IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

REBECCA WOODRING, *Plaintiff-Appellee*; v. JACKSON COUNTY, INDIANA, *Defendant-Appellant*.	No. 20-1881

APPELLANT'S MOTION FOR STAY OF DISTRICT COURT'S JUDGMENT PENDING APPEAL, AND REQUEST FOR EXPEDITED CONSIDERATION

INTRODUCTION

Pursuant to Rule 8(a)(2) of the Federal Rules of Appellate Procedure, Defendant-Appellant Jackson County respectfully moves this Court for a stay pending appeal of the district court's final judgment that enjoins an integrated community holiday display (the "Display") on the Jackson County Courthouse grounds because it includes a nativity scene among secular elements. Pursuant to Rule 62 of the Federal Rules of Civil Procedure and Rule 8 of the Federal Rules of Appellate Procedure, the County requested a stay pending appeal from the district court on October 9. (Def.'s Mot. Stay Pend. Appeal, D.71.) The court denied the request on November 3. (Op. & Order Den. Def.'s Mot. Stay Pend. Appeal ["Stay Op."], D.80; attached hereto as **Exhibit 1**.)

A stay pending appeal—which would merely maintain the status quo—is warranted for three reasons. *First*, the district court lacked subject-matter

jurisdiction over this case, and thus the court's injunction is *ultra vires*. Appellee Rebecca Woodring failed to establish Article III standing to challenge the Display because she suffered no legally cognizable injury. Woodring manufactured her standing to bring this action—her one and *only* exposure to the Display was decidedly *not* in the course of exercising "citizen functions" as she subsequently speculated might happen in the future. Instead, Woodring never noticed the Display in the two years she had lived in the County, until she purposefully went to observe it in 2018 after she read about the controversy in the news, and only because she wanted to challenge it. This Court has never recognized or countenanced such an attempt to manufacture standing, let alone by an offended observer who admittedly has never altered her conduct in the slightest to avoid the challenged display.

Second, the challenged Display is not only presumptively constitutional; it is fully consistent with the Establishment Clause. Both the Supreme Court and this Court hold that nativity scenes that are part of broader, integrated holiday displays do not violate the Establishment Clause. Moreover, the integrated Display's purposes here are to celebrate all aspects of the holiday season and depict the historical origin of Christmas, both of which are legitimate secular purposes.

Third, the balance of equities and the public interest, which merge here because the County is a government defendant, favor a stay. Given that the local community has erected the Display for nearly 20 years, the uncertainty

surrounding the injunction's permissible limits has forced the County into dueling dilemmas between abiding by the court's order and honoring the local community's time-honored tradition of erecting the Display. By contrast, Woodring will suffer no cognizable harm from a stay: several undisputed facts undermine any plausible claim of a constitutional injury.

TIMELINESS AND EXPEDITED CONSIDERATION REQUEST

This request for a stay is timely because, with the oral argument now scheduled for November 12, 2020, it is apparent that this Court is unlikely to decide this appeal before the Thanksgiving holiday, which is when the County's residents begin the process of decorating the town for Christmas. Jackson County had earlier hoped that this motion would not be necessary and that this appeal would be decided before the holidays in the regular course. When that timing appeared no longer realistic, Jackson County moved the district court for a stay, and then filed this motion promptly (on the fourth business day) after the denial of that request. Given that Thanksgiving is fast approaching, the County respectfully requests expedited briefing and consideration of this motion.

FACTUAL BACKGROUND

For nearly 20 years, local residents in Brownstown, Indiana, have erected the Display on the Jackson County Courthouse grounds to celebrate the holiday season. (Appellant's Br. ["Cty. Br."] at 5, Dkt. 22; SA33–34.) The Display is owned by the Brownstown Ministerial Association, but the local Lions Club—a secular nonprofit civic organization—stores, maintains, and assembles it. (Cty. Br. at 6;

SA43.) The County has no involvement with the Display other than allowing the Lions Club to plug-in the lights. (Cty. Br. at 6; SA22–23.)

Originally spanning the Courthouse's western lawn with three focal points (Cty. Br. 3–7; SA33–34), the Display is a uniform set of wire-framed holiday figures and decorations that light up at night. (Cty. Br. at 5; SA20, SA26.) Figures include Santa, reindeer, candy-striped poles, carolers, and the nativity scene at issue here. (*Id.*) The nativity scene comprises the traditional historical Christmas figures, including baby Jesus, Mary and Joseph, magi, angels, kings, and animals. (*Id.*)

The Display went unchallenged for nearly two decades (Cty. Br. 8; SA48) until December 2018, when the out-of-state activist group Freedom from Religion Foundation (FFRF) sent the County a letter complaining that the Display is unconstitutional and demanding its removal. (*Id.*) Plaintiff-Appellee Rebecca Woodring, an atheist, read about FFRF's letter in the news. (Cty. Br. at 10; SA82.) *Even though she had lived in the County for at least two years, Woodring had never seen or even known about the Display prior to reading about this controversy in the news*. (Cty. Br. at 10; SA82.) Incensed that a government entity would place Christmas symbols on public property, Woodring intentionally drove to Brownstown to confront the nativity scene and then bring a legal action as an offended observer. (Cty. Br. at 10; SA82–84.)

The week after receiving FFRF's letter, and *before Woodring sued*, the County rearranged the Display by crowding the secular and the religious

figurines together in front of the courthouse's main entrance. (Cty. Br. at 9; SA29.) That way, any photograph, even if selectively cropped, would show all the items. (*Id.*) The County directed the Lions Club to use this new arrangement moving forward, beginning in 2019. (Cty. Br. at 9.) Woodring did not seek an injunction to prohibit the Display during the 2019 holiday season. (Pl.'s Opp'n to Def.'s Mot. Stay Pend. Appeal 10–11, D.76.)

The Brownstown Christmas Display (2019). A stay would preserve the status quo by permitting the Lions Club to erect the Display as it did last year.

(Bevers Decl. Supp. Mot. Stay Pending Appeal ["Bevers Stay Decl."] ¶ 28, D.71-1; attached hereto as **Exhibit 2**.)[1]

[1] The declaration by Susan Bevers (D.71-1) was submitted in support of the County's stay request to the district court (D.72). For purposes of judicial efficiency, the County submits the docketed Bevers declaration in support of its stay request to this Court.

A side angle of the Display, which clearly shows that it is a combined tableau equally integrating both secular and religious holiday symbols.

(Bevers Stay Decl. ¶ 29, D.71-1; Ex. 2)

On December 28, 2018, Woodring brought this action in the Southern District of Indiana, alleging that the Display violated the Establishment Clause and seeking its permanent removal. (Compl., D.1; SA1.) In April 2020, the district court ruled on the parties' cross-motions for summary judgment and held that the Display violates the Establishment Clause. (Op. & Order Grant Pl.'s Mot. Summ. J. ["Summ. J. Op."], D.63; App. 22–23.) Despite Woodring's request for the Display's complete removal, the district court enjoined the County from erecting the Display on the courthouse grounds "as presently presented." (*Id*. at 25.) The court entered final judgment for Woodring. (Final J., D.64; App. 25–26.) The County appealed to this Court, briefing is complete, and oral argument is scheduled for Thursday, November 12, 2020.

REASONS FOR GRANTING THE STAY

The County meets all the relevant factors for a stay: First, it has a significant probability of success on the merits; second, it will face irreparable harm without a stay; third, the stay would not injure Woodring; and fourth, a stay would be in the public interest. *See Cavel Int'l, Inc. v. Madigan*, 500 F.3d 544, 546–547 (7th Cir. 2007). Moreover, a stay would merely preserve the status quo—that is, permit the Lions Club to erect the Display as directed by the County last year for just one more holiday season, until this appeal is decided on the merits by this Court. *Cf.* 11A Wright & Miller, *Federal Prac. & Proc.* § 2948 (3d ed. 2020) ("The status quo is the 'last peaceable uncontested status' between the parties.") (citation omitted).

A. The County is likely to prevail on appeal because the district court lacked subject-matter jurisdication over this case.

The district court's determination that Woodring had Article III standing is unprecedented and wrong. Woodring has failed to demonstrate any "distinct and palpable injury" to any legally cognizable right. *Freedom From Religion Found., Inc. v. Zielke*, 845 F.2d 1463, 1467 (7th Cir. 1988). Instead, the only "injury" that Woodring asserts is an ideological objection to what she perceives is a governmental endorsement of religion. But "a plaintiff cannot establish standing based solely on being offended by the government's alleged violation of the Establishment Clause." *Freedom From Religion Found., Inc. v. Lew*, 773 F.3d 815, 819 (7th Cir. 2014). Woodring's mere "offense" at the nativity scene and her "desire to have public officials comply with ([her interpretation of]) the

Constitution" is constitutionally insufficient to merit standing. *See Freedom From Religion Found., Inc. v. Obama*, 641 F.3d 803, 807 (7th Cir. 2011).

1. An offended observer does not have standing to challenge a religious display.

In resolving the jurisdictional issue in this case, the district court needed only to follow this Court's simple instruction: "[V]iewers of an unwelcome religious display lack standing." *Obama*, 641 F.3d at 807 (citing *Am. Civil Liberties Union of Ill. v. City of St. Charles*, 794 F.2d 265, 268 (7th Cir. 1986). The only exception is if the plaintiff assumed a "special burden" or "altered [her] behavior to avoid" the offending religious display. *Books v. City of Elkhart, Ind.*, 235 F.3d 292, 299 (7th Cir. 2000). Here, however, *Woodring indisputably acknowledges that she neither assumed any burden nor altered her behavior to avoid seeing the Display's nativity scene*. (Woodring 112:25–114:1, D.38-2; SA89.) The only injury she alleges is the "psychological consequence" of what she perceives is a violation of her beliefs about the separation of church and state. *Obama*, 641 F.3d at 807–08 (quoting *Valley Forge Christian Coll. v. Am. United for Separation of Church & State, Inc.*, 454 U.S. 464, 485 (1982)). That kind of injury is insufficient to confer Article III standing.

In finding that Woodring had suffered an Article III injury, the district court premised its subject-matter jurisdiction on this Court's decision on *Doe v. County of Montgomery, Illinois*, 41 F.3d 1156 (7th Cir. 1994) (Stay Op. 5–6, Ex. 1.) That is reversible error. The facts in that case are distinguishable, and its holding is thus inapposite. Unlike the local plaintiffs in *County of Montgomery*,

who alleged that they were forced to confront the sign and its religious message whenever they had to go inside the courthouse to register to vote, attend board meetings, or fulfill jury duty, *see* 41 F.3d at 1159, Woodring never alleged that she had "direct and unwelcome contact" with the temporary nativity scene while exercising any rights as a citizen or performing legal obligations inside the Jackson County Courthouse. (Cty. Br. at 26–27; Woodring 90, D.32-2; SA53, SA77.) Indeed, Woodring's one and only alleged contact with the Display was when she intentionally drove to Brownstown to see it, after reading about the FFRF letter. (Cty. Br. at 10; SA82–84.) Woodring plainly acknowledged under oath that she had no business in the Courthouse and that she does not expect to have any business in the Courthouse in the future. (Cty. Br. Woodring 90, D.32-2; SA53, SA77.)

The district court nevertheless maintains that *County of Montgomery* applies because Woodring "is forced to view the yard … when she passes by the Courthouse to fulfill her legal obligations at the nearby [County annex] building" across the street. (Stay Op. 6, D.80; Ex. 1.) The fatal flaw in that assumption is that Woodring never once alleged nor testified that she actually encountered the nativity scene when she visited the County annex building, or when she exercised any other "citizen functions" that she now speculates she may need to exercise in the future. (Cty. Br. at 26–27; Woodring 90, D.32-2; SA53, SA77.) In any event, the district court's novel "drive-by standing" rule has no basis in the Supreme Court's and this Court's precedents. Indeed, this Court has explicitly foreclosed

such a standard. *See Freedom From Religion Found., Inc. v. Obama*, *supra*, 641 F.3d at 808.

2. Woodring manufactured standing by purposefully encountering the Display so that she may bring this action.

Compounding the district court's erroneous standing determination is that Woodring manufactured her injury to bootstrap her way into federal court. Woodring acknowledges that she never knew about the Display until she read about it the FFRF's letter. (Woodring at 96:16–21; SA82.) Aggrieved at what she perceived was the County's endorsement of Christianity, Woodring intentionally drove to downtown Brownstown to witness the Display for the very first time, so that she could sue. *That is the one and only actual exposure to the Display that the record before this Court reveals*. This Court is clear, however, that a plaintiff may not "manufacture standing" by self-inflicted harms. *Pollack v. U.S. Dep't Of Justice*, 577 F.3d 736, 743 n. 2 (7th Cir. 2009).

And to the extent that the district court contemplated Woodring's potential contact with the nativity scene when visiting the County annex building, those future injuries are merely hypothetical and thus insufficient for Article III standing. *See Remijas v. Neiman Marcus Grp., LLC*, 794 F.3d 688, 692 (7th Cir. 2015). Woodring failed to allege or submit evidence of any certainly impending or imminent contact with Display. As a result, the district court's reliance on speculation and conjecture to confer Woodring with federal-court jurisdiction was serious error.

In any event, a plaintiff must have standing at the onset of litigation. *See Lujan v. Def. of Wildlife*, 504 U.S. 555, 566 (1992). Woodring failed to demonstrate that she suffered or would suffer any "perceptible harm" *at the onset of litigation*, when she had only seen the Display once and on purpose. *Id*. A plaintiff that has suffered no actual injury prior to filing suit simply cannot manufacture standing afterward. *See Perry v. Vill. of Arlington Heights*, 186 F.3d 826, 830 (7th Cir. 1999) (holding that "standing … must exist at the commencement of the suit.").

Because Woodring failed to meet even the threshold requirement of establishing standing, the district court lacked jurisdiction over this action, and thus its injunction was *ultra vires*. Jackson County is likely to prevail in this appeal. An interim stay to preserve the status quo and avoid irreparable harm is therefore warranted.

B. Even if the district court had jurisdiction, the County has a significant probability of success on the merits because the Display complies with the Establishment Clause.

Even if the district court had jurisdiction over Woodring's Establishment Clause claim, its decision is manifestly wrong. In its order denying the County's motion for stay, the district court ignored controlling case law concerning Establishment Clause challenges to nativity scenes, it erroneously relied on the *Lemon* test, and it assumed facts not in the record. (Stay Op., D.80; Ex. 1.) In light of these errors, the County is likely to succeed on the merits of its appeal.

Both the Supreme Court and this Court hold that the Establishment Clause permits the inclusion of a nativity scene into a broader holiday display on

public property. In *Lynch v. Donnelly*, the Supreme Court upheld a city-owned crèche that was part of a display comprising "many of the figures and decorations traditionally associated with Christmas." 465 U.S. 668, 671 (1984). In reviewing the nativity scene's constitutionality, the Court refused to focus exclusively on the crèche's religious symbolism; instead, it examined the tableau in the "context of the Christmas Holiday season." *Id.* at 680. In so doing, the Court concluded that displaying the crèche is "no more an advancement or endorsement of religion than the Congressional and Executive recognition of the origins of the Holiday itself as 'Christ's Mass,' or the exhibition of literally hundreds of religious paintings in governmentally supported museums." *Id.* at 683.

In *American Jewish Congress v. City of Chicago*, this Court struck down a standalone crèche located inside a city hall. 827 F.2d 120 (7th Cir. 1987). This Court acknowledged that religiously expressive displays on government property are permissible, but it nonetheless concluded that the nativity scene was "self-contained, rather than one element of a larger display," and thus it communicated a message of government endorsement of religion. *Id.* at 125.

In both cases, the decisive consideration was the *context* of the nativity scene. In *Lynch*, the "focus" was the crèche "in the context of the Christmas season." 465 U.S. at 679. In *American Jewish Congress*, the "critical inquiry" concerned the crèche's "unique physical context." 827 F.2d at 127–28. This Court harmonized these principles in *Mather v. Village of Mundelein*, where it upheld a nativity scene that was displayed along with other Christmas decorations on a

village green during the holiday season. 864 F.2d 1291, 129 (1989). This Court affirmed that when evaluating a nativity scene's constitutionality, "the context—the context of the ensemble, and more important the context of the secular holiday the government observes—is the controlling consideration." *Id*. at 1293.

When considering its overall message conveyed and in its broader physical context, the Display is fully consistent with the Establishment Clause. In the eyes of a reasonable observer, the effect of the crèche within the Display is merely a governmental acknowledgment of the historical origins of Christmas as part of a broader celebration of the holiday season. Although a nativity scene is symbolically religious, here it is but one part of an integrated tableau of "seasonal symbols, showing support for the holiday season rather than for the religious aspect alone." *Vill. of Mundelein*, 864 F.2d at 1292. Because a reasonable observer could no more miss seeing the secular figurines than the nativity scene, the Display here is nothing like the standalone crèche in *American Jewish Congress*.

Critically, nearly two decades have passed without a single complaint or challenge to the Display's presence on the courthouse grounds. Nothing in the record supports the conclusion that the Display is the County's "purposeful or surreptitious effort to express some kind of subtle governmental advocacy of a particular religious message." *Lynch*, 465 U.S. at 680. Nor is there evidence of any "discriminatory intent" by the County in how the Display is arranged or presented to the public. *See Am. Legion v. Am. Humanist Ass'n*, 139 S. Ct. 2067, 2074 (2019). By all accounts, the County's only purposes for the Display are "to

celebrate the Holiday and to depict the origins of that Holiday," both of which are "legitimate secular purposes." *Lynch*, 465 U.S. at 681. Because the Display neither has the purpose nor effect of endorsing religion, the County is likely to succeed on the merits.

C. The balance of harms and the public interest, which merge here, favor a stay pending appeal.

1. Maintaining the status quo would prevent irreparable harm to the County.

The district court's injunction ignores the most basic requirements of fairness reflected in the governing rules and presses the County into conflicting imperatives, all of which will cause irreparable harm without a stay. To start, the confusion surrounding the district court's injunction "overstep[s] the well-established maxim that 'injunctive relief should be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs.'" *City of Chicago v. Barr*, 961 F.3d 882, 936 (7th Cir. 2020) (quoting *Califano v. Yamasaki*, 442 U.S. 682, 702 (1979) (emphasis omitted); *see also California v. Azar*, 911 F.3d 558, 584 (9th Cir. 2018) (noting the an injunction's scope of relief "must be no broader and no narrower than necessary to redress the injury shown by the plaintiff").

Although Woodring's requested injunctive relief was for the Display's complete removal, the district court announced that "a sufficient balancing between secular and non-secular elements could bring the display into harmony with the First Amendment." (Summ. J. Op. 22–23; App. 22–23.) The district court accordingly enjoined the County "from displaying a Nativity scene as presented,

on the historical Courthouse lawn during the winter holidays and at any other time." (Final J. 25; App. 25.) By its very terms, the injunction does not even redress Woodring's requested relief—the complete and permanent removal of the Display from the courthouse grounds. But when the County raised this concern with the district court (Def.'s Mem. Supp. Mot. Stay J. Pend. Appeal at 6, D.72.), the court responded—without explanation—that it is "of no consequence." (Stay Op. 9, Ex. 1.)

The significant and immediate harm resulting from the injunction is outlined in detail in the attached declaration of Jackson County Attorney Susan D. Bevers (Bevers Stay Decl., D.71-1; Ex. 2.) Actual and imminent harms include:

- *Confusion of about the injunction's scope*. The district court's injunction prohibits the County from allowing the Display as presently presented, but the County is uncertain about how to further modify it, given that it has already rearranged the secular and religious items from their previously separate focal points into a combined line-up of figurines that are *very* close together, in the same field of view. (Bevers Stay Decl. ¶ 33, D.71-1; Ex 2.)
- *Risk of enforcement action by Plaintiff*. Woodring has made clear that no rearrangement of the Display would remedy her alleged injury and generalized objection to the Display's presence on the courthouse grounds. (Cty. Br. 34; SA90–92.) The only relief she sought and still desires is the Display's outright removal. (Pl.'s Opp'n to Def.'s Mot. Stay Pend. Appeal 5–6, D.76.) Woodring testified clearly under oath that no amount of additional secular items, and no re-arranging of the elements would satisfy her—she would have still filed suit and still asked the Court to throw everything out. (SA 90-92). As a consequence, even if the

County were to triple the number of "secular" pieces in the Display, Woodring likely will bring an enforcement action, a new First Amendment lawsuit, or move to hold the County in contempt for violating the permanent injunction, which would again trigger more expensive and time-consuming litigation.

- *Risk of future litigation by third-party activist groups*. Should the County permit the Lions Club to set up a rearranged display, the absence of a stay presents the County with an undue risk of expensive and protracted litigation. If the County were to just rearrange the Display and not remove it entirely, advocacy groups like the Freedom from Religion Foundation could challenge the Display for containing religiously expressive figurines and symbols depicting the Nativity. (Bevers Stay Decl. ¶ 34, D.71-1; Ex 2.)
- *Perceptions of the County's hostility toward religion*. The County's removal of the nativity scene from the Display because of its "religious symbolism and scrubbing away any reference to the divine will strike many as aggressively hostile to religion." *Am. Legion v. Am. Humanist Ass'n*, *supra*, 139 S. Ct. at 2084–85. Therefore, forcing the County to sow "the very kind of religiously based divisiveness that the Establishment Clause seeks to avoid" will cause it to suffer irreparable harm. *Van Orden v. Perry*, 545 U.S. 677, 704 (2005) (Breyer, J., concurring in judgment).
- *Undermining public trust*. The County is committed to promoting community values and the public good. An injunction would undermine residents' trust in the County to affirm and respect local customs and traditions, including permitting the Display on the courthouse grounds each holiday season. (Bevers Stay Decl. ¶ 41; D.71-1; Ex. 2.) Because "time's passage [has] imbued" the Display with "familiarity and historical significance, removing it may no longer appear neutral,

especially to the local community for which it has taken on particular meaning." *Am. Legion*, 139 S. Ct. at 2084.

The practical impact of these competing imperatives on the County is substantial. No option is adequate; all cause the County irreparable harm. On the other hand, a stay would maintain the status quo by allowing the Lions Club to set up the Display according to the County's July 2019 directive and enable the Brownstown community to celebrate Christmas this year as it has done for nearly 20 years, until this Court has had a chance to resolve this appeal and settle this dispute. (Bevers Stay Decl. ¶ 42, D.71-1; Ex. 3.)

2. The public interest favors a stay because enjoining a nearly 20-year-old public display irreparably harms the local community.

The interests of the public strongly favor a stay. The injunction upends the Brownstown community's longtime embrace of the Display (Bevers Stay Decl. ¶ 41, D.71-1; Ex. 2) in favor of a single complainant *who never even knew about the Display until she read about it in the news*. A stay pending appeal is thus in the public interest because it preserves the County's ongoing respect for local holiday traditions and longstanding celebrations. Moreover, contrary to Woodring's characterization of the Display, the local citizens who experience the holiday decorations on the courthouse grounds and surrounding business district have never viewed the Display as a religious shrine, mode of proselytization, or some other government endorsement of religion. (Bevers Stay Decl. ¶¶ 40–41, D.71-1; Ex. 2.)

D. A stay preserving the status quo would not harm Woodring.

Woodring would suffer no harm from a stay pending appeal. As discussed above, Woodring neither alleged nor demonstrated that she suffered a concrete injury to any legally cognizable right, much less irreparable harm. She repeatedly conceded—and the district court expressly acknowledged (Summ. J. Op. at 13; App. 13)—that she has no business inside the Courthouse, and that the Display did not force her to alter her conduct or change her behavior. Woodring thus has effectively acknowledged that an injunction would not protect her from suffering any injury beyond her generalized grievances at what she views is a violation of the separation of church and state. At a minimum, Woodring would suffer no plausible harm from staying the district court's enforcement of its final judgment pending this Court's resolution of this appeal.

Although the loss of First Amendment freedoms can constitute irreparable harm, several undisputed facts—namely, *that she did not seek injunctive relief last Christmas*, that she failed to even notice the Display in the previous two winters that she was a resident of Jackson County, and that she has alleged no direct harm from the nativity scene—undermine any plausible claim of a constitutional injury.

CONCLUSION

For the foregoing reasons, this Court should preserve the status quo and stay the district court's injunction order pending the resolution of this appeal.

Date: November 9, 2020

Respectfully submitted:

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a)(7)(C), the undersigned counsel for defendant-appellant Jackson County, Indiana, certifies that this brief:

1. Complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(A). Not counting the items excluded from the length by Fed. R. App. P. 32(f), this document contains 4,420 words.

2. Complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and Circuit Rule 32(b), and the type-style requirements of Fed. R. App. P. 32(a)(6). This document has been prepared using Microsoft Word in proportionally spaced 12-point Century Schoolbook font.

DATE: November 9, 2020.

/s/ Horatio G. Mihet
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed via the Court's ECF filing system and therefore service will be effectuated by the Court's electronic notification system upon all counsel or parties of record:

DATE: November 9, 2020.

/s/ Horatio G. Mihet
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