

No. 20-2082

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IN THE  
**United States Court Of Appeals**  
**For The First Circuit**

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A.C., a minor, by her parent and guardian ad litem, TORRENCE S. WAITHE; A.C.C., a minor, by her parent and guardian ad litem, NICOLAS CAHUEC; A.F., minor, by his parent and guardian ad litem, ALETHA FORCIER; R.F., a minor, by her parent and guardian ad litem, ALETHA FORCIER; I.M., a minor, by his parents and guardians ad litem JESSICA THIGPEN and ANTHONY THIGPEN; L.M., a minor, by her parents and guardians ad litem JESSICA THIGPEN and ANTHONY THIGPEN; K.N.M.R., a minor, by her parent and guardian ad litem, MARISOL RIVERA PITRE; J.R.H., a minor, by her parents and guardians ad litem, MOIRA HINDERER and HILLARY RESER; M.S., a minor, by his parent and guardian ad litem, MARK SANTOW; M.M.S., a minor, by his parent and guardian ad litem, Amie Tay; M.S., a minor, by her parents and guardians ad litem, MARUTH SOK and LAP MEAS; A.W., a minor, by her parent and guardian ad litem, Chanda Womack; J.W., a minor, by her parent and guardian ad litem, Chanda Womack; N.X., a minor, by her parents and guardians ad litem, YOUA YANG and KAO XIONG,

Plaintiffs-Appellants,

v.

GINA RAIMONDO, in her official capacity as Governor of the State of Rhode Island; NICHOLAS A. MATTIELLO, in his official capacity as Speaker of the Rhode Island House of Representatives; DOMINICK J. RUGGERIO, in his official capacity as President of the Rhode Island Senate; RHODE ISLAND STATE BOARD OF EDUCATION; COUNCIL ON ELEMENTARY AND SECONDARY EDUCATION; ANGELICA INFANTE-GREEN, in her official capacity as Commissioner of Education of the State of Rhode Island,

Defendants-Appellees.

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On Appeal From The United States District Court For The District Of Rhode Island

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**BRIEF OF *AMICI CURIAE* PROVIDENCE YOUTH STUDENT MOVEMENT,  
PROVIDENCE STUDENT UNION, ALLIANCE OF RHODE ISLAND  
SOUTHEAST ASIANS FOR EDUCATION, YOUTH IN ACTION RHODE  
ISLAND, AND RHODE ISLAND URBAN DEBATE LEAGUE  
IN SUPPORT OF APPELLANTS**

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*(Continued on inside cover)*

MORGAN, LEWIS & BOCKIUS LLP

S. Elaine McChesney, No. 26106  
Robert E. McDonnell, No. 56450  
Elizabeth M. Bresnahan, No. 1155088  
Michael A. Hacker, No. 1191345  
One Federal Street  
Boston, MA 02110  
(617) 341-7700

*Counsel for Amici Curiae*

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## **CORPORATE DISCLOSURE STATEMENT**

Providence Youth Student Movement, Providence Student Union, Alliance of Rhode Island Southeast Asians for Education, Youth In Action Rhode Island, and Rhode Island Urban Debate League (collectively, “*Amici*”) state that they have no parent corporations and no publicly held company owns 10% or more of any *amicus*’s stock.

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**IDENTITY AND  
INTEREST OF *AMICI CURIAE***

*Amici*, described more fully below, are all non-profit organizations in Rhode Island.<sup>1</sup> Although each is unique, the organizations share a common purpose: to educate and empower young Rhode Islanders so that they can effect positive change in their schools and communities. Many of the young people who pass through these organizations remain involved after graduating to act as mentors to younger generations. These organizations all impart critical civics educations<sup>2</sup> to their members—information that the Rhode Island school system fails to provide. *Amici* have a vital interest in ensuring the recognition and protection of their members’ right to an education adequate for civic participation.

**All parties have consented to the filing of this brief. L.R. 29(a)(2).**

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<sup>1</sup> *Amici* and their counsel declare that no party’s counsel authored the brief in whole or in part; no party or a party’s counsel contributed money that was intended to fund preparing or submitting the brief; and no person—other than *amici*, their members, or their counsel—contributed money that was intended to fund preparing or submitting the brief.

<sup>2</sup> Civics education, as the term is used herein, denotes the study of core competencies related to participation in government: understanding governmental and political processes, thinking critically from multiple viewpoints, and debating policy, among many others.

## INTRODUCTION AND SUMMARY OF ARGUMENT

Because of “the close relationship between education and some of our most basic constitutional values,” *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 111 (1973) (Marshall, J., dissenting), education is not “merely some governmental ‘benefit’ indistinguishable from other forms of social welfare legislation,” *Plyler v. Doe*, 457 U.S. 202, 221 (1982). Indeed, “education is perhaps the most important function of state and local governments.... It is the very foundation of good citizenship.” *Brown v. Bd. of Ed.*, 347 U.S. 483, 493 (1954). As the District Court recognized, “[t]here can be little doubt that education has been regarded as an important civic responsibility from the time of the country’s founding.” *A.C. v. Raimondo* (“*Raimondo*”), No. CV 18-645 WES, 2020 WL 6042105, at \*10 (D.R.I. Oct. 13, 2020).

This brief presents the voices of five Rhode Island non-profit organizations and their members who are affected by the dearth of civics education provided by Rhode Island schools.<sup>3</sup> Many of the youth members hail from economically disadvantaged communities. Many are first generation Americans. Many are members of historically disenfranchised racial and ethnic groups. They yearn to

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<sup>3</sup> Minors are referred to herein using their initials pursuant to Fed. R. App. P. 25(a)(5) and Fed. R. Civ. P. 5.2(a)(3).

become productive, informed citizens in their country and communities. But to do so, they need adequate civics educations, and the Rhode Island schools are failing in this regard. *Amici* are thus forced to deliver critical civic educations and civic activities not provided by Rhode Island schools. The youth members described herein are eager for more, and *Amici* are eager for their role to become one of supplementation rather than provision. The country, and the Rhode Island community specifically, would greatly benefit from this Court's recognition of the Constitutional guarantee of civics education.

## **ARGUMENT**

### **I. CIVICS EDUCATION IS AN ISSUE OF CRITICAL IMPORTANCE TO *AMICI* AND YOUNG RHODE ISLANDERS**

The “survival of our democracy ... will not happen just because we want it to; we will have to work for it....” *Raimondo*, 2020 WL 6042105 at \*4. *Amici* and their members are working for it, even though Rhode Island schools are not. While the parties will address the legal framework this Court should apply, *Amici* write separately, and in support of the Appellants, to provide a voice to young Rhode Islanders and the organizations that support them. These are some of their stories.

#### **A. Providence Youth Student Movement**

Providence Youth Student Movement (“PrYSM”) is a grass-roots organization, focused on empowering the Southeast Asian youth community in Providence. It organizes at the intersections of race, class, gender, and sexual

orientation by centering youth with a diversity of backgrounds in leadership, campaigns, organizations, and communities. Its goal is to eliminate the systems that have historically disenfranchised certain communities. By empowering members to use their voices to change the systems in which they operate, PrYSM provides hands-on civics educations to its members.

### **1. Suonriaksmay Keo**

At 21 years old and having just experienced her first presidential election as an adult, Suonriaksmay Keo, a Providence resident and 2017 graduate of Classical High School, says that she finds herself Googling “basic” information about the government and her rights as a natural born United States citizen to better understand the events happening around her.

Born to immigrants from Cambodia, Suonriaksmay has always had an active interest in citizenship, but her desire to learn about her rights and ability to participate in her community was not met by the Providence public schools. Like many of her peers whose experiences appear in this brief, Suonriaksmay was left to pursue resources on her own to achieve a civics education. Doing so led her to PrYSM. She first became active as a volunteer starting at age 12. She now works part-time at PrYSM as a Youth Outreach Coordinator.

PrYSM introduced Suonriaksmay to aspects of society and government that were affecting her world—things she was not taught in public school. For example,

she learned about citizenship and her rights and responsibilities as a U.S. citizen. She learned that deportation and immigration issues affect individuals nationwide and were not just something that her uncle had experienced. Before engaging with PrYSM, Suonriaksmay felt like she was in a “shell”—unable to connect the things happening to her and to her family to what was happening in her community. She says, “with subjects about voting and the three branches of government only being touched upon briefly in school, I didn’t find it important.” Suonriaksmay was not encouraged to become a civic participant, nor was she given the resources to engage even if she wanted to.

Through PrYSM, Suonriaksmay learned for the first time that *she* could participate in government. She learned why her vote matters and how the outcome of elections impacts her life. She learned, not just the concept of legislation, but personally participated in the process of drafting and campaigning to support a Providence ordinance: the Providence Community-Police Relations Act. Suonriaksmay learned that Providence City Council meetings were open to the public and that she could participate in them. She learned how to arrange meetings with City Council members in order to voice her opinions to them.

Suonriaksmay firmly believes that civics education is fundamental to a young person’s realization that they have the power to participate and be a part of change

in society. And, while Suonriaksmay was fortunate to find PrYSM, she acknowledges that PrYSM is limited in the number of students it can serve.

The consequences of overlooking civics education in schools, Suonriaksmay says, are serious. Today, students are either indifferent to the issues happening around them or merely rely on social media to form their views and influence their participation. Including civics education in the public-school curriculum would inform students about their role and rights as citizens, provide a forum for discussion and debate, and encourage participation from diverse voices. Without it, we, as a society, are denying ourselves the informed, engaged next generation of citizens on whom our future as a democratic nation relies.

#### **B. Providence Student Union**

Providence Student Union (“PSU”) is a youth-led organization whose mission is to provide a safe and supportive place for students to advocate for themselves, particularly in helping students promote their rights and interests at school. PSU cultivates students to become powerful advocates for their own education and well-being and unites youth from across Providence to take the lead in reshaping their schools and communities. Through these efforts, students learn to use their voices, to organize, to create plans for action, and to navigate institutional systems—all essential civic educational skills.

**1. M.A.**

M.A. is a co-leader of the PSU Student Leadership Team; her best friend attends a Providence-area charter school. These two spoke often about current events over the past few years and what the future might hold for the two high school juniors. M.A. quickly realized that she lacked her friend's foundational understanding of politics. While her friend's charter school mandated a course on civics, M.A.'s school, Classical High School in Providence, has no such requirement. M.A. observed that her friend had a vocabulary and knowledge of fundamental aspects of government and citizenship to which M.A. had never been exposed and that had not been a part of her public-school curriculum.

To overcome the gap in Classical High's curriculum, M.A. pursued a civics course through the Advanced Course Network, an extension of the Rhode Island public schools, offering elective, supplemental educational opportunities "outside of the traditional school day." The enrichment course took place over six weeks during the summer and began at 7:45 a.m.—an early start to anyone's day, let alone a high school student on summer break. Nevertheless, M.A. attended every class. She reflected on not only her rights and duties as a U.S. citizen, but also the lack of access to civics education that exists in the Rhode Island public school system.

Traditionally,<sup>4</sup> interested students had to navigate the complicated logistics of attending a voluntary class over the summer break, including the lack of school bus transportation and the juggling of work or care for younger siblings during school breaks. Even for those with the motivation and resources to take this summer course, M.A. wondered why they should have to go the extra mile to attain a basic civics education when this knowledge is so fundamental to their ability to participate in society, particularly as adults.

In discussions with classmates at school, M.A. notices the real-life consequences of the lack of civics education. Students graduate without knowing how to vote; they do not even know how to fill out their ballots. In addition to lacking an understanding of the voting process, M.A. notes that students do not know how government works, how decisions are made, and who bears responsibility for these decisions. Nor do M.A.'s classmates know what their rights are. In fact, had 2020 not been an election year, M.A. believes that her education would not have included even a cursory discussion about voting. The lack of solid civics education leaves Providence-area students without an understanding of what their role should be in government and democracy. The consequence is that these students are disincentivized from participating in society as informed citizens.

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<sup>4</sup> This class is traditionally offered in person but was offered online this year because of the COVID-19 pandemic.

M.A.'s interest in this case stems from her desire to use the advocacy and leadership skills she learned as a member of PSU to argue for a better civics education for herself and her peers. She believes that this education is essential to her and her classmates' ability to effectively participate in democracy, learn their civic duties, and understand their fundamental rights, including the right to vote.

## **2. Y.K.**

Y.K., a senior at Classical High School, hopes to become a community leader who makes positive change in his community through advocacy and education. This career ambition was bolstered by his participation in PSU. PSU provided Y.K. newfound social wisdom, encouraging him to seek change in his community for his benefit and for the benefit of others.

Early on in his participation in PSU, it was apparent to Y.K. that his public-school education missed critical elements of civics education. For example, Y.K. never learned how to vote, how to research candidates, nor why voting is important, things he believes his private school peers have been taught in school. Y.K. worries that, while he has not received a civics education in public school, his peers in private school have. To Y.K., these disadvantages ultimately exacerbate the lifetime inequities between private school graduates and public-school graduates.

As a student preparing to graduate this year, Y.K. believes that his school's failure to offer him a civics education threatened to leave him blinded—not just at

the ballot box, but in life generally. Finding PSU helped Y.K. fill the gap in his civics education. PSU, not his public-school education, provided him with a strong civics education base that taught him how to critically research issues that are important to him. Though Y.K. is grateful for the education provided by PSU, he believes that public schools should bear this responsibility, and not the students. Y.K. notes that most of his public-school peers do not know what civics education is. He questions how they can be responsible for obtaining a civics education on their own if they do not know what it is. To Y.K., because students do not get a choice in what they are taught, the public-school system should be held accountable for the vital civics education it fails to provide.

### **3. M.B.**

M.B., a 17-year-old senior at The Met High School, joined PSU as a freshman and is now the Youth Program Coordinator. In this role, M.B. helps connect students with PSU events and opportunities by coordinating programs and drafting the monthly PSU newsletter. Through her work at PSU, M.B. cultivated many strong opinions about improving the public education system in Rhode Island. Among these opinions is that public schools should be required to provide students with a basic civics education. She believes that doing so would greatly improve both the Rhode Island school system, youth education in general, and the viability of democracy in the state and country as a whole.

In her twelve years of public schooling, M.B. has never learned how to vote, never heard any discussion of why voting matters, and never saw a connection between voting and her life personally. The consequences of this void in education, M.B. says, were abundantly clear during the 2020 election. Through words and actions, her voting-aged peers demonstrated a belief that their votes did not matter and ultimately meant nothing.

Though civics is not a graduation requirement, M.B. believes that there is an expectation that students participate in government. She finds this disconnect maddening, repeatedly asking herself “how can they ask us to be a part of democracy if they don’t teach us how?” To M.B., the solution is simple: Rhode Island public schools should be required to educate their students on civics. M.B. believes that schools are uniquely equipped to educate students on why voting matters and how it directly affects students, their families, and their communities. Basic efforts to provide students with a civics education would foster a connection between students and government, which ultimately would encourage engagement in democracy.

### **C. Alliance Of Rhode Island Southeast Asians For Education**

Alliance of Rhode Island Southeast Asians for Education (“ARISE”), created in 2016, helps students overcome obstacles that its founder faced trying to assimilate and succeed in Rhode Island public schools as a Cambodian refugee. The organization combines leadership training with community organizing to mobilize

Southeast Asian and other Rhode Island youth of color for education justice. ARISE is student-centered and has two primary goals: (1) help students navigate institutions, such as public schools, so that they know how to advocate for themselves, and (2) teach students how to address institutional systemic issues and root causes of disparities in educational access and opportunities.

### **1. Law-Rel Butler**

Law-Rel Butler, a 2020 graduate of Classical High School, credits after-school programs, such as ARISE, for his knowledge and understanding of government and civics. Without ARISE, he believes that he would not have even known how to vote, let alone appreciated the importance of voting. While Law-Rel, having attended independent private schools and one of the more exclusive public high schools in the state, considers himself privileged when it comes to education, he nonetheless does not feel that he was adequately prepared to meaningfully participate in government. He notes that those without his educational pedigree fare far worse, having essentially no understanding of civic engagement.

Law-Rel is now a freshman at Rhode Island College and a Lead Organizer at ARISE, where he creates professional development workshops, college access workshops, and supplemental social studies classes, including ethnic studies and civics courses, for high school students. He contends that the public-school education provided to students in Rhode Island should include basic instruction on how to succeed as adults and, more

specifically, as citizens in the United States. This education should include how to pay taxes, Constitutional rights, how the government works, civic responsibilities, and, most importantly, how to vote. He laments that students graduate from Providence public schools without understanding their basic constitutional rights or the power they have to effect change, especially at the ballot box. Law-Rel questions how society can expect students to know how to become productive, informed citizens if the public schools provided by the very same government fail to deliver the fundamental education required for them to do so.

## **2. Niamiah Jefferson**

Niamiah Jefferson is a freshman at Wheaton College. She was involved in ARISE as a student at Ponaganset High School, and she remains committed to the organization as a Lead Organizer. In that role, she organizes workshops, campaigns and protests, assists with college preparation, and generally ensures that ARISE members are engaged and have access to educational, enriching programming.

Civics education is important to Niamiah because it allows her, and other young people, to “gain self-agency”—the knowledge that you have power in your own voice and a say in what happens in your community and your government. Niamiah’s definition of civics education includes learning the importance of self-advocacy and of being a citizen and a steward of society. Niamiah emphasizes that a foundational knowledge of civics is required to effectively exercise the rights to vote, speak freely, and serve on a jury. Without

ARISE, Niamiah would not have known the importance of voting and would not have felt the need to exercise her right to vote for the first time in the 2020 election.

ARISE has imparted to Niamiah important skills—such as thinking critically, debating, and leadership—as well as substantive knowledge of important historical and civics issues, each lacking from her school curriculum. For example, through ARISE, Niamiah learned about the history of voter suppression in this country—a subject deeply important to understanding the current political and economic makeup of our country. Niamiah believes it is important for education to be representational and reflect the cultural and historical background of our country’s history. To that end, Niamiah is involved in planning and participating in ARISE programs such as Honoring Our History, an interactive, experiential program for rising high school students to learn about Southeast Asian history. This type of education provides students with historical reference points to become leaders and change the trajectory of the country. Niamiah is striving to be a leader, and it was ARISE—not her public school—that gave her the necessary skill set to do so.

### **3. D.F.**

D.F. and her older sister were attracted to ARISE based on the organization’s reputation for preparing students to become effective leaders for the future. She firmly believes that teaching young people to advocate for themselves and for their communities is at the heart of civics education.

But, D.F., now a Youth Leader at ARISE, says her public school education has not provided her with the tools necessary to lead and advocate. The school system has failed in its responsibility to teach students how to become active citizens. D.F. says that fundamental concepts such as taxes and voting are simply not given adequate attention in the classroom. Nor are students taught how they fit in to society or how they can voice their opinions. For example, D.F. says that if she had been taught the importance or context of voting in school (which she was not), she would feel a connection to voting and would feel energized to vote. But these connections are not being made for students. D.F. acknowledges that her peers have many opinions about current events and clearly *want* to engage, but they simply have not been given the tools to do so.

While D.F. laments that her public-school education thus far has left her “completely unprepared” to participate as a citizen, through ARISE she has learned how to lead and help others. D.F. sees her participation in this brief as an opportunity to show her younger siblings the impact of advocacy.

#### **D. Youth in Action Rhode Island**

Youth in Action’s (“YIA”) organizing work is influenced by the central principle that “nothing about us without us is for us.” YIA has a deep commitment to intergenerational collaboration. The organization believes that youths and adults can learn from each other and work together to address issues within their communities. At YIA, adults serve as mentors and allies, amplifying youth voices and collaboratively cultivating

a space for genuine, sustainable youth-led work. YIA creates opportunities for youth to become agents of change through transformative youth leadership programming. The organization creates space for youth to contemplate and understand their cultures, values, identities, and truths and then to use that knowledge to build the skills and tools to name and address equity issues in their communities. YIA works to create more caring and fair public institutions and systems.

**1. R.A.**

R.A., a fifteen-year-old sophomore at Classical High School in Providence, feels that her school is not effectively preparing her for adulthood, especially when it comes to being an active, engaged adult citizen. She describes the expectation that students in Rhode Island public schools are fully prepared to be treated as adults when they turn eighteen as “scary” because her school does not provide any of the educational resources needed to meet this expectation. So, R.A. took it upon herself to join YIA as well as the Student Voices Journalism Fellowship, where she writes articles about civics and education. R.A. believes that not only is it important for students to know and understand their rights and responsibilities as citizens, but it is also important to teach students how to make educated decisions when voting in the future. Without YIA and Student Voices, the lack of civics education at her school would have “definitely” impacted her ability to make meaningful decisions at the ballot box.

R.A. finds herself wondering why the responsibility of learning civics falls on students' shoulders rather than on the public-school system. Why should she have to seek out additional resources to gain a basic civics education? Since students are required to spend the majority of their formative years in school, R.A. believes that students "should be learning something useful," and the schools should bear the responsibility of preparing them for adulthood and teaching them how to fully exercise their rights and privileges as citizens. Until Rhode Island schools recognize this responsibility, students will continue to be ill-equipped to actively and intelligently engage in civics as adults.

#### **E. Rhode Island Urban Debate League**

The Rhode Island Urban Debate League ("RIUDL"), founded in 1999,<sup>5</sup> serves marginalized high school students attending public school in Rhode Island. It teaches them to advocate, debate, reason, and become active members of the community—all fundamental elements of civics education. While RIUDL provides students with research, reasoning, public speaking, argumentation, and listening skills that they are lacking in public school education, RIUDL and organizations like it, will never be able to reach every student.

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<sup>5</sup> While RIUDL was founded at Brown University, apart from at times partnering with Roger Williams University School of Law, RIUDL is no longer affiliated with a college or university.

## **1. Rachel Victorin**

Rachel Victorin, a 2019 graduate of Mount Pleasant High School in Rhode Island, is a natural when it comes to debating the issues about which she is passionate. She has been involved with RIUDL since her sophomore year when friends encouraged her to join after witnessing her hunger for debate in the classroom.

Rachel sees civics as fundamental to one's ability to participate meaningfully in society. Civics education is not just important for politicians or individuals who work in government, but for all citizens. To Rachel, debate is an essential element of civics education because it encourages individuals to articulate their opinions and defend the things that matter to them. But debate is discouraged in the classroom.

Rachel warns that not offering civics education to all students harms their ability to participate fully in society. She says her peers do not care about civics because they are not aware of their rights and how important they are. Her classmates wonder why they should care about civics when no one teaches them about its importance. Rachel also cautions that if students, particularly those in vulnerable communities, are not given the tools to understand their rights and what they are entitled to, they are more likely to be taken advantage of. Rachel says that the youth are our future and our youth needs to know how a democratic society works so that they are prepared to lead when their time comes.

## CONCLUSION

Especially in today’s dynamic world in which news arrives in the palm of your hand minutes after a notable—or even hardly notable—event has occurred, “broad exposure to the social, economic, scientific, technological, and political realities of today’s society is essential for our students to compete, contribute and flourish in the twenty-first-century.” *Claremont Sch. Dist. v. Governor*, 703 A.2d 1353, 1359 (N.H. 1997). The young people whose voices are presented herein are hopeful to one day become this nation’s leaders, but they can only do so if we equip them with the knowledge, skills, experiences and values required of them to become informed, capable citizens. For the foregoing reasons as well as the reasons set forth in the Appellants’ brief, the District Court’s order dismissing the Complaint should be reversed.

Dated: February 16, 2021

Respectfully submitted,

MORGAN, LEWIS & BOCKIUS LLP

/s/ Elizabeth M. Bresnahan

S. Elaine McChesney, No. 26106  
Robert E. McDonnell, No. 56450  
Elizabeth M. Bresnahan, No. 1155088  
Michael A. Hacker, No. 1191345  
One Federal Street  
Boston, MA 02110  
(617) 341-7700

*Counsel for Amici Curiae*

### CERTIFICATION OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a)(7)(C) and 28.1(e)(3), the undersigned certifies that this brief complies with the applicable type-volume limitations. This brief was prepared using a proportionally spaced type (Times New Roman, 14 point). Exclusive of the portions exempted by Fed. R. App. P. 32(f), this brief contains 4,294 words. This certificate was prepared in reliance on the word-count function of the word-processing system (Microsoft Word) used to prepare this brief.

/s/ Elizabeth M. Bresnahan  
Elizabeth M. Bresnahan

### **CERTIFICATE OF SERVICE**

I certify under the penalties of perjury that on February 16, 2021, a copy of the foregoing document was filed electronically through the Court's e-filing system for distribution to all counsel of record.

/s/ Elizabeth M. Bresnahan  
Elizabeth M. Bresnahan