

Supreme Court Considers Cert Petitions in Three Associational Privacy Cases From California

February 2020

Privacy in Focus®

The Supreme Court is currently considering three petitions for certiorari in donor privacy cases arising from California. California's attorney general requires all non-profit organizations to disclose their donor lists as a condition of registering to solicit donations from California citizens. Three non-profit organizations challenged the compulsory donor disclosure rule as a violation of the First Amendment right of associational privacy. The results were mixed in the federal district courts, but the U.S. Court of Appeals for the Ninth Circuit upheld the rule in all three cases. Each plaintiff non-profit has petitioned for certiorari. *Privacy in Focus* previously has discussed the Ninth Circuit's rulings and the jurisprudential issues in need of clarification by the Supreme Court.

The cases are:

- Americans for Prosperity Foundation v. Xavier Becerra, Attorney General of California (Case No. 19-251);
- Thomas More Law Center v. Xavier Becerra, Attorney General of California (Case No. 19-255)
- Institute for Free Speech v. Xavier Becerra, Attorney General of California (Case No. 19-793)

The first two cases, Americans for Prosperity Foundation and Thomas More, have appeared on several Supreme Court conference dockets but have since fallen off with no indication of their fate. SCOTUSblog predicts both cases to be re-listed on a future docket. Meanwhile, the

Authors

Lee E. Goodman
Partner
202.719.7378
lgoodman@wiley.law

Practice Areas

Election Law & Government Ethics
Privacy, Cyber & Data Governance

Court has requested California's attorney general to file a brief in response to the Institute for Free Speech's petition. Because each case challenges the same California rule, one might expect common treatment - the Court is likely to take all three cases and combine them or reject certiorari in all three. A decision on cert should be forthcoming in March.

© 2020 Wiley Rein LLP