IN THE COURT APPEALS
TENTH APPELLATE DISTRICT
FRANKLIN COUNTY, OHIO

THE STATE OF OHIO, *et al.*, **Appellants,** **v.** **MICHAEL DEWINE, *et al.*,** **Appellees.**	**APPEALS NO. 21AP00380** **TRIAL CASE NO. 21CVH074469** **ACCELERATED CALENDAR**

BRIEF OF *AMICI CURIAE* CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA AND NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL BUSINESS LEGAL CENTER

Michael R. Gladman (0059797)
Elizabeth A. Benshoff (0098080)
JONES DAY
325 John H. McConnell Blvd.
Suite 600
Columbus, OH 43215
mrgladman@jonesday.com
ebenshoff@jonesday.com
Telephone: (614) 469-3939
Fax: (614) 461-4198

Counsel for Amici Curiae

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INTEREST OF *AMICI CURIAE*

The Chamber of Commerce of the United States of America ("the Chamber") is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry, and from every geographic 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 briefs in cases, like this one, that raise issues of concern to the nation's business community.

The National Federation of Independent Business ("NFIB") is the nation's leading small business association, representing members in Washington, D.C., and all 50 state capitals. Founded in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. The National Federation of Independent Business Small Business Legal Center ("NFIB Legal Center") is a nonprofit, public interest law firm established to provide legal resources and be the voice for small businesses in the nation's courts through representation on issues of public interest affecting small businesses. To fulfill its role as the voice for small business, the NFIB Legal Center frequently files amicus briefs in cases that will impact small businesses.

Amici support Governor DeWine's decision to end Ohio's participation in temporary federally funded pandemic unemployment insurance programs. *Amici* believe that paying Ohioans not to work is dampening what should be a stronger jobs market. Indeed, unfilled positions pose a real threat to Ohio's economic recovery from the COVID-19 pandemic. Based on *amici*'s analysis, unemployment insurance benefits from the Coronavirus Aid, Relief, and Economic Security Act ("CARES

Act") result in approximately one in four recipients taking home *more* in unemployment than they could earn working. A preliminary injunction requiring the State to continue these benefits would hurt small and large businesses by worsening the labor shortage in Ohio and impeding the State's economic recovery. *Amici* seek leave to file this brief to explain that the Governor's decision was lawful and serves the public interest by encouraging Ohioans to return to work.

SUMMARY OF ARGUMENT

Federal and state policymakers face a delicate task of facilitating a recovery from the greatest economic crisis since the Great Depression. During the COVID-19 pandemic, policymakers adopted temporary emergency relief measures to help individuals and businesses weather the economic recession. These include pandemic unemployment insurance benefits made available through the CARES ACT, which *amici* supported at the outset of the pandemic in 2020. Although these and other measures avoided an economic catastrophe, some measures have now become drags on the very economic forces they were designed to save.

As public-health conditions have improved and restrictions have lifted, businesses across the country have begun reopening to meet a resurgence in consumer demand. There are a record number of job openings, but not enough workers to fill them. Generous, pandemic-related unemployment benefits have suppressed the labor supply by making unemployment nearly as profitable—and in some cases more profitable—than work. This helps explain why employers hired fewer workers than expected in April 2021 even as businesses could not find enough workers to fill open positions. *See* Olivia Rockeman, *U.S. Job Growth Disappoints in Challenge to Economic Recovery*, Bloomberg (May 7, 2021), https://tinyurl.com/ztuyzfhc. But without the ability to staff these open positions, businesses cannot meet existing demand—let alone grow and return the economy to pre-pandemic levels.

To address this labor shortage, Governor DeWine, like governors in twenty-five other states from Alaska to Louisiana, decided to target the biggest hurdle: federally funded pandemic unemployment insurance programs. To that end, Governor DeWine announced in May 2021 that Ohio would end its participation in some of these federal programs. The Governor noted that there are "many signs looking for workers and offering signing bonuses," that the "need for workers is apparent in many industries," and that the labor shortage "is having a real impact on our supply chain and the cost and availability of goods we rely on to keep our state moving." *See* Letter from Mike DeWine, Governor of Ohio, to Suzan LeVine, Principal Deputy Assistant Sec'y for Emp. & Training, Dep't of Lab. (May 24, 2021). The Governor further explained that because "Ohio workers are no longer out of work because of the pandemic shutdown," CARES Act benefits are "now discouraging some from returning to work. This assistance was always intended to be temporary. Now is the time to end it." *Id.*

Appellants waited nearly six weeks after Governor DeWine's announcement to seek an emergency order blocking the Governor's decision in the Franklin County Court of Common Pleas. On July 29, 2021, Judge Holbrook denied Appellants' motion for a temporary restraining order and preliminary injunction. In his decision, Judge Holbrook found that Appellants had not met their burden of establishing a substantial likelihood of success on the merits because "the clear and unambiguous language of R.C. 4141.45 and R.C. 4141.43(I) do not place an obligation on Governor DeWine to continue participation in the FPUC program[.]" *Decision and Entry Denying Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction*, at 6.

This Court should affirm the Franklin County Court of Common Pleas' denial of Appellants' request for a temporary restraining order and preliminary injunction. As Judge Holbrook correctly found, Appellants have not demonstrated a likelihood of success on the merits or that the public interest weighs in favor of continuing the State's participation in the federal pandemic unemployment insurance programs.

On the merits, no provision of the Ohio Revised Code imposes a duty on the State—let alone a specific, mandatory duty—to seek and obtain pandemic unemployment insurance benefits under the CARES Act. On the contrary, the Ohio Revised Code is silent on the CARES Act programs, leaving it to the Governor's discretion to administer. The Governor properly exercised this discretion by terminating the State's participation in these federal programs, which the CARES Act and implementing agreement with the federal government expressly contemplated. While Appellants might disagree with the Governor's public-policy judgment, that is no basis to second guess and overturn the Governor's decision. "Indeed, the Court simply cannot legislate from the bench and overlook the clear terms of" the law. *Id.* at 8-9.

Nor would a preliminary injunction serve the public interest. On the contrary, a preliminary injunction would impair the Governor's ability to address a government-created labor shortage that is hurting Ohio businesses and hindering the State's economic recovery. In Ohio, combined pandemic-era unemployment benefits amount to 81% of the average weekly private sector pay. In the leisure and hospitality industries, that number rises to 130%—or, in other words, the benefits exceed average weekly earnings by 30%. When jobless Ohioans make through unemployment benefits most of (or more than) what they earn by working, it is no surprise that they stay home instead of filling one of the nearly 205,000 job openings in the State. As a result, small and large Ohio businesses, hoping to bounce back after the pandemic, continue to experience a worker shortage crisis.

Governor DeWine's decision to end the State's reliance on federal pandemic unemployment insurance benefits thus serves the public interest of getting Ohioans back to work. His decision is bolstered by evidence of low unemployment rates in states such as Missouri (4.2%) and Montana (3.7%) that have already ended federal unemployment benefits. Equipped with information about the number of job openings in Ohio and the successes of those other states, the Governor is best positioned to make such policy decisions in the public interest of the State.

ARGUMENT

This Court should affirm the Court of Common Pleas' decision denying Appellants' request to preliminarily enjoin the Governor's decision to end participation in federally funded pandemic unemployment insurance programs. As the Court of Common Pleas correctly decided, Appellants cannot demonstrate a likelihood of success on the merits because the Governor acted within his lawful authority under the CARES Act and Ohio law by making a discretionary policy choice that advances the interests of the State. And a preliminary injunction would disserve the public interest by discouraging unemployed Ohioans from filling over 200,000 available jobs, exacerbating a labor shortage that harms Ohio businesses, and frustrating the State's economic recovery.

I. The Court of Common Pleas Correctly Decided that Governor DeWine Lawfully Ended the State's Participation in Federal Pandemic Unemployment Insurance Programs.

Appellants' case depends on the premise that State law requires the State to accept all CARES Act funding, leaving no discretion over the matter to the Governor. Yet the sole provision cited for this supposed duty says nothing of the sort.

The provision Appellants stake their case on states, in relevant part, that the Director "shall cooperate with the United States department of labor to the fullest extent consistent with this chapter," and that the Director "shall take such action, through the adoption of appropriate rules, regulations, and administrative methods and standards, as may be necessary to secure to this state and its citizens all advantages available under the provisions of the 'Social Security Act' that relate to unemployment compensation" and a list of other statutes. Ohio Rev. Code § 4141.43(I). But, as the Court of Common Pleas noted, nowhere does this "clear and unambiguous" language impose any duty on the State to seek and obtain unemployment insurance benefits under the CARES Act, let alone a specific, mandatory duty that would be judicially enforceable. *Decision and Entry Denying Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction*, at 6. Much less does it impose a duty to apply for benefits that the Governor has determined are incentivizing unemployment and frustrating Ohio's economic recovery. There is thus no basis to conclude that the Governor violated this provision. And because

Appellants cannot identify any other potential source of duty, Appellants are not entitled to a preliminary injunction.

The statute's "fullest extent" language does not alter this analysis. That language does not direct the State to take any specific actions to "cooperate" with the federal government. Rather, other provisions of "this chapter" supply the specific actions that the State must take to "cooperate" with the federal government. Where, as here, the Governor has not violated a specific, mandatory duty in Chapter 4141, the Governor has not violated his duty to "cooperate with the United States department of labor to the fullest extent consistent with this chapter." Ohio Rev. Code § 4141.43(I).

Nor has the Governor failed to adopt specific "rules, regulations, and administrative methods and standards" that are "necessary to secure to this state and its citizens all advantages available under the provisions of the 'Social Security Act' that relate to unemployment compensation" and the other statutes listed. *Id.* This general mandate contrasts with other provisions that impose specific duties on the State. *Compare, e.g.*, *id.* § 4141.43(K) (requiring the State to "adopt rules defining the requirements of the release of individual income verification information"). If § 4141.43(I) required the State to adopt specific rules, then this general mandate would render superfluous the specific mandates listed throughout Chapter 4141. *See State v. Noling*, 153 Ohio St. 3d 108, 116, 2018-Ohio-795, 101 N.E.3d 435, 443 (explaining that "[n]o part [of a statute] should be treated as superfluous unless that is manifestly required, and the court should avoid that construction which renders a provision meaningless or inoperative" (citation omitted)).

The propriety of the Governor's decision is reinforced by the terms of the CARES Act itself, including the Agreement between the State of Ohio and the Secretary of Labor implementing it. The CARES Act expressly authorizes a state to "terminate" an agreement with the federal government for pandemic unemployment benefits "upon providing 30 days' written notice to the Secretary." 15 U.S.C. § 9023(a); *see also id.* §§ 9024(a), 9025(a). Consistent with this provision, Section XI of the Agreement between Ohio and the Secretary authorizes the State to terminate the Agreement on thirty day's written notice. The Governor complied with the terms of the CARES Act and the Agreement when he notified the Secretary on May 24 that the State would no longer participate in certain federal pandemic unemployment insurance programs effective June 26. The Governor therefore lawfully exercised his authority to terminate the Agreement consistent with federal law.

At bottom, Appellants' real fight is with how the Governor exercised his lawful discretion under State law and the public-policy judgment his decision reflects. But absent a specific duty to act otherwise under Ohio law, neither Appellants nor this Court have the authority to second guess the Governor's decision and his judgment that ending federal pandemic aid will spur stable employment by ceasing to incentivize unemployment. While Appellants might disagree with the Governor's policy judgment, it is for the politically accountable branches to make those calls. This Court should not substitute its judgment for the Governor's on this quintessential policy question.

II. Governor DeWine's Decision to End the State's Participation in Federal Pandemic Unemployment Insurance Programs Serves the Public Interest.

But even if the Court were authorized to second-guess the Governor's public-policy judgment, there is no basis to do so here. Overwhelming evidence confirms that CARES Act benefits have generated labor shortages by subsidizing unemployment, which in turn has hurt small and large businesses throughout Ohio and hindered the State's economic recovery. The Governor appropriately determined—based on data from Ohio and other states—that scaling back those benefits would best stimulate the economic recovery in Ohio and thereby advance the public interest.

A. Labor Shortages Are Hurting Businesses and Hindering the State's Economic Recovery.

As the United States emerges from a pandemic-induced recession, labor shortages are now the most serious problem frustrating the country's economic recovery. At the end of May, there were 9.2 million job openings nationwide. *See* U.S. Bureau of Lab. Stats., *Job Openings and Labor Turnover – May 2021* (July 7, 2021), https://www.bls.gov/news.release/pdf/jolts .pdf. In Ohio, there are now at least 194,344 open jobs. *See* Ohio Means Jobs, *Find Your New Opportunity*, https://ohiomeansjobs.ohio.gov (last visited Aug. 3, 2021). This means that there are nearly as many jobs as there are unemployed Ohioans—278,300 as of May. U.S. Bureau of Lab. Stats., *Economy at a Glance: Ohio* (July 16, 2021), https://www.bls.gov/eag/eag.oh.htm.

Despite the high number of open positions, however, jobs are not being filled. One survey estimates that 42% of business owners had job openings that they could not fill, a record high. Nat'l Fed'n of Indep. Bus., *Small Business Job Openings Hit Record High Level in March* (Apr. 1, 2021), https://tinyurl.com/y9ap4c9c. Another survey found that 61% of small employers were experiencing a staffing shortage. *See* Nat'l Fed'n of Indep. Bus., *Covid-19 Small Business Survey (18): Federal Small Business Programs, the Vaccine, Labor Shortage, and Supply Chain Disruptions* 4, 10 (June 2021), https://assets.nfib.com/nfibcom/Covid-19-18-Questionnaire.pdf (question 20). And the Chamber found that "the number of workers quitting their jobs reached an all-time high of 2.7%, while layoffs and discharges reached an all-time low of 1%, another indication of the tightness of the labor market." U.S. Chamber of Com., *Number of Open Jobs Jumps by 1 Million—America's Worker Shortage*

Crisis is Worsening, Urgent Need for National Workforce Solutions (June 8, 2021, 4:15 PM), https://tinyurl.com/r44ztved.

Such a tight labor market has consequences. As the Governor observed, "[t]he shortage of workers is having a real impact on our supply chain and the cost and availability of goods we rely on to keep our state moving." DeWine Letter, *supra*. Indeed, more than 90% of state and local chambers of commerce report that worker shortages are hindering local economic recoveries. *See* U.S. Chamber of Com., *The America Works Report: Quantifying the Nation's Workforce Crisis* (June. 1, 2021, 8:30 AM), https://tinyurl.com/5cp2w79c. As explained by the Chamber's Executive Vice President and Chief Policy Officer, Neil Bradley, "[w]e are seeing an increasing number of businesses turning down work and only partially reopening because they can't find enough workers." Chamber, *Number of Open Jobs*, *supra*. The inability of businesses to meet demand is a massive drag on economic growth and threatens the State's ability to recover from the pandemic.

B. Federal Pandemic Unemployment Insurance Benefits Are Contributing to Labor Shortages.

The biggest reason for this phenomenon is no mystery. Federal unemployment benefits are suppressing the labor supply by allowing many Americans to make more money by not working. As Governor DeWine explained, benefits available under the CARES Act are "now discouraging some from returning to work." DeWine Letter, *supra*.

The data supports the Governor's conclusion. By most accounts, only a small percentage of unemployed Americans is actively looking for work. According to a recent poll, nearly half (49%) of Americans who became unemployed during the pandemic are not actively looking for work. *See* U.S. Chamber of Com., *Poll: The COVID-19 Unemployed* (June 3, 2021, 3:15 PM), https://tinyurl.com/w7h443ew. A separate survey found that approximately 30% of unemployed job applicants was passively looking for work while another 30% was not looking at all. Nick Bunker, *Indeed Job Seeker Survey June 2021: COVID Concerns and Financial Cushions Make Job Search Less Urgent*, Indeed Hiring Lab (June 29, 2021), https://tinyurl.com/xjymasck.

The availability of unemployment insurance benefits is a significant factor behind these statistics. *See id.* Sixteen percent of those who are not actively seeking employment admit that the amount of money they are receiving through government programs makes it "not worth looking" for work. *See* Chamber, *Poll*, *supra*. And 28% believe "[t]here are a lot of people who are not looking for work because they can do almost or just as well collecting unemployment benefits." *Id.* Another recent survey found that 1.8 million unemployed Americans have refused to return to work because of generous unemployment insurance benefits. *See* Sam Ro, *Poll: 1.8 million Americans have turned down jobs due to unemployment* *benefits*, Axios (July 14, 2021), https://tinyurl.com/8bdj6ute. The data thus confirm that many Americans believe they can make more money by not working—because of the availability of federal pandemic unemployment insurance benefits.

This belief is well-founded. Key voices have been warning that pandemic-related unemployment insurance benefits would often exceed earnings in many places. For example, when Congress was considering whether to extend the $600-per-week benefit amount in June 2020, the Congressional Budget Office ("CBO") estimated that "[r]oughly five of every six recipients would receive benefits that exceeded the weekly amounts they could expect to earn from work during those six months." Letter from Cong. Budget Off. to Senator Charles Grassley, Chairman of the Senate Comm. on Fin. (June 4, 2020), https://tinyurl.com/ezznz96w. The CBO predicted that, "[i]n calendar year 2021, both output and employment would be lower than they would be if the increase in unemployment benefits was not extended." *Id.* A researcher affiliated with the Bipartisan Policy Center likewise recognized that many people "may be disincentivized from returning if the additional $600 in weekly benefits remains in place." G. William Hoagland et al., *It Doesn't Have to Be All or Nothing: How Unemployment Insurance Could Support Work and Continue to Provide Financial Relief*, Bipartisan Pol'y Ctr. (July 8, 2020), https://tinyurl.com/wparnsyj. Others described the benefits program as a "trap" and a "hindrance to getting people back to work with businesses now competing with unemployment benefits." Joe Horvath & Jonathan Ingram, *Refusing to Work: Handling Employee Work Rejections in Light of Expanded Unemployment Benefits*, FGA (June 24, 2020), https://tinyurl.com/d5w8p8vt.

The data in the chart below validate these predictions:

State	Average Weekly Private Service Earnings	Average UI Benefit Service Positions W/ $300 Federal	UI Benefits as % of Average Service Wage	Average Weekly Earnings Leisure and Hospitality	Average UI Benefit Leisure and Hospitality Positions W/ $300 Federal	UI Benefits as % of Average Leisure and Hospitality Wage
Alabama	$885	$696	79%	$360	$461	128%
Alaska	$1,003	$620	62%	$509	$462	91%
Arizona	$944	$647	69%	$480	$477	99%
Arkansas	$804	$617	77%	$378	$449	119%
California	$1,203	$787	65%	$576	$533	93%
Colorado	$988	$760	77%	$512	$539	105%
Connecticut	$1,101	$737	67%	$478	$490	102%
Delaware	$927	$663	72%	$417	$464	111%
Florida	$914	$670	73%	$481	$495	103%
Georgia	$905	$702	78%	$392	$474	121%
Hawaii	$1,002	$921	92%	$598	$671	112%
Idaho	$862	$728	85%	$352	$475	135%
Illinois	$1,019	$692	68%	$453	$474	105%
Indiana	$888	$613	69%	$375	$432	115%
Iowa	$864	$751	87%	$350	$483	138%
Kansas	$872	$720	82%	$346	$466	135%
Kentucky	$808	$654	81%	$372	$463	124%
Louisiana	$864	$586	68%	$369	$422	114%
Maine	$909	$729	80%	$477	$525	110%
Maryland	$1,127	$845	75%	$470	$528	112%
Massachusetts	$1,201	$826	69%	$539	$536	99%
Michigan	$904	$706	78%	$385	$473	123%
Minnesota	$1,071	$830	78%	$381	$489	128%
Mississippi	$714	$567	79%	$369	$438	119%
Missouri	$876	$651	74%	$412	$465	113%
Montana	$811	$701	86%	$367	$481	131%
Nebraska	$885	$712	80%	$361	$468	130%
Nevada	$836	$752	90%	$553	$599	108%
New Hampshire	$1,000	$721	72%	$467	$497	106%
New Jersey	$1,102	$877	80%	$494	$558	113%
New Mexico	$796	$720	90%	$388	$505	130%
New York	$1,137	$775	68%	$560	$534	95%
North Carolina	$928	$651	70%	$396	$450	114%
North Dakota	$869	$766	88%	$358	$492	137%
Ohio	$859	$699	81%	$360	$467	130%
Oklahoma	$812	$725	89%	$374	$495	133%
Oregon	$932	$751	81%	$454	$520	115%
Pennsylvania	$907	$757	83%	$372	$487	131%
Rhode Island	$948	$700	74%	$453	$491	108%
South Carolina	$860	$679	79%	$381	$468	123%
South Dakota	$818	$706	86%	$347	$472	136%
Tennessee	$885	$635	72%	$426	$462	108%
Texas	$957	$787	82%	$434	$521	120%
Utah	$947	$743	78%	$394	$485	123%
Vermont	$913	$835	91%	$469	$575	123%
Virginia	$1,028	$718	70%	$410	$467	114%
Washington	$1,133	$864	76%	$537	$567	106%
West Virginia	$835	$627	75%	$345	$435	126%
Wisconsin	$850	$654	77%	$350	$446	127%
Wyoming	$803	$701	87%	$408	$504	123%
District of Columbia	$1,844	$1,098	60%	$651	$582	89%
Average	$948	$727	77%	$430	$494	117%
Max	$1,844	$1,098	92%	$651	$671	138%
Min	$714	$567	60%	$345	$422	89%

Source: Ronald Bird, Senior Economist, U.S. Chamber of Com. (April 2021) (data from Dep't of Lab. Off. of Unemployment Ins., *UI Replacement Rates Report*, https://oui.doleta.gov/unemploy/ui_replacement_rates.asp, and U.S. Bureau of Lab. Stats., *Quarterly Census of Employment and Wages*, https://data.bls.gov/PDQWeb/en) ("Illustration 1"). The data in Illustration 1 demonstrate that unemployment benefits cover a substantial portion of—and, at times, more than—workers' wages. Combined state and federal unemployment benefits are 77% of the average weekly earnings for service positions. And for leisure and hospitality jobs, that number rises to 117%.

Ohio's situation is similar to the national experience. The State offered an average of $699 in combined (state and federal) weekly unemployment benefits, which is 81% of the average weekly private sector pay ($859). *See* Illustration 1. In the leisure and hospitality industries, unemployment benefits exceeded average weekly earnings by 30%. *Id.*

These perverse incentives and labor shortages persist despite rapidly growing wages and employer-driven incentive programs. From March to April 2021, wages across the economy grew 0.7%—a surprising increase for just one month. *See* Sam Ro, *Employers are paying up to address labor shortages*, Axios (July 6, 2021), https://tinyurl.com/5et2bhm6. In some sectors, wages for entry-level jobs have risen by as much as 25% since the beginning of 2020. *See* Eric Morath, *New Jobless Claims Hold Near Pandemic Low, as Number on Benefits Falls*, Wall St. J. (July 8, 2021, 11:17 AM), https://tinyurl.com/5z77cvvj; *see also* Eric Morath, *Lower-Wage Workers See Biggest Gains From Easing of Covid-19 Pandemic*, Wall St. J. (July 4, 2021, 5:30 AM), https://tinyurl.com/2zv5ky57 (documenting wage increases across various sectors). The upshot is clear: as the State subsidizes joblessness, employees can delay job-seeking, and employers will struggle to fill open positions—all of which is contributing to the number of unfilled jobs in the State.

C. Ending the State's Reliance on Federal Pandemic Unemployment Benefits Will Address the Labor Shortage and Stimulate Economic Recovery.

If federal pandemic unemployment benefits are suppressing the labor supply, then Governor DeWine's decision to end those benefits will reverse this trend by incentivizing people to return to work, which will in turn spur the State's post-pandemic economic recovery. Indeed, Governor DeWine's decision is supported by the low unemployment rates in other states that ended federal unemployment benefits. For example, the unemployment rate in Missouri, among the first to end federally-funded unemployment payments, was 4.2% in May—well below the 5.8% national average. *See* Eric Morath & Joe Barrett, *Americans Are Leaving Unemployment Rolls More Quickly in States Cutting Off Benefits*, Wall St. J. (June 27, 2021, 5:30 AM), https://tinyurl.com/9bwb8xb5. Another state, Montana, has an even lower unemployment rate—just 3.7% as of April. Governor's Off., *Montana's Unemployment Rate*

Continues Decline in April, State of Mont. Newsroom (May 21, 2021), https://tinyurl.com/3tc6mems.

CONCLUSION

This Court should affirm the Franklin County Court of Common Pleas' denial of Appellants' request for a temporary restraining order and preliminary injunction.

Dated: August 4, 2021

Respectfully submitted,

/s/Michael R. Gladman
Michael R. Gladman (0059797)
Elizabeth A. Benshoff (0098080)
JONES DAY
325 John H. McConnell Blvd.
Suite 600
Columbus, OH 43215
mrgladman@jonesday.com
ebenshoff@jonesday.com
Telephone: (614) 469-3939
Fax: (614) 461-4198

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 4, 2021, a copy of the foregoing was electronically filed using the Court's electronic filing system, which will send notification of such filing to all parties.

/s/Michael R. Gladman
Michael R. Gladman

Counsel for Amici Curiae