

No. 26-5387

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

KRISTAL DARGON, ON BEHALF OF HERSELF AND ALL OTHERS SIMILARLY
SITUATED,

Plaintiff-Appellant,

v.

XTEND HEALTHCARE, LLC; NAVIENT CORPORATION,

Defendants-Appellees.

On Appeal from the U.S. District Court
for the Middle District of Tennessee at Nashville

**BRIEF OF THE CHAMBER OF COMMERCE OF
THE UNITED STATES OF AMERICA AS *AMICUS CURIAE*
IN SUPPORT OF DEFENDANTS-APPELLEES**

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CORPORATE DISCLOSURE

The Chamber of Commerce of the United States of America (“Chamber”) states that it is a non-profit, tax-exempt organization incorporated in the District of Columbia. The Chamber has no parent corporation, and no publicly held company has 10% or greater ownership in the Chamber.

TABLE OF CONTENTS

STATEMENT OF INTEREST OF *AMICUS CURIAE*1

INTRODUCTION AND SUMMARY OF ARGUMENT2

ARGUMENT4

 I. THE WARN ACT PROTECTS LOCAL COMMUNITIES
 FROM THE IMPACT OF LARGE-SCALE EMPLOYMENT
 LOSS4

 II. THE WARN ACT DOES NOT APPLY TO REMOTE
 WORKERS8

 A. The WARN Act’s Text Excludes Remote Workers.....8

 B. Appellant’s Contrary Interpretation Would Render the
 Statutory Scheme Nonsensical.....13

CONCLUSION16

CERTIFICATE OF COMPLIANCE.....17

TABLE OF AUTHORITIES

CASES:

<i>BedRoc Ltd., LLC v. United States</i> , 541 U.S. 176 (2004).....	9
<i>Loper Bright Enters. v. Raimondo</i> , 603 U.S. 369 (2024).....	10
<i>Meson v. GATX Technology Servs. Corp.</i> , 507 F.3d 803 (4th Cir. 2007)	12
<i>Teamsters Local Union 413 v. Driver’s, Inc.</i> , 101 F.3d 1107 (6th Cir. 1996)	11
<i>West Va. Univ. Hosps., Inc. v. Casey</i> , 499 U.S. 83 (1991).....	13
<i>Wiltz v. M/G Transp. Servs., Inc.</i> , 128 F.3d 957 (6th Cir. 1997)	11

STATUTES:

29 U.S.C.	
§ 2101(a)(1)	8
§ 2101(a)(2)	2, 9, 12
§ 2101(a)(3)	2, 9, 12
§ 2101(a)(3)(B)(i)	7
§ 2101(a)(3)(B)(ii)	7
§ 2102(a)	2, 9
§ 2102(a)(2)	8, 13, 15
§ 2104(a)(3)	8

OTHER AUTHORITIES:

20 C.F.R.	
§ 639.3(i)(1)	10
§ 639.3(i)(2)	10
§ 639.3(i)(3)	10
§ 639.3(i)(4)	10
§ 639.3(i)(5)	10
§ 639.3(i)(6)	12

134 CONG. REC. 8451 (1988).....	5, 7, 15
134 CONG. REC. 8873 (1988).....	5, 6
134 CONG. REC. 13660 (1988).....	5
134 CONG. REC. 15996 (1988).....	5, 6
Cutter, Chip & Theo Francis, <i>The Company Founders Who Think They Need Not One But Two Successors</i> , THE WALL STREET JOURNAL (Sept. 30, 2025).....	14
<i>Employment</i> , CAMBRIDGE DICTIONARY (last visited Sept. 23, 2026).....	10
<i>Employment</i> , MERRIAM-WEBSTER.COM (last visited Sept. 21, 2026).....	10
FED. R. APP. P. 29(a)(4)(E)	1
H.R. REP. NO. 100-576 (1988) (Conf. Rep.)	3, 7, 8
S. REP. NO. 100-62 (1988)	4, 5, 6, 7
<i>Site</i> , CAMBRIDGE DICTIONARY (last visited Sept. 23, 2026).....	9
<i>Site</i> , MERRIAM-WEBSTER.COM, (last visited Sept. 23, 2026).....	10

STATEMENT OF INTEREST OF *AMICUS CURIAE*¹

The Chamber of Commerce of the United States of America is the world’s largest business organization. As the nation’s leading advocate for business, the Chamber represents companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files *amicus curiae* briefs in cases, like this one, that raise issues of concern to the nation’s business community.

Many of the Chamber’s members employ remote workers. Plaintiffs’ position in this case would impose new, atextual notice requirements on employers under the Worker Adjustment and Retraining Notification Act (“WARN Act”). Those requirements would make it difficult for employers (and courts) to determine whether the WARN Act applies in any given situation. The Chamber submits this brief to explain how Congress never intended to—and, indeed, did not—saddle the American business community with that burden.

¹ All parties have consented to the filing of this brief. Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), *amicus curiae* states that no counsel for any party authored this brief in whole or in part and no entity or person, aside from *amicus curiae*, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Congress enacted the Worker Adjustment and Retraining Notification Act to address the harms that plant closings and localized mass layoffs inflict on workers and their communities. Consistent with that objective, the Act requires advance notice only when an employer eliminates a threshold number of jobs at a “single site of employment,” such that the effects would be concentrated in a single geographic area. 29 U.S.C. §§ 2101(a)(2)-(3), 2102(a). In so doing, Congress protected workers and their local communities from large-scale employment losses while ensuring that employers would not incur WARN Act liability whenever—as in this case—employees scattered across different locations lose their jobs at the same time.

Although Congress did not separately define “site of employment,” the phrase carries its ordinary meaning. A “site” is a place where something occurs, and “employment” is the work an employee is paid to perform. An employee’s “site of employment,” then, is the place where that employee performs their work. Just as the site of a factory worker’s employment is the factory, the site of a remote worker’s employment is the fixed location from which she works—not the separate location of corporate higher-ups who direct or supervise her.

The Court should not force a decades-old statute onto a workplace arrangement Congress never considered—and whose application would not further the Act’s purpose. Congress directly addressed the distinction between a business

enterprise and the geographically separate locations at which its employees work. It treated the centralized corporate organization as the “employer,” while treating each geographically separate operation as its own “site of employment.” Indeed, Congress adopted the phrase “single site of employment” specifically to clarify that an employer’s “geographically separate operations are not to be combined” when determining whether the WARN Act’s numerical thresholds have been met. H.R. REP. NO. 100-576, at 1046 (1988) (Conf. Rep.). The same distinction applies when those separate workplaces are remote employees’ homes—often scattered across the country (or the world)—rather than factories, offices, or retail locations in a single community.

Appellant’s contrary interpretation would transform the statutory inquiry from identifying an employee’s “site of employment” into identifying the employee’s “site of supervision.” If accepted, that reasoning would permit plaintiffs—against Congress’s wishes as expressed in the Act’s plain text—to combine employment losses occurring at disparate workplaces across the country. Such unprecedented expansion would detach WARN Act liability from the concentrated, localized harms Congress sought to address and substantially upend the tailored compromise Congress enacted. This Court can avoid that atextual result—and the serious uncertainty it would create for employers of dispersed workforces—by giving “site of employment” its ordinary meaning. Because Appellant worked remotely at a

fixed location (her home) and fewer than 50 employees suffered an employment loss there, the Court should affirm the decision below.

ARGUMENT

I. THE WARN ACT PROTECTS LOCAL COMMUNITIES FROM THE IMPACT OF LARGE-SCALE EMPLOYMENT LOSS

Congress enacted the WARN Act as a direct response to rampant plant closures and mass relocations that impacted local communities in the 1970s and 1980s. As explained in the Senate’s Report on what would later become the WARN Act, the Reagan Administration’s Task Force on Economic Adjustment and Worker Dislocation found that between 1981 and 1986, more than 11 million American workers lost their jobs to economic dislocation, and many never returned to the workforce. S. REP. NO. 100-62, at 4 (1988). The Senate concluded that such large-scale job loss was “more than a financial disaster for workers,” because plant closings or mass layoffs could have “devastating effects,” including “alarming erosion in the tax base[s] of . . . local communit[ies],” “decline[s] in local property values,” and “a ‘ripple’ effect that may lead to the closing of other businesses and further economic loss.” *Id.* at 6-7. As a result, the Senate decided that “those affected and responsible for the delivery of [worker-assistance] services must be notified in advance of plant closings and mass layoffs” so that they have “the necessary time to have programs developed and implemented before a closing or layoff becomes a reality.” *Id.* at 11.

As the legislation advanced, supporters in Congress repeatedly returned to the theme of local impact:

It is not just the jobs lost in the plant; it is the blow to the entire community, and the loss of tax base to fund basic public services which are predicated on plant commitments. . . . In such cases, it is vital that the community and the affected workers be given sufficient advance notice to enable them to begin to make the painful transition from relative prosperity to the uncertainty resulting from plant closing.

134 CONG. REC. 13687 (1988) (Statement of Sen. David Durenberger). And they cited countless examples of the kinds of actions that most concerned them: hundreds or thousands of employees being suddenly let go in small communities, resulting in decreased tax revenue and budget gaps. *See id.* at 16030 (Statement of Sen. David Durenberger) (“[E]veryone [sic] of us knows what an indefinite layoff of 500 or 800 or more people can mean to a small community or even a large city.”).² Nearly every

² *See also, e.g.*, S. REP. NO. 100-62, at 7 (plant shutdown in Norwood, Ohio, that eliminated 4,300 jobs in a “small, stable community,” “depriv[ed] the city of some 25% of its annual operating budget,” and “left an annual gap of over \$2 million in property tax revenues to the Norwood school system”); *id.* at 13 (200 employees of a multi-billion dollar company in Michigan had employment terminated without notice); 134 CONG. REC. at 8469 (Statement of Sen. Howard Metzenbaum) (“260 workers at an Iowa pork plant . . . who received less than 1 day’s notice before their plant closed,” “600 employees . . . on Long Island, most of whom received 3 days’ notice before a mass layoff,” “1,000 drivers . . . in northern California, who received 3 days’ notice before losing their jobs,” and “900 employees . . . in Alabama, who lost their jobs on 2 weeks’ notice just prior to Christmas”); *id.* at 8903 (Statement of Sen. Howard Metzenbaum) (“425 employees . . . outside Columbus[,]” who “came to work on Monday and were told not to come back on Tuesday,” more than 500 employees who had their employment terminated with only a week’s notice in Oakland, California, and 125 production workers in Owatonna, Minnesota, who “arrived at their machine plant at 7:30 a.m.,” only for the plant to close by 8:30 a.m.

example invoked during the congressional debates shared a common thread of concentrated harm to a specific community. Indeed, it was the complex interplay between local communities and major employers that provided one of the leading justifications for the Act’s passage. Allowing affected communities time to attract new businesses, “shore up their tax base,” or even negotiate to keep struggling plants open was among the Act’s primary aims. 134 CONG. REC. at 8903 (Statement of Sen. Howard Metzenbaum).

The same legislative history confirms that the state- and community-level services Congress had in mind when enacting the WARN Act were inherently local and place-based. Congress envisioned that “advance[d] notification of plant closings and mass layoffs to employees, state governments, and local governments” would “permit the effective deployment of dislocation services before dislocation actually occurs.” S. REP. NO. 100-62, at 22. The envisioned services included on-site worker assistance centers, labor market information about the surrounding community, local job search assistance, commuting and childcare support, relocation

the same day); *id.* at 13687 (Statement of Sen. David Durenberger) (describing “the devastation which occurs when the major employer in a small town such as Jackson or Aitkin or Fairmont, [Minnesota,] decides to pickup and leave the community”); *id.* at 16112 (Statement of Sen. Pete Domenici) (1,300 jobs lost in single Ohio county due to corporate “control maneuvers”); *id.* at 16030 (Statement of Sen. David Durenberger) (mass layoffs of iron workers in Eveleth and Silver Bay, Minnesota, steel workers in Ohio, Indiana, and Pennsylvania, and automobile workers in Michigan and California).

services, and vocational counseling and retraining—all “prompt[ly] deliver[ed] . . . to the site of such closing or layoff whenever possible.” *See id.* at 58-59. As the WARN Act’s sponsor explained, however, such services could be wholly effective only if workers could be reached while they “are still on the job, when there is a chance to get them as a group, *when they are more localized.*” 134 CONG. REC. at 8468 (Statement of Sen. Howard Metzenbaum) (emphasis added).

That focus on the needs of local communities is manifest in the final version of the WARN Act. In setting the thresholds that define a “mass layoff,” the Act’s Conference Agreement established a nearly per se rule that an employment loss involving 500 or more employees—regardless of what percentage of a site’s workforce had their employment terminated—would require notice, because “layoffs involving 500 or more people are likely to cause significant economic disruption in local communities.” H.R. REP. NO. 100-576, at 1046; *see* 29 U.S.C. § 2101(a)(3)(B)(ii).³ In its Conference Report, the House also highlighted the intentional differentiation between a corporation’s high-level national operations and its local employment sites, explaining that “[e]ach [of a company’s dozens of plants throughout the country] would be considered a site of employment, but as provided

³ The WARN Act also requires notice when an employer terminates the employment of 50 or more employees in a 30-day period, so long as those employees make up more than 33% of the workforce at a single site. *See* 29 U.S.C. § 2101(a)(3)(B)(i).

in the [Act], there is only one ‘employer.’” H.R. REP. NO. 100-576, at 1046; *see* 29 U.S.C. § 2101(a)(1) (“the term ‘employer’ means any business enterprise that employs . . . 100 or more [full-time] employees . . . or . . . 100 or more employees who in the aggregate work at least 4,000 hours per week”). Most critically, Congress replaced all references to “place of employment” with “single site of employment” to “clarify that *geographically separate operations are not to be combined* when determining whether the employment threshold for triggering the notice requirement is met.” H.R. REP. NO. 100-576, at 1046.

The same concern with local impact shaped how the Act’s requirements were framed and made enforceable. Not only did Congress require employers to notify affected employees, it also required employers to alert “the State or entity designated by the State to carry out rapid response activities” for dislocated workers “and the chief elected official of the unit of local government within which such closing or layoff is to occur.” 29 U.S.C. § 2102(a)(2). Indeed, Congress went so far as to give local governments a private right of action against noncompliant employers for civil penalties paid to the municipality itself. *See id.* § 2104(a)(3).

II. THE WARN ACT DOES NOT APPLY TO REMOTE WORKERS

A. The WARN Act’s Text Excludes Remote Workers

The WARN Act’s plain language reflects Congress’s concern with protecting local communities and precludes its application to remote workers like Appellant.

Under the Act, notice is required only when an employer plans to order “a plant closing or mass layoff.” 29 U.S.C. § 2102(a). Those terms are precisely defined: A “plant closing” is “the permanent or temporary shutdown of a single site of employment . . . if the shutdown results in an employment loss *at the single site of employment* during any 30-day period for 50 or more employees,” and a “mass layoff” is “a reduction in force which . . . results in an employment loss *at the single site of employment* during any 30-day period for . . . at least 33 percent of the employees . . . and . . . at least 50 employees . . . ; or . . . at least 500 employees[.]” *Id.* § 2101(a)(2)-(3) (emphases added). Because the applicability of the Act hinges on how many employees from a “single site of employment” had their employment terminated, the determinative question for this Court is how to define “site of employment.”

On that question, the WARN Act is unambiguous. The “site of employment” for remote employees is where they do their work. When that work takes place in dozens or hundreds or thousands of home-office “sites” scattered across the world, each with only a single employee, the WARN Act’s notice requirements do not apply.

Start with the plain meaning of the phrase “site of employment.” *See BedRoc Ltd., LLC v. United States*, 541 U.S. 176, 183 (2004) (“[O]ur inquiry begins with the statutory text, and ends there as well if the text is unambiguous.”). A “site” is “a place . . . where something happened, is happening, or will happen.” *Site*,

CAMBRIDGE DICTIONARY (last visited Sept. 23, 2026)⁴; *see also Site*, MERRIAM-WEBSTER.COM (last visited Sept. 23, 2026) (“the place, scene, or point of an occurrence or event”).⁵ And “employment” is “work that [one is] paid to do for a particular company or organization.” *Employment*, CAMBRIDGE DICTIONARY (last visited Sept. 23, 2026)⁶; *see also Employment*, MERRIAM-WEBSTER.COM (last visited Sept. 21, 2026) (“an activity or service performed for another especially for compensation or as an occupation”).⁷ Just as a construction site is the location where construction takes place, then, a “site of employment” is the location where an employee does their work.

What the text of the WARN Act makes clear, the Department of Labor’s regulations confirm. *See* 20 C.F.R. § 639.3(i)(1)-(5) (explaining that “single site of employment” can refer to, *inter alia*, “either a single location or a group of contiguous locations,” or separate buildings or areas that “are in reasonable geographic proximity, used for the same purpose, and share the same staff and equipment,” but that “assembly plants which are located on opposite sides of a town and which are managed by a single employer are separate sites if they employ different workers”); *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 394 (2024)

⁴ <https://dictionary.cambridge.org/us/dictionary/english/site>.

⁵ <https://www.merriam-webster.com/dictionary/site>.

⁶ <https://dictionary.cambridge.org/us/dictionary/english/employment>.

⁷ <https://www.merriam-webster.com/dictionary/employment>.

(“[agency] interpretations issued contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute's meaning”). As this Court has made clear:

“Although no bright line test exists, the plain language of the statute and regulations makes clear that geographic proximity provides the touchstone in determining what constitutes ‘a single site.’” Thus, “contiguous facilities or those in close geographic proximity are generally single sites of employment and geographically separate facilities are generally separate sites.”

Wiltz v. M/G Transp. Servs., Inc., 128 F.3d 957, 960-961 (6th Cir. 1997) (quoting *Teamsters Loc. Union 413 v. Driver's, Inc.*, 101 F.3d 1107, 1109 (6th Cir. 1996)) (cleaned up).⁸

Applied to Appellant, the geographically bound “single site of employment” inquiry is straightforward. Take, for example, a cashier working for a national grocery chain. Because the cashier does their work at a particular local store, it is that store that qualifies as the cashier’s site of employment—not corporate headquarters, which could be located thousands of miles and many states away. *See supra* pp. 7-8 (explaining statutory distinction between a national employer and its individual sites of employment). Nothing in the WARN Act suggests a different inquiry for remote workers. Because Appellant, like many remote employees, did

⁸ Because the parties discuss subpart 6 extensively, the Chamber does not address that aspect of the Department of Labor’s regulations.

her work at home, *see* Offer Letter, RE 28-1, Page ID #143, her residence was her site of employment.⁹

The WARN Act then tells courts how to decide whether an employer must give notice: Look to each “*single* site of employment,” and determine how many full-time employees from that site had their employment terminated. 29 U.S.C. § 2101(a)(2)-(3) (emphasis added). In the case of a typical remote employee’s “site of employment,” the answer is just one, falling far short of a qualifying “plant closing” or “mass layoff.” *Id.*

That conclusion makes perfect sense given Congress’s concern with blunting the impact of mass employment losses concentrated in individual communities. To wit, any harm occasioned by Defendants’ alleged actions in this suit would have been dispersed to communities across the country, which are far more able to absorb the impact of a single employment termination than of hundreds at once. *Cf. Meson*, 507 F.3d at 811 (“[W]e note that the minimal impact on the Falls Church community also militates against a finding that the WARN Act’s purposes would be served by

⁹ Whatever complications may arise when determining the site of employment for individuals whose jobs require travel and so are not performed at any fixed location, *see* 20 C.F.R. § 639.3(i)(6), there is no similar difficulty in determining the site of employment of a remote employee who works from a fixed location such as her home, *see Meson v. GATX Technology Servs. Corp.*, 507 F.3d 803, 808 (4th Cir. 2007) (“[A]n employee who had a fixed workplace where fewer than fifty individuals suffered an employment loss would seem, on the face of the statute, outside of the protections of the WARN Act.”).

applying it to [plaintiff]” where “[plaintiff’s] job loss was the only one suffered by this Virginia community.”). Indeed, Appellant never alleges that a *single employee* was fired from a home base in Hendersonville, Tennessee—the location of her proposed “site of employment.” *See* Appellant Br. at 25; Am. Compl., RE 21, Page ID #78-79 ¶¶ 28, 38 (alleging employment terminations of employees who “worked remotely” for Defendants’ “virtual Call Center”). It would make little sense, then, to think Congress intended Defendants to notify Hendersonville’s Mayor while simultaneously requiring no notice at all to *any* of the communities in which the affected employees actually live. *See* 29 U.S.C. § 2102(a)(2). And it is even harder to imagine that Congress envisioned the Mayor of Hendersonville providing adequate community support of the kind the WARN Act was designed to facilitate—including on-site assistance centers, local labor market guidance, commuting and childcare support, or group counseling, *see supra* pp. 6-7—to recently laid-off teleworkers living in disparate communities hundreds or thousands of miles away. *West Va. Univ. Hosps., Inc. v. Casey*, 499 U.S. 83, 101 (1991) (“[I]t is [the court’s] role to make sense rather than nonsense out of the *corpus juris*.”).

B. Appellant’s Contrary Interpretation Would Render the Statutory Scheme Nonsensical

As Defendant-Appellee Xtend explains, Appellant’s interpretation of the WARN Act would stretch its provisions “beyond recognition,” Xtend Br. 37, transforming the relevant inquiry from identifying an individual’s “site of

employment” to their “site of supervision.” But every employee receives assignments from somewhere and reports to someone. Under Appellant’s approach, the location of direction and control could displace the employee’s actual (fixed) workplace whenever the two differ—a scenario that has become ever more common as employers increasingly centralize management functions but maintain geographically dispersed workforces.

The practical consequences of Appellant’s “site of supervision” theory further demonstrate its unworkability. If a remote employee’s “site of employment” is wherever that employee’s direction and supervision originate, employers would face an impossible threshold question in commonplace workforce arrangements. Consider an employee who works remotely from Virginia but reports to one manager in Tulsa and another in Buffalo. The WARN Act makes clear that such an employee can only have a “single” site of employment, leaving an employer in the dark as to whether notice should be sent to Oklahoma or New York.¹⁰ The analysis becomes still more convoluted in the layered management structures typical of modern enterprises. If that same Virginia-based remote employee is supervised by a manager

¹⁰ Such a situation is far from hypothetical; in recent years, some of the world’s largest companies have turned to co-executives to capitalize on leaders’ complementary skillsets. See Chip Cutter & Theo Francis, *The Company Founders Who Think They Need Not One But Two Successors*, THE WALL STREET JOURNAL (Sept. 30, 2025), <https://www.wsj.com/business/the-company-founders-who-think-they-need-not-one-but-two-successors-f2455464>.

who herself works remotely from Denver, and that manager in turn reports to corporate headquarters in Newark, the employee’s “site of supervision” could seemingly be in either Colorado or New Jersey—neither of which have any connection to the employee’s actual workplace.

Employers confronted with these commonplace scenarios would have no reliable way to determine upfront which possible “site of employment” governs, how many employees should be aggregated at that site, or which unit of local government is entitled to notice under 29 U.S.C. § 2102(a)(2). The WARN Act was designed to provide clear, workable rules for employers and local communities alike, not to generate satellite litigation over organizational charts. *See supra* pp. 7-8 (explaining that Congress adopted the term “single site of employment” specifically to “clarify” the geographic bounds of the WARN Act’s threshold requirements).

At bottom, Appellant’s approach would fundamentally detach WARN Act liability from the localized harms Congress sought to address. And in vastly broadening employer liability under the Act, it would fly in the face of the carefully crafted compromise Congress struck between the interests of labor, local communities, and businesses. *See* 134 CONG. REC. at 8468 (Statement of Sen. Howard Metzenbaum) (explaining that “efforts at compromise,” such as narrowing the scope of businesses covered under the Act, “won the support of Congress”). This

Court should not take such a drastic step when the Act's text and purpose plainly foreclose it.

CONCLUSION

For the foregoing reasons, this Court should affirm the District Court's dismissal of the Amended Complaint.

Dated: September 29, 2026

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rules of Appellate Procedure 29(a)(5) because it contains 3,790 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it was prepared in a proportionally spaced typeface using Microsoft 365, 14-point Times New Roman font.

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