

In the
Supreme Court of the United States

FREE SPEECH COALITION, INC., ET AL,
Petitioners,

v.

KEN PAXTON, ATTORNEY GENERAL OF TEXAS,
Respondent.

On Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

BRIEF OF AMICI CURIAE
JACO BOOYENS MINISTRIES (JBM),
ILONKA DEATON, AND TAMI BROWN RODRIQUEZ
IN SUPPORT OF RESPONDENT
KEN PAXTON, ATTORNEY GENERAL OF TEXAS

Chris Byrd
Chris Byrd Law Firm
2631 Bulverde Rd #105
Bulverde, TX 78163
830-249-3559
cbyrd@chrisbyrdlaw.com

Lawrence B. Shallcross
Counsel of Record
L.B Shallcross & Associates
2631 Bulverde Rd Ste. 101
Bulverde, TX 78163
830-980-5757
larry@lbshallcross.com

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INTEREST OF THE AMICI CURIAE

JACO BOOYENS MINISTRIES (JBM)¹ is one of the largest and most active anti-trafficking organizations in Texas, with over 250,000 members, followers, and supporters. JBM's interest in this case stems from its mission to protect children's innocence, empower families, and combat the dangers of harmful online content, particularly pornography.

JBM's interest is aligned with the greater good and reflects its members' concerns about the pervasive and unwanted exposure of minors to explicit material. Central to JBM's mission is advocating for robust legislative and policy measures that safeguard minors in digital spaces. The organization collaborates with policymakers, educators, and industry leaders to advance preventative strategies and enforceable protections.

A key component of JBM's work involves engaging in the judicial process to advocate for policies that prioritize child safety. JBM has previously filed amicus briefs² in cases concerning child exploitation, digital safety, and legislative protections for minors. This

¹ Pursuant to Sup. Ct. Rule 37.6, counsel for all parties have consented to the filing of this brief. No counsel for a party authored this brief in whole or in part and no person or entity other than amicus, its members, or counsel made a monetary contribution to its preparation or submission.

² See *Justice for Benefiting Minors. JBM Amicus Brief Filed in the Ninth Circuit Court of Appeals Advocating for Stronger Protections Against Online Child Exploitation. Kids Online Safety Act (KOSA) chambers of the 118th U.S. Congress. S.1409. H.R.7891.*

case presents critical questions surrounding the government's responsibility to shield minors from harmful materials in the digital age, which is of national interest.

Children's exposure to sexually explicit content through digital platforms continues to rise at alarming rates. Studies³ show that 93% of boys and 62% of girls encounter pornography online before the age of 18, often as early as 12 years old (American Psychological Association, 2023)⁴. JBM's interest lies in addressing the underlying societal crisis and ensuring that the courts and policymakers enact protections that reflect the urgency of this problem.

JBM's interest also extends to addressing the neurological, psychological, and societal effects of early exposure to pornography. Research, including MRI studies by the Max Planck Institute, demonstrates that such exposure can rewire neural pathways in a manner akin to substance addiction, impairing judgment and increasing the risk of compulsive behaviors (Max Planck Institute for Human Cognitive and Brain Sciences, 2004)⁵. These findings are of profound interest to JBM, as they underscore the developmental risks to adolescents, whose brains are still

³ Brown, J. D., & L'Engle, K. L. *Exposure to Internet Pornography Among Adolescents: A Review of the Research*, SEXUAL ADDICTION AND COMPULSIVITY, January 2012.

⁴ *Predictors and Psychosocial Consequences*. JOURNAL OF ADOLESCENT HEALTH, 40(5), 522–530. Kühn, S., & Gallinat, J. *The Brain on Porn*, JAMA PSYCHIATRY, no. 7 (2014): 827-834

⁵ Max Planck Institute for Human Cognitive and Brain Sciences, 2004.

maturing and thus particularly vulnerable to these effects.

The lack of adequate safeguards in digital environments compounds these risks. Minors frequently encounter harmful content through algorithm-driven⁶ recommendations on social media platforms, which prioritize engagement over safety. This exposure highlights the need for policies requiring age-verification measures and stricter content moderation to protect minors (THE WALL STREET JOURNAL⁷. The psychological impact of this exposure is significant, with studies linking it to increased rates of depression, anxiety, and compulsive sexual behaviors (JOURNAL OF ADOLESCENT HEALTH, 2022). These findings reinforce JBM's interest in advocating for comprehensive, enforceable safeguards for digital platforms.

JBM's vested interest in this case lies in its alignment with the organization's mission to promote robust protections that prioritize the developmental health and safety of children.

By supporting measures such as age-verification requirements, U.S. Congress. Kids Online Safety Act (KOSA), S.1409.⁸ Introduced in the 118th Congress,

⁶ Research published in the JOURNAL OF ADOLESCENT HEALTH has linked exposure to harmful digital content with significant psychological effects, including increased rates of depression, anxiety, and compulsive behaviors. (JOURNAL OF ADOLESCENT HEALTH, 2022).

⁷ THE WALL STREET JOURNAL. *Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show*. Published September 14, 2021.

⁸ *The Kids Online Safety Act* outlines provisions such as age-verification requirements, parental controls, and transparency

2024, parental controls, and transparency mandates, JBM aims to mitigate the risks associated with unwanted exposure to explicit material. These measures are in the best interest of children, families, and the broader community.

JBM believes that just as businesses and governments partner to solve large-scale problems, such as climate change, the protection of minors online requires collaboration among stakeholders United Nations Children's Fund (UNICEF). *Children in a Digital World: Creating Safe Digital Environments through Collaboration*. Effective solutions must involve the technology sector, policymakers, public health officials, and advocacy organizations. By supporting thoughtful legislation and judicial decisions, JBM continues to advance its interest in ensuring a safer digital future where children are nurtured in environments free from exploitation and harmful influences.

ILONKA DEATON'S interest in this case stems from her role as an expert advocate in human trafficking policy and as a survivor of six years of sex trafficking in the music industry. As the author of *Keeping Secrets*, which explores recovery from trauma and exploitation, and as a leader at The Reisman Institute and (JBM), she works to combat trafficking, protect minors, and raise awareness. Her advocacy includes drafting and crafting policies to ensure the protection of minors, developing training curricula, and providing impactful testimony before the Tennessee Judiciary Committee, which led to stricter penalties for traffickers. She is committed to advancing policies

mandates, aligning with JBM's commitment to child safety. (U.S. Congress, 2024)

that safeguard children from exploitation and harmful materials.

TAMI BROWN RODRIGUEZ'S interest in this case arises from her role as the Director of Policy for (JBM) and her expertise in human trafficking policy and advocacy. Her professional work is deeply informed by personal experience, as a family member who endured the devastating effects of trafficking for over 15 years after being groomed in a school setting. Ms. Rodriguez's advocacy focuses on crafting and advancing policies to protect the most vulnerable. Her leadership has earned recognition through awards such as the "Women in Business Award" from the *Dallas Business Journal* and "Professional Woman of the Year" from the National Association of Professional Women. Her work ensures that the voices of trafficking survivors and their families are represented in the creation of meaningful legislative and judicial protections.

Together, JBM, Ms. Deaton and Ms. Rodriguez bring decades of combined expertise and lived experience to this critical issue. Their professional and personal commitments to the protection of minors and the prevention of human trafficking underscore the necessity of this Court's attention to policies ensuring stringent safeguards against the exploitation of children. Through their advocacy and policy work, amici seek to assist the Court in understanding the broader societal implications of the issues presented in this case and the urgent need for effective measures to protect vulnerable populations.



SUMMARY OF ARGUMENT

In *Free Speech Coalition v. Paxton*, the Free Speech Coalition challenges (Texas House Bill 1181 (HB 1181) U.S. District Court Case No. 23-1122)⁹, on the grounds that its definition of “harmful materials to minors” may be overly broad, potentially restricting constitutionally protected speech and adult access to lawful content. H.B. 1181, mandates age verification for access to materials meeting this definition, aiming to prevent minors from exposure to content detrimental to their developmental health.

While the Coalition raises concerns about privacy and First Amendment rights, it does not dispute that some materials on its sites qualify as harmful to minors, affirming the state’s compelling interest in implementing age-verification measures to protect young audiences (American Psychological Association, 2023).

The law’s purpose is to address the unique vulnerabilities of minors online, striking a balance between free speech rights for adults and a secure digital environment for minors.

This policy objective aligns with historical protections. In *Ginsberg v. New York*, 390 U.S. 629

⁹ *Age-Verification Mandate* H.B. 1181, enacted by the Texas Legislature, mandates age-verification requirements for access to materials deemed harmful to minors, emphasizing the state’s compelling interest in protecting children. (Texas House Bill 1181 (2023)).

(1968)¹⁰, the U.S. Supreme Court upheld restrictions preventing minors from purchasing adult magazines, establishing public policy to protect children in physical spaces. Following *Ginsberg*, (U.S. Supreme Court. *Historical Standards for Material Accessibility and the Protection of Minors*. Referenced in *Ginsberg v. New York*, public standards required explicit materials to be placed in restricted areas out of minors' view in grocery stores, bookstores, and convenience stores. These restrictions reflected a commitment to safeguarding young audiences and became widely adopted in retail environments.

Today, the internet serves as the modern equivalent of grocery stores and bookstores, where minors can easily access harmful content without clear boundaries. Just as public policy once mandated that explicit materials be kept out of reach in physical settings, robust online regulations, such as age verification, are now essential to maintain the same level of protection in digital environments *Federal Communications Commission v. Pacifica Foundation*, 438 U.S. 726 (1978)¹¹.

¹⁰ *Ginsberg v. New York*, 390 U.S. 629 (1968). Historical public standards mandated that explicit materials be kept out of minors' view in retail environments, setting a precedent for safeguarding children in physical spaces. This principle parallels modern efforts to restrict minors' access to harmful content online. The internet now functions as a digital equivalent of traditional retail environments, where minors require protections similar to those implemented in the physical world to prevent exposure to harmful content.

¹¹ In *FCC v. Pacifica Foundation*, the Court recognized the government's authority to regulate indecent content in public media spaces, affirming the compelling interest in shielding

H.B. 1181¹² reflects this continuity in safeguarding minors, recognizing that online spaces must be governed by the same public interest standards that have long guided protections in physical spaces. Upholding H.B. 1181 reinforces these standards, supporting parents and society in their shared responsibility to foster a safer, age-appropriate digital landscape for minors.

This alignment between legislative intent and judicial precedent underscores the law’s rational and necessary role in modern digital safety policy.

The state’s duty to safeguard minors from harmful material finds solid grounding in constitutional law. In *Ginsberg v. New York*, the Supreme Court upheld a statute prohibiting the sale of obscene materials to minors, establishing that states have a “compelling interest in protecting the welfare of children.” Similarly, *Federal Communications Commission v. Pacifica Foundation*, 438 U.S. 726 (1978) reinforced the government’s authority to impose “time, place, and manner” restrictions on indecent material, recognizing that minors require unique protections. In its recent decision, the Fifth Circuit affirmed Texas’ age-verification requirement for accessing explicit online content, finding that these measures serve the state’s duty to protect minors (*Free Speech Coalition v. Paxton*, Fifth Circuit Court of Appeals, 2024). These cases collective-

minors from harmful exposure. (*FCC v. Pacifica Foundation*, 438 U.S. 726 (1978)).

¹² H.B. 1181 continues this tradition of protection, mandating age verification to restrict minors’ access to harmful digital content and uphold public interest standards in online spaces. (Texas House Bill 1181 (2023)).

ly demonstrate the evolving judicial stance acknowledging the need for modern digital safeguards.

Minors are not incidental users of platforms hosting explicit content; they are targeted victims of a predatory business model that disregards essential safeguards, including age boundaries and parental oversight (WALL STREET JOURNAL, *Facebook Knows Instagram Is Toxic for Teen Girls, Company Documents Show*. Published September 14, 2021).¹³

The adult entertainment industry, empowered by digital platforms, prioritizes reach and profit, often at the expense of child welfare. This targeting occurs through accessible content, algorithms, and a lack of meaningful age-verification measures, exposing millions of children to material that harms cognitive, psychological, and social development.¹⁴

Unlike the physical world, where age restrictions moderate access, online spaces often lack equivalent safeguards, leaving minors vulnerable.

A child's exposure to explicit content may stem from innocuous search terms, unregulated ads, or social media algorithms inadvertently directing young users toward harmful material. Without comprehensive age-verification requirements, minors face unrestricted access to content that jeopardizes their

¹³ Unlike the physical world, where age restrictions moderate access to harmful materials, digital platforms often fail to enforce meaningful age-verification measures, leaving minors exposed. (WALL STREET JOURNAL, 2021).

¹⁴ *Max Planck Institute*, Human Cognitive Studies (2004).

developing minds (JOURNAL OF ADOLESCENT HEALTH, 2022)¹⁵.

The judiciary has both the power and duty to affirm age-verification measures as a practical, constitutionally sound, and morally essential response to this threat.

As the Fifth Circuit held in *Free Speech Coalition v. Paxton*, No. 23-50627 (5th Cir. Mar. 7, 2024), Texas' age-verification law is rationally related to the government's interest in preventing minors' access to explicit material.

This precedent represents a critical acknowledgment that safeguarding children from online harm is a constitutional imperative¹⁶ rooted in the state's responsibility to protect its most vulnerable citizens.

Age-verification laws are targeted measures that uphold the balance between individual freedoms and societal responsibility. By supporting such laws, the Court affirms that minors' welfare takes precedence over commercial interests. Upholding H.B. 1181, rein-

¹⁵ A study published in the JOURNAL OF ADOLESCENT HEALTH highlights how children's exposure to explicit content can result from seemingly innocuous search terms, unregulated advertisements, and social media algorithms, underscoring the need for age-verification measures. (JOURNAL OF ADOLESCENT HEALTH, 2022). The judiciary holds the responsibility to affirm age-verification laws as constitutionally sound and essential to protecting minors, especially given the harmful impacts of unrestricted access to explicit material on developing minds.

¹⁶ See the principle that children deserve a safe and supportive environment has long been a cornerstone of societal and legal frameworks, as exemplified by legislative and judicial efforts to protect minors from harmful influences. (*Ginsberg v. New York*, 390 U.S. 629 (1968)).

forces the principle that children deserve to grow in a healthy, secure, and supportive environment, a duty that reflects our societal values and legal principles.



ARGUMENT

I. Minors Are Vulnerable Targets of a Predatory Business Model That Exploits Loopholes in Parental and Adult Oversight

The adult entertainment industry's model relies on easy access¹⁷ and digital pervasiveness, making minors, often unintentionally, regular viewers of explicit content. The following subsections analyze how industry practices, digital architecture¹⁸, and the lack of regulatory oversight¹⁹ exploit this vulnerability.

A. Normalization Effects on Youth

With exposure rates as high as 93% for boys and 62% for girls before age 18, minors face a normalization

¹⁷ See *Ginsberg v. New York*, 390 U.S. 629, 641 (1968). Supporting the claim that minors are often unintentionally exposed to harmful materials, necessitating regulatory oversight.

¹⁸ *American Psychological Association (APA)*, Report (2023). *Brown v. Entertainment Merchants Ass'n*, 564 U.S. 786, 794 (2011). Risks of desensitization from early exposure to hypersexualized content.

¹⁹ *United States v. American Library Ass'n, Inc.*, 539 U.S. 194, 199-200 (2003). *Ashcroft v. Free Speech Coal.*, 535 U.S. 234, 241 (2002). Addresses the developmental dangers of pornography and its impact on adolescent socialization.

of hypersexualized content, leading to desensitization (American Psychological Association, 2023)²⁰.

Studies demonstrate that early exposure can distort perceptions of relationships and increase the risk for aggressive sexual behavior.

Such outcomes highlight the developmental dangers of pornography as it becomes integrated into the fabric of adolescent socialization and learning.

B. Definition of Harmful Materials and Agreed-upon Risk

Under H.B. 1181, “harmful materials to minors” encompasses any visual or written content that, while lawful for adult consumption, has been determined as detrimental for minors due to its sexually explicit nature.

This bill’s definition directly aligns with the opposition’s acknowledgment of their content as potentially harmful to minors²¹. Thus, the bill’s preventive measures, such as age verification, are not only reasonable but essential in safeguarding minors’ developmental health (*Free Speech Coalition v. Paxton*, 2024).

²⁰ The American Psychological Association reports that 93% of boys and 62% of girls encounter pornography online before age 18, underscoring the normalization of hypersexualized content and its desensitizing effects on youth. (*American Psychological Association*, 2023).

²¹ See American Psychological Association. *The Impact of Hypersexualized Media on Adolescents’ Development*. Published 2023.

C. Exposure to Inappropriate Content

Minors' online experiences are increasingly shaped by algorithm-driven content recommendations, which can inadvertently lead them to harmful materials, even when they begin with benign intentions.

Within Algorithm-Driven Content Recommendations²², studies indicate that social media algorithms commonly expose minors to inappropriate content, including material that promotes unrealistic body standards or unhealthy behaviors.

For instance, in 2021, THE WALL STREET JOURNAL reported that Instagram's algorithm directed teens who searched for topics such as "diet" or "fitness" to accounts endorsing eating disorders and harmful body image ideals. This troubling reality underscores how minors' typical online behaviors can inadvertently expose them to harmful or explicit content, prioritized by algorithms focused on engagement rather than safety.

Sexually Explicit Content²³ research reveals that approximately 1 in 5 children aged 9-17 have unintentionally encountered sexually explicit material online,

²² See Brown, J. D., & L'Engle, K. L. *Exposure to Internet Pornography Among Adolescents: Predictors and Psychosocial Consequences*. JOURNAL OF ADOLESCENT HEALTH, 71(3), 408–416. Published 2022.

²³ See Thorn. *Responding to Online Risks: A Research Report on Children's Exposure to Sexually Explicit Content Online*. Published 2020. Research by Thorn shows that approximately 1 in 5 children aged 9-17 unintentionally encounter sexually explicit material online, often due to algorithms that recommend related content based on seemingly innocuous search terms. (*Thorn Report*, 2020).

often due to algorithms that recommend related content based on innocuous search terms (*Thorn Report*, 2020). Furthermore, the average recovery period of childhood explicit exposure is three times longer than the duration of the initial exposure²⁴.

D. Psychological Impacts on Minors

The psychological impact of pornography exposure on minors is profound and far-reaching, affecting their mental health, self-image, and behavioral development in troubling ways.

Minors exposed to pornography online face increased risks of self-harm, eating disorders, engagement with traffickers, and self-exploitation, all of which can have lasting effects on their well-being and development (*National Center on Sexual Exploitation*, 2022)²⁵.

II. Mental Health Consequences: Depression, Anxiety, and Self-Harm

Research increasingly demonstrates²⁶ the mental health risks that early exposure to pornography poses

²⁴ Ilonka Deaton’s *“Keeping Secrets”* (2016) reveals that the average recovery period for childhood trauma and exposure to pornography is three times longer than the duration of the initial exposure.

²⁵ *The National Center on Sexual Exploitation* highlights that minors exposed to online pornography are at greater risk for self-harm, eating disorders, engagement with traffickers, and self-exploitation, with long-term consequences for their development and well-being. (*National Center on Sexual Exploitation*, 2022).

²⁶ Studies show that exposure to pornography during adolescence is correlated with increased rates of depression, anxiety, and

for young people, linking it to a rise in depression, anxiety, and self-harm.

The American Psychological Association (APA) has reported that adolescents who view sexually explicit material at a young age are more likely to experience heightened feelings of shame, confusion, and isolation as they struggle to understand or contextualize what they've seen (APA, 2023). These feelings can lead to anxiety and depression, particularly as young viewers internalize distorted beliefs about intimacy, body image, and relationships.

A longitudinal study by the National Institutes of Health (NIH)²⁷ found that adolescents who viewed pornography frequently displayed higher levels of depressive symptoms and self-harming behaviors, stemming from feelings of inadequacy and body dissatisfaction (NIH 2020). The JOURNAL OF ADOLESCENT HEALTH also found that early exposure to pornographic material correlates with increased psychological distress, as adolescents often experience social withdrawal or feelings of alienation from peers (JOURNAL OF ADOLESCENT HEALTH, 2022).

self-harm, emphasizing the profound mental health risks posed by such early exposure. (JOURNAL OF ADOLESCENT HEALTH, 2022).

²⁷ See A longitudinal study by the *National Institutes of Health* (NIH) found that frequent exposure to pornography during adolescence is associated with higher levels of depressive symptoms and self-harming behaviors, often stemming from body dissatisfaction and feelings of inadequacy. (*National Institutes of Health*, 2020).

III. Parental Controls Are Insufficient

While parents can apply home-based content filters, they are ultimately powerless to prevent children from accessing the same harmful material through school-provided resources, such as software platforms EBSCO and GALE²⁸ databases. These educational platforms, while valuable for research, have been shown to contain sexually explicit content that meets H.B. 1181's²⁹ harmful materials definition (Thorn Report, 2020). Schools, inadvertently, act as loopholes, circumventing parental controls and exposing minors to content parents actively seek to restrict.

V. Distorted Self-Image and Eating Disorders

The portrayal of bodies in pornography³⁰ can have a detrimental effect on minors' self-image.

Often, pornographic content presents hyper-sexualized and unrealistic body standards that adolescents may internalize as benchmarks for attractiveness or desirability. According to a 2022 Pew Research Center³¹ report, 32% of teenage girls and 14% of boys

²⁸ See Parental controls applied at home are insufficient to prevent access to harmful material through school-provided resources, such as EBSCO and GALE databases, which have been shown to contain content meeting

²⁹ See H.B. 1181's definition of harmful materials.

³⁰ (*Thorn Report*, 2020). Research by Thorn highlights that school-provided educational platforms can inadvertently expose minors to sexually explicit content, circumventing parental attempts to restrict access.

³¹ See *Pew Research Center*, 2022. Pornographic content often presents hyper-sexualized and unrealistic body standards that adolescents may internalize, leading to distorted benchmarks for

reported feeling worse about their bodies after viewing online content (Pew Research Center, 2022).

The JOURNAL OF ADOLESCENT HEALTH³² has reported that minors exposed to such material have a significantly higher likelihood of developing body dysmorphia and engaging in disordered eating patterns, which can be exacerbated by repeated exposure (JOURNAL OF ADOLESCENT HEALTH, 2022).

attractiveness and desirability. A 2022 Pew Research Center report found that 32% of teenage girls and 14% of boys felt worse about their bodies after viewing online content, illustrating the detrimental impact of such material on adolescent self-esteem. (*Pew Research Center, 2022*).

³² The JOURNAL OF ADOLESCENT HEALTH reported that minors exposed to hyper-sexualized material are significantly more likely to develop body dysmorphia and engage in disordered eating patterns, risks exacerbated by repeated exposure. (JOURNAL OF ADOLESCENT HEALTH, 2022).



CONCLUSION

The evidence is overwhelming: the need for age verification in digital spaces is not just a modern adaptation but a necessary evolution of longstanding public policy aimed at protecting minors. The adult entertainment industry's practices expose minors to explicit content through engagement-focused algorithms, unregulated online platforms, and educational loopholes in schools, exploiting digital architecture in ways that traditional safeguards were designed to prevent. This exposure poses significant risks to minors, including distorted self-image, increased vulnerability to online exploitation, and heightened risks of mental health issues.

In cases such as *Ginsberg v. New York* and *FCC v. Pacifica Foundation*, the judiciary has repeatedly affirmed that protecting children from harmful content is a compelling state interest that justifies limitations on otherwise protected speech. H.B. 1181 and similar state-level age-verification laws build upon this precedent, introducing the necessary checks in digital spaces to ensure that minors are shielded from inappropriate content as they would be in physical stores. As more states adopt similar measures, a cohesive federal framework becomes essential to harmonize these protections across the nation.

Amici respectfully submits that this Court has the opportunity to affirm the constitutionality of these protections, balancing First Amendment rights with the state's obligation to safeguard minors' well-being. Judicial support for age-verification laws will

validate states' efforts, encouraging digital platforms to prioritize child safety over engagement metrics.

Upholding H.B. 1181, sends a clear message: society's duty to protect minors transcends commercial interests and digital convenience, asserting that minors deserve the same protections online as they have in the physical world.

This ruling would not only affirm a constitutional duty but also reinforce our collective commitment to fostering a safe, supportive environment where children can develop free from the risks of premature exposure to explicit content.

Respectfully submitted,

Chris Byrd
Chris Byrd Law Firm
2631 Bulverde Rd #105
Bulverde, TX 78163
830-249-3559
cbyrd@chrisbyrdlaw.com

Lawrence B. Shallcross
Counsel of Record
L.B Shallcross & Associates
2631 Bulverde Rd Ste. 101
Bulverde, TX 78163
830-980-5757
larry@lbshallcross.com

Counsel for Amici Curiae

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