Case No. 22-2748

In the United States Court of Appeals for the Seventh Circuit

JANE DOE NO. 1; *et al.*,

Plaintiffs-Appellees,

v.

ATTORNEY GENERAL OF THE STATE OF INDIANA, IN HIS OFFICIAL CAPACITY; *et al.*,

Defendants-Appellants.

On Appeal from the United States District Court
for the Southern District of Indiana
No. 1:20-CV-03247-RYL-MJD
The Honorable Richard L. Young, Judge

PLAINTIFFS-APPELLEES' PETITION FOR REHEARING EN BANC

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APPEARANCE & CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 22-2748

Short Caption: Jane Doe No. 1, et al. v. Attorney General of Indiana, et al.

To enable the judges to determine whether recusal is necessary or appropriate, an attorney for a non-governmental party, amicus curiae, intervenor or a private attorney representing a government party, must furnish a disclosure statement providing the following information in compliance with Circuit Rule 26.1 and Fed. R. App. P. 26.1.

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Jane Doe No. 1; Jane Doe No. 3; William Mudd Martin Haskell, M.D.; Kelly McKinney, N.P.; and Women's Med Group Professional Corporation

(2) The names of all law firms whose partners or associates have appeared for the party in the case (including proceedings in the district court or before an administrative agency) or are expected to appear for the party in this court:

Lawyering Project; Jack Law Office LLC; Yale Law School RRJP Clinic; Michelle L. Engel

(3) If the party, amicus or intervenor is a corporation:

i) Identify all its parent corporations, if any; and

Women's Med Group Professional Corporation - N/A

ii) list any publicly held company that owns 10% or more of the party's, amicus' or intervenor's stock:

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(4) Provide information required by FRAP 26.1(b) – Organizational Victims in Criminal Cases:

N/A

(5) Provide Debtor information required by FRAP 26.1 (c) 1 & 2:

N/A

Attorney's Signature: /s/ Rupali Sharma Date: 10/5/22

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Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **Yes** ☑ **No** ☐

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N/A

Attorney's Signature: /s/ Stephanie Toti Date: 10/5/2022

Attorney's Printed Name: Stephanie Toti

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N/A

Attorney's Signature: /s/ Melissa Shube Date: 10/19/22

Attorney's Printed Name: Melissa Shube

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **Yes** ____ **No** ☑

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(5) Provide Debtor information required by FRAP 26.1 (c) 1 & 2:

N/A

Attorney's Signature: /s/ Tanya G. Pellegrini Date: 10/21/22

Attorney's Printed Name: Tanya G. Pelligrini

Please indicate if you are *Counsel of Record* for the above listed parties pursuant to Circuit Rule 3(d). **Yes** ____ **No** ☑

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RULE 35(b) STATEMENT

The panel summarily reversed the district court's judgment that certain Indiana laws requiring healthcare providers to treat embryonic and fetal tissue from an abortion or miscarriage like the remains of a deceased person—regardless of their patients' wishes—violate the rights of religious liberty and free speech protected by the First Amendment, and it did so before Plaintiffs had the opportunity to file their merits brief in this Court. Rehearing en banc is warranted for several reasons. For one thing, the panel's opinion conflicts with *Box v. Planned Parenthood of Indiana and Kentucky*, 139 S. Ct. 1780, 1782 (2019) (per curiam), because the panel declares that *Box*, which held that some of the challenged laws satisfy rational basis review under the Due Process Clause, controls the outcome of this case even though the Supreme Court declined to consider whether those laws violate any fundamental rights and expressly confined its decision to the limited issue of whether they satisfy rational basis review. The panel's opinion also conflicts with binding Supreme Court precedent forbidding courts from interrogating the sincerely held beliefs of free exercise plaintiffs, *see Hernandez v. Comm'r of Internal Revenue*, 490 U.S. 680, 699 (1989); *Thomas v. Rev. Bd. of Ind. Emp. Sec. Div.*, 450 U.S. 707, 714 (1981); *United States v. Seeger*, 380 U.S. 163, 185 (1965), and controlling Supreme Court precedent establishing the standard for demonstrating an infringement on religious liberty, *see Kennedy v. Bremerton Sch. Dist.*, 142 S. Ct. 2407, 2422 (2022); *Fulton v. City of Philadelphia*, 141 S. Ct. 1868, 1876–77 (2021). Additionally, the panel's opinion conflicts with *National Institute of Family and Life Advocates v. Becerra ("NIFLA")*, 138 S. Ct. 2361,

2374 (2018), which held that disclosure requirements are subject to strict scrutiny even when imposed on medical professionals unless they facilitate informed consent to a medical procedure, in which case they must be treated like regulations of conduct that incidentally burden speech, which are subject to the test set forth in *United States v. O'Brien*, 391 U.S. 367, 377 (1968). Further, the panel's opinion conflicts with *Citizens United v. Federal Election Commission*, 558 U.S. 310, 331 (2010), which held that courts must provide facial relief from unconstitutional statutes when the circumstances of a case warrant it. Lastly, this proceeding presents an issue of exceptional importance because the panel's cursory analysis of complex First Amendment issues and failure to afford Plaintiffs a fair opportunity to be heard threatens to undermine confidence in the legal system.

FACTUAL AND PROCEDURAL STATEMENT

I. Plaintiffs' Religious and Moral Convictions

Americans hold sharply divergent views about embryonic and fetal personhood that are informed by their religious and moral beliefs. App. to Pls.' Mem. of Law in Supp. of Mot. for Summ. J. (ECF No. 77-1) ("MSJ App.") at 48. Indiana burdens people who sincerely believe that an embryo or fetus is not a person by prohibiting healthcare providers from disposing of embryonic or fetal tissue in accordance with standard medical protocols. *See id.* at 4. Instead, Indiana healthcare providers must bury or cremate such tissue to signify that, unlike uterine tissue resulting from a hysterectomy, it constitutes "human remains" warranting "humane and dignified disposition." Appellants' Br. (7th Cir. ECF No. 12) at 23.

In December 2020, the Doe Plaintiffs had abortion procedures at the Plaintiff abortion clinic when each was approximately six weeks' pregnant. MSJ App. at 11, 17. They conscientiously objected to burial or cremation of their embryonic tissue because they firmly believe that an embryo is not a person and should not be treated in a manner that signifies personhood. *Id.* at 12, 16. Because neither Doe Plaintiff was willing or able to dispose of the biohazardous tissue without the clinic's assistance, the clinic placed the tissue from their abortion procedures in storage and joined them—and two healthcare practitioners—in filing a lawsuit to challenge the burial and cremation requirements. *Id.* at 13, 20, 43.

II. The Challenged Laws

In contemporary medicine, the standard method for treating and disposing of human tissue and other infectious material is incineration. *See* MSJ App. at 5, 41. Indiana law also permits human tissue to be treated by steam sterilization, chemical disinfection, thermal inactivation, and irradiation. Ind. Code § 16-41-16-3. Until 2016, Indiana permitted embryonic and fetal tissue to be treated and disposed of like all other human tissue. *See* Pub. L. 213-2016, §25, 2016 Ind. Acts 3118; MSJ App. at 179.

In 2016, Indiana enacted Tissue Disposition Requirements requiring healthcare facilities "having possession of an aborted fetus" to dispose of it through cremation or interment. Ind. Code § 16-34-3-4(a). They impose the same requirement on healthcare facilities possessing "a miscarried fetus." Ind. Code § 16-21-11-6(b). In 2020, Indiana enacted additional Tissue Disposition Requirements and State-Mandated Counseling Requirements, compelling abortion providers to make a series of confusing and

misleading disclosures to patients about their "rights" under the Tissue Disposition Requirements and compelling abortion patients to make an equally confusing and misleading set of certifications concerning their compliance with the law. *See* Ind. Code §§ 16-34-2-1.1(a)(2)(H)-(J); 16-34-3-2(b)-(e); MSJ App. at 42, 185.

III. Relevant Procedural History

On September 26, 2022, on the parties' cross-motions for summary judgment, the district court declared that (1) the Tissue Disposition Requirements violate the Free Exercise and Free Speech Clauses of the First Amendment, and (2) the State-Mandated Counseling Requirements violate the Free Speech Clause; and it permanently enjoined enforcement of those laws. Entry on Cross Mots. for Summ. J. (ECF No. 98) ("MSJ Order") at 36; Order Enjoining Enforcement (ECF No. 99). It entered final judgment the same day. Final J. (ECF No. 100). On September 30, 2022, the State filed a Notice of Appeal (ECF No. 105) and moved the district court for a stay pending appeal, Defs.' Mot. for Stay Pending Appeal (ECF No. 103). On November 2, 2022, the district court denied the motion. Entry Den. Defs.' Mot. (ECF No. 115). On November 9, 2022, the State filed its opening brief on the merits in this Court. Appellants' Br. (7th Cir. ECF No. 12). The next day, the State moved this Court for a stay pending appeal. Defs.' Mot. for Stay Pending Appeal (7th Cir. ECF No. 14-1) ("Defs.' Mot."). On November 28, 2022, before Plaintiffs had the opportunity to file their brief on the merits in this Court, the motion panel summarily reversed the district court's judgment. *Doe v. Rokita*, No. 22-2748, slip op. at 2 (7th Cir. Nov. 28, 2022) ("Op.").

ARGUMENT

I. The Panel's Opinion Conflicts with the Supreme Court's Decision in *Box*.

In *Box*, the Supreme Court held that the 2016 Tissue Disposition Requirements satisfy rational basis review under the Due Process Clause. 139 S. Ct. at 1782. It did not hold broadly that Indiana "is entitled to end th[e] practice" of treating embryonic and fetal tissue like other human tissue resulting from medical procedures, Op. at 2, and it certainly did not hold that the Tissue Disposition Requirements satisfy the First Amendment, *id.* Indeed, the Supreme Court expressly declined to consider whether the requirements violate any fundamental rights and explicitly confined its decision to the limited issue of whether they meet rational basis review. *Box*, 139 S. Ct. at 1781–82. It stated that: "[Plaintiffs] have . . . litigated this case on the assumption that the [requirements] do[] not implicate a fundamental right and [are] therefore subject only to ordinary rational basis review." *Id.* at 1781.

The Supreme Court emphasized that, on rational basis review, "'the burden is on the one attacking the legislative arrangement to negative every conceivable basis which might support it.'" *Id.* at 1782 (quoting *Armour v. Indianapolis*, 566 U.S. 673, 685 (2012)). It reiterated its holding from *Akron v. Akron Center for Reproductive Health, Inc.*, 462 U.S. 416, 452 n.45 (1983), that states have a legitimate interest in the "proper disposal" of fetal tissue, but it did not elaborate on what "proper" means in this context. *Box*, 139 S. Ct. at 1782. Plaintiffs concede that states have a legitimate interest in ensuring that embryonic and fetal tissue, like all biohazardous material, is disposed of in a manner that properly ensures it will not contaminate the

environment or pose a threat to public health. But the undisputed record in this case demonstrates that the Tissue Disposition Requirements are not sufficiently tailored to serve that interest under the heightened scrutiny required by the First Amendment, and the State does not argue to the contrary. *See* MSJ App. at 108, 170.

In holding that *Box* controls the outcome of this First Amendment challenge to the Tissue Disposition Requirements, the panel contravened the plain language and clear intention of the Supreme Court. For that reason alone, the en banc Court should vacate the panel's opinion and rehear this case.

II. The Panel's Opinion Conflicts with Supreme Court Precedent Forbidding Courts from Interrogating the Sincerely Held Beliefs of Free Exercise Plaintiffs and Establishing the Standard for Demonstrating an Infringement on Religious Liberty.

The panel wrongly reversed the district court's holding that the Tissue Disposition Requirements violate the Free Exercise Clause by dismissing the sincerely held religious and moral beliefs of the Doe Plaintiffs and other abortion patients, and imposing the wrong standard for demonstrating an infringement on religious liberty—both of which conflict with binding Supreme Court precedent. *See* Op. at 3; *infra* at 7, 9.

In the absence of any dispute, the district court rightly found that the Doe Plaintiffs and other abortion patients believe as a matter of religious or moral conviction that: 1) an embryo or fetus is not a person, and that 2) having the embryonic or fetal tissue from their abortion procedures buried or cremated rather than incinerated like they would any other human tissue resulting from a medical procedure signifies that an embryo or fetus is a person. *See, e.g.*, MSJ Order at 5 ("Doe 3 explained

that . . . she understands the Bible to indicate that 'life begins at the first breath, following birth'"); *id.* at 6 ("[Doe 3's] religious beliefs . . . require 'that the tissue should be . . . disposed of by standard medical means.'" (citation omitted)); ("Doe 1 . . . holds a moral . . . belief that fetal tissue is not the remains of a person."); ("[Doe 1] sued so that she 'could have the right to ask Women's Med to dispose of [her] tissue by standard medical means that do not mark it as a person.'"(citation omitted)).

The panel does not and could not cite any contrary authority. Instead, it improperly insists that abortion patients' "religious tenets" cannot possibly include "the way medical providers" as opposed to the patients themselves "handle fetal remains." Op. at 3. This, however, conflicts with a long line of Supreme Court precedent requiring courts to accept the sincerely held religious or moral beliefs of free exercise plaintiffs.[1] "[R]eligious beliefs need not be acceptable, logical, consistent, or comprehensible to others in order to merit . . . protection." *Thomas*, 450 U.S. at 714; *see Hernandez*, 490 U.S. at 699 ("It is not within the judicial ken to question . . . the validity of particular litigants' interpretations of those creeds."); *Seeger*, 380 U.S. at 185 ("[W]e hasten to emphasize that . . . the 'truth' of a belief is not open to question . . ."').

Moreover, insofar as the panel contends that the challenged laws do not require abortion and miscarriage patients to violate their sincerely held beliefs because the

[1] The panel also improperly questions the truth of the Doe Plaintiffs' deeply held beliefs by maintaining that the Tissue Disposition Requirements "need not imply anything about the appropriate characterization of a fetus" because "[d]ogs, cats, and other pets may be cremated or buried." Op. at 3 (citations omitted). In any event, Doe Plaintiff 3 believes as a matter of religious conviction that burial and cremation are appropriate for people and "animals with souls." MSJ App. at 16.

laws do not impose requirements directly on patients, it is wrong on both the facts and the law. As a matter of fact, the Tissue Disposition Requirements prohibit abortion and miscarriage patients from directing their healthcare providers to dispose of their embryonic and fetal tissue using standard medical protocols, which directly burdens the ability of patients like the Doe Plaintiffs to effectuate a disposition that accords with their beliefs. MSJ App. at 12–13, 19, 179. And the State-Mandated Counseling Requirements compel abortion patients to certify their compliance with the challenged laws as a condition of obtaining abortion care. *Id.* at 8–9, 177; *see also id.* at 18 ("I felt that the State was compelling me to certify that my abortion would end the life of a person . . . . It felt to me like the State was prioritizing its own religious views over my religious views and turning a medical procedure into an affirmation of religious principles.").

As a matter of law, the Supreme Court has held that a legal obligation "that has the effect of enabling or facilitating the commission of an immoral act by another" may serve as an infringement on religious liberty. *See Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 723–24 (2014) (rejecting the argument that "the connection between what the objecting parties must do . . . and the end that they find to be morally wrong . . . is simply too attenuated"). The panel's summary dismissal of the Doe Plaintiffs' conscientious objections to the challenged laws on the ground that their religious liberty is not directly burdened by them—without any serious analysis—cannot be reconciled with the Supreme Court's decision in *Hobby Lobby*.

The panel also departs from Supreme Court precedent by requiring free exercise plaintiffs to demonstrate that a challenged law compels them to categorically violate their religious or moral beliefs in order to establish an impingement on their religious liberty. *See, e.g.*, Op. at 3. To the contrary, the Supreme Court has held that free exercise plaintiffs need only show that a law burdens the exercise of their beliefs. *Kennedy*, 142 S. Ct. at 2416–18, 2422 (holding that a policy preventing a football coach from praying at midfield after games burdened his religious liberty, and thus infringed on his free exercise rights, even though it allowed him to pray in private locations); *Hobby Lobby*, 573 U.S. at 720 ("It is true that the plaintiffs could avoid [penalties under the challenged law] by dropping insurance coverage altogether and thus forcing their employees to obtain health insurance on one of the exchanges established under ACA. . . . [But] this course would . . . entail substantial economic consequences."). The Supreme Court recently held that a city burdened the religious exercise of Catholic Social Services, and thus presented a free exercise question, by "putting it to the choice of curtailing its mission or approving relationships inconsistent with its beliefs." *Fulton*, 141 S. Ct. at 1876. Likewise, there is no dispute here that the Tissue Disposition Requirements have made it more difficult and expensive for the Doe Plaintiffs and other abortion patients to have their embryonic or fetal tissue disposed of in accordance with their deeply held beliefs because they can no longer rely on their healthcare providers to do so. *Supra* at 3.

III. The Panel's Analysis of the State-Mandated Counseling Requirements Conflicts with the Supreme Court's Decision in *NIFLA*.

In its rush to judgment, without the benefit of Plaintiffs' merits brief, the panel blatantly mischaracterizes Plaintiffs' arguments concerning the State-Mandated Counseling Requirements and ignores controlling Supreme Court precedent. First, the panel declares that "no one contends that the required notice is false or misleading." Op. at 4. This is demonstrably false. Plaintiffs argued to the district court that the compelled disclosures are misleading, *see, e.g.*, Pls.' Opp'n to Defs.' Mot. for Summ. J & Reply in Supp. of Pls.' Mot for Summ. J. (ECF No. 84) at 16, 30–31, and they reiterated that argument in their opposition to the State's motion for a stay pending appeal, Opp'n to Defs-Appellants' Mot. for Stay of Final J. & Permanent Inj. Pending Appeal (7th Cir. ECF No. 16) at 5–6, 18.

Second, the panel erroneously declares that "Plaintiffs contend that, because [*Dobbs*] overruled *Casey*, the state's authority to require medical providers to provide information has evaporated, so that all such requirements violate the First Amendment unless the state shows a compelling need." Op. at 4 (citing *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022), and *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833 (1992)). Plaintiffs' actual position is far more nuanced than the panel's caricature of it and closely tracks the Supreme Court's complex jurisprudence in this area of the law. In *Casey*, the Supreme Court held that, if a disclosure that an abortion provider is required to make "is truthful and not misleading, the requirement may be permissible" under the Due Process Clause. 505 U.S. at 882. It went on to hold that disclosure requirements for abortion providers are also subject to review

under the First Amendment, but it did not specify the level of scrutiny that courts should apply. *See id.* at 884.

Subsequently, in *NIFLA*, 138 S. Ct. at 2373, the Supreme Court elaborated on its First Amendment discussion in *Casey*, holding that it treated the disclosure requirements at issue there as "regulations of professional conduct that incidentally burden speech." It is well settled that such regulations are subject to the test set forth in *O'Brien*, 391 U.S. at 377, which is a form of intermediate scrutiny. *See Holder v. Humanitarian Law Proj.*, 561 U.S. 1, 26–27 (2010). But the *NIFLA* Court cautioned that *Casey*'s approach to reviewing disclosure requirements applied only in narrow circumstances, where the relevant disclosure "facilitate[s] informed consent to a medical procedure." *NIFLA*, 138 S. Ct. at 2373. In other circumstances, disclosure requirements are subject to strict scrutiny, even when they are imposed on medical professionals. *See id.* at 2374 ("'Doctors help patients make deeply personal decisions, and their candor is crucial. . . .' Throughout history, governments have 'manipulat[ed] the content of doctor-patient discourse' to increase state power and suppress minorities . . . ." (citations omitted)).

Plaintiffs maintain that the truthful-and-not-misleading standard applies only in the context of due process claims, and as a corollary to the undue burden standard, it was abrogated by *Dobbs*. In the context of First Amendment claims, courts must evaluate physician disclosure requirements under either strict scrutiny or the *O'Brien* test, depending on whether the required disclosures facilitate informed consent to a medical procedure. The panel's refusal to analyze whether the State-Mandated

Counseling Requirements facilitate informed consent to a medical procedure, as the district court did, *see* MSJ Order at 29–31, or to subject them to any First Amendment scrutiny whatsoever, directly conflicts with the Supreme Court's decision in *NIFLA*. And as a precedential opinion, the panel's order will distort First Amendment jurisprudence throughout the Circuit.

IV. The Panel's Gratuitous Discussion of Remedies Conflicts with Supreme Court Precedent by Threatening to Bar Facial Relief from Unconstitutional Laws That Cannot Lawfully Be Enforced Against Anyone.

The panel faults the district court for enjoining State officials from enforcing the challenged laws on their face rather than against the Plaintiffs alone because the case has not been certified as a class action. Op. at 2. Pursuant to binding Supreme Court precedent, however, the district court's remedy aligns with the violations it properly found. *See Citizens United*, 558 U.S. at 331 (facially invalidating a law despite the plaintiff's request for more limited relief because that remedy was "necessary to resolve a claim"). The Tissue Disposition Requirements violate the Free Exercise Clause by burdening the religious exercise of all people who, like the Doe Plaintiffs, believe that an embryo or fetus is not a person, and the challenged laws violate the Free Speech Clause by requiring all abortion patients and providers to engage in compelled speech. MSJ Order at 19, 30–31. Consequently, the challenged laws' constitutional deficiencies extend far beyond the laws' application to the Plaintiffs. *See Califano v. Yamasaki*, 442 U.S. 682, 702 (1979) ("[T]he scope of injunctive relief is dictated by the extent of the violation established . . . .").

Ignoring the impact of the challenged laws forces every other abortion patient and provider affected by them to mount time-consuming and costly litigation to make the same legal arguments resolved on an undisputed factual record in this case. *See Citizens United*, 558 U.S. at 333 (facially invalidating a law because "[a]ny other course of decision would prolong the [harm] caused by [the law's] prohibitions"). If permitted to stand, the panel's opinion would also breed uncertainty for other panels of this Circuit and the lower courts bound by them about the extent to which they must adhere to its flawed statements about remedies.

V. The Panel's Cursory Analysis of Complex Issues and Failure to Afford Plaintiffs a Fair Opportunity to Be Heard Undermines Confidence in the Legal System.

This case presents exceptionally complex First Amendment issues affecting our most cherished constitutional rights—religious liberty and free speech. The district court wrote a thoughtful opinion that carefully considered the relevant legal issues in the context of the Supreme Court's evolving First Amendment jurisprudence. The panel's summary reversal, which is light on citations to the record and caselaw and heavy on sweeping mischaracterizations of fact and law, is an affront to the diligence of the parties and the district court as well as to the rule of law.[2] Further, the panel's disregard for standard operating procedures and failure to afford Plaintiffs a fair opportunity to be heard undermines confidence in the legal system.

[2] For instance, the panel dispenses in a single sentence with the district court's well–supported holding that the Tissue Disposition Requirements violate the Free Speech Clause. Op. at 4 ("Nor does Indiana require any woman to speak or engage in expressive conduct."); *see* MSJ Order at 21–28.

Questions concerning when life begins are highly divisive and undoubtedly inflame people's passions. But the Court has an obligation to maintain impartiality—both in appearance and in practice. Rushing to judgment on complex issues without oral argument, while affording only one side the opportunity to fully brief its case, subverts that obligation and invites questions about whether the Court is making decisions based on its members' personal views and preconceived notions, rather than on the evidence and arguments presented by the parties.

This Court should vacate the panel's summary decision and rehear the case en banc to ensure a fair process, provide a thorough consideration of the important and complex issues presented, and promote public confidence in the integrity of the Court's decisions.

CONCLUSION

For the reasons set forth above, Plaintiffs-Appellees respectfully request that the Court vacate the panel's opinion and grant rehearing en banc.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This petition complies with the typeface requirements of Fed. R. App. P. 35(b)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 3,799 words.

2. The petition complies with the typeface requirement of Fed. R. App. P. 32(a)(5) and Circuit Rule 32(b), as well as the style requirements of Fed. R. App. P. 32(a)(6), because it has been prepared in Century Schoolbook, a proportionally spaced 12 point serif typeface, using the Microsoft Word 2010 word processing program.

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2022, 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 participant in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

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