
**IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

No. 20-2911

COMMON CAUSE INDIANA, *et al.*,

Plaintiff-Appellees,

v.

CONNIE LAWSON, *et al.*,

Defendants-Appellants.

On Appeal From the United States District Court For
The Southern District of Indiana, No. 1:20-CV-2007 (Hon. Sarah Evans Barker)

**BRIEF OF OKLAHOMA, ALABAMA, ARIZONA, ARKANSAS, GEORGIA,
IDAHO, KANSAS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI,
NEBRASKA, NORTH DAKOTA, SOUTH CAROLINA, SOUTH DAKOTA,
TENNESSEE, AND TEXAS, AS *AMICI CURIAE* IN SUPPORT OF
DEFENDANTS-APPELLANTS**

MIKE HUNTER
Attorney General of Oklahoma

MITHUN MANSINGHANI
Solicitor General
Counsel of Record

Oklahoma Attorney General's Office
313 N.E. 21st Street
Oklahoma City, OK 73105
(405) 521-3921
mithun.mansinghani@oag.ok.gov

BRYAN CLEVELAND
Assistant Solicitor General

Counsel for Amici States

TABLE OF CONTENTS

Table of Authorities **ii**

Interests of *Amici Curiae* and Summary of the Argument **1**

Argument **2**

I. ELECTION DAY ABSENTEE BALLOT RECEIPT DEADLINES ARE
CONSTITUTIONAL EVEN IF SOME PROPORTION OF VOTERS FAIL TO
COMPLY WITH SUCH DEADLINES..... **2**

II. THIS COURT SHOULD HALT THE REWRITING OF ELECTION LAWS
WEEKS BEFORE THE NOVEMBER GENERAL ELECTION. **9**

Conclusion **11**

TABLE OF AUTHORITIES

CASES

<i>ACORN v. Bysiewicz</i> , 413 F. Supp. 2d 119 (D. Conn. 2005)	4
<i>Burdick v. Takushi</i> , 504 U.S. 428 (1992)	5
<i>Clark v. Edwards</i> , Nos. 20CV283, 20CV308, 2020 WL 3415376 (M. D. La. June 22, 2020)	8
<i>Coalition for Good Governance v. Raffensperger</i> , No. 1:20CV1677, 2020 WL 2509092 (N.D. Ga. May 14, 2020)	8
<i>Crawford v. Marion Cty. Election Bd.</i> , 553 U.S. 181 (2008)	6, 7, 8
<i>DCCC v. Ziriax</i> , No. 4:20CV211, 2020 WL 5569576 (N.D. Okla. Sept. 17, 2020)	3, 4, 6, 7, 10
<i>Democracy N.C. v. N.C. State Bd. of Elections</i> , No. 1:20CV457, 2020 WL 4484063 (M.D.N.C. Aug. 4, 2020)	6
<i>Democratic Nat’l Comm v. Bostelmann</i> , No. 20-2835 (7th Cir. Oct. 8, 2020)	6, 8, 10
<i>Frank v. Walker</i> , 819 F.3d 384 (7th Cir. 2016)	6
<i>Friedman v. Snipes</i> , 345 F. Supp. 2d 1356 (S.D. Fla. 2004)	2, 4, 6
<i>Gallagher v. N.Y. State Bd. of Elections</i> , 20 CIV. 5504, 2020 WL 4496849 (S.D.N.Y. Aug. 3, 2020)	3
<i>Griffin v. Roupas</i> , 385 F.3d 1128 (7th Cir. 2004)	3, 4, 7
<i>Grossman v. Sec’y of the Commonwealth</i> , 485 Mass. 541, 2020 WL 5033954 (2020)	4, 6

<i>John Doe No. 1 v. Reed</i> , 561 U.S. 186 (2010)	3
<i>Luft v. Evers</i> , 963 F.3d 665 (7th Cir. 2020)	7
<i>Mays v. LaRose</i> , 951 F.3d 775 (6th Cir. 2020)	4, 7
<i>McDonald v. Bd. of Election Comm’rs of Chicago</i> , 394 U.S. 802 (1969)	7
<i>New Ga. Project v. Raffensperger</i> , 2020 WL 5877588 (11th Cir. Oct. 2, 2020).....	2, 4, 5, 6, 7, 8, 9, 10
<i>Nielsen v. DeSantis</i> , No. 4:20CV236, 2020 WL 5552872 (N.D. Fla. June 24, 2020)	2, 4
<i>Purcell v. Gonzalez</i> , 549 U.S. 1 (2006).....	9
<i>Republican Nat’l Comm. v. Democratic Nat’l Comm.</i> , 140 S. Ct. 1207 (Apr. 6, 2020).....	5, 9
<i>Rosario v. Rockefeller</i> , 410 U.S. 752 (1973)	5
<i>Shelby Cnty. v. Holder</i> , 570 U.S. 529 (2013)	3
<i>Storer v. Brown</i> , 415 U.S. 724 (1974)	5
<i>Tex. Democratic Party v. Abbott</i> , 961 F.3d 389 (5th Cir. 2020)	7, 8
<i>Thomas v. Andino</i> , No. 3:20CV1552, 2020 WL 2617329 (D.S.C. May 25, 2020)	2, 4, 5
<i>Thompson v. DeWine</i> , 959 F.3d 804 (6th Cir. 2020)	8
<i>Thompson v. DeWine</i> , No. 20-3526, 2020 WL 5542883 (6th Cir. Sep. 16, 2020)	8

Tully v. Okeson,
No. 1:20CV1271, 2020 WL 4926439 (S.D. Ind. Aug. 21, 2020)4, 7, 8, 9

Utah Republican Party v. Cox,
892 F.3d 1066 (10th Cir. 2018) 2, 3

Williams v. Rhodes,
393 U.S. 23 (1968).....9

OTHER AUTHORITIES

Prof. Michael McDonald, *2020 General Election Early Vote Statistics*,
U.S. ELECTIONS PROJECT9

Stanford-MIT Healthy Elections Project,
COVID-Related Election Litigation Tracker10

Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options,
NAT’L CONF. OF STATE LEGIS. 1

CONSTITUTIONAL PROVISIONS

U.S. CONST. art. I, § 4..... 3, 11

INTERESTS OF *AMICI CURIAE* AND SUMMARY OF THE ARGUMENT¹

The court below enjoined “[t]he most common state deadline for election officials to receive absentee/mailed ballots,” which is on or before Election Day.² Thirty-two states, including many of the *amici* states, have such a deadline.³ Yet the district court fashioned a new deadline, declaring that the deadline used by the majority of states for many decades suddenly violates the Constitution during the COVID-19 pandemic. The states have important interests in setting Election-Day ballot receipt deadlines—including order, efficiency, timely election results, and avoiding problems caused by postmark deadlines—and a deadline is not rendered unconstitutional merely because some voters will not act in a timely fashion. That is why courts—including recently this Court—across the country have upheld Election-Day receipt deadlines, including during the pandemic. *Amici* also all share an interest in the standards that must be met before a federal court upends state election laws in the weeks preceding an election. A stay is warranted to prevent last-minute judicial re-writing of state election laws, which can sow confusion, chaos, and uncertainty in the midst of an already-tense

¹ As chief legal officers of their respective States, *amici* may file this brief without the consent of the parties or leave of the Court. Fed. R. App. P. 29(a)(2).

² *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options*, NAT’L CONF. OF STATE LEGIS., <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

³ *VOPP: Table 11: Receipt and Postmark Deadlines for Absentee Ballots*, NAT’L CONF. OF STATE LEGIS., <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-11-receipt-and-postmark-deadlines-for-absentee-ballots.aspx>

election cycle. Just this week, this Court has twice stayed district court decisions enjoining election laws, including a ballot receipt deadline. It should do the same here.

ARGUMENT

I. Election Day absentee ballot receipt deadlines are constitutional even if some proportion of voters fail to comply with such deadlines.

It is well-settled that absentee ballot receipt deadlines serve the “strong” and “important” state interests in “conducting an efficient election, maintaining order, quickly certifying election results, and preventing fraud.” *New Ga. Project v. Raffensperger*, No. 20-13360, 2020 WL 5877588, at *3 (11th Cir. Oct. 2, 2020); *see also Utah Republican Party v. Cox*, 892 F.3d 1066, 1077 (10th Cir. 2018); *Thomas v. Andino*, 3:20CV1552, 2020 WL 2617329, at *26 (D.S.C. May 25, 2020); *Friedman v. Snipes*, 345 F. Supp. 2d 1356, 1377 (S.D. Fla. 2004). After all, states must have a point at which they stop receiving ballots and start counting them to determine the winner. *Cox*, 892 F.3d at 1077; *Friedman*, 345 F. Supp. 2d at 1377.

While deadlines are within the discretion of state legislatures, states also have strong interests in *not* using a postmark deadline like the one enacted by the court below. Election Day receipt deadlines “eliminate[] delay that can have adverse consequences[] and eliminate[] the remote possibility that in an extremely close election ... a person who did not vote on or before election day can fill out and submit a ballot later.” *Nielsen v. DeSantis*, No. 4:20CV236, 2020 WL 5552872, at *1 (N.D. Fla. June 24, 2020). Moreover, an Election Day receipt deadline “secures voter confidence in the election:

voters become less sure of the results if a candidate is declared a winner on or shortly after election day, but the results are changed several days or a week later.” *DCCC v. Ziriax*, No. 4:20CV211, 2020 WL 5569576, at *19 (N.D. Okla. Sept. 17, 2020). And ballot receipt deadlines avoid the numerous problems with reading often-inscrutable postmarks and determining how to handle missing postmarks (a situation more likely to occur as USPS rushes to deliver late-arriving prepaid ballots). *See id.* at *10. Such postmark issues have led to bitter election contests and thousands of absentee ballots rejected in states using a postmark deadline. *See Gallagher v. N.Y. State Bd. of Elections*, 20 CIV. 5504 (AT), 2020 WL 4496849, at *18 (S.D.N.Y. Aug. 3, 2020).

Regardless of what deadline is better policy, the Constitution makes it clear that it is for the states to prescribe “the *Times*, Places and Manner of holding Elections.” U.S. CONST. art. I, § 4 (emphasis added). States have “broad powers to determine the conditions under which the right of suffrage may be exercised.” *Shelby Cnty. v. Holder*, 570 U.S. 529, 543 (2013). And states have “significant flexibility in implementing their own voting systems,” *John Doe No. 1 v. Reed*, 561 U.S. 186, 195 (2010), which includes setting deadlines.

To be sure, any election deadline “will invariably burden some voters . . . for whom the earlier time is inconvenient.” *Cox*, 892 F.3d at 1077. But as this Court has held, *every* election law “is going to exclude, either de jure or de facto, some people from voting.” *Griffin v. Roupas*, 385 F.3d 1128, 1130 (7th Cir. 2004). Deadlines necessarily strike a “balance between promoting smooth and accurate elections, on the one hand,

and encouraging voter turnout, on the other.” *ACORN v. Bysiewicz*, 413 F. Supp. 2d 119, 124 (D. Conn. 2005). This balance is “quintessentially a legislative judgment with which [] judges should not interfere unless strongly convinced that the legislative judgment is grossly awry.” *Id.* (quoting *Griffin*, 385 F.3d at 1131); *see also Tully v. Okeson*, No. 20-2605, 2020 WL 5905325, at *1, *7 (7th Cir. Oct. 6, 2020). So a “generally applicable deadline that applied to all would-be absentee voters would likely survive the *Anderson-Burdick* analysis, even if it resulted in disenfranchisement for certain . . . individuals.” *Mays v. LaRose*, 951 F.3d 775, 792 (6th Cir. 2020).

Not surprisingly, courts across the country have upheld Election Day receipt deadlines for absentee ballots. *See New Ga. Project*, 2020 WL 5877588, at *1 (staying district court order that “manufactured its own ballot deadline”); *Ziriaux*, 2020 WL 5569576, at *18-20; *Nielsen*, 2020 WL 5552872, at *1; *Thomas*, 2020 WL 2617329, at *26; *Friedman*, 345 F. Supp. 2d at 1377; *Grossman v. Sec’y of the Commonwealth*, 485 Mass. 541, 2020 WL 5033954, at *8 (Mass. 2020); *cf. also Arizona Democratic Party v. Hobbs*, No. 20-16759, 2020 WL 5903488, at *2 (9th Cir. Oct. 6, 2020) (staying district court order enjoining absentee ballot signature deadline).

The court below wrongly discounted the numerous state interests in an Election Day ballot receipt deadline detailed above. It also wrongly quantified the severity of the burden imposed by Indiana’s deadline.

First, the court below wrongly focused on those voters who wait until the very last possible to point to request an absentee ballot (*i.e.*, 7 days before the election) or

return their ballot (*e.g.*, 3 or 4 days before the election), Op. at 15-16, 36-37, rather than the opportunity for every voter to request and be mailed a postage prepaid ballot at least 45 days before the election, Op. at 5-6. This flouts Supreme Court precedent. In *Rosario v. Rockefeller*, the Court explained that if a plaintiff “could have” met an election deadline, any electoral burden they suffer is due to “their own failure to take timely steps to effect their enrollment.” 410 U.S. 752, 758 (1973). Lack of “sufficient awareness of the relevant circumstances and the likely consequences” of the deadline does not create a valid constitutional claim because such an argument could be maintained against any deadline. *Id.* at 758 n.7. Just this year, the Court observed that voters who wait weeks into absentee voting, requesting a ballot at the last minute, are suffering the typical burden of a “late-requesting voter,” not an unconstitutional burden imposed by state law. *See Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1207, 1207 (Apr. 6, 2020) (*per curiam*). And the Court has long given “little weight” to any alleged interest in “making a late rather than an early decision.” *Burdick v. Takushi*, 504 U.S. 428, 437(1992) (quoting *Storer v. Brown*, 415 U.S. 724, 736 (1974)).

Thus, while some voters will inevitably fail to comply with *any* deadline—including the postmark deadline invented by the district court—courts have consistently held that “voters who fail to get their vote in early cannot blame [state] law for their inability to vote; they must blame ‘their own failure to take timely steps.’” *Thomas*, 2020 WL 2617329, at *26 (quoting *Rosario*, 410 U.S. at 758); *see also New Ga. Project*, 2020 WL 5877588, at *3; *id.* at *6 (Lagoa, J., concurring); *Ziriax*, 2020 WL

5569576, at *18; *Grossman*, 2020 WL 5033954, at *6; *Friedman*, 345 F. Supp. 2d at 1377-78; *cf. also Democracy N.C. v. N.C. State Bd. of Elections*, No. 1:20CV457, 2020 WL 4484063, at *38-40 (M.D.N.C. Aug. 4, 2020). As this Court recently stated:

Voters have had many months since March to register or obtain absentee ballots; reading the Constitution to extend deadlines near the election is difficult to justify when the voters have had a long time to cast ballots while preserving social distancing. . . . The district court did not find that any person who wants to avoid voting in person on Election Day would be unable to cast a ballot in Wisconsin by planning ahead and taking advantage of the opportunities allowed by state law. The problem that concerned the district judge, rather, was the difficulty that could be encountered by voters who do not plan ahead and wait until the last day that state law allows for certain steps. Yet, as the Supreme Court observed last April in this very case, voters who wait until the last minute face problems with or without a pandemic.

Democratic Nat'l Comm v. Bostelmann, No. 20-2835, Slip Op. at 4-5 (7th Cir. Oct. 8, 2020).

For these reasons, statistics about how many voters in fact did not comply with the deadline, *see* Op. at 31, are irrelevant because they do not give the reasons for failure to comply: whether it was because they were unable to comply or instead because they did not take reasonable efforts to comply, waiting too long to request or return their absentee ballot, *see Ziriak*, 2020 WL 5569576, at *18. This Court has held that regulations that can be complied with by “reasonable effort” are not significant burdens on the right to vote. *Frank v. Walker*, 819 F.3d 384, 386-87 (7th Cir. 2016); *see also Crawford v. Marion Cty. Election Bd.*, 553 U.S. 181, 198 (2008); *New Ga. Project*, 2020 WL 5877588, at *3. “An absentee voter is responsible for acting with sufficient time to ensure timely delivery of her ballot,” just like other voters “must take appropriate

precautions by heading to the polls with a sufficient cushion of time to account for traffic, weather, or other conditions that might otherwise interfere with their ability to arrive in time to cast a ballot.” *Ziriox*, 2020 WL 5569576, at *18. This remains true even if traffic or weather are “delays over which [voters] have no control” as the court below puts it. Op. at 31, 37, 42. Voters who fail to timely act are not “disenfranchised”—they’re tardy. *New Ga. Project*, 2020 WL 5877588, at *3.

Second, the district court erred (at Op. 32-35) in avoiding this Court’s holding in *Luft v. Evers* that, in order to determine whether a person is prevented from voting, courts must account for the state’s election system “as a whole.” 963 F.3d 665, 672-74 (7th Cir. 2020). Because Indiana provides many alternatives to voting by mail, Indiana’s receipt deadline does not greatly burden voters’ ability to cast a ballot. As this Court has recently stated: “the Supreme Court told us that the fundamental right to vote does not extend to a claimed right to cast an absentee ballot by mail. And unless a state’s actions make it harder to cast a ballot at all, the right to vote is not at stake.” *Tully*, 2020 WL 5905325, at *1 (citing *McDonald v. Bd. of Election Comm’rs of Chicago*, 394 U.S. 802, 807 (1969)); *see also New Ga. Project*, 2020 WL 5877588, at *2; *see also id.* at *7 (Lagoa, J., concurring); *Crawford*, 553 U.S. at 209 (Scalia, J., concurring in the judgment); *Mays v. LaRose*, 951 F.3d 775, 786, 792 (6th Cir. 2020); *Tex. Democratic Party v. Abbott*, 961 F.3d 389, 403-04 (5th Cir. 2020); *Griffin*, 385 F.3d at 1130; *Tully v. Okeson*, No. 1:20CV1271, 2020 WL 4926439, at *3-4 (S.D. Ind. Aug. 21, 2020).

Third, the district court wrongly believed that the reality of the coronavirus pandemic changes the constitutionality of Indiana’s voting laws. Op. at 37. But this Court recently stated in line with other courts, “Indiana’s absentee-voting laws are not to blame” for the difficulties of voting during COVID-19; “It’s the pandemic, not the State, that might affect Plaintiffs’ determination to cast a ballot.” *Tully*, No. 20-2605, 2020 WL 5905325, at *1; *see id.* at *5, *7.⁴ COVID-19 is not state action that subjects otherwise-valid state laws to challenge. At most, COVID-19 is now part of the “usual burdens of voting . . . arising from life’s vagaries,” and thus not a burden that renders a state law unconstitutional. *Cranford*, 553 U.S. at 197-98. Not surprisingly, this Court has followed the Supreme Court in consistently deferring to state officials’ judgment determining how best to manage COVID-19’s impact on voting and elections, often staying lower court decisions that upend these legislative determinations. *See Bostelmann*, No. 20-2835, Slip Op. at 4-6 (collecting cases and rejecting argument that “adjustments during a pandemic is a judicial task”); *New Ga. Project*, 2020 WL 5877588, at *3 n.2 (collecting cases). This Court should do the same here.

⁴ *See also New Ga. Project*, 2020 WL 5877588, at *3; *Thompson v. DeWine*, No. 20-3526, 2020 WL 5542883, at *1 (6th Cir. Sep. 16, 2020); *Thompson v. DeWine*, 959 F.3d 804, 810 (6th Cir. 2020); *Tex. Democratic Party*, 961 F.3d at 405; *id.* at 415-16 (Ho, J., concurring); *Clark v. Edwards*, Nos. 20CV283, 20CV308, 2020 WL 3415376, at *10-11 (M. D. La. June 22, 2020); *Coalition for Good Governance v. Raffensperger*, No. 1:20CV1677, 2020 WL 2509092, at *3 n.2. (N.D. Ga. May 14, 2020).

II. This Court should halt the rewriting of election laws weeks before the November general election.

The Supreme Court has warned in election cases that decisions like the one below to change the rules in the midst of an election cycle may “result in voter confusion and consequent incentive to remain away from the polls.” *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006). The Supreme Court “has repeatedly emphasized that lower federal courts should ordinarily not alter the election rules on the eve of an election,” *Republican Nat’l Comm.*, 140 S. Ct. at 1207, in order to avoid “serious disruption of [the] political process,” *Williams v. Rhodes*, 393 U.S. 23, 34-35 (1968). As judicial rulings like the one below start to pour in, the Court must recognize that we are no longer “on the eve of an election—we are in the middle of the election, with absentee ballots already printed and mailed” across the country starting last month. *New Ga. Project*, 2020 WL 5877588, at *3. Tens of millions of ballots have already been requested and several million votes have already been cast.⁵ “Given that voting is already underway in Indiana, we have crossed Purcell’s warning threshold,” and this Court is rightly “wary of turning the State in a new direction at this late stage.” *Tully*, 2020 WL 5905325, at *1. That is why twice this week this Court has stayed lower court decisions modifying state election laws, including a district court’s alteration of a ballot receipt deadline. *See id.*; *Bostelmann*,

⁵ Prof. Michael McDonald, *2020 General Election Early Vote Statistics*, U.S. ELECTIONS PROJECT, <https://electproject.github.io/Early-Vote-2020G/index.html> (last visited Oct. 2, 2020) (counting over 3 million votes already cast from the 20 states reporting these statistics and over 60 million ballots already requested from the 30 states reporting).

No. 20-2835, Slip Op. at 3-4 (staying district court September 21 injunction of, *inter alia*, ballot receipt deadline as “too late” and “too close to the election”).

Voter confusion from late-breaking decisions on absentee ballots is inevitable, since states have “already mailed absentee ballots with instructions that the Election Day deadline applies.” *New Ga. Project*, 2020 WL 5877588, at *4. Notifying voters of the changed election rules, including altering the instructions sent with absentee ballots, to avoid voter confusion risks delaying the mailing of absentee ballots to voters—potentially creating the precise time crunch the district court was purporting to avoid. *See Ziriox*, 2020 WL 5569576, at *23. Thousands of election workers and volunteers across Indiana would have to be retrained on the new deadline, reading often-inscrutable postmarks, and determining how to handle missing postmarks. *See id.* at *10. And as noted above, delays in certifying election results because of late-arriving ballots stress public confidence in the election, especially in close local contests or nationally important ones like selecting a new President. The Court should not condone adding such strain to an already-tense election year.

Instead, this Court must provide clear direction: now is not the time for district courts to rewrite election laws. Over 300 cases have been filed, flooding the courts in almost every state with demands to judicially alter election rules.⁶ Election law has

⁶ *See* Stanford-MIT Healthy Elections Project, *COVID-Related Election Litigation Tracker*, <https://healthyelections-case-tracker.stanford.edu/>.

become so chaotic that it is now impossible for state legislatures to know in advance whether the election rules they have enacted will or will not be reimaged by courts. This ever-worsening reality is hardly what the Constitution envisions: “The Times, Places, and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof” U.S. CONST. art. I, § 4.

CONCLUSION

For the foregoing reasons, the Court should stay the injunction pending appeal.

Respectfully Submitted,

s/ Mithun Mansinghani

MIKE HUNTER

Attorney General of Oklahoma

MITHUN MANSINGHANI

Solicitor General

BRYAN CLEVELAND

Assistant Solicitor General

OKLAHOMA ATTORNEY GENERAL’S OFFICE

313 N.E. 21st Street

Oklahoma City, OK 73105

Phone: (405) 521-3921

mithun.mansinghani@oag.ok.gov

STEVE MARSHALL
Alabama Attorney General

MARK BRNOVICH
Arizona Attorney General

LESLIE RUTLEDGE
Arkansas Attorney General

CHRIS CARR
Georgia Attorney General

LAWRENCE WARDEN
Idaho Attorney General

DEREK SCHMIDT
Kansas Attorney General

DANIEL CAMERON
Kentucky Attorney General

JEFF LANDRY
Louisiana Attorney General

LYNN FITCH
Mississippi Attorney General

ERIC SCHMITT
Missouri Attorney General

DOUGLAS J. PETERSON
Nebraska Attorney General

WAYNE STENEHJEM
North Dakota Attorney General

ALAN WILSON
South Carolina Attorney General

JASON RAVNSBORG
South Dakota Attorney General

HERBERT H. SLATERY III
Tennessee Attorney General

KEN PAXTON
Texas Attorney General

CERTIFICATE OF COMPLIANCE

This document complies with the word limit of Fed. R. App. P. 29(a)(5) and Circuit Rule 29 because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this document contains 2, 926 words.

This document also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and Circuit Rule 32(b) and the type-style requirements of Fed. R. App. P. 32(a)(6) because it was prepared in a proportionally spaced typeface using Microsoft Word 2016 in Garamond.

Dated: October 8, 2020.

s/ Mithun Mansinghani

MITHUN MANSINGHANI
Counsel for Amici States

CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Mithun Mansinghani

MITHUN MANSINGHANI
Counsel for Amici States