IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMONWEALTH OF VIRGINIA, *et al.*,

Plaintiffs,

v.

DAVID S. FERRIERO, *in his official capacity as Archivist of the United States*,

Defendant,

ALABAMA, LOUISIANA, NEBRASKA, SOUTH DAKOTA, and TENNESSEE,

Defendant–Intervenors.

Case No. 20-242 (RC)

BRIEF OF CONCERNED WOMEN FOR AMERICA AND SUSAN B. ANTHONY LIST AS AMICI CURIAE IN SUPPORT OF DEFENDANT-INTERVENORS STATES

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CORPORATE DISCLOSURE STATEMENT

Amici curiae Concerned Women for America and Susan B. Anthony List are non-stock, nonprofit corporations, neither of which has any parent company, and no person or entity owns them or any part of them.

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INTEREST OF AMICI CURIAE[1]

Concerned Women for America (CWA) is the nation's largest public policy women's organization, with over 40 years of active participation in public policy. CWA promotes constitutional principles through advocacy, and advocates for biblical values on issues of concern to conservative women, such as the sanctity of life, family, education, religious liberty, sexual exploitation, and more. CWA offers conservative perspectives on women's rights on behalf of over 500,000 members across the country.

CWA has participated in litigation over the Equal Rights Amendment and, for decades, led campaigns against the ERA. In 1980, CWA was involved in successfully challenging the purported three-year extension of the ratification deadline, as both illegal and unconstitutional. While the controversial extension was being litigated, CWA produced a television ad campaign and coordinated a nationwide prayer chain against additional state ratifications of the ERA. More recently, CWA led an information campaign warning of potential harm to women's rights should the ERA be considered ratified, and CWA supported the states requesting return of their ERA ratification documents.

CWA is particularly concerned that the ERA could erase women's progress; erase legal distinctions based on sex and leave women unprotected; affect women's

[1] No party's counsel authored the brief in whole or in part, and no one other than the amici curiae, its members, or its counsel contributed money that was intended to fund preparing or submitting the brief. *See* Fed. R. App. P. 29(c)(5). This brief is filed with consent of all parties. *See* Fed. R. App. P. 29(a).

current equality under the law; and impede women's ability to invoke various longstanding statutory protections.

Susan B. Anthony List (SBA List) is a nationwide network of more than 837,000 Americans dedicated to active engagement in American politics, policy, voter education, targeted issue advocacy, direct lobbying, grassroots campaigns, door-to-door inquiry, and network building between other like-minded women's organizations and individuals. SBA List provides resources related to voter issues that the ERA could affect, including taxpayer-funded abortions, pro-life protections for the unborn, partial-birth abortions, fetal tissue research, information on pro-life candidates for office, and more.

SBA List has consistently advocated against ratification of the ERA, through public opposition to attempted state ratifications and through coordinated lobbying of Congress, detailing flaws in the ERA and opposing any effort to revive it. Named for a champion of women's equal rights, SBA List is concerned that the ERA will be used to strike down laws protecting women's welfare, health, and safety by regulating abortion. As a result, SBA List opposes all attempts to ratify the ERA in its current form.

SUMMARY OF ARGUMENT

Plaintiffs attempt to litigate a question the Supreme Court already answered 40 years ago, based on settled caselaw and the Constitution's plain text. Article V of the Constitution grants to Congress the exclusive power — and with it, much

discretion — to propose the mode in which a proposed amendment to the Constitution is to be ratified. *Dillon v. Gloss*, 256 U.S. 368, 376 (1921).

With the Equal Rights Amendment, Congress exercised that power, and in doing so — as it had done several other times — gave the states seven years to ratify the proposed text. In fact, Congress's Article V proposal could not be more clear: the ERA would be certified "as part of the Constitution when ratified by the legislatures of three-fourths of the several States *within seven years* from the date of its submission by the Congress." H.R.J. Res. 208, 92d Cong., 1st Sess. (1972), 86 Stat. 1528. The requisite number of states did not ratify within seven years of submission, so the ERA's path ended in 1979. End of story.

The consensus on this point is overwhelming, even among ERA proponents like Plaintiffs, Plaintiffs' amici, and like-minded members of Congress. As the deadline approached decades ago, Congress recognized the fateful significance of the time limit imposed and attempted to extend it by three years. Since then, Congress has tried annually to "repeal" the deadline, but these proposals have never garned enough support. Why would an extension or "repeal" of the deadline be necessary unless the deadline were binding? It would not, and 1979 remains the ERA's terminus.

Congress's acknowledgement is telling and hardly an outlier. Virtually everyone from the early 1980s to today — including Plaintiffs and their amici — has understood that ERA advocates must start anew if they desire ratification of the

Amendment. To read their public statements on the issue of the ERA's expiration is to see that this lawsuit is based on wishful thinking at best.

Yet these same parties ask this Court to conclude that the words Congress used in proposing a constitutional amendment are meaningless and to ignore the Supreme Court's previous dismissal of litigation over the ERA as moot. That requires them to argue that Congress's creating the 1979 deadline was a futile act, that the attempted deadline extension to 1982 was unnecessary, and that the ongoing congressional efforts to "repeal" the deadline are gratuitous. But Congress's words are not meaningless, and its actions show that it understood the seven-year time limit to be binding and critical to the mode of ratification.

The Supreme Court's action on the question of the ERA's vitality is also powerfully instructive: it recognized that the question is moot. Specifically, the Supreme Court dismissed a challenge to the deadline extension's constitutionality, almost as soon as the deadline expired. Only one conclusion follows. If the ERA's ratification deadline expired in 1982, mooting any controversy, then it is certainly expired today.

ARGUMENT

I. Congress set a valid seven-year time limit for ratification that ended in 1979.

A. Article V empowers Congress to set a timeframe for ratification.

Congress may fix a reasonable time limit for a proposed constitutional amendment's ratification. *Coleman v. Miller*, 307 U.S. 433, 452 (1939); *Dillon v. Gloss*, 256 U.S. 368, 376 (1921). This power comes directly from Article V of the

Constitution, which "is intended to invest Congress with a wide range of power in proposing amendments." *Dillon*, 256 U.S. at 373. Article V provides that Congress "can 'propose' the text of the amendment and it can 'propose' the mode of ratification." *State of Idaho v. Freeman*, 529 F. Supp. 1107, 1153 (D. Idaho 1981), vacated as moot sub nom. *Nat'l Org. for Women, Inc. v. Idaho*, 459 U.S. 809 (1982).

The Supreme Court settled this question nearly a century ago, concluding that "[w]hether a definite period for ratification shall be fixed . . . is . . . a matter of detail which Congress may determine as an incident of its power to designate the mode of ratification." *Dillon*, 256 U.S. at 376; *Coleman*, 307 U.S. at 472 (quoting *Dillon*). In other words, in granting authority to Congress to "propose[]" the "Mode of Ratification," Article V empowers Congress to set timing parameters. U.S. Const. art. V. After all, a "mode" means "a manner of doing something,"[2] or "a way or manner in which something occurs."[3]

For more than a century, Congress has understood and exercised the power to set the mode of ratification. Since 1917, Congress has proposed 11 constitutional amendments in accord with Article V. U.S. Const. amends. XVII-XXVI; H.R.J. Res. 208, 92d Cong., 1st Sess. (1972), 86 Stat. 1528 (Equal Rights Amendment), H.R.J. Res. 554, 95th Cong., 2nd Sess. (1978), 92 Stat. 3795 (Failed D.C. Statehood Amendment). In 10 out of 11, Congress included in the authorizing language a

[2] *Mode*, BLACK'S LAW DICTIONARY (2d pocket ed. 2001).
[3] *Mode*, OXFORD ENGLISH DICTIONARY, https://www.lexico.com/en/definition/mode (last visited July 21, 2020).

seven-year ratification deadline. *See* U.S. Const. amend. XIX. Plaintiffs ask the Court to believe that each time, Congress engaged in action that was meaningless.

In fact, they advance two inconsistent arguments on this point. On one hand, Plaintiffs want the Court to accept that the plain legislative words setting the seven-year ratification time limit were nullified by being in the wrong place. But the ERA's proposing clause that expressly provided for a seven-year time limit is part of what Congress put to the states for consideration. Hence the term "proposing clause": it was what Congress proposed to the states under Article V.

In the face of this, Plaintiffs claim that the ratification timeframe "was not part of the actual 'Article' that was 'proposed' to the States" because it was not "part of the 'amendment[]'" itself. Compl. ¶ 64. But Article V does not say Congress's proposal for the mode of ratification must be *in* the proposal for the amendment's text. It empowers Congress to do *both*: to propose the text, and to propose the mode. U.S. Const. art V. Congress may exercise these proposal powers while using discretion in the wording, such as including a preamble. *Champion v. Ames*, 188 U.S. 321, 355 (1903) ("[T]he Constitution . . . leaves to Congress a large discretion as to the means that may be employed in executing a given power").

There are several problems with Plaintiffs' call to ignore the plain language in the ERA's proposing clause. First, courts presume legislative language to have meaning and effect. *United States v. Butler*, 297 U.S. 1, 65 (1936) ("These words cannot be meaningless, else they would not have been used"). And "[t]he plain meaning of legislation should be conclusive." *United States v. Ron Pair Enters., Inc.*,

489 U.S. 235, 242 (1989). This is because "the legislator is presumed to, as he in fact does, choose his words deliberately intending that every word shall have a binding effect." Ernst Freund, *Interpretation of Statutes*, 65 U. Pa. L. Rev. 207, 218 (1917). The express terms that Congress settled on and proposed to the states — including the proposing clause and every other clause — had the conclusive significance of other legislative words.

Nor are the words ambiguous. The seven-year deadline is precise and plain on its face: the ERA "shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States *within seven years* from the date of its submission by the Congress." H.R.J. Res. 208, 92d Cong., 1st Sess. (1972), 86 Stat. 1528. Rendering the temporal phrase meaningless would accord with no canon of interpretation. Plaintiffs' argument instead would simply erase a portion of the proposal that earlier states considered and voted on. Yet Congress and state legislatures are "presumed to know the meaning of words." *United States v. Goldenberg*, 168 U.S. 95, 103 (1897). On both fronts — as to Congress and the state legislatures — this erasure would thwart the will of the people who voted on a seven-year limitation.

Second, the proposing-clause-doesn't-count argument would also mean that Congress has engaged in this futile act time and time again. The Twenty-Third, Twenty-Fourth, Twenty-Fifth, and Twenty-Sixth Amendments also had seven-year ratification limits in the text of their proposing clauses. U.S. Const. amend. XXIII-XXVI. By Plaintiffs' logic, key sections of the proposing clauses of each of these

constitutional amendments contain void language that has no import. But legislative text should not be construed to render provisions superfluous or nugatory. *United States v. Menasche*, 348 U.S. 528, 538–39 (1955). Quite the opposite. Congress's regular practice of intentionally setting a seven-year timeframe for ratifying a constitutional amendment should be taken as a significant, not ignored as a repeated mistake. *Cf. Freeman*, 529 F. Supp. at 1153 ("[r]eviewing several of the most recent resolutions proposing amendments to the Constitution and referring particularly to the resolution proposing the Equal Rights Amendment," and concluding that "the mode of ratification [repeatedly chosen] thus indicat[es] by general practice that this is the appropriate measure of approval").

On the other hand, Plaintiffs claim that Congress had no authority to set a timeline at all — not in a proposing clause, not anywhere. Compl. ¶ 65. This assertion conflicts with longstanding and binding caselaw. *E.g.*, *Dillon*, 256 U.S. 368; *Coleman*, 307 U.S. 433. As the Supreme Court has explained, there is "no doubt" that Congress can "fix a definite period for the ratification," *Dillon*, 256 U.S. at 376. And even when Congress hasn't done so on the front end, it may later determine whether a ratified amendment is still valid or "had lost its vitality through lapse of time." *Coleman*, 307 U.S. at 451. No court has ever agreed with Plaintiffs' position about Congress's impotence in the face of Article V's clear grant of authority and discretion.

B. Congress and ERA proponents understood that the ERA's seven-year time limit was binding.

The ERA's proponents have always understood that the 1979 deadline was prohibitive. The reason derives from the way Article V operates as a grant of power. After Congress properly proposes an amendment — proposing both the text and the mode of ratification — the proposal is then put to the states for consideration. At that point, Congress's power is exhausted and the proposed amendment is in the states' hands, to become "valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof." U.S. Const., art. V. Because Article V provides "only when there is deemed to be a necessity therefor that amendments are to be proposed, the reasonable implication [is] that when proposed [by Congress] they are to be considered and disposed of presently [by the states]." *Dillon*, 256 U.S. at 375.

Article V thus prescribes the order of operation: Once the states are acting on the proposed amendment, neither the text nor the mode of ratification can be changed without starting over. After all, ratification "in the required number of States [is] to reflect the will of the people in all sections." *Coleman*, 307 U.S. at 452. Altering what the states are voting on midstream, let alone retroactively, would defy the people's will.

Demonstrating that the seven-year limit did in fact mean something, some members of Congress attempted to extend the ERA ratification deadline from March 1979 to June 1982. The procedural flaws in the purported extension are well

documented and not at issue here. *See, e.g.*, *Freeman*, 529 F.Supp. at 1150–53. But the attempt itself shows that ERA supporters knew something had to be done to evade the seven-year limit. With the deadline passed, state ratifications could not continue on as though nothing had happened.

When the extension effort failed to result in a valid constitutional amendment, ERA supporters uniformly acknowledged that the ratification effort had failed. As the New York Times reported it, "Leaders of the fight for an equal rights amendment officially conceded defeat today." Marjorie Hunter, *Leaders Concede Loss on Equal Rights*, N.Y. TIMES, June 25, 1982, at A1; *see also* Adam Clymer, *Time Runs Out for Proposed Rights Amendment*, N.Y. TIMES, July 1, 1982, at A12 ("The drive to ratify the proposed Federal equal rights amendment . . . failed tonight in the states, still three legislatures short of the 38 that would have made it the 27th Amendment to the Constitution"); Mary Frances Berry, *Why ERA Failed* at 81 (Indiana Univ. Press) (1988) ("In the aftermath of ERA's defeat, proponents began to assess the reasons for failure").

More recently, advocates have continued to admit that the ERA is dead and that a new process must begin to seek the Amendment's approval. Justice Ginsburg, with dismay but matter-of-factness, has famously described the long-passed deadline as an obstacle with no way around it: The ERA fell "short of ratification. I

hope someday it will be put back in the political hopper, *starting over again*, collecting the necessary number of states to ratify it."[4]

And amici in this very case *still* confess the fatal problem on their websites — despite saying the opposite to this Court. The Alice Paul Institute admits that "the ERA did not succeed in getting [sufficient] ratifications before the deadline."[5] The Feminist Majority Foundation explains that Congress must either "rescind the arbitrary timeline on ERA ratification . . . [or] pass the ERA again."[6] Likewise, the League of Women Voters of the United States currently urges its followers to "Tell Congress to remove the deadline so the ERA can cross the finish line!"[7] *But see* Dkt. 68-1 (API, FMF, and LWV claiming that "the time limit's placement makes it ineffective to stop the ERA, now that the constitutional requirements have been met").

On its website, Equality Now tells supporters they "now must urge Senators to pass S.J. Res. 6, another joint resolution to eliminate the deadline. It is more important than ever to urge Senators to eliminate the original deadline!"[8]

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[4] Ruth Bader Ginsburg, Associate Justice, Supreme Court of the United States, Interview at Georgetown University Law Center: Searching for Equality: The 19th Amendment and Beyond (Feb. 10, 2020) (emphasis added).
[5] ALICE PAUL INSTITUTE, *ERA*, https://www.alicepaul.org/era/ (last visited July 15, 2020).
[6] FEMINIST MAJORITY, *Equal Rights Amendment*, https://feministmajority.org/our-work/equal-rights-amendment/ (last visited July 15, 2020).
[7] LEAGUE OF WOMEN VOTERS OF THE U.S., *ERA Toolkit*, https://www.lwv.org/ERAToolkit?utm_source=League%20Update&utm_medium=email&utm_campaign=02132020 (last visited July 15, 2020).
[8] EQUALITY NOW, *Ratify the ERA*, https://www.equalitynow.org/era (last visited July 15, 2020).

Elsewhere, Equality Now explains that "[n]ow that the necessary 38 states have ratified, Congress *must eliminate the original deadline*."[9] Even that, they concede, would only "eliminate *one* of the procedural barriers standing in the way" of the ERA.[10] *But see generally* Dkt. 61-1 (never mentioning the deadline or procedural barriers but instead insisting that "adoption of the ERA is necessary," *id.* at 21, and arguing from the premise "Now that the ERA has been ratified . . . ," *id.* at 7).

Year after year, advocates have pushed for the ERA to be reintroduced and to start the constitutional process anew. Proponents have introduced the ERA "as new 'fresh start' resolutions in each Congress since 1982."[11] As recently as the beginning of this year, ERA proponents in Congress were still trying to "repeal" the long-passed deadline they understood to be a complete barrier to ratification.[12] Members of Congress from the Plaintiff States have been among the most vocal in conceding — even quite recently — that the deadline is an obvious barrier:

- Rep. Cheri Bustos (IL-17) urged "[t]he removal of the deadline set so long ago[, in order to] place the Equal Rights Amendment on a path to solidify it as part of our Constitution."[13]

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[9] EQUALITY NOW, *ERA Explainer*, https://www.equalitynow.org/era_explainer (emphasis supplied) (last visited July 15, 2020).
[10] *Id.* (emphasis supplied).
[11] Congressional Research Service, *The Proposed Equal Rights Amendment: Contemporary Ratification Issues* R42979 (Dec. 23, 2019), https://fas.org/sgp/crs/misc/R42979.pdf
[12] Danielle Kurtzleben, House Votes To Revive Equal Rights Amendment, Removing Ratification Deadline, NPR POLITICS (Feb. 13, 2020), https://www.npr.org/2020/02/13/805647054/house-votes-to-revive-equal-rights-amendment-removing-ratification-deadline..
[13] Press Release, Bustos Votes to Remove Arbitrary Deadline for Ratification of the Equal Rights Amendment (Feb. 14, 2020), https://bustos.house.gov/bustos-votes-to-remove-arbitrary-deadline-for-ratification-of-the-equal-rights-amendment/.

- Rep. Sean Casten (IL-06) said he was "incredibly proud" to "cast [his] vote today to remove the deadline."[14]

- Congresswoman Jan Schakowsky (IL-09) hoped the resolution "would facilitate timely ratification of the Equal Rights Amendment . . . by removing the arbitrary deadline to ratify the ERA[, which] would pave the way forward."[15]

- Congresswoman Susie Lee (NV-03) boasted in a press release about voting "to resuscitate the [ERA] by repealing a long-expired congressional deadline for state ratification."[16]

- Rep. Jennifer Wexman (VA-10) proudly "reintroduce[ed] legislation in the House of Representatives to remove the deadline for ratification," because "[e]quality should have no expiration date."[17]

The repeated and continuous efforts to start over are necessary concessions that the original time for ratification ended long ago. This Court should reject the contrary pleas in Plaintiffs' and their amici's litigation pleadings.

II. The Supreme Court dismissed ERA litigation as moot after the time for ratification expired.

Wholly aside from Article V's and the ERA's plain text, the questions Plaintiffs present have already been litigated to the U.S. Supreme Court. In lawsuits disputing the significance of the deadline, the Supreme Court held onto the consolidated cases for several months before dismissing them as moot upon

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[14] Press Release, Casten Statement on Removing the Deadline for Ratification of the Equal Rights Amendment (Feb. 13, 2020), https://casten.house.gov/media/press-releases/casten-statement-removing-deadline-ratification-equal-rights-amendment.
[15] Press Release, Jan Schawosky Statement on ERA Vote (Feb. 13, 2020), https://schakowsky.house.gov/media/press-releases/schakowsky-statement-era-vote.
[16] Press Release, Rep. Lee votes to advance the ERA (Feb. 14, 2020), https://susielee.house.gov/media/in-the-news/rep-lee-votes-advance-era.
[17] Press Release, Lawmakers to Virginia House of Delegates: Bring the Equal Rights Amendment for a vote on the House floor (Jan. 24, 2019), https://wexton.house.gov/news/documentsingle.aspx?DocumentID=35.

expiration of the challenged 1982 deadline. *Nat'l Org. for Women, Inc. v. Idaho*, 459 U.S. 809, 809 (1982). Because mootness means that "the issues presented are no longer 'live' or the parties lack a legally cognizable interest in the outcome," *Murphy v. Hunt*, 455 U.S. 478, 481 (1982) (cleaned up), the only reasonable inference is that the Supreme Court concluded that ratification of the ERA was no longer possible because the time had expired.

The Supreme Court's dismissal of the case as moot came "[u]pon consideration of the memorandum for the Administrator of General Services suggesting mootness, filed July 9, 1982, and the responses thereto." *Carmen v. Idaho*, 459 U.S. 809 (1982). The United States, on behalf of the Administrator, had filed a Suggestion of Mootness explaining why the ERA ratification controversy was permanently over:

> On June 30, 1982, the extended period for ratifying the Amendment expired. . . . Consequently, the Amendment has failed of adoption no matter what the resolution of the legal issues presented here . . . .

Br. for Pet. Adm. of Gen. Svcs. at 3, *Carmen v. Idaho*, 459 U.S. 809 (1982) (No. 81-1313). No matter whether the purported three-year extension were valid, the United States explained, "the Amendment would be regarded as having failed of adoption" after June 30, 1982. Id. at 4. "[T]he date on which the proposed Amendment failed of adoption, and [whether the state rescissions were valid], do not affect the legally cognizable interests of any party." *Id.* The Supreme Court considered this reasoning and dismissed the case as moot.

Remarkably, *none* of the parties before the Supreme Court disagreed with the incontrovertible point that the ratification period was forever closed. Petitioners NOW et al., the ERA proponents, argued that the Court should decide the rescission and extension issues regardless, because the Court was "propitiously unpressured" by any live controversy. Br. for Pet. NOW at 5, *Carmen v. Idaho*, 459 U.S. 809 (1982) (No. 81-1313).

Leading up to the petitions for certiorari, the legal questions now presented to this Court were thoroughly argued. Two companion lawsuits challenged the purported three-year deadline extension and sought a declaratory judgment that states had the authority to rescind their ERA ratifications. *Freeman*, 529 F. Supp. at 1111. The district court considered whether "the running of the seven-year time limitation tolls and terminates any ratifications enacted by the states to that point," and concluded that it did. *Id.* The analysis is relevant here.

Relying on Article V and informed by *Dillon* and *Coleman*, the district court explained Congress's power to set a time for ratification "stems solely from article V." *Freeman*, 529 F. Supp. at 1151. Quoting then-Judge Stevens, the district court continued that "the function of Congress in proposing the amendment, is a federal function derived from the federal Constitution . . . ." *Id.* (quoting *Dyer v. Blair*, 390 F. Supp. 1291, 1303 (N.D. Ill. 1975)). For that reason, "outside of the authority granted by article V, [Congress] has no power to act with regard to an amendment, i.e., it does not retain any of its traditional authority vested in it by article I." *Id.*

And, as *Dillon* teaches, "[t]he power of Congress to set a time period in which ratification must be completed is derived from their [Article V] function of setting the mode of ratification." *Id.* (citing *Dillon*, 256 U.S. at 376).

This groundwork was important to rejecting the very "substance/procedure dichotomy" that Plaintiffs advance here about the proposing language versus the Amendment's text. Such a distinction is improper because "Congress has absolute discretion within its power to propose the mode of ratification," *id. at 1153* (citing *United States v. Sprague*, 282 U.S. 716, 732 (1931), and setting a time limit is simply a "subsidiary matter of detail" to this power, *Dillon*, 256 U.S. at 376.

The district court summarized Article V's meaning, as explained by the Supreme Court:

> The clear purpose of article V of the United States Constitution is to provide that an amendment properly proposed by Congress should become effective when three-fourths of the states, at the same time and within a contemporaneous period, approve the amendment by ratification through their state legislatures.
>
> To allow an amendment to become effective at any time without the contemporaneous approval of three-fourths of the states would be a clear violation of article V of the Constitution.

Freeman, 529 F. Supp. at 1154.

Nothing relevant has changed since the district court's analysis in *Freeman*, and Article V still authorized Congress to do what it did: set a binding time limit on ratification. And if the ERA's time had expired when the Supreme Court dismissed the matter as moot in 1982, it is long past expiration now.

CONCLUSION

The Supreme Court has already confirmed that Article V grants Congress the power to set a deadline for ratifying a proposed constitutional amendment. Exercising that power, Congress created a seven-year time limit for ratifying the ERA, and that time limit expired decades ago without the requisite number of states ratifying the proposal. Virtually every proponent and opponent of the ERA has acknowledged that time limit for years. This Court should reject Plaintiffs' request to throw out decades of settled law, their own concessions on the public record, and Article V and the ERA's plain text, and the Court should grant summary judgment for Defendant-Intervenors States.

Respectfully submitted this the 24th day of July, 2020.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 24, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system to all counsel of record.

This 24th day of July, 2020

s/ Denise M. Harle

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