code § 2775(b)(1) imposes an "ABC test" to determine whether a worker is an employee or independent contractor. Under the "B" prong of this test, freelance writers, photographers, videographers, and visual journalists must be classified as employees of the journalism clients for which they produce content because content creation is "the usual course of the hiring entity's business." Cal. Labor Code § 2775(b)(1)(B).

A freelancer reclassified as an employee loses their copyright, loses independence from their client, and loses valuable tax deductions on, e.g., equipment, travel, and retirement and insurance benefits. *See* Op. Br. at 11–14. For

freelancers with multiple clients, the putative benefits of employee status are illusory due to statutory tenure, accrual, and use rules. *Id*.

Section 2778 exempts various "professional services" from the ABC test, instead applying the balancing test set out in *S. G. Borello & Sons, Inc. v. Department of Industrial Relations*, 48 Cal. 3d 341 (1989). Appellants' freelance members have worked for decades under the *Borello* test. ER 056, 060, 067–068, 071, 076; Supp. App. 02, 08, 22, 27. Under Section 2778, a freelancer's "professional services" that are deemed marketing, graphic design, grant writing, fine art, or related to sound recordings and musical compositions (including, specifically, photography for "recording photo shoots, album covers and other press and publicity purposes") are subject to the *Borello* test, not the ABC test. *See* Cal. Labor Code § 2778(b)(2)(A), (D)–(F). *See also id.* § 2780(a)(1). In contrast, a freelancer's "professional services" that are deemed freelance writing, editing, newspaper cartooning, still photography, and photojournalism are subject to different, more limited exemptions from the ABC test that restrict how and where a freelancer can work. Cal. Labor Code § 2778(b)(2)(I), (J).

Freelance video is even more limited. Section 2778 expressly applies the ABC test to a freelance photographer, videographer, or photojournalist "who works on motion pictures, which is inclusive of, but is not limited to, theatrical or commercial productions, broadcast news, television, and music videos." *See* Cal. Labor Code

§ 2778(b)(2)(I)(i). If, however, a freelance video is deemed marketing, graphic design, grant writing, fine art, or related to sound recordings and musical compositions, the ABC test does not apply. *See* Cal. Labor Code §§ 2778(b)(2)(A), (D)–(F); 2780(a)(1). *But see* Cal. Labor Code § 2778(b)(2)(I)(i) (applying the ABC test to freelance "music videos"). This means that, even within the journalism industry, photojournalists for public radio stations would be treated differently than photojournalists for newspapers. *Id.* at 2780(a)(1).

The district court denied Appellants' motion for preliminary injunction and dismissed their claims. *See Am. Soc'y of Journalists & Authors, Inc. v. Bonta*, No. 20-55734, 2021 WL 4568057, at *3 (9th Cir. Oct. 6, 2021). The panel affirmed under a rational basis analysis, characterizing Section 2778 as a generally applicable economic regulation of employment that "does not, on its face, limit what someone can or cannot communicate." *Id*. at *5. Nor, in the panel's opinion, do Section 2778's exemptions "turn on what workers say but, rather, on the service they provide or the occupation in which they are engaged." *Id*. at *6. The panel also upheld the video restrictions, reasoning that they do not "signify a burden based on the topic discussed or the idea or message expressed. … [W]hether 'motion pictures' involve news or music, section 2778 treats those working on them the same." *Id*. at *7 (tidied).

The panel erred. Which freelancing rules apply depends only on the communicative content of a freelancer's speech—e.g., whether it is for marketing or

for a television news broadcast, or whether it relates to a sound recording. This is a content-based burden on speech because "as applied to [the appellants], the conduct triggering coverage under the statute consists of communicating a message." *Holder v. Humanitarian Law Project*, 561 U.S. 1, 28 (2010). *Cf. Int'l Franchise Ass'n v. City of Seattle*, 803 F.3d 389, 408 (9th Cir. 2015) ("Nor does the statute single out those engaged in expressive activity such as newspapers or advocacy organizations." (tidied)). As discussed above, the panel was wrong as a matter of statutory language that "whether 'motion pictures' involve news or music, section 2778 treats those working on them the same"; video related to sound recordings and musical compositions is treated differently from news video. *See* Cal. Labor Code §§ 2778(b)(2)(A), (D)–(F); 2778(b)(2)(I)(i); 2780(a)(1). The panel's error on this point reveals a content-based burden, even accepting *arguendo* the panel's mischaracterization of what constitutes a content-based distinction, which ignored both *Reed*'s "function or purpose" test and *Sorrell*'s holding that "marketing … is speech with a particular content."

Section 2778 regulates occupations based on the content of speech, and the panel brushed aside the facially content-based nature of these classifications.

ARGUMENT

I. LAWS THAT REGULATE BASED ON THE "FUNCTION OR PURPOSE" OF SPEECH ARE CONTENT-BASED

A. The panel opinion conflicts with *Reed* and *Sorrell*

Content-based laws target more than just subject matter or viewpoint. *Reed*, 576 U.S. at 163–64. In addition to those obvious categories, laws that apply based on the "function or purpose" of speech are also content-based—regardless of the subject matter or viewpoint. *Id.* at 164.

Like the panel reversed in *Reed*, the panel here skipped "the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face." 576 U.S. at 165. Strict scrutiny applies to content-based laws, "regardless of the government's benign motive, content-neutral justification, or lack of animus toward the ideas contained in the regulated speech." *Id*. (tidied).

The Town's sign code in *Reed* was content-based on its face because how each sign was regulated "depend[ed] entirely on the communicative content of the sign":

> If a sign informs its reader of the time and place a book club will discuss John Locke's Two Treatises of Government, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke's followers in an upcoming election ….

576 U.S. at 164–65.

Likewise, here, Section 2778's exemptions "depend entirely on the communicative content of" speech. If a freelancer prepares marketing materials promoting the John Locke book club meeting, Section 2778's marketing exemption applies. But if that same freelancer writes an editorial or news article critical of the group, he falls out of the exemption. *Sorrell* already held laws singling out marketing are content-based. 564 U.S. at 564. *Reed* makes it unmistakable.

The panel dismissed this sorting of workers based on what they say as incidental to worker classification, *ASJA*, 2021 WL 4568057, at *5, but Section 2778 is a classification scheme that depends on the content of speech. Section 2778 "imposes more than an incidental burden on protected expression" because it "does not simply have an effect on speech, but is directed at certain content and is aimed at particular speakers." *Sorrell*, 564 U.S. at 567. Strict scrutiny applies.[1]

B. The panel opinion conflicts with *Pacific Coast*

The panel here made the same errors that this Court corrected in *Pacific Coast*. That case involved a First Amendment challenge to California's Private Postsecondary Education Act (PPEA), which limits the ability of students without a high school degree to enroll in post-secondary schools unless they pass a test showing they have the "ability to benefit" from the course of instruction. *Id*. at 1066.

[1] "Even generally applicable laws can implicate First Amendment concerns, warranting greater scrutiny" than the rational basis scrutiny the panel applied. *See Pacific Coast,* 961 F.3d at 1070 n.4.

The district court in *Pacific Coast* concluded that the ability-to-benefit rule "does not prohibit the imparting or disseminating of information. Instead, [the court] determined that the law regulates only conduct … and any burdens on speech were 'incidental,' resulting from the government's regulation of commercial transactions." 961 F.3d at 1067–69. Likewise, the panel here concluded that "Section 2778 … regulates economic activity rather than speech. It does not, on its face, limit what someone can or cannot communicate. Nor does it restrict when, where, or how someone can speak. It instead governs worker classification … [of] given occupations under given circumstances." *ASJA*, 2021 WL 4568057, at *5.

Pacific Coast rejected this formulation: "when the Act is viewed in its entirety, it becomes clear that it controls more than contractual relations. It also regulates what kind of educational programs different institutions can offer to different students. Such a regulation squarely implicates the First Amendment." 961 F.3d at 1069. Section 2778, viewed in its entirety, limits the kind of content freelancers can offer to different clients by imposing the ABC test only on unfavored speech. A documentary on a matter of public concern that is created by a freelancer would be exempt from the ABC test under Section 2778 if commissioned as "marketing," but not if commissioned as a piece of unbiased journalism to be published on television. *See* Cal. Labor Code § 2778(b)(2)(A) and (I)(i). Similarly, a photo series commissioned as a work of fine art to be displayed in a gallery is

exempt, but freelance photojournalism with the same exact images to be published in a newspaper is governed by a more restrictive standard. *Id*. § 2778(b)(2)(F)(i) and (I)(i). The First Amendment is squarely implicated by that burden.

As in *Pacific Coast*, the question here is not whether Section 2778 places a burden on freelancers—"it plainly does, as do California's tax, zoning, and workplace laws. … The question is whether, in the course of that regulation, the Act implicates heightened First Amendment scrutiny. One way for us to tell is to ask whether the [law] differentiates between speech or speakers. … It does." 961 F.3d at 1070–71 (tidied). *Pacific Coast* based that conclusion on the observation that, like Section 2778, the statute at issue

> is riddled with exceptions to the ability-to-benefit rule, and the exceptions turn on one of two things: (1) the content of what is being taught, or (2) the identity of the speaker. Together these exceptions demonstrate that the Act does more than merely impose an incidental burden on speech: it "target[s] speech based on its communicative content."

961 F.3d at 1070–71 (quoting *Reed*, 576 U.S. at 163). "The PPEA thus favors particular kinds of speech and particular speakers through an extensive set of exemptions." 961 F.3d at 1071–72. Section 2778 is similar to the PPEA, favoring particular kinds of speech and particular speakers through a set of exemptions that rise and fall based on the function or purpose of freelancers' speech.

The State responded in *Pacific Coast* by urging that the PPEA's exemptions for recreational and other schools, but not vocational schools, went to the "type of

instruction, not speech." Appellee Br. at 39, *Pacific Coast Horseshoeing Sch., Inc. v. Kirchmeyer*, No. 18-15840. *Pacific Coast* rejected this formulation. 961 F.3d at 1068–69. The panel here revived that false distinction as an "occupation, not speech" argument, *ASJA*, 2021 WL 4568057, at *6; this Court should reject it again.

Despite the many parallels between the panel's decision here and the reversed district court decision in *Pacific Coast*, the panel's only effort to distinguish *Pacific Coast* and other speech precedents is a single footnote, that relies on reasoning explicitly rejected in *Pacific Coast*. The panel asserted *Pacific Coast*:

> concerned a law that "squarely" implicated the First Amendment by "regulat[ing] what kind of educational programs different institutions can offer to different students."

ASJA, 2021 WL 4568057, at *5 n.7 (quoting *Pacific Coast*). Whereas here, according to the panel, "whether employees or independent contractors, workers remain able to write, sculpt, paint, design, or market whatever they wish." *Id*. But in *Pacific Coast* this Court was uninterested in whether the PPEA *prevented* a student from enrolling or simply *burdened* students' ability to enroll by precluding the school from enforcing the enrollment agreement. 961 F.3d at 1071 n.5. ("The question of how the Act is enforced is not essential [to] our disposition here."). What matters—both here and in *Pacific Coast*—is *why* the burden applies: because the law "requires authorities to examine the contents of the message to see if a violation has occurred." 961 F.3d at 1073 (tidied).

Pacific Coast was right to brush aside whether the PPEA amounted to a burden or ban; the constitutional inquiry still begins by asking whether the law makes facially content-based distinctions. *See Sorrell*, 564 U.S. at 565–66 ("Lawmakers may no more silence unwanted speech by burdening its utterance than by censoring its content.").

Pacific Coast conflicts with the panel's "economic activity rather than speech" reasoning, it conflicts with the panel's "occupation, not speech" reasoning, and it conflicts with the panel's rationale for distinguishing *Pacific Coast* and other speech precedents. The two decisions are irreconcilable.

II. LAWS THAT IMPOSE FINANCIAL BURDENS BASED ON THE CONTENT OF SPEECH ARE SUBJECT TO STRICT SCRUTINY

A. The panel opinion conflicts with *Arkansas Writers' Project*

The panel opinion also conflicts with *Arkansas Writers' Project*, because it endorses selective financial burdens based on the content of speech. *Arkansas Writers' Project* holds that content-based tax exemptions are subject to heightened scrutiny. 481 U.S. at 231. *Accord Leathers v. Medlock*, 499 U.S. 439, 447 (1991) ("[F]or reasons that are obvious, a tax will trigger heightened scrutiny under the First Amendment if it discriminates on the basis of the content of taxpayer speech."). *See also Pitt News v. Pappert*, 379 F.3d 96, 111–112 (3d Cir. 2004) (Alito, J.), ("The threat to the First Amendment arises from the imposition of financial burdens that may have the effect of influencing or suppressing speech, and whether those burdens

take the form of taxes or some other form is unimportant."). The panel's failure to distinguish *Arkansas Writers' Project* is plain on the face of the decision. The panel listed *Minneapolis Star & Trib. Co. v. Minnesota Com'r of Revenue*, 460 U.S. 575 (1983), *Arkansas Writers' Project*, and *Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd.*, 502 U.S. 105 (1991), as relevant precedents concerning whether Section 2778 is "generally applicable." *ASJA*, 2021 WL 4568057, at *5. Yet when the panel attempted to distinguish those cases, it only addressed *Minneapolis Star & Tribune* and *Simon & Schuster*. *Id*. at *6.

Arkansas Writers' Project concerned a generally applicable sales tax on all tangible personal property, with numerous exemptions. 481 U.S. at 224. One exemption excused all "newspapers" from paying the tax; another exempted "religious, professional, trade and sports journals and/or publications printed and published within this State ... when sold through regular subscriptions." *Id*. (tidied).

A magazine that did not qualify for either exemption alleged that the law's exemptions were unconstitutional because they applied based on a publication's content. The Court agreed. *Id*. at 228.

Like the panel and California did here, Arkansas defended its tax as a "generally applicable economic regulation." *Id*. at 228–29; *ASJA*, 2021 WL 4568057, at *5–*6. While the Supreme Court agreed that "a genuinely nondiscriminatory tax on the receipts of newspapers would be constitutionally

permissible … the Arkansas sales tax cannot be characterized as nondiscriminatory, because it is not evenly applied to all magazines." *Arkansas Writers' Project*, 481 U.S. at 229 (tidied).

The Arkansas tax scheme was not generally applicable because it "treats some magazines less favorably than others." *Id.* The practical upshot was that "only a few Arkansas magazines pay any sales tax," but the Supreme Court deemed this selective taxation "more disturbing" than the selective tax invalidated in *Minneapolis Star*, "because the basis on which Arkansas differentiates between magazines is particularly repugnant to First Amendment principles: a magazine's tax status depends entirely on its content." *Id.*

Yet that "particularly repugnant" basis for applying the tax in *Arkansas Writers' Project* is the only basis for applying the ABC test under Section 2778. A magazine could hire a freelance marketer to create advertisements—even advertorials—to appear in its publication. But any freelance writer producing non-marketing material for the magazine would be subject to greater burdens—including greater tax burdens. This creates an obvious financial burden—a burden which the panel acknowledged—on speech with a disfavored "function or purpose." *ASJA*, 2021 WL 4568057, at *5.

The panel dismissed this differential treatment of freelancers based on the content of their speech stating that a freelancer who "falls out of this exemption's

scope" is not "uniquely burdened. Rather, he is then treated the same as the many other workers governed by the ABC test." *Id*. at *6. But this does not distinguish Section 2778 from *Arkansas Writers' Project*—it describes that case. In the same way that falling outside one of Arkansas' content-based tax exemptions subjected publications to the generally applicable sales tax, falling outside of one of Section 2778's content-based exemptions subjects freelancers to the generally applicable ABC test and the related tax consequences. *See Bullfrog Films, Inc. v. Wick*, 847 F.2d 502, 511 (9th Cir. 1988) (applying *Arkansas Writers' Project* to hold a federal program for "circulation of audio-visual materials that are of an 'educational, scientific and cultural character'" unconstitutionally "disadvantage[d] materials on the basis of content.").

To be sure, the panel is wrong that either *Minneapolis Star* or *Simon & Schuster* turned on the singular burden of the laws at issue; in both cases it was the targeting of certain content that triggered constitutional scrutiny. *Simon & Schuster,* 502 U.S. at 115–17 ("[T]he statute plainly imposes a financial disincentive only on speech of a particular content."); *Minneapolis Star & Trib. Co.,* 460 U.S. at 588 ("We would be hesitant to fashion a rule that automatically allowed the State to single out the press for a different method of taxation as long as the effective burden was no different from that on other taxpayers or the burden on the press was lighter

than that on other businesses."). Regardless, the panel's failure to address *Arkansas Writers' Project* is fatal.

* * *

Section 2778 does what the Supreme Court and this Court say it may not: its challenged exemptions depend on the content, i.e., function or purpose, of freelancers' speech. That other exemptions to the ABC test depend on non-speech factors, *ASJA*, 2021 WL 4568057, at *6, does not change that the exemptions here turn entirely on content. One might wonder whether legislators have a particular interest in encouraging the speech of marketers and placing additional burdens on independent journalists. At this juncture, though, it does not matter *why* the legislature favored some speech and speakers over others—the simple fact that it *has* "pick[ed] winners and losers" based on the content of speech requires strict scrutiny. *Pacific Coast*, 961 F.3d at 1071.

Section 2778 differs from the "generally applicable" laws the panel professes it "fits within," *ASJA*, 2021 WL 4568057, at *4–*5, not because it burdens speech, but because its burdens *depend* on the content of speech. Unlike the laws cited by the panel, Section 2778 applies differently based on the type of speech it covers. In the cases the panel cites, the Supreme Court rejected First Amendment challenges because the law treated all speakers equally without regard to content.

The Court rejected a challenge to the Fair Labor Standards Act, because "the Act's purpose was to place publishers of newspapers upon the same plane with other businesses," *Okla. Press Pub. Co. v. Walling*, 327 U.S. 186, 194 (1946); to the National Labor Relations Act, because "[t]he business of the Associated Press is not immune from regulation because it is an agency of the press," *Assoc. Press v. NLRB*, 301 U.S. 103, 132 (1937); to the Sherman Act, because "a combination to restrain trade in news and views has [no] constitutional immunity," *Assoc. Press v. United States*, 326 U.S. 1, 20 (1945); and to cable television taxes because, "[t]here is nothing in the language of the statute that refers to the content of mass media communications," *Leathers*, 499 U.S. at 449. Freelancers here do not seek immunity or special treatment; they seek only equal treatment without regard to the content of their speech—precisely the guarantee extended by *Arkansas Writers' Project* and endorsed in *Leathers*.

Likewise, it is *not* "difficult to see how any occupation-specific regulation of speakers would avoid strict scrutiny." *Cf. ASJA*, 2021 WL 4568057, at *6. *See also Pacific Coast*, 961 F.3d at 1070. Indeed, the panel provides a ready answer, citing Fair Labor Standards Act regulations that turn on how work is performed or the qualifications of the worker, not the content, function, or purpose of the worker's speech. *See, e.g.,* 29 C.F.R. § 541.301 (governing "work requiring advanced knowledge" in a "field of science or learning" "customarily acquired by a prolonged

course of specialized intellectual instruction"). The fact that other FLSA regulations governing "work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor" apply equally to journalists and advertisers, 29 C.F.R. § 541.302(c)–(d), reveals the problem with Section 2778 that the federal regulations avoid: under Section 2778 *why* you speak and *what* you say determines *how* you are regulated.

Similarly, regulations that turn on licensure—such as laws regulating the practice of law or medicine—do not depend on the content of speech. *See* 29 C.F.R. § 541.304. They ask instead whether the person is licensed and whether their conduct constitutes the practice of the regulated profession. *See Nat'l Inst. of Fam. & Life Advocs. v. Becerra*, 138 S. Ct. 2361, 2373–74 (2018) (distinguishing "regulation of professional conduct" from a law that "regulates speech as speech."). Conversely, Section 2778 bases its exemptions for marketing, graphic design, grant writing, fine art, or speech related to sound recordings and musical compositions only on the "function or purpose," viz. "the content," of freelancers' speech.

CONCLUSION

This Petition for rehearing en banc should be granted.

DATED: October 20, 2021.

Respectfully submitted,

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Form 11. Certificate of Compliance for Petitions for Rehearing or Answers

9th Cir. Case Number(s) 20-55734

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I certify that pursuant to Circuit Rule 35-4 or 40-1, the attached petition for panel rehearing/petition for rehearing en banc/answer to petition is *(select one)*:

[x] Prepared in a format, typeface, and type style that complies with Fed. R. App. P. 32(a)(4)-(6) and **contains the following number of words:** 4,164**.**
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OR

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Signature s/ James M. Manley **Date** October 20, 2021
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