

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

YIFAN SHEN, ZHIMING XU, XINXI
WANG, YONGXIN LIU, and MULTI-
CHOICE REALTY, LLC,

Plaintiffs,

v.

WILTON SIMPSON, in his official
capacity as Florida Commissioner of
Agriculture, MEREDITH IVEY, in her
official capacity as Acting Florida
Secretary of Economic Opportunity,
PATRICIA FITZGERALD, in her official
capacity as Chair of the Florida Real Estate
Commission, R.J. LARIZZA, in his
official capacity as State Attorney for the
7th Judicial Circuit, MONIQUE
WORRELL, in her official capacity as
State Attorney for the 9th Judicial Circuit,
and KATHERINE FERNANDEZ
RUNDLE, in her official capacity as State
Attorney for the 11th Judicial Circuit,

Defendants.

Case No. 4:23-cv-208-AW-MAF

**MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE BY RACIAL
JUSTICE CENTERS, AFFINITY BAR AND PROFESSIONAL
ASSOCIATIONS, AND CIVIL RIGHTS ADVOCACY ORGANIZATIONS
IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

The below coalition of racial justice centers, affinity bar and professional
associations, and civil rights advocacy organizations (collectively the “Amici”),

respectfully move for leave to file a brief as amici curiae (the “Brief”) in support of the Plaintiffs’ Motion for Preliminary Injunction. Amici’s proposed Brief is attached as Exhibit A, and Amici’s corporate disclosure statements are attached as Exhibit B.

Although the Federal Rules of Civil Procedure do not specifically address the filing of amicus curiae briefs at the district court level, “district courts possess the inherent authority to appoint ‘friends of the court’ to assist in their proceedings.” *In re Bayshore Ford Truck Sales, Inc.*, 471 F.3d 1233, 1249 n.34 (11th Cir. 2006); *see Lefebure v. D’Aquila*, 15 F.4th 670, 674-76 (5th Cir. 2021) (finding “strong (but fair) advocacy on behalf of opposing views promotes sound decision making,” courts would be “well advised to grant motions for leave to file amicus briefs unless it is obvious that the proposed briefs do not [state their interest in the case]”).

In determining whether to grant leave to file an amicus curiae brief, judges of this Court have considered: (1) amici’s experience and qualifications; (2) the relevance of the amicus curiae brief to the matter; (3) whether the case is of “general public interest”; (4) whether the case is of “particular interest to the [amici]”; and (5) whether the “case concerns constitutional rights.” Order Granting Motion to Appear as Amicus Curiae 2, *Madera v. Detzner*, No. 1:18-cv-152-MW/GRJ (N.D. Fla. Aug. 23, 2018), ECF No. 31 (Walker, C.J.); *see* Order Granting Motion for Leave to File Amicus Brief, *M.A., et al. v. Fla. State Bd. of Educ., et al.*, No. 4:22-cv-134-AW-MJF (N.C. Fla. Dec. 23, 2022), ECF No. 147 (Winsor, J.).

INTEREST OF AMICI CURIAE

Amici are renowned racial justice centers, affinity bar and professional associations, and civil rights advocacy organizations with knowledge and expertise in addressing historical, empirical, and pervasive manifestations of racism and inequality in the legal system and society.

Racial Justice Centers¹

Fred T. Korematsu Center for Law and Equality at Seattle University School of Law

The Fred T. Korematsu Center for Law and Equality at Seattle University School of Law (“Korematsu Center”) is a non-profit organization based at the Seattle University School of Law. The Korematsu Center works to advance justice through research, advocacy, and education. Inspired by the legacy of Fred Korematsu, who defied military orders during World War II that ultimately led to the unlawful incarceration of 120,000 Japanese Americans, the Korematsu Center works to advance social justice for all. The Korematsu Center has a special interest in addressing government action targeted at classes of persons based on race or nationality. Drawing on its experiences and expertise, the Korematsu Center seeks to ensure that courts understand the historical—and, at times, profoundly unjust—underpinnings of arguments asserted to support the exercise of such unchecked

¹ The views represented by the Amici Racial Justice Centers do not represent the views of their home institutions.

executive power. The Korematsu Center does not, in this brief or otherwise, represent the official views of Seattle University.

Center for Immigration Law, Policy, and Justice at Rutgers Law School

Established in 2018, the Center for Immigration Law, Policy, and Justice (“CIPLPJ”) at Rutgers Law School explores contemporary and historical immigration and citizenship laws to better understand the complex ways that law and society determine who belongs in the United States. Through interdisciplinary scholarship, legal, policy and advocacy-based initiatives and public engagement, the Center supports the work of faculty, scholars and students within the law school and the broader Rutgers University Newark community who seek to understand immigration and citizenship law from an interdisciplinary perspective. By examining immigration laws, policies, regulations and practices from different views, including law, history, arts, culture, media, economics, political science, sociology and other fields, the Center aims to provide a broader understanding of the body of laws that determine who may enter, reside and become full members of the United States polity and the rights to which they are entitled while they are within this country. Importantly, the CILPJ advocates for and supports legal, policy and advocacy initiatives that protect the due process and equal protection rights of immigrants and their families.

Aoki Center for Critical Race and Nation Studies at UC Davis School of Law

The Aoki Center for Critical Race and Nation Studies at UC Davis School of Law (“Aoki Center”) is a program of the University of California, Davis, School of Law. It was formed to critically examine legal issues through the lens of race, ethnicity, citizenship, and class. The Aoki Center seeks to advance civil rights, critical race theory, and immigration issues through furthering scholarly research on the intersection of race and the law, and thus has a significant interest in the outcome of the instant dispute.

LLS Anti-Racism Center of LMU Loyola Law School

The LLS Anti-Racism Center (“LARC”) of LMU Loyola Law School, aims to engage, confront and dismantle individualized and structural racism. LARC connects legal scholarship and policy research, academic and policy forums, and the on-the-ground clinical work to challenge and transform legal regimes that reify racism and inequality. Through its multiple lawyering strategies, LARC seeks to advance equity and democracy under the law. LARC therefore, seeks to protect historically subordinated groups, including noncitizens of color, from exclusionary and discriminatory laws, policies and practices.

Center on Race, Inequality, and the Law at New York University School of Law

The Center on Race, Inequality, and the Law at New York University School of Law (the “CRIL”) works to highlight and dismantle structures and institutions that have been infected by racial bias, plagued by inequality, and visited harm upon marginalized groups, particularly within communities of color. CRIL fulfills its mission through public education, research, advocacy, and litigation. It has a special interest in ensuring that courts exercise their broad remedial powers to strike down racially discriminatory laws and vindicate the constitutional and statutory rights of those subjected to harm at the hands of government.

Boston University Center for Antiracist Research

The Boston University Center for Antiracist Research (the “Center”) is a nonpartisan, nonprofit university-based center that seeks to facilitate antiracist social change through research, policy, narrative, and advocacy initiatives. The Center’s animating goal is to eliminate racism through a rigorous, research-based, and integrative approach. Accordingly, the Center has a keen interest in challenging discriminatory property restrictions targeting people based on race or national origin. The Center joins this brief to provide critical context regarding the use of alien land laws as mechanism of anti-Asian racism and exclusion. The Center does not, in this brief or otherwise, represent the official views of Boston University.

Center for Civil Rights and Racial Justice at the University of Pittsburgh School of Law

The Center for Civil Rights and Racial Justice at the University of Pittsburgh School of Law (“CCRJ”) aims to address systemic disparities through a legal contextual lens. The mission of CCRJ is to facilitate community-engaged teaching, research, and service and will serve as a hub and visible manifestation of the Law School’s commitment to legal issues regarding these issues. CCRJ serves as a convener of efforts to advance constitutional, legislative, and regulatory protections of civil rights at the federal, state, and local levels. CCRJ works closely with community partners, to serve as both a laboratory and a hub for researching and recommending solutions to be adopted by local and national communities facing systemic disparities in police violence, prisons, housing, education, and health.

Affinity Bar/Professional Associations

Asian Pacific American Bar Association of Tampa Bay

The Asian Pacific American Bar Association of Tampa Bay (“APABA Tampa”) is a voluntary bar association of attorneys, judges, and law students, who serve the Greater Tampa Bay area. APABA Tampa is an affiliate member of NAPABA, which represents the interests of over 60,000 Asian Pacific American (“APA”) attorneys, judges, and law students, working in solo practices, small and large firms, corporations, nonprofit and legal services organizations, law schools,

and government agencies. APABA Tampa seeks to carry out the mission statement of NAPABA – promoting “justice, equity and opportunity for Asian Pacific Americans” and fostering “professional development, legal scholarship, advocacy and community involvement.” To further that, APABA Tampa issued a joint statement with NAPABA and affiliated Asian Pacific American bar associations in Florida to oppose the provisions of the Florida Senate Bill 264 or “Conveyances to Foreign Entities Law.”

Conference of Asian Pacific American Law Faculty

The Conference of Asian Pacific American Law Faculty (“CAPALF”) was formed in 1994 with the first national gathering of Asian Pacific American law teachers. The organization has since become a nonprofit corporation with a mission to contribute to the well-being of APA communities, to create a professional network, and to host conferences. CAPALF encourages the participation not only of Asian Pacific Americans, but all those whose work relates to issues significant to APA communities. As a group that was subjected to discriminatory immigration restrictions, naturalization laws, and alien land laws, often based on the perceived threat they posed to certain communities, states, and the nation, Asian Pacific Americans are in a unique position to offer our historical experience as an object lesson to inform the courts and the public about the dangers posed by laws that single out persons from certain countries for discriminatory treatment.

Hispanic National Bar Association

The Hispanic National Bar Association (“HNBA”) is a non-profit organization that represents the interests of Hispanic legal professionals in the United States and its territories. HNBA has members across the U.S., including in Florida. HNBA is committed to advocacy on issues of importance to the Hispanic community living in the United States.

National Asian Pacific American Bar Association

The National Asian Pacific American Bar Association (“NAPABA”) is the nation's largest Asian Pacific American membership organization, representing the interest of 60,000 attorneys, judges, law professors, and law students. NAPABA serves as the national voice for the Asian Pacific American legal profession. It promotes justice, equity, and opportunity for Asian Pacific Americans and fosters professional development, legal scholarship, advocacy, and community involvement toward achieving those goals.

South Asian Bar Association of North America

The South Asian Bar Association of North America (“SABANA”) is an international bar association that seeks to strengthen the rapidly growing South Asian legal community with a recognized and trusted forum for professional growth and development, while also promoting the civil rights and access to justice for the South Asian community and the community-at-large. More specifically, SABANA

strives to combat efforts to limit and marginalize South Asian and other immigrant communities.

Civil Rights and Other Advocacy Organizations

Asian Americans Advancing Justice - Asian Law Caucus

Asian Americans Advancing Justice - Asian Law Caucus (“ALC”) is a nonprofit civil rights organization committed to the pursuit of justice, serving low-income, immigrant, and underserved Asian American and Pacific Islander and Arab, Middle Eastern, Muslim and South Asian communities. ALC has a longstanding record of protecting those immigrant communities targeted by discriminatory policies justified under national security concerns, including the Muslim Ban and the China Initiative.

Asian Americans Advancing Justice – Atlanta

Asian Americans Advancing Justice-Atlanta (“Advancing Justice-Atlanta”) is the first nonprofit legal advocacy organization dedicated to protecting the civil rights of Asian Americans, Native Hawaiian, Pacific Islander and Arab, Middle Eastern, Muslim, and South Asian communities in Georgia and the Southeast. It works to promote equity, fair treatment, and self-determination for all communities of color.

Asian American Women’s Political Initiative

The Asian American Women’s Political Initiative (“AAWPI”) is a non-profit organization based in Boston, Massachusetts that works to ensure that AAPI women

have a voice in our democracy. After the 2021 mass shooting of 6 AAPI women in Georgia, AAWPI realized how urgent it was to change the invisibility that leaves us so vulnerable to the anti-Asian violence we still see today. In response to such violence, AAWPI scaled nationally and are building a first-of-its kind political pipeline to activate, mobilize and elevate AAPI women.

Asian Law Alliance

The Asian Law Alliance (“ALA”), founded in 1977, is a non-profit public interest legal organization with the mission of providing equal access to the justice system to the Asian and Pacific Islander communities in Santa Clara County, California. Since 1977, ALA has consistently fought against discriminatory laws impacting the community.

Chinese for Affirmative Action

Chinese for Affirmative Action (“CAA”) was founded in 1969 to protect the civil and political rights of Chinese Americans and to advance multiracial democracy in the United States. Today, CAA is a progressive voice in and on behalf of the broader Asian American and Pacific Islander communities. CAA advocates for systemic change that protects immigrant rights, promotes language diversity, and remedies racial and social injustice. CAA has long fought against government scapegoating of Asian American communities because racial profiling, under the guise of national security, is unjust. For CAA, this work includes ending the U.S.

Department of Justice’s practice of targeting Chinese Americans for espionage-related crimes by raising community awareness, providing support for affected individuals and their families, and building bridges and solidarity across all affected communities. CAA also opposes land laws which target specific communities and bars them from property ownership and has worked with other grassroots organizations to advocate against such bills in Texas and beyond.

Japanese American Citizens League

The Japanese American Citizens League (“JACL”) was founded in 1929 to combat discriminatory policies such as alien land laws targeting Japanese immigrants and Japanese Americans. JACL's ongoing mission is to secure and maintain the civil rights of Japanese Americans and all others who are victimized by injustice and bigotry.

LatinoJustice PRLDEF

LatinoJustice uses and challenges laws to promote a more just and equitable society. For more than fifty years, LatinoJustice has litigated cases, and advanced policy initiatives to counteract marginalization due to intersecting characteristics, such as race, ethnicity, and immigration status, in areas such as housing, economic justice, and voting. Most recently, LatinoJustice and other amici filed a brief in *Francis v. Kings Park Manor, Inc.*, 992 F.3d 67 (2d Cir. 2021), explaining the legislative and historical backdrop of the Fair Housing Act, which proscribes

national origin and race-based discrimination in housing. LatinoJustice is acutely aware of the sordid history of exclusionary policies against foreign nationals—Mexicans and Asians alike—including dispossessing them of their property interests.

Amici are aware of the history of race and alienage discrimination in restricting property rights and the devastating impact such discrimination has on individuals, communities, and this nation. Amici are aware that immigration restrictions, alien land laws, and the incarceration of Japanese Americans during World War II have been previously upheld by courts under the pretext of national security. Amici have an interest in this litigation to ensure that this pained part of American history, particularly as it relates to alien land laws, does not recur.

REASONS WHY THE MOTION SHOULD BE GRANTED

In this case, Plaintiffs seek to enjoin Florida’s Conveyances to Foreign Entities Law (“Alien Land Law”), which severely restricts the rights of non-citizen and non-permanent resident persons, domiciled in China, to own real property in Florida. The Brief provides the Court with important historical context of alien land laws and their long and discredited history of promoting unlawful discrimination against persons of Asian descent. These historical examples, to which Florida’s Alien Land Law bears chilling resemblance, inform the dangers of racially motivated and discriminatory laws that violate the Equal Protection and Due Process Clauses

of the United States Constitution. The Brief also provides additional authority that have rejected the use of national security as a guise to justify targeting persons of Asian descent. The matters set forth in the Brief are directly relevant to the issues before the Court and serve to assist the Court in resolving them. Accordingly, Amici respectfully request that they be permitted to file the Brief.

CONCLUSION

For the foregoing reasons, the Court should grant leave to file the attached brief as amici curiae.

Respectfully submitted,

FOLEY HOAG LLP

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**Motion to appear pro hac vice simultaneously filed*

RULE 7.1 CERTIFICATE OF COMPLIANCE

I, Madeleine K. Rodriguez, hereby certify that on June 12, 2023, an attorney from Foley Hoag LLP, Sahar M. Basaria, Esq., conferred with attorneys for Plaintiffs and Defendants regarding their positions on the submission of the foregoing amici curiae brief. Counsel for Plaintiffs consented. Counsel for Defendants Ivey, Simpson, and Fitzgerald also consented. I further certify that between June 12, 2023 and June 13, 2023, Ms. Basaria attempted to contact counsel for Defendants Larizza, Worrell, and Rundle. However, counsel have not yet appeared and efforts to contact them were unsuccessful. Ms. Basaria contacted counsel for Plaintiffs and Defendants to determine whether counsel for Defendants Larizza, Worrell, and Rundle had been identified. Ms. Basaria also emailed Defendant Larizza's office (larizza@sao7.org) to no avail. Ms. Basaria contacted the Miami State Attorney's office and was directed to send an email to 'LegalUnit@miamisao.com' to which she received no response. A representative from Defendant Worrell's office later advised Ms. Basaria that Defendant Worrell is not yet represented but that Defendant Worrell usually does not take a position on the filing of amicus briefs.

/s/ Madeleine K. Rodriguez

Madeleine K. Rodriguez, Esq.

CERTIFICATE OF SERVICE

I, Madeleine K. Rodriguez, hereby certify that on June 13, 2023, I caused the foregoing to be filed with the Clerk of Court for the United States District Court for the Northern District of Florida by using the CM/ECF system (NextGen). I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: June 13, 2023

/s/ Madeleine K. Rodriguez

Madeleine K. Rodriguez, Esq.

EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

YIFAN SHEN, ZHIMING XU, XINXI
WANG, YONGXIN LIU, and MULTI-
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Plaintiffs,

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WILTON SIMPSON, in his official capacity as
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Commission, R.J. LARIZZA, in his official
capacity as State Attorney for the 7th Judicial
Circuit, MONIQUE WORRELL, in her official
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Circuit, and KATHERINE FERNANDEZ
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Defendants.

Case No. 4:23-cv-208-AW-MAF

**BRIEF OF RACIAL JUSTICE CENTERS, AFFINITY BAR AND
PROFESSIONAL ASSOCIATIONS, AND CIVIL RIGHTS ADVOCACY
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INTEREST OF AMICI CURIAE¹

Amici include a coalition of racial justice centers, affinity bar and professional associations, and civil rights advocacy organizations, listed below.

Racial Justice Centers:

Fred T. Korematsu Center for Law and Equality at Seattle University School of Law;

Center for Immigration Law, Policy and Justice at Rutgers Law School;

Aoki Center for Critical Race and Nation Studies at UC Davis School of Law;

LLS Anti-Racism Center of LMU Loyola Law School;

Center on Race, Inequality, and the Law at New York University School of Law;

Boston University Center for Antiracist Research; and

Center for Civil Rights and Racial Justice at the University of Pittsburgh School of Law.

These racial justice centers include scholars who study historical and contemporary race discrimination, including the treatment of persons of Asian ancestry.

Affinity Bar/Professional Associations:

¹ Complete statements of interest are included in the motion for leave to file this amicus brief. Amici certify that neither party's counsel authored this brief in whole or in part, nor did any party or party's counsel, other than amici and their counsel, contribute money to fund preparation or submission of this brief.

Asian Pacific American Bar Association of Tampa Bay;
Conference of Asian Pacific American Law Faculty;
Hispanic National Bar Association;
National Asian Pacific American Bar Association; and
South Asian Bar Association of North America.

These affinity bar/professional organizations are familiar with the history of discrimination that has thwarted inclusion and participation in this country's political, economic, and cultural spheres.

Civil Rights and Other Advocacy Organizations:

Asian Americans Advancing Justice – Asian Law Caucus;
Asian Americans Advancing Justice – Atlanta;
Asian American Women's Political Initiative;
Asian Law Alliance;
Chinese for Affirmative Action;
Japanese American Citizens League; and
LatinoJustice PRLDEF.

These civil rights and other advocacy organizations seek to safeguard civil and political rights.

Amici are keenly aware of the history of race and alienage discrimination in restricting property rights and the devastating impact such discrimination has on

individuals, communities, and this nation. Amici are also keenly aware that immigration restrictions, alien land laws, and the incarceration of Japanese Americans during World War II have been previously upheld by courts under the pretext of national security. Amici have an interest in this litigation to ensure that this pained part of American history, particularly as it relates to alien land laws, does not recur.

INTRODUCTION

Seventeen days from today, following the passage of Florida’s Conveyance to Foreign Entities Law (“Alien Land Law” or “Law”), persons of Chinese descent—among others defined by the law, will face various bars to land ownership in Florida, including a registration requirement for those that have acquired land.² Individuals who misstep in attempting to comply risk committing a third-degree felony.³ This racially motivated Law is intended to trample on the property rights of Asian persons under the pretext of national security. Accordingly, Amici request that this Court grant Plaintiffs’ Motion for Preliminary Injunction.

² See ECF 17 ¶ 38.

³ See *id.* ¶¶ 46-48, 53-54, 56-58.

ARGUMENT

Amici offer historical support for Plaintiffs’ allegations that Florida’s Alien Land Law is unconstitutional.⁴ Race-based alien land laws like Florida’s are stains on American history. Since the mid-twentieth century, these laws—aimed at curtailing the rights of Asian persons—have historically been struck down as invidiously discriminatory. Amici will show that (1) alien land laws have a history of promoting discrimination against Asian persons and have been deemed unconstitutional for well over seventy-five years, and (2) Florida’s Law repeats history by scapegoating and discriminating against Asian persons under the guise of national security.

I. Alien Land Laws Discriminated Against Asian Persons but Have Long Been Discredited.

Alien land laws are part of a long line of discriminatory uses of the legal system that deployed race and citizenship laws to subordinate Asian persons. They harken back to the earliest days of the Republic when nativist principles restricted non-citizens from owning land.⁵ Notably, states relied on racially restrictive citizenship laws in place at the time to deny Asian immigrants the right to own

⁴ See *id.* ¶¶ 3, 120.

⁵ Polly Price, *Alien Land Restrictions in the Common Law: Exploring the Relative Autonomy Paradigm*, 43 Am. J. Legal Hist. 152, 155-66 (1999).

property. A century later, however, states tentatively began to embrace broader ownership rights: by 1885, Florida offered foreigners “the same right as to the ownership and disposition of property in this State as citizens of the State.”⁶ Such progress was short-lived. By 1926, Florida, like other states,⁷ enacted a constitutional amendment restricting the rights of “aliens ineligible to citizenship” to own land.⁸ This facially race-neutral category was a euphemism for immigrants from Asia.⁹ The provision, which had “the sole intention of forestalling any further importation into Florida of Japanese, Chinese and others of the Mongolian race,”¹⁰ was championed by a future Chief Justice of the Florida Supreme Court.

⁶ Fla. Const. of 1885, Decl. of Rights, § 18.

⁷ See *infra* *Ozawa v. United States*, 260 U.S. 178, 198 (1922); *United States v. Thind*, 261 U.S. 204, 213 (1923).

⁸ Fla. Const. of 1968 Art. I § 2; See *Report to the Governor, Senate, and House of Representatives of the State of Florida Recommending Repeal of the Racially Discriminatory Alien Land Provision of the Florida Constitution*, Immigr. & Nat’y Law Rev. Ass’n, Univ. of Cin. Coll. Of Law, Alien Land Law Project (Dec. 2000).

⁹ See *Terrace v. Thompson*, 263 U.S. 197, 220 (1923).

¹⁰ 1927 *Legislative Program for Florida takes Shape with Amendment Adoption*, Tampa Morn. Trib., (Nov. 8, 1926), at 9.

A. Alien Land Laws Targeted Certain Persons of Asian Ancestry.

Anti-Asian sentiment began gaining widespread attention in the mid-1800s in California, due to a growing Chinese immigrant laborer population.¹¹ California's white political leaders responded to growing anti-Chinese sentiment by enacting state laws discouraging immigration based on Chinese race and enforcing otherwise neutral state laws in a discriminatory manner. Such efforts were rebuked by the Supreme Court in 1875, holding that the authority to enact laws concerning relations with foreign nations "belongs to Congress, and not to the states."¹²

White politicians then pivoted from the states to the federal government to secure white social dominance. The federal Chinese Exclusion Act of 1882 banned Chinese laborers from emigrating to the United States in an effort to counter what white political leaders viewed as "an 'invasion' by a contagion that, once within the body politic, begins to eat away the nation from within."¹³ These fears extended to Japanese immigrants, who were deemed "ineradicably foreign" and represented a growing industrial and military power.¹⁴ This combination of a perceived inability

¹¹ Keith Aoki, *No Right to Own? The Early Twentieth-Century "Alien Land Laws" as a Prelude to Internment*, 40 B.C. L. Rev. 37, 40-41 (1998).

¹² *Chy Lung v. Freeman*, 92 U.S. 275, 286 (1875) (internal citation omitted).

¹³ Aoki, *supra*, n. 11 at 46.

¹⁴ *Id.* at 47.

to assimilate, combined with a threat to white social dominance, spurred draconian alien land laws across the country.

In 1913, California became the first state to pass an alien land law, explicitly aimed at deterring Japanese people from coming to the state. As the California Supreme Court stated, “[t]he object sought to be attained by these statutory provisions, that is, to discourage the coming of Japanese into this state, may be a proper one, and may be even desirable for the promotion of the welfare and progress of the state.”¹⁵ The alien land laws of the 1920s served as a precursor to the federal Immigration Act of 1924, which barred virtually all “aliens ineligible to citizenship” from immigration into the United States. These alien land laws “provided a bridge that sustained the virulent anti-Asian animus that linked the Chinese Exclusion Act of 1882 with the incarceration of Japanese American citizens” during World War II.¹⁶ In 1943, during the height of the Second World War, three states that hosted Japanese American incarceration camps—Wyoming, Utah, and Arkansas—all passed alien land laws, with Arkansas singling out all persons of Japanese ancestry, regardless of citizenship.¹⁷

¹⁵ *In re Guardianship of Yano*, 188 Cal. 645, 658 (1922).

¹⁶ Aoki *supra*, n. 11 at 68.

¹⁷ Dudley O. McGovney, *The Anti-Japanese Land Laws of California and Ten Other States*, 35 Calif. L. Rev. 7, 8 (1947).

These alien land laws barred “aliens ineligible for citizenship” from owning land, which, although “facially neutral,” had the clear (and intended) effect of primarily barring land ownership by Asian immigrants. Though the Naturalization Act of 1870 extended naturalization rights to “aliens of African nativity and to persons of African descent,”¹⁸ and naturalization rights were extended piecemeal starting in 1943 to certain Asian nationalities, the general racial bar to Asian naturalization was not lifted until 1952.¹⁹ “Aliens ineligible for citizenship” was the racial code whose meaning was clear and whose usage was given constitutional legitimacy: “[g]enerally speaking, the natives of European countries are eligible [to own land]. Japanese, Chinese and Malays are not.”²⁰

B. Race-Based Alien Land Laws Have Been Rejected as Improper State Laws.

After World War II, courts and legislatures began dismantling race-based alienage discrimination. In 1948, the Supreme Court in *Oyama v. California* held that California’s alien land law violated the Equal Protection Clause by engaging in national origin discrimination when it denied U.S.-born children of Japanese

¹⁸ Naturalization Act of 1870, Pub. L. 41-254, 16 Stat. 254 (amended 1906).

¹⁹ Immigration and Nationality Act of 1952, Pub. L. 82-414, 66 Stat. 163 (1952) (codified as amended at 8 U.S.C. §§ 1101 *et. seq.*).

²⁰ *Terrace*, 263 U.S. at 220.

noncitizens who were not eligible for citizenship the right to own land.²¹ Though the opinion of the Court did not directly address the rights of ineligible aliens under Alien Land Laws, Justice Black’s concurrence did, stating that the law “violate[s] the equal protection clause . . . and conflict[s] with federal laws and treaties governing the immigration of aliens and their rights after arrival in this country . . . [and] in actual effect singles out aliens of Japanese ancestry.”²² Justice Murphy’s concurrence directly addressed the rights of ineligible aliens, highlighting the race-based intent behind California’s purportedly race-neutral citizenship. He asserted that its intention was “to irritate the Japanese, to make economic life in California as uncomfortable and unprofitable for them as legally possible . . . to discourage the Japanese from entering California and to drive out those who were already there.”²³

The views expressed by the various justices in *Oyama* ushered in changes in equal protection jurisprudence that led to greater protection against race-based restrictions in land ownership. Four months after deciding *Oyama*, the Supreme Court prohibited judicial enforcement of racially restrictive covenants.²⁴ A month later, the Court ruled California could not bar an alien ineligible to citizenship “from

²¹ *Oyama v. California*, 332 U.S. 633, 640 (1948).

²² *Id.* at 647 (Black, J., concurring).

²³ *Id.* at 657 (Murphy, J., concurring).

²⁴ *Shelley v. Kraemer*, 334 U.S. 1, 21 (1948).

earning his living as a commercial fisherman,” holding that the Fourteenth Amendment “embod[ies] a general policy that all *persons* lawfully in this country shall abide ‘in any state’ on an equality of legal privileges with all citizens under non-discriminatory laws.”²⁵

Collectively, these developments led to a series of cases that recognized that laws prohibiting “aliens ineligible for citizenship” from owning land were racially discriminatory and must be struck down. In 1949, the Oregon Supreme Court invalidated its alien land law, acknowledging that limiting the rights of aliens ineligible for citizenship violated the Equal Protection and Due Process Clauses of the United States Constitution.²⁶ The California Supreme Court followed in 1952, holding that the state’s alien land law—by barring “aliens not eligible for citizenship” from land ownership—illegally classified persons “on the basis of race or nationality.”²⁷ Voiding the state’s race-based alien land law, the court commented that “that the Fourteenth Amendment protects aliens as well as citizens from arbitrary discrimination.”²⁸ Montana’s alien land law came down next.²⁹ Others,

²⁵ *Takahashi v. Fish & Game Comm’n*, 334 U.S. 410, 419-20 (1948).

²⁶ *See Namba v. McCourt*, 204 P.2d 569, 582 (Or. 1949).

²⁷ *Fujii v. California*, 242 P.2d 617, 624-25, 630 (1952).

²⁸ *Id.* at 625 (citing *Yick Wo v. Hopkins*, 118 U.S. 356 (1886)).

²⁹ *State v. Oakland*, 287 P.2d 39 (Mont. 1955) (holding Montana’s alien land law unconstitutional).

such as New Mexico and Washington, fell by ballot measure. Florida's too fell by ballot measure—but not until 2018.³⁰ By then, it seemed that the country had finally moved past its shameful history of discriminatory restrictions on property ownership. Indeed, Congress apologized for legislation racially discriminating against Chinese people.³¹

II. Florida's Alien Land Law Is a Racially Regressive Law That Relies on Harmful Rhetoric to Restrict the Rights of Asian Persons.

Florida's Law functionally legalizes discrimination against Asian persons based on anti-Asian rhetoric employing stereotypes and fearmongering. Coming at a time where anti-Asian sentiments and rhetoric are rising across the nation, the invidious effect of the Law is to sanction discrimination against Asian persons. It is patently unconstitutional.

A. The National Security Argument Supporting the Alien Land Law Is Meritless and Pretextual.

Throughout his tenure, Governor DeSantis has sought to “crack down on” what he considers to be “the United States’ greatest geopolitical threat”—the

³⁰ See *Detzner v. Anstead*, 256 So.3d 820 (Fla. 2018) (holding that the proposed constitutional amendment that removed the state's alien land law was not defective).

³¹ H. Res. 112-683, 112th Cong., 158 Cong. Rec. H3715-19 (2012); S. Res. 112-201, 112th Cong., 157 Cong. Rec. S6352-54 (2011).

Chinese Communist Party—via measures such as the Alien Land Law.³² Commissioner Simpson has also alleged that “China and other hostile foreign nations control hundreds of thousands of acres of critical agricultural lands in the U.S. leaving our food supply and our national security interest at risk.”³³ Simpson’s representations are contradicted by an inconvenient truth. Of the approximately 41 million acres of foreign-owned U.S. agricultural land—which accounts for roughly three percent of *total* privately owned agricultural land in the U.S.—less than one percent involves Chinese interest.³⁴ Such a de minimis interest cannot significantly impact—let alone threaten—the national security or national food supply.³⁵

The fundamental factual and legal flaw embraced by the Law and the Defendants is the assumption that all or many non-United States citizens or permanent residents domiciled in China are agents of the Chinese Communist Party and are controlling land on its behalf. This unsupportable generalization is identical

³² Press Release, *Governor Ron DeSantis Cracks Down on Communist China*, News Releases (May 8, 2023), <https://www.flgov.com/2023/05/08/governor-ron-desantis-cracks-down-on-communist-china>

³³ *Id.*

³⁴ United States Department of Agriculture (Farm Service Agency), *Foreign Holdings of U.S. Agricultural Land: Through December 31, 2021*, (updated Jan. 24, 2023), https://www.fsa.usda.gov/Assets/USDA-FSA-Public/usdafiles/EPAS/PDF/2021_afida_annual_report_through_12_31_2021.pdf

³⁵ *See Bill Analysis and Fiscal Impact Statement*, Florida Senate, <https://www.flsenate.gov/Session/Bill/2023/264/Analyses/2023s00264.pre.ju.PDF>,

to that levied against Japanese Americans during World War II.³⁶ The Law targets Chinese persons based on their national origin alone, with neither evidence of ties to the Chinese Communist Party nor other particularized national security threat. The Law allows anti-Asian rhetoric, once again on the rise in society, to reestablish its improper place in the law.

Using the guise of national security as a pretext to discriminate hearkens back to the shameful chapters of 19th century Chinese Exclusion,³⁷ 20th century anti-Asian alien land laws,³⁸ the incarceration of Japanese Americans during World War II and the Court's endorsement of the same as "protection against espionage and against sabotage."³⁹ Hindsight shows that the measures taken in the name of national security were unconscionable, with recent proof that "the government knowingly withheld information from the courts when they were considering the critical question of military necessity in this case." This recent proof led to the wartime

³⁶ See *Korematsu v. United States*, 323 U.S. 214, 219 (1944) (recognizing that many Japanese Americans "no doubt were loyal to this country," but that "it was impossible to bring about an immediate segregation of the disloyal from the loyal.")

³⁷ See, e.g., *Ping v. United States*, 130 U.S. 581, 606 (1889) (justifying measures to exclude Chinese laborers under national security rationale).

³⁸ See, e.g., *Terrace*, 263 U.S. at 221 (anti-Asian alien land laws justified by danger that "every foot of land within the state might pass to the ownership or possession of noncitizens" who may lack an interest in the welfare of the state) (quoting *Terrace v. Thompson*, 274 F. 841, 850 (W.D. Wash. 1921)).

³⁹ See *Korematsu*, 323 U.S. at 217; *Hirabayashi v. United States*, 320 U.S. 81 (1943).

convictions of Fred Korematsu and Gordon Hirabayashi to be vacated in extraordinary *coram nobis* proceedings that took place four decades after their original convictions.⁴⁰ History has since judged *Korematsu* and *Hirabayashi* as “morally repugnant” and unquestionably wrongly decided.⁴¹ The historical condemnation of *Korematsu* is widespread, notwithstanding that these measures were taken by the federal government—purportedly utilizing its constitutionally granted authority—at a time of war with Japan. Florida’s Law, having the justification of neither federal action nor a war, fares no better.

B. The Alien Land Law Endorses Generalized Discrimination Against All Asian Persons.

Florida’s Alien Land Law will exacerbate the recent resurgence of anti-Asian persecution in the United States—and worse, impermissibly offer *state* sanction to unjust fear of and bias against persons of Asian descent. In 2018, along with the Department of Justice’s formation of the China Initiative, which proposed to root

⁴⁰ *Korematsu v. United States*, 584 F. Supp. 1406, 1420 (N.D. Cal. 1984); *Hirabayashi v. United States*, 828 F.2d 591, 608 (9th Cir. 1987) (granting petitioners’ *coram nobis* petitions and vacating their convictions under the Japanese curfew and incarceration laws).

⁴¹ *Trump v. Hawaii*, 138 S. Ct. 2392, 2423 (2018) (“*Korematsu* was gravely wrong the day it was decided, has been overruled in the court of history, and—to be clear—‘has no place in law under the Constitution.’”)(quoting *Korematsu*, 323 U.S. at 248 (Jackson, J., dissenting)); Civil Liberties Act of 1988, Pub. L. 100-383, 102 Stat. 903 (1988) (codified as amended at 50 U.S.C. §§ 1989b-1989b-8).

out “Chinese national security threats” and counter “economic espionage,”⁴² so too came a “sequel of the Yellow Peril,” a repulsive phrase assigned to previous historical periods of anti-Asian sentiment.⁴³

In 2020, the global crisis of the coronavirus pandemic took hold. With theories of its origination from Wuhan, China circulating throughout the media, the general public turned to the comfort of historical anti-Asian sentiment to assign blame to Asian persons. Racist epithets referring to COVID-19 as the “China virus” and “Kung-flu” accompanied increased hate crimes against Asian persons—regardless of national origin—which has impacted the lives of countless Asian Americans.⁴⁴ In 2021, Congress found a “dramatic increase in hate crimes and violence against Asian-Americans and Pacific Islanders,” and allocated additional resources to federal programs combatting hate crimes.⁴⁵

⁴² United States Department of Justice, *Information about the Department of Justice’s China Initiative and a Compilation of China-Related Prosecutions Since 2018* (last updated Nov. 19, 2021), <https://www.justice.gov/archives/nsd/information-about-department-justice-s-china-initiative-and-Compilation-china-related>.

⁴³ Chandran Nair, *U.S. Anxiety Over China’s Huawei a Sequel of the Yellow Peril*, S. China Morning Post (May 11, 2019), <https://www.scmp.com/week-asia/opinion/article/3009842/us-anxiety-over-huawei-sequel-yellow-peril..>

⁴⁴ Luis Noe-Bustamante et al., *About a Third of Asian Americans Say They Have Changed Their Daily Routine Due to Concerns over Threats, Attacks*, Pew Rsch Ctr (May 9, 2022), <https://www.pewresearch.org/short-reads/2022/05/09/about-a-third-of-asian-americans-say-they-have-changed-their-daily-routine-due-to-concerns-over-threats-attacks/>

⁴⁵ See COVID-19 Hate Crimes Act, Pub. L. 117-13, 135 Stat. 265 (2021); *United States v. Diggins*, 36 F.4th 302 (1st Cir. 2022), *cert. denied*, 143 S. Ct. 383 (2022)

Now, only five years after Florida became the final state in the Union to strike its alien land law from its constitution, Florida has enacted a new era of alien land laws; a measure that will not only worsen governmental discrimination against Asian persons, but also incentivize individuals associating with Asian persons to do the same. By imposing significant penalties—including imprisonment—for knowingly selling land to a Chinese national, the Law will have the further chilling and discriminatory effect of dissuading individuals from selling their own properties to Asian persons under fear of potential criminal prosecution.⁴⁶ Faced with these penalties, many homeowners may decline to sell their property to *any* Asian-appearing person, out of concern of running afoul of this new law.⁴⁷

CONCLUSION

Allowing Florida’s Alien Land Law to go into effect on July 1, 2023, under the pretext of national security will invite another era of anti-Asian sentiment and result in discrimination against all Asian persons. For the foregoing reasons, Amici request that this Court grant Plaintiffs’ preliminary injunction enjoining Defendants from implementing the Law.

⁴⁶ Fla. Stat. §§ 692.207(7), 692.203(8), 692.204(8); §§ 775.082(4)(a), 775.083(1)(d).

⁴⁷ *Cf.* Roger Daniels, *Asian America: Chinese and Japanese in the United States Since 1850*, at 343 (Univ. of Wash. Press) (1988) (quoting Professor Floyd Shinomura: “The Vincent Chin case reminds us that non-Asian Americans tend to see all Asians as foreigners.”)

Respectfully submitted,

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**Pro hac vice motions filed
contemporaneously*

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

YIFAN SHEN, ZHIMING XU, XINXI
WANG, YONGXIN LIU, and MULTI-
CHOICE REALTY, LLC,

Plaintiffs,

v.

WILTON SIMPSON, in his official
capacity as Florida Commissioner of
Agriculture, MEREDITH IVEY, in her
official capacity as Acting Florida
Secretary of Economic Opportunity,
PATRICIA FITZGERALD, in her official
capacity as Chair of the Florida Real Estate
Commission, R.J. LARIZZA, in his
official capacity as State Attorney for the
7th Judicial Circuit, MONIQUE
WORRELL, in her official capacity as
State Attorney for the 9th Judicial Circuit,
and KATHERINE FERNANDEZ
RUNDLE, in her official capacity as State
Attorney for the 11th Judicial Circuit,

Defendants.

Case No. 4:23-cv-208-AW-MAF

**CORPORATE DISCLOSURES FOR RACIAL JUSTICE CENTERS,
AFFINITY BAR AND PROFESSIONAL ASSOCIATIONS, AND CIVIL
RIGHTS ADVOCACY ORGANIZATIONS AS AMICI CURIAE**

Consistent with Federal Rules of Appellate Procedure 26.1 and 29(c)(1),
undersigned counsel for amici make the following disclosures:

Racial Justice Centers

Fred T. Korematsu Center for Law and Equality at Seattle University School of Law

The Fred T. Korematsu Center for Law and Equality (“Korematsu Center”) is a research and advocacy organization based at Seattle University, a non-profit educational institution under Section 501(c)(3) of the Internal Revenue Code. The Korematsu Center does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Center for Immigration Law, Policy, and Justice at Rutgers Law School

The Center for Immigration Law, Policy, and Justice at Rutgers Law School (“CILPJ”) is a policy-based center that advocates for the adoption of equitable and more inclusive laws, regulations, policies, and practices for all people – citizens and non-citizens alike. CILPJ is based at Rutgers University, a non-profit educational institution under Section 501(c)(3) of the Internal Revenue Code. Rutgers University does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Aoki Center for Critical Race and Nation Studies at UC Davis School of Law

The Aoki Center for Critical Race and Nation Studies at UC Davis School of Law (“Aoki Center”) is a program of the University of California, Davis, School of

Law, a non-profit educational institution under Section 501(c)(3) of the Internal Revenue Code. University of California, Davis does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

LLS Anti-Racism Center of LMU Loyola Law School

The LLS Anti-Racism Center of LMU Loyola Law School (“LARC”) is a research and advocacy center based at LMU Loyola Law School, a non-profit educational institution under Section 501(c)(3) of the Internal Revenue Code. LARC does not have any parent corporation or issue stock and is not a publicly held corporation which owns 10 percent or more of its stock.

Center on Race, Inequality, and the Law at New York University School of Law

The Center on Race, Inequality, and the Law (“CRIL”) is a research and advocacy organization based at New York University, a non-profit educational institution under Section 501(c)(3) of the Internal Revenue Code. CRIL does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Boston University Center for Antiracist Research

The Boston University Center for Antiracist Research is a research center based at Boston University, a non-profit educational institution under Section 501(c)(3) of the Internal Revenue Code. The BU Center for Antiracist Research does

not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Center for Civil Rights and Racial Justice at the University of Pittsburgh School of Law

The University of Pittsburgh School of Law Center for Civil Rights and Racial Justice mission is to facilitate community-engaged teaching, research, and service in the area of civil rights. It is based at the University of Pittsburgh, a non-profit educational institution under Section 501(c)(3) of the Internal Revenue Code. The University of Pittsburgh does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Affinity Bar/Professional Associations

Asian Pacific American Bar Association of Tampa Bay

The Asian Pacific American Bar Association of Tampa Bay (“APABA Tampa”) is a voluntary bar association of legal professionals that serves the Greater Tampa Bay area, and it is a non-profit organization under Section 501(c)(3) of the Internal Revenue Code. APABA Tampa does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Conference of Asian Pacific American Law Faculty

The Conference of Asian Pacific American Law Faculty (“CAPALF”) is a non-profit organization under Section 501(c)(3) of the Internal Revenue Code. CAPALF does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Hispanic National Bar Association

The Hispanic National Bar Association has no parent corporation and no publicly held corporation owns more than ten percent of its stock.

National Asian Pacific American Bar Association

The National Asian Pacific American Bar Association (“NAPABA”) is a national voluntary bar association of legal professionals, and it is a non-profit organization under Section 501(c)(6) of the Internal Revenue Code. NAPABA does not have any parent corporation or issue stock, and, consequently, there exists no publicly held corporation which owns 10 percent or more of its stock.

South Asian Bar Association of North America

The South Asian Bar Association of North America (“SABANA”) is a not-for-profit bar association organized under Section 501(c)(6) of the Internal Revenue Code. SABANA does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Civil Rights and Other Advocacy Organizations

Asian Americans Advancing Justice - Asian Law Caucus

Asian Americans Advancing Justice - Asian Law Caucus certifies that it has no parent corporation and no publicly traded corporation currently owns 10% or more of its stock.

Asian Americans Advancing Justice – Atlanta

Asian Americans Advancing Justice-Atlanta (“Advancing Justice-Atlanta”) is a nonprofit organization operating under Section 501(c)(3) of the Internal Revenue Code. Advancing Justice-Atlanta does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Asian American Women’s Political Initiative

The Asian American Women’s Political Initiative (“AAWPI”), the country’s only political leadership organization for Asian American and Pacific Islander women, is a non-profit organization under Section 501(c)(3) of the Internal Revenue Code. AAWPI does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Asian Law Alliance

The Santa Clara County Asian Law Alliance is a non-profit legal services office based in San Jose, California and is established under Section 501(c)(3) of the

Internal Revenue Code. The Santa Clara County Asian Law Alliance does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Chinese for Affirmative Action

Chinese for Affirmative Action (“CAA”) is a community-based civil rights organization established under Section 501(c)(3) of the Internal Revenue Code. CAA does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

Japanese American Citizens League

The Japanese American Citizens League (“JACL”) is a membership organization whose ongoing mission is to secure and maintain the civil rights of Japanese Americans and all others who are victimized by injustice and bigotry. JACL is a non-profit organization under Section 501(c)(3) of the Internal Revenue Code. JACL does not have any parent corporation or issue stock and consequently there exists no publicly held corporation which owns 10 percent or more of its stock.

LatinoJustice PRLDEF

LatinoJustice PRLDEF is a private nonprofit corporation organized under the laws of the State of New York. It does not issue any stock, and thus there is no publicly held corporation that owns 10% or more of its stock. It does not have a parent organization.

Dated: June 13, 2023

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