

No. 23-40653

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

STATE OF TEXAS; STATE OF ALABAMA; STATE OF ARKANSAS; STATE
OF LOUISIANA; STATE OF NEBRASKA; STATE OF SOUTH CAROLINA;
STATE OF WEST VIRGINIA; STATE OF KANSAS; STATE OF MISSISSIPPI,
Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA; ALEJANDRO MAYORKAS, SECRETARY,
U.S. DEPARTMENT OF HOMELAND SECURITY; TROY MILLER, SENIOR
OFFICIAL PERFORMING THE DUTIES OF THE COMMISSIONER, U.S.
CUSTOMS AND BORDER PROTECTION; PATRICK J. LECHLEITNER,
ACTING DIRECTOR OF U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; UR M. JADDOU, DIRECTOR OF U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; JASON D. OWENS, CHIEF OF THE U.S.
BORDER PATROL,
Defendants-Appellants,

MARIA ROCHA; JOSE MAGANA-SALGADO; Nanci J. PALACIOS
GODINEZ; ELLY MARISOL ESTRADA; KARINA RUIS DE DIAZ; CARLOS
AGUILAR GONZALEZ; LUIS A. RAFAEL; DARWIN VELASQUEZ; JIN
PARK; OSCAR ALVAREZ; DENISE ROMERO; JUNG WOO KIM; ANGEL
SILVA; HYU-WON JEON; ELIZABETH DIAZ; BLANCA GONZALEZ;
MOSES KAMAU CHEGE; MARIA DIAZ,
Intervenor Defendants-Appellants,

STATE OF NEW JERSEY
Intervenor-Appellant,

On Appeal from the United States District Court
for the Southern District of Texas
No. 1:18-cv-00068

**BRIEF FOR THE PRESIDENTS' ALLIANCE ON HIGHER EDUCATION
AND IMMIGRATION AS *AMICUS CURIAE* IN SUPPORT OF
DEFENDANTS-APPELLANTS AND REVERSAL**

David J. Zimmer
Counsel of Record
Jonathan E. Rankin
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, MA 02210
617.570.1000
dzimmer@goodwinlaw.com

Counsel for Amicus Curiae

CERTIFICATE OF INTERESTED PARTIES

Pursuant to Fifth Circuit Rule 29.2, the undersigned counsel of record certifies that, in addition to those already listed in the parties' briefs, the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Amicus: Presidents' Alliance on Higher Education and Immigration.

Counsel for Amicus: David J. Zimmer and Jonathan E. Rankin, both of Goodwin Procter LLP.

/s/ David J. Zimmer

David J. Zimmer
GOODWIN PROCTER LLP
100 Northern Avenue
Boston, MA 02210

TABLE OF CONTENTS

	Page
INTEREST OF <i>AMICUS CURIAE</i>	1
INTRODUCTION AND SUMMARY OF ARGUMENT	7
ARGUMENT	8
I. DACA recipients graduating from college match or outperform their peers on key metrics and are making significant contributions to the most important sectors of our economy.	8
II. DACA recipients achieve social mobility and support their children and, in many cases, their parents and other family members.....	11
III. DACA’s end would be a blow to higher education institutions of all types as well as their students and graduates.....	13
CONCLUSION	16

TABLE OF AUTHORITIES

	Page(s)
James Truslow Adams, <i>The Epic of America</i> (1931).....	11
Logan Albright et al., <i>A New Estimate of the Cost of Reversing DACA</i> (CATO Institute, Working Paper No. 49, 2018)	14
Phillip Connor, <i>A DACA Fix Could Add \$400 Billion to the U.S. Economy in the Next 10 Years</i> , fwd.us (Dec. 5, 2022), https://www.fwd.us/news/daca-fix/ ;	14
Devin Dwyer et al., <i>DACA Recipients Leaving US, Disheartened by Legal Limbo</i> , ABC News (Mar. 7, 2023), https://abcnews.go.com/Politics/daca-recipients-leaving-us- disheartened-legal-limbo/story?id=97300896	15
Patti Ghezzi, <i>Immigration Restrictions Fuel Reverse Brain Drain</i> , Emory Lawyer, Spring 2018.....	14
Osea Giuntella & Jakub Lonsky, IZA Inst. of Lab. Econ., <i>The Effects of DACA on Health Insurance, Access to Care, and Health Outcomes</i> (2018).....	12
Am. Immigr. Council & Presidents’ Alliance on Higher Educ. & Immigr., <i>Undocumented Students in Higher Education</i> 8 (2023), https://www.higheredimmigrationportal.org/wp- content/uploads/2023/08/07.23-Undocumented-Students_v3.pdf	10
Lorna Porter et al., UCLA C.R. Project, <i>Bilingual Education and America’s Future: Evidence and Pathways</i> 27–28 (2023), https://civilrightsproject.ucla.edu/research/k-12- education/language-minority-students/bilingual-education-and- americas-future-evidence-and-pathways/bilingual-biliteracy- ed_06132023-082923-copyright.pdf	14
Rsch. Ctr., Nat’l Student Clearinghouse, <i>Current Term Enrollment Estimates: Fall 2023</i> data app. (2024), https://nscresearchcenter.org/current-term-enrollment-estimates/	1

Zachary Schermele, <i>Teacher Shortages Continue to Plague US: 86% of Public Schools Struggle to Hire Educators</i> , USA Today (Oct. 17, 2023), https://www.usatoday.com/story/news/education/2023/10/17/teacher-shortage-2023-us-schools-struggle-hiring/71208579007/	9
Margaret Stock & Theresa Cardinal Brown, Council on Nat’l Sec. & Immigr., Meeting Meeting National Security Interests Requires Workers (2023), https://www.cnsiusa.org/_files/ugd/5b8edc_d60882d303b04b3d884394f1e3d192cd.pdf	14
TheDream.US, In Their Own Words (2022), https://www.thedream.us/wp-content/uploads/2022/11/TheDreamUS-GDS-Alumni_Survey_Report_2022-FINAL.pdf	8, 9, 10, 11, 12, 14
TheDream.US, Meet TheDream.US Scholars 10 (2018), https://www.thedream.us/wp-content/uploads/2019/03/TheDream.US-2018-Progress-Report-2-21-19-Digital-Final.pdf	15
87 Fed. Reg. 53,265 (Aug. 30, 2022).....	14

INTEREST OF *AMICUS CURIAE*¹

Amicus curiae, the Presidents' Alliance on Higher Education and Immigration (Presidents' Alliance), is an alliance of over 550 presidents and chancellors of higher education institutions nationwide that have joined together to advocate forward-looking immigration policies and practices that will benefit our students, our institutions, and our country. The Presidents' Alliance regularly collaborates with TheDream.US, a leading college and career success program for undocumented youth. Our members lead every type of higher education institution, from private universities and colleges to large public universities to community colleges. Our member institutions are currently educating approximately five million of the approximately eighteen million post-secondary students in the United States.² They have graduated thousands of dreamers, many of whom go on to work in higher education, including at Presidents' Alliance's members. They can therefore attest to DACA recipients' successes in college and beyond.

¹ All parties have consented to the filing of this brief. Neither party's counsel authored this brief in whole or in part, and no one other than amicus, its members, or its counsel contributed money to fund the preparation or submission of this brief.

² *Membership*, Presidents' All. on Higher Educ. & Immigr., <https://www.presidentsalliance.org/about/membership-benefits/> (last visited Jan. 30, 2024); see Rsch. Ctr., Nat'l Student Clearinghouse, *Current Term Enrollment Estimates: Fall 2023* data app. (2024), <https://nscresearchcenter.org/current-term-enrollment-estimates/>.

The Presidents' Alliance operates the Higher Ed Immigration Portal, a robust platform that integrates data, policy analysis, and resources to support immigrant students. Over thirty partner organizations contribute to the Portal, making it an important tool for researchers and policymakers. This unique perspective enables the Presidents' Alliance to educate the public and policymakers about the value of immigrant students in higher education—on campuses, in our communities, and to the nation.

The following 168 institutions and organizations have specifically chosen to support the DACA program by supporting the Presidents' Alliance in the filing of this brief:

Agnes Scott College
Aliento Education Fund
Amherst College
Antioch College
Arizona State University
Arrupe College of Loyola University Chicago
Association of Catholic Colleges and Universities
Association of Jesuit Colleges and Universities
Augsburg University
Augustana College
Bard College
Barnard College
Bates College
Bentley University
Borough of Manhattan Community College
Boston University
Bowdoin College
Breakthrough Central Texas
Bryn Mawr College
Cape Cod Community College

Carleton College
Carnegie Mellon University
CCCU—Council for Christian Colleges & Universities
Central Connecticut State University
Central Washington University
Charter Oak State College
Christian Brothers University
Clark University
Colby College
College of Saint Mary
College Track
Colorado Community College System
Colorado Mountain College
Colorado State University with CSU Fort Collins, CSU Pueblo, and CSU Global
Connecticut College
Contra Costa Community College District
Cornell University
CUNY Baruch College
Delaware State University
DePauw University
Dominican University
Donnelly College
Dreamer Fund
Drexel University
Eastern Connecticut State University
Eastern Michigan University
Eastern Oregon University
Emerson College
EnglishUSA
Farmingdale State College (SUNY)
Foothill-De Anza Community College District
Fordham University
Franklin & Marshall College
Golden Door Scholars
Goucher College
Grand Valley State University
Great Basin College
Hamilton College
Haverford College
Illinois Institute of Technology

Immigrants Rising
ImmSchools
Ithaca College
Knox College
Lamar Community College
Loyola Marymount University
Macalester College
Marymount University
Massachusetts College of Liberal Arts
Menlo College
Metropolitan State University of Denver
Mi CASA MN
Montgomery College
Mount Holyoke College
Nevada State University
Northeastern University
Northern Arizona University
Northern Essex Community College
Northern Illinois University
Northern New Mexico College
Notre Dame de Namur University
Oglethorpe University
Oregon State University
Pace University
Palo Alto University
Paul Quinn College
Phoenix College
Pomona College
Providence College
Pueblo Community College
Rancho Santiago Community College District
Reed College
Refugee & Migrant Education Network
Relay Graduate School of Education
Rhodes College
Rice University
Riverside Community College District
Rochester Institute of Technology
Roosevelt University
Rutgers University-New Brunswick

Rutgers University-Newark
Salem State University
Salt Lake Community College
Salve Regina University
San Bernardino Valley College
San Jose City College
Santa Clara University
Sarah Lawrence College
School of Visual Arts
Smith College
Soka University of America
Southern Connecticut State University
Southern New Hampshire University
Southern Oregon University
St. Olaf College
State Center Community College District
Suffolk University
SUNY Westchester Community College
Swarthmore College
Teach For America
The Chicago School
The City University of New York—Initiative on Immigration and Education
The Education Trust
The Evergreen State College
The New School
The President & Fellows of Middlebury College
The Regents of the University of California
The University of Connecticut
TheDream.US, a fiscally sponsored project of New Venture Fund
Trinity College
Trinity Washington University
Truckee Meadows Community College
Trustees of the California State University
Tufts University
University at Albany
University of Colorado System—Boulder, Colorado Springs, Denver, and Anschutz
Medical Campus
University of Dayton
University of Denver
University of Hawai‘i System

University of Illinois Chicago
University of Illinois Urbana-Champaign
University of La Verne
University of Maryland, Baltimore
University of Massachusetts, Boston
University of Nevada, Las Vegas
University of Nevada, Reno
University of Oregon
University of Redlands
University of Rochester
University of San Francisco
University of Southern California
University of St. Francis
University of the District of Columbia
University of Utah
University of Washington
University System of Maryland
UT with All Immigrants
Vassar College
Virginia Wesleyan University
Washington State University
Wellesley College
Wesleyan University
Western Nevada College
Western Oregon University
Western Washington University
Whitman College
Williams College
Wingate University

These institutions represent the diverse landscape of contemporary higher education. They are educating millions of students across thirty-two states and the District of Columbia in every kind of postsecondary setting. They include state university systems, leading research institutions, Hispanic-serving institutions, historically Black colleges and universities, faith-based institutions, private

institutions, and community colleges. This comprehensive group of institutions demonstrates the important role immigrant students play in every kind of postsecondary setting and attests to the sector expertise represented in this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Amicus, through its own work and that of its member institutions and partner organizations, has a unique perspective on the impact DACA has had on the lives of hundreds of thousands of young people since DACA began twelve years ago. DACA recipients have attended higher education institutions in enormous numbers—institutions ranging from small private colleges and universities to large public universities to community colleges. Many of those institutions are members of the Presidents’ Alliance. As DACA recipients have gotten older, graduated from school, entered the workforce, and started families, evidence from the Presidents’ Alliance and others is beginning to emerge about the enormous and positive impact these individuals have—on their employers, their families, and the U.S. economy as a whole.

The Presidents’ Alliance submits this brief to help the Court understand the extent to which crucial sectors of our economy and hundreds of thousands of American families have come to depend on DACA generally, and its work authorization component in particular. The brief first sets forth the data showing how DACA recipients entering the workforce after college tend to match or

outperform their peers on key metrics and contribute to crucial sectors of our economy—including sectors that are suffering from chronic labor shortages. The brief then explains data showing the extent to which DACA recipients provide, through their work, crucial support for their families, including both children and parents. Because of this, the brief explains, ending DACA—and, in particular its work authorization program—would be a significant blow to the U.S. economy and have a devastating impact on hundreds of thousands of families.

ARGUMENT

I. DACA recipients graduating from college match or outperform their peers on key metrics and are making significant contributions to the most important sectors of our economy.

Hundreds of thousands of DACA recipients have attended and, in recent years, graduated from higher education institutions. There are approximately 343,000 DACA recipients working essential jobs.³ Data from TheDream.US, Presidents' Alliance, and others is beginning to show just how successful those DACA graduates have been, and how big an impact they are having on our economy.

First, data collected by TheDream.US show that DACA recipients graduating from college match—if not exceed—the success of other college graduates in this country. A recent survey by TheDream.US of over 1,400 undocumented college

³ TheDream.US, In Their Own Words 5 (2022), https://www.thedream.us/wp-content/uploads/2022/11/TheDreamUS-GDS-Alumni_Survey_Report_2022-FINAL.pdf.

graduates, the vast majority of whom are enrolled in DACA, reported that *ninety-four percent* of the undocumented graduates were employed or in graduate school, compared to eighty-four percent of college graduates generally.⁴

Second, data from that same TheDream.US survey show that DACA recipients graduating from college are contributing to our economy in crucial ways. The survey shows that the most common field in which DACA graduates work is healthcare and medicine, with education only slightly behind.⁵ These are not just important sectors of our economy, but sectors facing dire labor shortages: The shortage in the healthcare sector is estimated to be greater than *three million* people, and approximately nine out of ten public school districts report struggling to hire teachers.⁶ Removing DACA recipients from the workforce would only exacerbate these labor shortages.

Data collected by TheDream.US and others also show that other DACA recipients graduating from college are providing highly skilled labor across all

⁴ *Id.* at 3.

⁵ *Id.* at 5 (reporting twenty-two percent of respondents were employed in health and medicine and eighteen percent were employed in education).

⁶ *E.g.*, Tanner Bateman et al., Mercer, US Healthcare Labor Market 4 (2021) (finding the number of workers leaving healthcare far exceeds the number entering, while demand continues to grow); Zachary Schermele, *Teacher Shortages Continue to Plague US: 86% of Public Schools Struggle to Hire Educators*, USA Today (Oct. 17, 2023), <https://www.usatoday.com/story/news/education/2023/10/17/teacher-shortage-2023-us-schools-struggle-hiring/71208579007/>.

sectors of our economy. Many undocumented graduates go on to get master's degrees, PhDs, MDs, JDs, and more. Nearly twenty percent of the 141,000 DACA-eligible higher education students are enrolled in a graduate or professional program.⁷ The Path2Papers Project, which recently began at Cornell Law School, identified DACA recipients serving in roles ranging from emergency medicine doctors and oncologists to structural engineers to public school teachers to reporters to software engineers. Another report explained how DACA recipients graduating from college hold important jobs at some of the country's most innovative companies, including Amazon, Apple, Bank of America, FedEx, IBM, JP Morgan Chase & Co., Labcorp, Microsoft, and Northwell Health.⁸

Amicus's members have also benefited directly from the hard work and expertise brought by DACA recipients. Our member institutions employ thousands of DACA recipients at all levels of our institutions: By serving as faculty, researchers, engineers, doctors, nurses, counselors, government relations officers, and as staff in student affairs, academic affairs, academic departments, admissions, alumni relations, and other divisions, DACA recipients have become key players in

⁷ Am. Immigr. Council & Presidents' All. on Higher Educ. & Immigr., *Undocumented Students in Higher Education* 8 (2023), https://www.higheredimmigrationportal.org/wp-content/uploads/2023/08/07.23-Undocumented-Students_v3.pdf.

⁸ TheDream.US, *supra* note 3, at 3.

helping our institutions operate—just as they have become key to the U.S. economy as a whole.

II. DACA recipients achieve social mobility and support their children and, in many cases, their parents and other family members.

Nearly a century ago, James Truslow Adams coined the phrase the “American Dream,” writing that the spirit of America has comprised the “dream of a land in which life should be better and richer and fuller for every man, with opportunity for each according to his ability or achievement.”⁹ The experience of DACA recipients shows just how powerful that dream can still be. Through their hard work at school and, after graduation, in the workforce, DACA recipients have created lives for themselves and their families that never would have been possible without DACA’s work authorization component.

DACA recipients who have graduated from college have shown remarkable social mobility. Of the undocumented graduates questioned in one survey, *fifty percent* were outearning their parents’ *combined* incomes.¹⁰ The majority of those surveyed were the first person in their families not only to graduate college but also to reach a host of milestones that define the American middle class, like buying a car or having health insurance.¹¹

⁹ James Truslow Adams, *The Epic of America* 404 (1931).

¹⁰ TheDream.US, *supra* note 3, at 8.

¹¹ *See id.* (describing one student’s journey).

These DACA recipients' work is crucial to supporting their families. There are approximately 300,000 U.S.-citizen children being raised by DACA recipients.¹² Sixty-one percent of those surveyed have at least one family member depending on their income, and one in five of the graduates surveyed are their family's primary provider.¹³ And, of course, DACA-recipient parents provide not just economic but emotional support to their U.S.-citizen children, which is crucial both for their day-to-day happiness and also their health outcomes.¹⁴ All of this financial and emotional support depends on DACA and, in particular, its work authorization component.

The net result is that an enormous number of people beyond the DACA recipients themselves have come, over the last twelve years, to rely on DACA's work authorization component. Many DACA recipients have graduated college and are now well into their thirties, with homes, stable careers, and U.S.-citizen spouses, children, and other relatives who depend on their continued ability to work. Terminating DACA would upend the lives of all of these families.

¹² *Id.* at 9.

¹³ *Id.* at 8-9.

¹⁴ See Osea Giuntella & Jakub Lonsky, IZA Inst. of Lab. Econ., The Effects of DACA on Health Insurance, Access to Care, and Health Outcomes 12 (2018) (describing the mental-health benefits DACA provides its recipients).

III. DACA's end would be a blow to higher education institutions of all types as well as their students and graduates.

For the last twelve years, higher education institutions across the country—from small private colleges to private research universities to private religious schools to large public universities to community colleges—have welcomed DACA recipients and invested heavily in training them and positioning them to make meaningful contributions to all sectors of the U.S. workforce and economy. As discussed above, those efforts have paid off, and DACA recipients—including many thousands of college graduates—are now fully embedded in our society, economy and communities. To now end DACA, and particularly its work authorization component, would be a devastating blow to the U.S. economy as a whole, as well as all types of higher education institutions and their students and graduates.

DACA's end would leave the U.S. economy bereft of a particularly valuable pool of labor. As discussed above, DACA recipients are, upon graduating from college, filling roles that are not otherwise being filled in sectors like healthcare and education. Moreover, many DACA recipients are bilingual and multilingual, speaking English as well as Spanish, Korean, Mandarin, and dozens of other languages. Research has repeatedly shown that bi- and multilingual individuals are highly sought-after employees who earn two to three thousand more dollars annually

than their single-language peers.¹⁵ DACA recipients are *already* paying \$9.4 billion in taxes every year,¹⁶ and DHS estimates that halting DACA renewals would cost the U.S. economy over \$400 billion over the course of the next two decades.¹⁷ Denying DACA recipients removal protection and work authorization would open the spigot for “brain drain”—instead of contributing to the U.S. economy, these graduates may well end up taking their skilled labor elsewhere.¹⁸ Losing this important piece of our “capable workforce” threatens national security interests—hampering the nation’s “ability to be competitive and defend itself.”¹⁹ Troublingly,

¹⁵ See Lorna Porter et al., UCLA C.R. Project, *Bilingual Education and America’s Future: Evidence and Pathways* 27–28 (2023), https://civilrightsproject.ucla.edu/research/k-12-education/language-minority-students/bilingual-education-and-americas-future-evidence-and-pathways/bilingual-biliteracy-ed_06132023-082923-copyright.pdf (surveying the scholarly literature).

¹⁶ TheDream.US, *supra* note 3, at 9.

¹⁷ Deferred Action for Childhood Arrivals, 87 Fed. Reg. 53,265 tbl. 5 (Aug. 30, 2022). Other experts have arrived at similar estimates. See, e.g., Phillip Connor, *A DACA Fix Could Add \$400 Billion to the U.S. Economy in the Next 10 Years*, fwd.us (Dec. 5, 2022), <https://www.fwd.us/news/daca-fix/>; Logan Albright et al., *A New Estimate of the Cost of Reversing DACA* 8 (CATO Institute, Working Paper No. 49, 2018) (estimating a reversal of DACA would cost \$351 billion).

¹⁸ See Patti Ghezzi, *Immigration Restrictions Fuel Reverse Brain Drain*, Emory Lawyer, Spring 2018, at 11, 12 (discussing the challenges American businesses face in retaining skilled labor).

¹⁹ See Margaret Stock & Theresa Cardinal Brown, Council on Nat’l Sec. & Immigr., *Meeting National Security Interests Requires Workers* 1 (2023), https://www.cnsiusa.org/_files/ugd/5b8edc_d60882d303b04b3d884394f1e3d192cd.pdf.

uncertainty concerning legal status has already led some DACA recipients to leave, including those who graduated from college in the United States.²⁰

Amicus's members and partners, and their students and graduates, too, have come to rely on DACA. DACA recipients have made significant contributions as students to colleges across the country. Donna Carrol, president of Dominican University, even credits Dominican's "rise in the US News and World Report rankings from 19th to 11th of 165 Midwest Regional Universities in large part to the strong academic performance and persistence of [its] many undocumented students."²¹ Other member colleges and universities also report that DACA-recipient students bring diverse perspectives and life experiences to campus, enriching the educational experience for all students. And DACA recipients regularly run clubs on campus like the honor society and are elected by their peers to student government groups.

Those DACA recipients also continue to positively impact *amicus*'s members even after graduation. Colleges and universities rely on their alumni to provide

²⁰ See Devin Dwyer et al., *DACA Recipients Leaving US, Disheartened by Legal Limbo*, ABC News (Mar. 7, 2023), <https://abcnews.go.com/Politics/daca-recipients-leaving-us-disheartened-legal-limbo/story?id=97300896> (reporting the stories of many dreamers, including college graduates, who have left or are planning to leave the country due to legal uncertainty).

²¹ TheDream.US, Meet TheDream.US Scholars 10 (2018), <https://www.thedream.us/wp-content/uploads/2019/03/TheDream.US-2018-Progress-Report-2-21-19-Digital-Final.pdf>.

ongoing support through mentorship of current students, donations, and cultivation of reputational good will. Without DACA, schools who have invested heavily in educating DACA recipients—many of whom are now social and economic cornerstones in their neighborhoods, cities, and states—will no longer be able to count on this important resource. And, as discussed above, many thousands of DACA recipients who graduated college are working to support children and parents; losing work authorization would be devastating to those families.

CONCLUSION

For the foregoing reasons, *amicus*'s member institutions and partner organizations, as well as *amicus*'s members' students and graduates, would be significantly harmed by DACA's end. Research shows their DACA-recipient graduates make substantial economic and social contributions. These schools, and the nation at large, should not be deprived of those contributions—before, during, and after their time on campus.

Dated: February 1, 2024

Respectfully submitted,

/s/ David J. Zimmer

David J. Zimmer

Counsel of Record

Jonathan E. Rankin

GOODWIN PROCTER LLP

100 Northern Avenue

Boston, MA 02210

617.570.1000

dzimmer@goodwinlaw.com

Counsel for Amicus Curiae

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of Federal Rule of Appellate Procedure 29(a)(5) because it contains 3,028 words, not including the items excluded by Federal Rule of Appellate Procedure 32(f), according to the count of Microsoft Word. I further certify that this brief complies with typeface and style requirements of Federal Rules of Appellate Procedure 32(a)(5) and 32(a)(6) because it has been prepared in Microsoft Word using 14-point Times New Roman font.

Dated: February 1, 2024

/s/ David J. Zimmer
David J. Zimmer

CERTIFICATE OF SERVICE

I certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ David J. Zimmer
David J. Zimmer

Dated: February 1, 2024