SCHEDULED FOR ORAL ARGUMENT ON NOVEMBER 19, 2024

IN THE

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

20-7077

JOSHUA ATCHLEY; ELISSA ATCHLEY; JOHN ARAGON, SR.; BRIAN BEAUMONT; DEMPSEY BENNETT; BRANDEAUX CAMPBELL; ANGIE CAPRA; ANTHONY CAPRA, SR.; SHARON CAPRA; MARK CAPRA; VICTORIA CAPRA; A. C., A MINOR; J. C., A MINOR; S. C., A MINOR; DANIELLE CAPRA; EMILY CAPRA; JACOB CAPRA; JOANNA CAPRA; JOSEPH CAPRA; JULIA-ANNE CAPRA; MICHAEL CAPRA; RACHEL LEE; SARAH JOHNSON; SALLY CHAND; MICHAEL CHAND, JR.; CHISTINA MAHON; RYAN CHAND; BRENDA CHAND; KARA CONNELLY; JEAN DAMMANN; MARK DAMMANN; KEVIN CONNELLY; JIMMY CONNOLLY; MELISSA DOHENY; KATHY KUGLER; ROBERT KUGLER; AMY RITCHIE; DREW EDWARDS; DONIELLE EDWARDS; MICHAEL ADAM EMORY; MARIA DE LA LUZ VILLA; BOBBY EMORY; TANYA EVRARD; JACOB HARBIN; ELIJAH HARBIN; ESTHER TATE; LEASA DOLLAR; EUGENE DELOZIER; BILLY JOHNSON; BRIDGET JUNEAU; ALL PLAINTIFFS,

Plaintiffs-Appellants,

—v.—

ASTRAZENECA UK LIMITED; ASTRAZENECA PHARMACEUTICALS, LP; GE HEALTHCARE USA HOLDING LLC; GE MEDICAL SYSTEMS INFORMATION

(*Caption continued on inside cover*)

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRIEF OF *AMICUS CURIAE* CHARITY & SECURITY NETWORK IN SUPPORT OF DEFENDANTS-APPELLEES

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Defendants-Appellees.

CERTIFICATE AS TO PARTIES, RULINGS & RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), *Amicus Curiae* Charity & Security Network hereby certifies as follows:

(A) Parties and *Amicus*. All parties appearing before the district court and in this Court thus far are listed in the Brief for Defendant-Appellees. *Amicus Curiae* that submits this brief entered appearance as *Amicus Curiae* after Defendants filed their initial brief

(B) Ruling Under Review. The ruling under review is listed in the Brief for Defendants.

(C) Related Cases. The related cases are listed in the Brief for Defendants.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, *Amicus Curiae* Charity & Security Network certifies that it is a nonprofit voluntary program fiscally sponsored by NEO Philanthropy Inc. Charity & Security Network has no parent corporation, and no publicly owned corporation owns 10% or more of Charity & Security Network's stock.

RULE 29(d) CERTIFICATION

Pursuant to D.C. Circuit Rule 29(d), *Amicus Curiae* Charity & Security Network certifies that this separate brief was necessary because the *Amicus Curiae* joining this brief seeks only to discuss specific points on which their interest in and experience about the practical realities of terrorism relate. Other *amici curiae* would not have the same credibility or interest in making these points, and so the inclusion of these points in an omnibus brief would not work. Similarly, *Amicus Curiae* here knows less about other legal issues in the case, and it would make little sense to address those in this brief. *Amicus Curiae* offers expertise and background not shared with other *Amici Curiae*, and addresses a different set of topics and issues.

September 3, 2024

/s/ Timothy P. Harkness

Timothy P. Harkness

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GLOSSARY

This brief does not use abbreviations or acronyms that are not in common usage. When the brief quotes the Complaint or judicial decisions, it includes the following abbreviations as used in the quotations without alteration:

Defendants	AstraZeneca Pharmaceuticals LP, GE Healthcare USA Holding LLC, GE Medical Systems Information Technologies, Inc., Ethicon, Inc., Ethicon Endo-Surgery, LLC, Janssen Ortho LLC, Ortho Biologics LLC, Pfizer Pharmaceuticals LLC, Pharmacia & Upjohn Company LLC, Genentech, Inc., Hoffmann-La Roche Inc., AstraZeneca UK Limited, GE Medical Systems Information Technologies GmbH, Johnson & Johnson (Middle East) Inc., Cilag GmbH International, Janssen Pharmaceutica N.V., Pfizer Inc., Wyeth Pharmaceuticals Inc., Pfizer Enterprises SARL, F. Hoffmann-La Roche Ltd.
NGO	Non-governmental organization

IDENTITY AND INTEREST OF *AMICUS CURIAE*[1]

Charity & Security Network advocates to reduce barriers for operating charitable programs, both abroad and locally. Those barriers can prevent charities and donors from engaging in critical, lifesaving work in disaster and conflict areas. Charity & Security Network was founded in 2008 as a resource center for nonprofit organizations to promote and protect their ability to carry out effective programs that promote peace and human rights, aid civilians in areas of disaster and armed conflict, and build democratic governance. It is composed of a broad cross-section of nonprofit organizations, including charities working on humanitarian aid, development, peacebuilding, human rights, and civil liberties.

[1] No counsel for a party or any party itself authored this brief in whole or in part, or contributed money intended to fund the preparation or submission of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Nongovernmental organizations ("NGOs") are a centerpiece of American foreign policy, providing crucial services in fragile states. By helping improve infrastructure, education, and healthcare while supplying other necessities, NGOs alleviate poverty and political instability—key drivers of terrorism. Delivering this aid is not always simple. NGOs must often navigate the hurdles imposed by damaged infrastructure, bureaucratic barriers, and armed conflict to deliver lifesaving assistance to innocent civilians. To do so, NGOs sometimes devise creative solutions.

At the same time, NGOs carefully adhere to U.S. counterterrorism law, including by monitoring relevant cases and diligently implementing internal self-regulatory measures to ensure their aid does not violate statutes, rules, or regulations. Overbroad interpretations of counterterrorism laws create a chilling effect on NGO operations, often causing NGOs to halt humanitarian and peacebuilding efforts out of concern over terrorism-related litigation.

The Antiterrorism Act is one statute that NGOs closely monitor. This case shows why. Plaintiffs' theory of aiding-and-abetting liability

here posits that by providing excess medical goods and making payments under a contract with a government ministry, pharmaceutical companies are responsible for years of terrorist acts in the Middle East. If that theory becomes law, it could hobble NGOs' efforts to provide humanitarian aid in similar circumstances.

Not only does Plaintiffs' theory portend grievous consequences for NGOs; it is also wrong. As the U.S. Supreme Court clarified in *Twitter, Inc. v. Taamneh*, a defendant can be liable for aiding and abetting under the Antiterrorism Act only by engaging in "truly culpable conduct." Plaintiffs try to shoehorn Defendants' conduct into the culpability framework by clinging to dicta from *Taamneh*: that a defendant can sometimes be liable for aiding and abetting by providing "routine services" in an "unusual" way. But as *Taamneh*'s context shows, the routine-but-unusual caveat does not relieve a plaintiff's burden to show culpable conduct. On the contrary, routine but unusual services create an inference of culpability only when they show that the defendant directly, actively, and substantially participated in the terrorist acts. And here, Defendants' alleged conduct does not show such participation.

In fact, the alleged conduct is steps removed from the foreign terrorist organization that allegedly committed, planned, or authorized the attacks: Defendants allegedly dealt with a government ministry, from which an undesignated group, Jaysh al-Mahdi, pilfered funds and goods. The designated foreign terrorist organization, Hezbollah, became involved only at a third step, using the stolen funds and proceeds from the sale of stolen goods to commit, plan, or authorize the attacks. If Plaintiffs can rely on that multi-layered causal chain to link Defendants' actions to the attacks that caused their injuries, then NGOs will be at risk. NGOs often operate in regions where designated foreign terrorist organizations are prominent. NGOs—as part of their vetting, due diligence, and strict legal monitoring—consult foreign-terrorist-organization designations to ensure that their operations comply with U.S. counterterrorism laws. Bringing transactions with non-designated entities—and even government ministries—within the Antiterrorism Act's ambit thus makes operating in fragile states even more complicated, stifling vital humanitarian work in the process.

The Court should reject that theory.

ARGUMENT

I. NGOs promote stability and peace by providing services in fragile states.

A. NGOs can be "catalysts for development [and] are essential to enhance democratic culture and to activate citizens to participate in governance." S.E.A. Mavee, *The Relevance of Civil Society Participation in Democratic Governance*, 30 Administratio Publica 171, 178 (2022). Government support for NGOs' work "around the world has become a centerpiece of America's international outreach." *The Role of Non-Governmental Organizations in the Development of Democracy: Hearing Before the S. Comm. on Foreign Relations*, 109th Cong. 1 (2006).

NGOs' work helps combat terrorism in "fragile states"—war-torn or poverty-stricken states that cannot provide "basic services to their people." Br. for Charity & Sec. Network and Interaction as *Amici Curiae* 10 ("First CSN Br.") (quotation marks omitted), ECF No. BL-63. By providing aid in these states, NGOs alleviate poverty and political instability, which are key drivers of terrorism. *Id.* at 10–14. NGOs also engage in peacebuilding: "reduc[ing] the risk of lapsing or relapsing into conflict." UN Peacebuilding Supp. Off., *UN Peacebuilding: An Orientation* 5 (2010), https://bit.ly/3cxWY1j.

B. NGOs and other parties providing humanitarian aid in fragile states must often clear multiple hurdles. Those hurdles are particularly high in war-torn areas, where NGOs face "restricted access to affected areas as a result of hostilities, damaged infrastructure, and bureaucratic barriers." Evert Bopp, *Navigating the Minefields: The Multifaceted Challenges and Nuances of Providing Humanitarian Aid in Conflict Zones*, LinkedIn (Feb. 8, 2024), https://tinyurl.com/3mpbffja; *accord* Int'l Comm. of the Red Cross, *World Disaster Report* 63–64 (2018), https://tinyurl.com/49ztrf3p.[2]

The U.S. Department of Defense's recent efforts to deliver aid in Gaza underscore how difficult it is for states, let alone NGOs, to operate in conflict zones. Because "a vital [aid] border crossing close[d]," Palestinians in Gaza were left in an "absolutely dire" situation, including "acute food insecurity," particularly "for the most vulnerable, especially mothers and children." *See* Jim Garamone, U.S. Dep't of Def., *Aid Will Soon Flow to Palestinians in Gaza via DOD Temporary Pier*, DOD News (May 16, 2024), https://tinyurl.com/wehauzht/. To deliver aid to this

[2] Government entities and financial institutions also scrutinize NGOs that operate in fragile states. Banks will often halt or entirely cancel transactions out of fear of penalties under counterterrorism laws.

region the Defense Department built a floating pier, designed to "ensure that the most vulnerable have access to the systems they need." *See id.* The Defense Department ultimately halted aid delivery through the pier, after weather and other obstacles rendered it ineffective.

The U.S. government's difficulty in delivering aid to Gaza suggests that NGOs, at times operating on shoestring budgets, face even greater challenges. Indeed, given the "unexpected events" that NGOs face in these regions, NGOs must sometimes "generate" "untraditional or unplanned strategies," underscoring the need for "wiggle room for improvised solutions." Frida Kypengren, *Adaptability in NGO-Projects* 16–17 (2017), https://tinyurl.com/5n8par86.

For instance, United Nations' World Food Programme uses airdrops to provide emergency relief to people behind front lines in conflict areas or in inaccessible areas. *See* Simona Beltrami, *Humanitarian Airdrops: Light at the End of the Tunnel*, World Food Programme (Jul. 14, 2021), https://tinyurl.com/yfj9nkxx. The organization's first operation, in 1973, consisted of more than 30 aircraft airdropping supplies to Africa's drought-stricken Western Sahel. *Id.* Since then, World Food Programme has provided relief to many other

countries. *Id.* World Food Programme's goal—like the goal of NGOs operating throughout fragile states—is to provide critical, lifesaving assistance to innocent civilians living in conflict areas or areas that foreign terrorist organizations control.

C. At the same time, NGOs carefully heed statutes, rules, and regulations related to terrorism, even if that means halting important humanitarian efforts. The experience of NGOs in the wake of *Holder v. Humanitarian Law Project*, 561 U.S. 1 (2010), is illustrative. There, the Supreme Court held that the statute criminalizing material support to foreign terrorist organizations, 18 U.S.C. § 2339B, applies to "support for humanitarian and political activities" of such organizations. 561 U.S. at 10, 17–18.

After *Humanitarian Law Project*, many NGOs had to scrap peacebuilding plans. For instance, American Friends Service Committee had intended to replicate peacebuilding efforts that a local NGO in the Philippines had implemented to stem the violent conflict raging between the military and a faction of the insurgent Communist Party of the Philippines, a designated foreign terrorist organization. *See* Charity & Sec. Network, *Examples: Impacts of the Material Support Prohibition on*

Peacebuilding: Philippines 2, https://tinyurl.com/nmrrus6f. The Filipino NGO had helped negotiate a peace treaty and convinced the parties to support community-development projects, ultimately reducing confrontation. *Id.* Although American Friends had planned to bring the "main actors" from the Philippines peace process to Cambodia to train the warring parties, "the plan never went forward." *Id.* Given *Humanitarian Law Project*, American Friends feared that it would be accused of materially supporting the Communist Party of the Philippines by doing core peacebuilding work: bringing all actors to the table to broker peace. *Id.* at 1–2; *see id.* at 1–4 (providing other examples).

As this example highlights, NGOs take pains to follow U.S. counterterrorism laws, lest their once-lawful actions expose them to new liability as the legal landscape shifts. A ruling that even arguably places NGOs at risk of terrorism-related litigation is thus often enough to thwart humanitarian and peacebuilding efforts.

II. The Court should decline to read *Taamneh* in a way that would chill vital humanitarian efforts.

Plaintiffs' aiding-and-abetting theory risks exposing NGOs to Antiterrorism Act litigation and thereby curbing their vital humanitarian work in fragile states. As the Supreme Court clarified,

aiding-and-abetting liability under the Antiterrorism Act attaches only when a party "consciously, voluntarily, and culpably" participates in an act of international terrorism "so as to help make it succeed." *Twitter, Inc. v. Taamneh*, 598 U.S. 471, 493, 497, 505 (2023) (quotation marks omitted). Nothing about Defendants' alleged conduct—supplying medical goods and equipment to a government-run healthcare ministry—suggests that Defendants wanted to make any terrorist act succeed. So Plaintiffs argue instead that the Court should infer that Defendants are liable for *all* the attacks at issue because Defendants provided "routine services . . . in an unusual way." Pls.' Supp. Br. 13 (quoting *Taamneh*, 598 U.S. at 502). Yet providing routine services in an extraordinary way is how many NGOs undertake their lifesaving work while obeying counterterrorism laws. Indeed, NGOs must constantly innovate to get crucial aid to vulnerable populations. Adopting Plaintiffs' view—and hinging aiding-and-abetting liability on *how* a party provides its services—thus impermissibly sweeps in nonculpable conduct.

There is a better way to read *Taamneh*'s routine-but-unusual statement. *Taamneh* did not hold that a plaintiff can bypass the requirement of pleading "truly culpable conduct," 598 U.S. at 489, by

simply alleging that the defendant provided routine services in an unusual way. Rather, *Taamneh* observed that a defendant can be liable for a terrorist group's every attack if she provides routine services in a way that suggests that she wants the group's terrorist acts to succeed. But that is a far cry from what Plaintiffs allege here. On the contrary, Plaintiffs allege that Defendants provided medical supplies in a way that suggests they wanted to profit from contracts with a non-designated government ministry. The Court should decline to ground aiding-and-abetting liability on that alleged conduct.

A. *Taamneh* does not hold that all who provide routine services in an unusual way act culpably.

1. The central question in determining aiding-and-abetting liability is whether the defendant "consciously, voluntarily, and culpably participate[d]" in the terrorist attacks that injured the plaintiffs. *Taamneh*, 598 U.S. at 505. By zooming in on allegations that Defendants provided routine transactions in an unusual way (Pls.' Supp. Br. 12–13), Plaintiffs misunderstand the inquiry.

Nothing in *Taamneh* relieves Plaintiffs of their burden to plead culpable conduct. Granted, *Taamneh* observed that providing "routine services . . . in an unusual way" *might* show that the defendant

"direct[ly], active[ly], and substantial[ly]" participated in all of a group's terrorist acts. *Id.* at 502 (citing *Direct Sales Co. v. United States*, 319 U.S. 703 (1943)). That observation accords with *Taamneh*'s discussion of *Halberstam*, where Linda Hamilton's "assistance to Welch was so intentional and systematic that she assisted each and every burglary" Welch committed: "any time Welch left the house to burglarize, he would have relied on Hamilton's assistance in laundering the stolen goods and transforming them into unusual wealth." *Id.* at 495. The bottom line, then, is that providing routine services in an unusual way suggests culpability only when it shows "direct, active, and substantial participation," *id.* at 502, such that the terrorist group "relie[s]" on the assistance in committing "each and every" terrorist act, *id.* at 495.

The Court's reliance on *Direct Sales* is telling. In *Direct Sales*, the Court held that a drug manufacturer had sold a small-town doctor morphine pills "in such quantities, so frequently and over so long a period" that it was fair to infer that the manufacturer had consciously participated in the doctor's morphine-distribution scheme. 319 U.S. 703, 705 (1943). By "supply[ing]" the doctor "his stock in trade for the illicit enterprise"—selling opiates illegally—the drug manufacturer "join[ed]

both mind and hand with him to make its accomplishment possible." *Id.* at 713.

2. Plaintiffs' allegations stand in stark contrast. Plaintiffs do not allege that Defendants gave a foreign terrorist organization their "stock in trade" to carry out the attacks at issue. In fact, Plaintiffs do not allege that Defendants gave the terrorists anything. Plaintiffs claim that Defendants gave excess medical goods and money to the *Iraqi Ministry of Health*—an organization that Plaintiffs concede administers Iraq's "government-run healthcare system"; provides "free medical care to all Iraqis"; and employs "every public-sector doctor, pharmacist, nurse, and medical technician in Iraq." JA97–98, JA121. And Plaintiffs allege that Defendants undertook this conduct under standard conditions and express contracts with the Ministry—routine conduct when selling medical equipment and supplies. *See* JA142–143.

Plaintiffs' allegations also underscore their remoteness from Hezbollah, the foreign terrorist organization that allegedly committed, planned, or authorized the attacks. Under Plaintiffs' theory, Defendants supplied goods to the Ministry, and Jaysh al-Mahdi (which is not a foreign terrorist organization) then diverted those goods, sold them on

the black market, and used the proceeds to fund attacks that Hezbollah "committed, planned or authorized." JA50–51. Given that the aiding-and-abetting inquiry hinges on whether Defendants assisted an act of international terrorism "'committed, planned, or authorized by' a foreign terrorist organization," *Taamneh*, 598 U.S. at 495 (quoting 18 U.S.C. § 2333(d)), the steps between Defendants and Hezbollah undercut the notion that Defendants engaged in such "direct, active, and substantial participation" that Defendants are responsible for all of Hezbollah's terrorist acts. *Supra* pp. 11–12.

Focusing on the foreign-terrorist-organization limitation makes sense here. As the United States has explained, "[t]he Secretary of State's decision whether to designate a group as a foreign terrorist organization has significant consequences," and accounts for "a variety of policy considerations," including "concerns that a designation will inhibit private investment in regions experiencing humanitarian crises." Br. for U.S. 19 n.2, *AstraZeneca UK Ltd. v. Atchley*, __ U.S. __, 2024 WL 3089470 (2024) (No. 23-9). The foreign-terrorist-organization limitation thus "preserves the federal government's ability to effectively promote these foreign policy priorities." *Id.*

That limitation also provides a clear marker for NGOs operating in fragile states. NGOs rely on (and strictly adhere to) government designations when providing aid to fragile states, as the examples above (pp. 6–9) underscore. The U.S. government also recognizes the follow-on humanitarian effects that can result from designating a group as a foreign terrorist organization. Indeed, the Secretary of State de-designated the Houthis—a rebel group that controlled the Yemen government—following outcry that NGO-provided humanitarian aid would dry up, exacerbating famine in Yemen. *See* First CSN Br. 20 n.2, 29. Imposing aiding-and-abetting liability several steps upstream from the designated organization thus adds risk for NGOs operating in fragile states.

B. Adopting Plaintiffs' reading would imperil vital humanitarian work.

As discussed above, NGOs often face barriers when serving people in need. To provide aid and implement peacebuilding and humanitarian programs, NGOs must be flexible in their methods and adapt to conditions on the ground while complying with the law. Through the lens of hindsight, plaintiffs' lawyers could accuse some NGOs of aiding and abetting terrorism by characterizing as "unusual" the work of NGOs that

must carefully adapt their services to reach populations in need—something that NGOs sometimes do to perform lifesaving humanitarian and peacebuilding work in these complex areas.

Such a scenario is hardly farfetched. NGOs sometimes operate in regions where terrorist groups serve as the de facto government. For instance, al-Shabaab, a designated foreign terrorist organization, "controls large parts" of Somalia—"[o]ne of the most impoverished countries in the world." Claire Klobucista et al., Council on Foreign Rels., *Al-Shabaab*, https://tinyurl.com/33uyankm (last updated Dec. 6, 2022). Recognizing the need for NGO famine aid to 2.2 million people living under al-Shabaab control, the U.S. Government announced that it would not prosecute NGOs for materially supporting terrorism if they acted in good faith to reach famine victims. Charity & Sec. Network, *State Dept. Announces New Policy to Allow Famine Aid in Somalia, Treasury Releases Limited Guidance* (Aug. 4, 2011), https://tinyurl.com/2y4zc5by. Still, the U.S. Government understood that al-Shabaab would "inevitabl[y]" "siphon[] off" some of the aid, and might separately extract "'taxes' or tolls" on "food shipments." Mary Beth Sheridan, *U.S. to Ease*

Anti-Terrorism Rules to Help Somali Famine Victims, Wash. Post (Aug. 1, 2011), https://tinyurl.com/3k69pexw.

If an NGO adapted its services to deliver aid in Somalia and al-Shabaab then diverted that aid, a plaintiff's lawyer could claim that the NGO aided and abetted terrorism. Granted, under a fair reading of *Taamneh*, the NGO's conduct would not constitute aiding and abetting, since the NGO did not intend "to help make [al-Shabaab's terrorist acts] succeed." 598 U.S. at 493 (quotation marks omitted). Yet under Plaintiffs' theory here, liability would attach even with a lesser showing of liability because al-Shabaab engages in "heinous" conduct. Pls.' Supp. Br. 14–15.

The Court should reject that theory. Here, as in the al-Shabaab example, the culpability component is missing—and the aid is even more remote from the foreign terrorist organization. Defendants here dealt with a government ministry several steps removed from a foreign terrorist organization. *Supra* pp. 16–17. Holding Defendants liable for providing funds and medical equipment to a strategically non-designated ministry under express contracts would not only open the door for similar allegations against NGOs providing services in similarly positioned fragile states, but also frustrate considered U.S. foreign-policy decisions.

C. Plaintiffs' theories would cause NGOs to cease operating in fragile states, frustrating the Antiterrorism Act's purpose.

Construing the Antiterrorism Act to cover NGOs' legitimate activities in fragile states would have grave consequences for peacebuilding, which can help curb extremism. Such a decision would force NGOs to refrain from providing services to states which need them the most. *See* First CSN Br. 32–33. NGOs have already had to abort humanitarian and peacebuilding projects for fear of violating counterterrorism statutes. *Supra* Point I.C. And the perverse result is even more terrorism, for violent extremism thrives in impoverished and unstable regions. *See* First CSN Br. 33–34.

That outcome is at odds with the Antiterrorism Act itself. Congress intended the Act "to reduce global terrorism and thus protect Americans here and abroad." H.R. Rep. No. 115-858, at 3–4 (2018). Decreasing NGO support to fragile states does the opposite.

CONCLUSION

The Court should affirm the District Court's judgment.

DATED: September 3, 2024

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. of App. P. 29(a)(5) and 32(a)(7)(B), in light of the Court's July 26, 2024 order, because it contains 3,230 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f) and Circuit Rule 32(e)(1).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because the brief has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in Century Schoolbook 14-point font.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 3, 2024, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

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