IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNION OF CONCERNED SCIENTISTS
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Plaintiffs,

and

Civil Action No. 1:19-cv-02907-KBJ

CALPINE CORPORATION
717 Texas, Suite 1000
Houston, TX 77002

CONSOLIDATED EDISON, INC.
4 Irving Place
New York, New York 10003

NATIONAL GRID USA
40 Sylvan Rd
Waltham, MA 02451

NEW YORK POWER AUTHORITY
123 Main Street
White Plains, NY 10601

POWER COMPANIES CLIMATE COALITION
415 Mission Street, 54th Floor
San Francisco, CA 94105-2533

Proposed Intervenor Plaintiffs,

v.

ELAINE L. CHAO, in her official capacity as Secretary, United States Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

JAMES C. OWENS, in his official capacity as Acting Administrator, National Highway Traffic Safety Administration
1200 New Jersey Avenue SE
Washington, DC 20590

UNITED STATES DEPARTMENT OF TRANSPORTATION
1200 New Jersey Avenue SE
Washington, DC 20590

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
1200 New Jersey Avenue SE
Washington, DC 20590

UNITED STATES OF AMERICA
c/o United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Defendants.

[PROPOSED] COMPLAINT

Intervenor Plaintiffs Calpine Corporation, Consolidated Edison, Inc., National Grid USA, New York Power Authority, and Power Companies Climate Coalition (together, "Plaintiffs") allege as follows:

INTRODUCTION

1. Plaintiffs are a coalition of major investor-owned utilities, the nation's largest state power authority, the largest and tenth largest municipal utilities, and a major independent power producer, all committed to generating clean electricity and supporting the widespread adoption of electric vehicles to combat climate change. They bring this action for declaratory and injunctive relief against final regulations of the Department of Transportation's National Highway Traffic Safety Administration ("NHTSA"), which assert preemption of state and local vehicle greenhouse gas ("GHG") and zero emission vehicle ("ZEV") emission standards under the Energy Policy and Conservation Act of 1975, Pub. L. No. 94-163, 89 Stat. 871 ("EPCA"). These regulations are now codified at 49 C.F.R. part 531 and 533 and appendices to those parts (collectively, the "Preemption Rule"). *See* "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program," 84 Fed. Reg. 51,310 (Sept. 27, 2019) (attached as "Exhibit A" to the First Amended and Supplemented Complaint for Declaratory and Injunctive Relief filed in *California v. Chao*,

No. 1:19-cv-02826-KBJ (D.D.C. Oct. 15, 2019), which is attached as Exhibit 1 to this Complaint and adopted and incorporated by reference where stated below).

2. NHTSA's Preemption Rule represents an abrupt reinterpretation of language in EPCA, the meaning of which has long been settled by the decisions of two federal courts and decades of consistent application by NHTSA itself. The Preemption Rule interprets EPCA to void, rather than accommodate, California's GHG and ZEV standards and those of the other states that have adopted identical standards (the "Section 177 States"), even though the U.S. Environmental Protection Agency ("EPA") has expressly authorized such standards by waiving preemption of them under Section 209 of the Clean Air Act ("CAA") and by approving State Implementation Plans submitted by such states, which incorporate those standards as a means of achieving the National Ambient Air Quality Standards ("NAAQS"). *See* 84 Fed. Reg. at 51,324 (declaring existing standards "void *ab initio*").

3. Plaintiffs believe that this interpretation is without legal merit and should be set aside as unlawful because it conflicts with the CAA and effectively nullifies the EPA's statutory power under Section 209 of the CAA to authorize California's adoption and enforcement of more stringent vehicle emissions standards. Plaintiffs also believe that NHTSA lacks legal authority to interpret the scope of preemption under EPCA or the power to enforce it. If the Preemption Rule is upheld against judicial challenge as a correct interpretation of the preemptive scope of EPCA, it will have the ultimate effect of voiding the regulatory framework that has driven Plaintiffs' investments and efforts to support vehicle electrification to-date and preclude states from promulgating any such standards in the future, regardless of changes in presidential administration.

4. For these reasons and those outlined below, Plaintiffs respectfully request that the Preemption Rule be declared unlawful and set aside because it exceeds NHTSA's statutory authority, is *ultra vires*, is arbitrary and capricious, and is not in accordance with law.

JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as the action arises under the laws of the United States. An actual controversy exists between the parties within the meaning of 28 U.S.C. § 2201(a), and this Court may grant declaratory relief, injunctive relief, and other relief pursuant to 28 U.S.C. §§ 2201-2202, 5 U.S.C. § 706, and the Court's inherent and equitable authority.

6. Venue is proper in this district under 28 U.S.C. § 1391(b) and (e) because a substantial part of the events or omissions giving rise to the claim occurred in this district.

PARTIES

A. Plaintiffs

7. Calpine Corporation ("Calpine") is among America's largest generators of electricity from natural gas and geothermal resources, with 78 power plants in operation or under construction in 16 U.S. states and Canada, amounting to nearly 26,000 megawatts of generating capacity. Calpine also provides retail electric service to customers in competitive markets throughout the U.S., including an additional seven states (beyond those in which it operates generation resources), through its subsidiaries Calpine Energy Solutions and Champion Energy Services.

8. Consolidated Edison, Inc. ("Con Edison") is a holding company that owns several subsidiaries, including: Consolidated Edison Company of New York, Inc., which delivers electricity, natural gas and steam to customers in New York City and Westchester County; Orange & Rockland Utilities, Inc., which, together with its subsidiary, Rockland Electric Company,

delivers electricity and natural gas to customers primarily located in southeastern New York State and Northern New Jersey; and Con Edison Clean Energy Business, Inc., which, through its subsidiaries, develops, owns, and operates renewable and energy infrastructure projects and provides energy-related products and services to wholesale and retail customers and has more than 2,600 megawatts of utility-scale solar and wind generation capacity in service, with a footprint spanning 17 states.

9. National Grid USA ("National Grid") is a holding company with regulated direct and indirect subsidiaries engaged in the transmission, distribution and sale of electricity and natural gas and the generation of electricity. It is the direct or indirect corporate parent of several subsidiary electric distribution companies, including Massachusetts Electric Company, Nantucket Electric Company, Niagara Mohawk Power Corporation and The Narragansett Electric Company. National Grid USA is also the direct corporate parent of National Grid Generation LLC, which supplies capacity to, and produces energy for, the use of customers of the Long Island Power Authority.

10. New York Power Authority ("NYPA") is the largest state public power utility in the U.S., with 16 generating facilities and more than 1,400 circuit-miles of transmission lines. NYPA sells electricity to more than 1,000 customers, including local and state government entities, municipal and rural cooperative electric systems, industry, large and small businesses and non-profit organizations.

11. Power Companies Climate Coalition is an unincorporated association of companies and municipal utilities engaged in the generation and distribution of electricity and natural gas, organized to advocate for responsible solutions to address climate change and reduce GHG emissions, including through participation in litigation concerning federal regulation. Its members

include the Los Angeles Department of Water and Power ("LADWP") and Seattle City Light, which, respectively, are the largest and tenth largest municipal electric utilities in the nation, NYPA, as well as Con Edison, National Grid and each of their respective subsidiaries, as enumerated and described above (*see supra* paras. 8, 9).[1]

B. Defendants

12. The U.S. Department of Transportation is an authority of the U.S. Government and is headquartered in Washington, D.C.

13. Elaine L. Chao is the Secretary of Transportation. She the highest ranking official of the U.S. Department of Transportation. Secretary Chao is sued in her official capacity.

14. NHTSA is "an administration in the [U.S.] Department of Transportation," 49 U.S.C. § 105(a), and is headquartered in Washington, D.C.

15. James C. Owens is the Acting Administrator of NHTSA and is its highest-ranking official. *See* 49 C.F.R. § 501.4(a). Acting Administrator Owens is sued in his official capacity.

16. The United States is named as a defendant pursuant to 5 U.S.C. § 702.

FACTS

17. Plaintiffs hereby adopt and incorporate by reference the statutory and regulatory background statements made in the First Amended and Supplemented Complaint for Declaratory

[1] Other members of Power Companies Climate Coalition, including Exelon Corporation and its subsidiaries, Pacific Gas and Electric Company, and Sacramento Municipal Utility District, intend to participate in these related cases through their membership in the National Coalition for Advanced Transportation, which has separately moved to intervene in these cases (Mot. of Nat. Coalition for Advanced Transportation to Intervene as a Plaintiff, Case No. 1:19-cv-02826-KBJ, Doc. 39; Mot. of Nat. Coalition for Advanced Transportation to Intervene as a Plaintiff, Case No. 1:19-cv-02907-KBJ, Doc. 26). Public Service Enterprise Group Incorporated and its subsidiaries are also members of Power Companies Climate Coalition, but are not participating in this litigation.

and Injunctive Relief, in *California v. Chao*, No. 1:19-cv-02826-KBJ (D.D.C. Oct. 15, 2019), attached as Exhibit 1 to this Complaint, in paragraphs 48-112.

18. California has independently regulated emissions of air pollution from motor vehicles for 60 years (*see* 1959 Cal. Stats. ch. 200, § 1), predating the 1963 adoption of the CAA (Pub. L. No. 88-206, 77 Stat. 392) and 1965 CAA amendments authorizing the federal government to regulate motor vehicle emissions. Since 1967, the CAA has included a preemption "waiver" mechanism designed to allow California, and only California, to continue setting and enforcing its own motor vehicle emissions standards subject to meeting limited statutory conditions. *See* CAA § 209(b); 42 U.S.C. § 7543(b). Since 1977, Section 177 of the CAA has also provided all other states the ability to adopt and enforce California's standards rather than the standards adopted by the federal government (the "Section 177 States"). *See* 42 U.S.C. § 7507. California obtained its first federal waiver to continue independently setting its own motor vehicle emissions standards in 1968, two years before the 1970 creation of the EPA and, for the last five decades, has routinely received federal waiver authorization from the EPA to continue directly regulating air pollution from motor vehicles and to establish increasingly stringent standards for adoption by other states. This cooperative federalist framework reflects Congress' judgment concerning the appropriate balance of federal and state authority with respect to the regulation of motor vehicle emissions, a judgment which took into account the value of providing a pathway for regulatory innovation, the resulting compliance costs for manufacturers and the environmental benefits to the public. For decades, this framework has worked as intended and in harmony with NHTSA's implementation of EPCA, as discussed below.

19. Congress enacted EPCA in 1975 to spur a reduction in the consumption of domestic petroleum following the oil embargo of 1973. To accomplish this, EPCA established numerical

average fuel economy standards for model years 1978-1980 and directed NHTSA to set "maximum feasible" average fuel economy standards thereafter. *See* Pub. L. No. 94-163 § 502, 89 Stat. 871, 903 (1975). In determining this maximum level, NHTSA was directed long ago to consider four factors, including "the need of the Nation to conserve energy," "technological feasibility," "economic practicability," and, most importantly here, "the effect of other Federal motor vehicle standards" on fuel economy. *Id* § 502, 89 Stat. at 905. *See also* 49 U.S.C. § 32902(f). The fourth factor has long been interpreted and considered synonymous with EPCA's historical definition of "federal standards," a term which was expressly defined in EPCA to include "emissions standards applicable by reason of Section 209(b) of [the CAA] . . . ." Pub. L. No. 94-163 § 502, 89 Stat. at 905. As a result, EPCA has always accommodated California's vehicle standards as a core element of its framework. Multiple amendments to both EPCA and the CAA left this framework substantively untouched. *See* States' Complaint, *California v. Chao,* Case No. 1:19-cv-02826-KBJ, at paras. 59-63.

20. Separate from these provisions, but at the center of this case, is EPCA's preemption clause, which heretofore has posed no obstacle to California's independent regulation of motor vehicle emissions in tandem with the federal government's regulation of fuel economy:

> When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

49 U.S.C. § 32919(a). This language has never been interpreted to apply to emissions standards adopted under Section 209 of the CAA, and indeed two courts have already rejected arguments that EPCA preempts California's GHG standards specifically. *Green Mountain Chrysler*

Plymouth Dodge Jeep v. Crombie, 508 F. Supp. 2d 295 (D. Vt. 2007); *Cent. Valley Chrysler-Jeep Inc. v. Goldstene*, 529 F. Supp. 2d 1151 (E.D. Cal. 2007). Furthermore, this clause delegates no authority to NHTSA to interpret its scope, and likewise provides no mechanism for NHTSA to make such an interpretation legally effective. It is perhaps for this reason that, until very recently, NHTSA has never found it prudent to issue any interpretation of this language.

21. The California Air Resources Board ("CARB") first adopted California's ZEV standards nearly 30 years ago and was granted a waiver by the EPA under Section 209 of the CAA to enforce those standards in 1993. 58 Fed. Reg. 4,166 (Jan. 13, 1993). CARB obtained subsequent waivers for amendments to its ZEV standards in 2006, 2011, and 2013. For over 25 model years, the ZEV standards have required that a certain percentage of vehicles manufactured for sale in California be ZEVs. *See* States' Complaint, *California v. Chao*, No. 1:19-cv-02826-KBJ, at paras. 66-68.

22. CARB adopted California's GHG standards in 2005 and first received waiver authority from the EPA in 2009. 74 Fed. Reg. 32,744 (July 8, 2009). Among other things, these standards require automobile manufacturers to achieve fleet-wide reductions in GHG emissions starting in model year 2009 and to continue to achieve reductions thereafter. In 2010, CARB, the EPA and NHTSA—with support from major automobile manufacturers—embarked on developing a coordinated "National Program" through which CARB and the EPA would align their respective GHG emissions standards with one another to develop a single stringent, nationally-uniform standard, with which NHTSA would thereafter harmonize its fuel economy standards. Once the National Program standard was determined by the parties, CARB updated its GHG and ZEV regulations accordingly and was granted waiver authority from the EPA to enforce those updated standards in 2013. 78 Fed. Reg. 2,112 (Jan. 9, 2013). The EPA has since that time approved state implementation plans ("SIPs") under the CAA that include California's GHG and ZEV standards

as enforceable elements for California and some Section 177 States. In some cases, California's GHG and ZEV standards are now codified in the Code of Federal Regulations and directly enforceable by the EPA as a matter federal law, as they are the legal mechanism by which states achieve compliance with the NAAQS under the CAA.

23. Despite the extensive history of cooperative federalism outlined above, and in the face of clear legal authority to the contrary, including the decisions of two federal courts, NHTSA abruptly changed course late last year, proposing the Preemption Rule as part of a joint rulemaking package with the EPA. *See* 83 Fed. Reg. 42,986 (Aug. 24, 2018). Simultaneously, NHTSA proposed to freeze existing fuel economy standards through 2026 and the EPA likewise proposed to freeze its existing federal GHG standards through the same model year. Finally, the EPA proposed to partially revoke California's waiver for its GHG and ZEV standards, which would prevent California and the Section 177 States from implementing the standards.

24. NHTSA published its final Preemption Rule in the Federal Register on September 27, 2019. 84 Fed. Reg. 51,310 (Sept. 27, 2019). The Preemption Rule purports to terminate California's authority to adopt and enforce its existing GHG and ZEV standards, concluding that such standards now fall within the scope of the "related to" language in EPCA's preemption clause. More generally, NHTSA determined that this language expressly and implicitly preempts state and local laws that regulate or prohibit tailpipe carbon dioxide emissions, and that all state laws with the "direct or substantial effect of" regulating or prohibiting tailpipe carbon dioxide emissions are likewise preempted. 84 Fed. Reg. at 51,362. NHTSA concluded that ZEV mandates fall within the scope of this "direct or substantial effect" test and are preempted by EPCA. *Id.* at 51,320. The Preemption Rule was published with a final action by the EPA to revoke the Section 209 waiver

for California's GHG and ZEV standards. The EPA's separate action expressly relies on the Preemption Rule as one basis for revoking California's waiver.

25. In reliance on the GHG and ZEV standards that the Preemption Rule purports to void, Plaintiffs have made substantial investments and established rate structures and programs to maximize the benefits and minimize the costs associated with integrating electric vehicle load to the grid. For example, Con Edison is working to install charging ports across New York City, offers time-of-use rates to maximize savings and benefits for electric vehicle owners and, through its SmartCharge New York program, offers electric vehicle owners further incentives to charge at off-peak hours. National Grid has worked to install significant charging infrastructure throughout Massachusetts, Rhode Island, and New York, offers a voluntary time-of-use rate to incentivize off-peak charging and, through its electric vehicle pilot program in Massachusetts, is installing more charging ports and is working to boost adoption rates. NYPA, through its EVolve NY program, will invest up to $250,000,000 through 2025 to build on its existing investments in electric vehicle infrastructure, service, and consumer awareness. LADWP offers rebates for the purchase of certain used electric vehicles and installation of electric vehicle chargers through its Charge Up LA! program, provides electric vehicle discount charging rates through its time-of-use meter service option, and is working to install charging infrastructure throughout the City of Los Angeles to support the growth of electric transportation. Likewise, Seattle City Light, through its Drive Clean Seattle program, is pursuing significant investments in charging infrastructure and innovative rate structures to effectuate its Transportation Electrification Strategy. The Preemption Rule threatens to void the underlying regulatory framework supporting these investments and efforts.

26. The Preemption Rule was codified at Title 49 of the Federal Code of Regulations, Sections 531.7 and 533.7; Appendix B to part 531 and Appendix B to part 533. It is a "final agency action" within the meaning of 5 U.S.C. § 704, and therefore is subject to immediate challenge in this Court.

STANDING

27. Plaintiffs have standing in this case because they have legally protected interests that would be redressed by a decision of this Court that vacates the Preemption Rule and declares it unlawful.

28. The Preemption Rule prevents states from regulating carbon dioxide emissions from passenger vehicle tailpipes and voids existing state regulations already in place, including the GHG and ZEV standards adopted by California and the Section 177 States. Plaintiffs have made and are making significant investments to build the infrastructure needed to support increased consumer adoption of electric vehicles in accordance with these standards. They have also made significant investments to position their generating resources to supply low- and zero-carbon power to fuel electric vehicles deployed by manufacturers pursuant to those standards.

29. Plaintiffs are making these investments and taking these actions to realize the significant economic and environmental benefits that integration of vehicles to the electricity grid can provide to them and their customers. For example, charging of electric vehicles can help shift load to hours when the grid is underutilized and the cost of electricity is low, bringing down total system costs, and can also support the integration of renewable energy resources. Additionally, the widespread deployment of electric vehicles, fueled by increasingly clean sources of electricity, significantly reduces emissions of smog- and soot-forming pollutants and can help attain and maintain the NAAQS in the jurisdictions served by Plaintiffs.

30. The GHG and ZEV standards implemented by California and the Section 177 States provide the regulatory certainty needed to support Plaintiffs' investments. By purporting to

preempt and void these standards, the Preemption Rule prevents California, the Section 177 States, and other states that might seek to adopt identical standards from mandating that electric vehicles be deployed by automakers in the numbers and on the schedule needed to realize the full benefits of Plaintiffs' investments and commitments. Further, California and many Section 177 States are relying upon the reductions in both GHG and criteria pollutant emissions resulting from the rapid deployment of electric vehicles to achieve state climate goals and the NAAQS for ozone and fine particulate matter. If those reductions do not occur, then some of Plaintiffs' existing generation resources will face additional pressure to reduce emissions more rapidly or at greater cost to customers than could be achieved through the widespread deployment of electric vehicles.

31. These injuries are directly traceable to the Preemption Rule and would be redressed by the relief requested, namely, that the Court vacate the Preemption Rule and declare that its conclusions regarding preemption are not supported by EPCA or the CAA. Plaintiffs Calpine, Con Edison, National Grid, and NYPA therefore have Article III standing on this basis.

32. Plaintiff Power Companies Climate Coalition has standing as a Plaintiff in this case because it is an association with standing to sue on behalf of its members. Its members include large utilities that have made substantial investment commitments to build electric vehicle infrastructure premised upon the state laws that the Preemption Rule purports to void. Its members have also made significant investments in low- and zero-carbon generation resources to supply the increasing load resulting from consumers' adoption of electric vehicles pursuant to such state laws. These interests are germane to Power Companies Climate Coalition's organizational purpose set forth above, and would be redressed by a favorable decision of this Court. Power Companies Climate Coalition therefore has standing on the same underlying basis as the other Plaintiffs.

CLAIMS

COUNT I

(Violation of Administrative Procedure Act - Exceedance of Statutory Authority)

33. Plaintiffs incorporate by reference the preceding allegations.

34. The Preemption Rule is a "final agency action" within the meaning of the Administrative Procedure Act ("APA"), 5 U.S.C. § 704.

35. Under the APA, this Court must "hold unlawful and set aside agency action" that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

36. NHTSA lacks authority delegated from Congress to issue regulations or other legally-effective determinations under EPCA regarding the scope of that statute's preemptive force, and thus acted in excess of its delegated statutory authority by issuing the Preemption Rule.

37. The Preemption Rule must be set aside and declared unlawful because it is "in excess of statutory jurisdiction, authority, or limitations" within the meaning of the APA.

COUNT II

(Violation of the Administrative Procedure Act - arbitrary, capricious, and not in accordance with law)

38. Plaintiffs incorporate by reference the preceding allegations.

39. The Preemption Rule is a "final agency action" within the meaning of the APA, 5 U.S.C. § 704.

40. Under the APA, this Court shall "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C.

§ 706(2)(A). The Preemption Rule is unsupported by law and is not consistent with the plain language of EPCA.

41. The Preemption Rule is not in accordance with law within the meaning of the APA because it interprets EPCA to preempt state laws which regulate or prohibit tailpipe greenhouse gas emissions and which have "the direct or substantial effect of regulating or prohibiting" fuel economy, without regard to whether CAA preemption has already been waived by the federal government for such laws under Section 209 of the CAA. 84 Fed. Reg. at 51,362.

42. The Preemption Rule is arbitrary, capricious, and not in accordance with law because its interpretation of the scope of preemption under EPCA is vague, overbroad, and lacks a coherent and binding limiting principle.

43. The Preemption Rule is arbitrary, capricious, and not accordance with law because it violates NHTSA's general conformity obligations under the CAA. By purporting to void California's GHG and ZEV standards, which are relied upon by multiple states to achieve the NAAQS, the action will cause increased criteria pollution, frustrating states' abilities to comply with the CAA through mechanisms that are enforceable under federal law in EPA-approved SIPs. NHTSA fails to explain how preemption of existing federally-enforceable laws essential to meeting federal air quality standards does not interfere with states' ability to meet those standards.

44. The Preemption Rule is arbitrary and capricious because NHTSA does not provide a reasonable explanation for its abrupt departure from its consistent interpretation of EPCA to accommodate California's standards consistent with Congressional intent.

45. The Preemption Rule is arbitrary and capricious because it is based on incorrect statements of law and is in flagrant conflict with two district court decisions.

46. The Preemption Rule is arbitrary and capricious because its interpretation of the term "related to" (49 U.S.C. § 32919(a)) is illogical and irreconcilable with the CAA and EPCA as it renders hollow the EPA's authority to grant preemption waivers under Section 209 of the CAA.

COUNT III

(*Ultra vires* action)

47. Plaintiffs incorporate by reference the preceding allegations.

48. Executive agencies and officers may only act pursuant to delegated powers. Actions outside the scope of those powers are *ultra vires*, and can be set aside by courts pursuant to their equitable jurisdiction.

49. The Preemption Rule is outside the scope of authority delegated to the Defendants, and does not identify any statute or other authority to authorize it.

50. The Preemption Rule is therefore *ultra vires* and must be declared unlawful and set aside.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request the following relief:

1. A declaration that the Preemption Rule is invalid because it is contrary to the APA, CAA, EPCA, and is *ultra vires*;

2. An order vacating the Preemption Rule and permanently enjoining the United States and its agencies and officers from relying on or enforcing the rule;

3. An award of Plaintiffs' reasonable costs and attorney fees in this matter; and

4. Any other relief that the Court deems just and proper.

Dated: December 4, 2019

Respectfully submitted,

/s/ Kevin Poloncarz
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