No. 21-1369

United States Court of Appeals for the Fourth Circuit

PLANNED PARENTHOOD SOUTH ATLANTIC; GREENVILLE WOMEN'S CLINIC; TERRY L. BUFFKIN,
PLAINTIFFS-APPELLEES,

v.

ALAN WILSON, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF SOUTH CAROLINA; WILLIAM WALTER WILKINS III, IN HIS OFFICIAL CAPACITY AS SOLICITOR FOR SOUTH CAROLINA'S 13TH JUDICIAL CIRCUIT,
DEFENDANTS-APPELLANTS,
AND
HENRY DARGAN MCMASTER, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE OF SOUTH CAROLINA; JAMES H. LUCAS, IN HIS OFFICIAL CAPACITY AS SPEAKER OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES,
INTERVENORS-APPELLANTS,
AND
ANNE G. COOK, ET AL., DEFENDANTS.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, NO. 21-CV-00508, HON. MARY GEIGER LEWIS, PRESIDING

PETITION FOR REHEARING EN BANC

THOMAS A. LIMEHOUSE, JR.
WM. GRAYSON LAMBERT
MICHAEL G. SHEDD
Office of the Governor
South Carolina State House
1100 Gervais Street
Columbia, South Carolina 29201
(803) 734-2100

CHRISTOPHER MILLS
Spero Law LLC
557 East Bay Street #22251
Charleston, South Carolina 29413
(843) 606-0640
cmills@spero.law

Counsel for Governor McMaster

[ADDITIONAL COUNSEL LISTED ON INSIDE COVER]

ALAN WILSON
ROBERT D. COOK
J. EMORY SMITH, JR.
Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-3677

Counsel for Attorney General Wilson and Solicitor Wilkins

KEVIN A. HALL
M. TODD CARROLL
Womble Bond Dickinson (US) LLP
1221 Main Street, Suite 1600
Columbia, South Carolina 29201
(803) 454-6504

Counsel for Speaker Lucas

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

CASES

STATUTES

OTHER AUTHORITIES

INTRODUCTION & RULE 35(B) STATEMENT

This case involves a derivative challenge to the State of South Carolina's abortion regulations, but the legal issues raised in this appeal are more technical: severability, third-party standing, and §1983. Because the panel's opinion is contrary to precedent and would disrupt foundational law, with far-reaching consequences, rehearing en banc is necessary.

South Carolina's Fetal Heartbeat and Protection from Abortion Act is a package of regulations that protect unborn life and maternal health. Apart from the single challenged provision, the Act requires an abortionist to give the mother the opportunity to view an ultrasound, hear her child's heartbeat, and receive information about her child's development. The Abortion Centers directly challenged only a provision limiting abortions after a heartbeat is detected. But they demanded a preliminary injunction against all the Act's regulations, and despite the Act's severability clause, the district court obliged, and the panel affirmed.

Start with severability. The Act declares that the General Assembly would have passed every "word" independently. Besides inexplicably applying an abuse-of-discretion standard to this legal question, the panel's one paragraph of analysis ignores the Act's textual command, in contravention of Supreme Court precedent. *Leavitt v. Jane L.*, 518 U.S. 137, 144 (1996). The panel's unexplained belief that it "make[s] little sense" to offer a mother the opportunity to review an ultrasound and

more information (Op. 13) is unrelated to the state-law severability question, is contradicted by similar provisions in other States, and has been rejected by the Supreme Court. Only by disregarding the State's actual arguments could the panel claim that its decision did "not present a close call." *Id.* This drive-by nullification of state law is inconsistent with our federalist system.

The panel's unwillingness to apply basic legal rules and engage with the State's arguments exemplifies the rest of its opinion too. On third-party standing, the panel concluded that the Abortion Centers have standing to try to deprive the women they supposedly represent of a statutory right against *them*. The Act gives the mother the right to sue the abortionist for at least $10,000 if he does not let her view an ultrasound or receive other information. The panel did not mention this conflict of interest, much less Supreme Court precedent holding that even a potential conflict bars standing. *Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 15 & n.7 (2004); *accord Stanley v. Darlington Cnty. Sch. Dist.*, 84 F.3d 707, 716 (4th Cir. 1996). Instead, the panel created arguments about the other requirements of a hindrance and close relationship, both departing from the rule of party presentation and overlooking the focus here: a conflict of interest never sanctioned in federal court.

Finally, the panel—in a footnote—conflated whether a party has standing with whether a cause of action is valid and concluded that the Abortion Centers could assert a derivative claim under §1983. But §1983 is limited by its text to "the party

injured" by a deprivation of its own rights. Dozens of precedents have thus rejected third-party §1983 claims and held that "[a] section 1983 claim must be based upon the violation of plaintiff's personal rights, and not the rights of someone else." *Howerton v. Fletcher*, 213 F.3d 171, 173 (4th Cir. 2000) (cleaned up). The panel ignored these precedents. No other court has reached this conclusion, which would abrogate hundreds of §1983 precedents holding that even closely related parties—often family members—cannot state a derivative §1983 claim. This one footnote would open the floodgates to new claims that have not been cognizable for more than a century and a half.

Thus, the panel's opinion conflicts with Supreme Court precedents, precedents of this Court, and precedents of other circuits, and it implicates jurisprudential questions of exceptional importance. The Court should grant rehearing en banc.

STATEMENT OF THE CASE

The Act promotes the interests of "the health of the pregnant woman and the life of the unborn child who may be born" in several ways. Opening Br. Addendum, Act §2. It requires that the abortionist perform an ultrasound and give the mother the opportunity to view it and hear her child's heartbeat, as well as receive more information about her child's development. *Id.* §3. The Act provides a cause of action against the abortionist for a woman not given this information, including at least

$10,000 in damages. *Id.* And the Act adds disclosure and reporting requirements to various statutes. *Id.* §§3–6.

The Act also includes a severability clause providing that if any part—even one "word"—is "held to be unconstitutional," the remaining parts are unaffected, "the General Assembly hereby declaring that it would have passed" every "word" "irrespective of the fact that" other parts might be invalidated. *Id.* §7.

The Abortion Centers challenged only the Act's separate regulation of abortion after a heartbeat is detected and asserted that claim only on behalf of purported patients. S.C. Code §44-41-680(A); App. 33. Yet the district court preliminarily enjoined the entire Act, and the panel affirmed.

On third-party standing, the panel said that "[t]he Supreme Court has 'long permitted abortion providers to invoke the rights of their actual or potential patients.'" Op. 9. Formulating new arguments never suggested by the Abortion Centers or analyzed by the district court, the panel sua sponte determined that women in South Carolina face a hindrance and have a close relationship with the Abortion Centers. Op. 10–11. Like the district court, the panel did not mention the central question about the Abortion Centers' unprecedented conflict of interest in seeking to deprive women of statutory rights against the Centers themselves.

On §1983, the panel concluded in a footnote that the Abortion Centers stated a §1983 cause of action because they have "third party standing." Op. 11–12 n.*.

Like the district court, the panel did not address the distinction between standing and a cause of action, nor did it grapple with the many precedents barring even family members from bringing derivative §1983 claims absent other statutory authority.

On severability, the panel reviewed "for abuse of discretion" even as it acknowledged that the issue was "governed by state law." Op. 12. In a conclusory paragraph untethered from the severability clause or state interpretive rules, the panel echoed the district court and said that letting the mother view an ultrasound and hear her child's heartbeat only "serve[s] to carry out the six-week abortion ban and make[s] little sense without the ban." Op. 13; App. 298–99.[1]

ARGUMENT

I. The panel's severability holding is contrary to Supreme Court precedent and impermissibly enjoins important and unchallenged provisions of state law.

The panel's severability conclusion contravenes Supreme Court precedent and South Carolina law. Severability is "a matter of state law." *Leavitt*, 518 U.S. at 139. Severability is *not*, as the panel perceived, a factual question subject to "abuse of discretion" review. Op. 12. "[S]everability presents a pure question of law." *Seila Law LLC v. CFPB*, 140 S. Ct. 2183, 2208 (2020).

[1] Contra the panel, the State has never "acknowledge[d]" (Op. 12) that any part is unconstitutional. "The Act is fully constitutional." Reply Br. 2 n.1. The district court stayed merits proceedings below pending *Dobbs*.

Under South Carolina law, "[w]hen the residue of an Act, *sans* that portion found to be unconstitutional, is capable of being executed in accordance with the Legislative intent, independent of the rejected portion, the Act as a whole should not be stricken." *Joytime Distribs. & Amusement Co. v. South Carolina*, 528 S.E.2d 647, 654 (S.C. 1999). The central question is whether "the constitutional portion of the statute" "is of such a character that it may fairly be presumed that the legislature would have passed it independent of that which conflicts with the constitution." *Id.*

Here, the Act's robust severability clause answers that question: Yes. The General Assembly "declar[ed] that it would have passed" every "word" of the Act independent of the challenged provision. Act §7. The South Carolina Supreme Court, interpreting a near-identical severability provision, has explained that such a clause "is strongly worded and evidences strong legislative intent that the several parts of [the act] be treated independently." *Joytime*, 528 S.E.2d at 654. Indeed, under South Carolina's rules of statutory interpretation, where the statute's language "conveys a clear and definite meaning," "the court has no right to impose another meaning." *Hodges v. Rainey*, 533 S.E.2d 578, 581 (S.C. 2000). The Abortion Centers could not cite a *single* decision in which South Carolina courts departed from a severability clause. And given a severability clause, it makes no difference whether the invalidated portion might be "an essential part of the" law; "the rest of the Act" must "stand." *Pinckney v. Peeler*, 862 S.E.2d 906, 915–16 (S.C. 2021).

The remaining question is whether the unchallenged provisions are *capable* of taking effect. But for the district court's overbroad injunction, they are. As the State has repeatedly asked: "Why can't the requirement to give a mother the chance to hear her unborn child's heartbeat operate independently of the challenged provision? How have similar requirements in many other States worked perfectly well? Why can't the cause of action for women who have been unlawfully deprived of relevant information operate independently?" Opening Br. 49–50; Reply Br. 22; *see* 20 States Amicus Br. 9–13. Had the legislature passed the unchallenged provisions in a standalone bill, there is no question that they would be implemented. Instead of doing that, it added a severability clause.

That should have been the end of the matter. The panel, however, did not follow South Carolina severability law or analyze *any* aspect of the Act—including the severability clause. In one paragraph of analysis echoing the district court's own conclusory holding, the panel said that the Act's requirements to give the mother the opportunity to view an ultrasound and hear her child's heartbeat are "plainly intended to facilitate the Act's 'fetal heartbeat' abortion ban." Op. 13.

But any question about intent is resolved by the text. The General Assembly thought that every word had purpose, for its severability clause "leaves no doubt about what [it] wanted if one provision of the law were later declared unconstitutional." *Barr v. Am. Ass'n of Pol. Consultants, Inc.*, 140 S. Ct. 2335, 2349 (2020)

(plurality opinion). Putting aside that the panel never explained how giving the mother an opportunity to view an ultrasound "facilitates" the challenged provision at all, it would not matter if certain unchallenged provisions "facilitate" the challenged one. The question under state law is whether the challenged provision is *necessary* to the operation of the unchallenged ones. It is not.

Even assuming a federal court could substitute its own speculation about legislative purpose for the statutory text, the panel is wrong to suggest that ultrasound and disclosure provisions "make little sense" on their own. Op. 13. "In attempting to ensure that a woman apprehend the full consequences of her decision, the State furthers the legitimate purpose of reducing the risk that a woman may elect an abortion, only to discover later, with devastating psychological consequences, that her decision was not fully informed." *Planned Parenthood of Se. Pa. v. Casey*, 505 U.S. 833, 882 (1992). The Act's findings reflect and its text advances this purpose, §2, and many States have similar provisions for this reason. "The information conveyed by an ultrasound image, its description, and the audible beating fetal heart gives a patient greater knowledge of the unborn life inside her." *EMW Women's Surgical Ctr., P.S.C. v. Beshear*, 920 F.3d 421, 430 (6th Cir. 2019); Opening Br. 47–48.

All the other unchallenged provisions, too, are capable of taking effect—and have independent purposes—as the State exhaustively showed but the panel ignored. Opening Br. 43–44, 47–50; Reply Br. 23–26.

The Supreme Court has rejected a severability conclusion like the one here. In *Leavitt*, the Court faced two abortion regulations in a statute with a severability clause like the Act's. 518 U.S. at 138–40. The Tenth Circuit refused to sever the invalidated regulation because doing so "would clearly undermine the legislative purpose to ban most abortions." *Id.* at 143 (cleaned up). The panel here thought the same. Op. 13.

The Supreme Court summarily reversed the Tenth Circuit's decision as a "plainly wrong," "blatant federal-court nullification of state law." 518 U.S. at 145. The Court said there was "no need to resort to conjecture" about legislative intent, because the law included "a provision that could not be clearer in its message that the legislature would have passed every aspect of the law." *Id.* at 141 (cleaned up). The Court likewise rejected the argument that the regulations were "interrelated," emphasizing that the "relevant" question was whether they were "so interdependent that the remainder of the statute cannot function effectively." *Id.*

Here, as in *Leavitt*, the unchallenged provisions of the Act can operate independently, and the General Assembly said they must. The panel ignored *Leavitt* and governing state law principles. Its "wholesale destruction" of state law cannot stand, *Barr*, 140 S. Ct. at 2351—especially since the Abortion Centers alleged no irreparable harm from the unchallenged provisions. Opening Br. 51–52.

II. The panel's third-party standing analysis contravenes Supreme Court and circuit precedent.

Beyond the Article III standing "minimum[s]," "a party seeking third-party standing [must] make two additional showings": (1) that it "has a close relationship with the person who possesses the right," and (2) that "there is a hindrance to the possessor's ability to protect h[er] own interests." *Kowalski v. Tesmer*, 543 U.S. 125, 129–30 (2004) (cleaned up). And if the plaintiff's and the first party's interests are even "potentially in conflict," there is no third-party standing. *Elk Grove*, 542 U.S. at 15 & n.7. The panel's decision contravenes these limitations.

First, the central focus of the State's argument has been that the Abortion Centers' suit involves a unique and inescapable conflict of interest because it seeks to deprive the women the Centers purport to represent of the right to sue *them* for at least $10,000. If a "potential" conflict eliminates third-party standing, this actual conflict must. Not only do the Abortion Centers seek to deny mothers the option to listen to the heartbeat *and* see the ultrasound *and* receive information, they seek to deny mothers the ability to vindicate statutory rights in court against the Abortion Centers. A starker conflict of interest can scarcely be imagined.

No other abortion case confronts this issue. Indeed, the Abortion Centers have repeatedly failed to meet the State's challenge to cite *any* case holding "that a third party has standing to attack legal rights of the first party against the third party." Opening Br. 23; Reply Br. 4–5. All circuits presented with similar conflicts—

including this one—have rejected third-party standing. *Stanley*, 84 F.3d at 716 (where the plaintiff "would have been required to promote the very claim it was resisting," "[s]uch a conflict is disqualifying"); *Pony v. County of Los Angeles*, 433 F.3d 1138, 1148 (9th Cir. 2006) (no standing to assert claims "directly adverse to [the first party's] interests"); *In re Majestic Star Casino*, 716 F.3d 736, 763 (3d Cir. 2013) (same); *Jonida Trucking, Inc. v. Hunt*, 124 F.3d 739, 742 (6th Cir. 1997) (similar); *Friedman v. Harold*, 638 F.2d 262, 266 & n.8 (1st Cir. 1981) (denying standing where "the third party's 'rights' are being used as a means of helping the litigant to the detriment of the person or persons whose rights are being asserted"); *Am. Libr. Ass'n v. Odom*, 818 F.2d 81, 87 (D.C. Cir. 1987) (similar); *cf. Cap. Cities Cable, Inc. v. Crisp*, 467 U.S. 691, 700 n.6 (1984) ("[R]espondent plainly lacks standing to raise a claim concerning his adversaries' constitutional rights in a case in which those adversaries have never advanced such a claim.").

The panel's holding disrupts settled law. Law Professors Amicus Br. 17–23. Beyond conflicting with all these precedents, holding that a litigant has third-party standing to deprive the first party of rights *against the litigant* would lead to far-reaching and absurd consequences. Opening Br. 29. Rehearing is necessary.

Even as it ignored the State's conflict-of-interest argument, the panel made up new arguments about the third-party standing requirements of a hindrance and close relationship. The panel first noted that courts have "permitted plaintiffs to assert

third-party rights" where "the challenged restriction" is "enforce[d]" "against the litigant." Op. 9 (cleaned up). Though the panel hinted that this approach is somehow separate from the third-party requirements, *Kowalski* makes clear that the requirements still apply to directly regulated parties, albeit sometimes in a "forgiving" way. 543 U.S. at 130. In *Sessions v. Morales-Santana*, for instance, the Supreme Court applied the hindrance and close relationship requirements to a directly regulated party. 137 S. Ct. 1678, 1688–1689 (2017).

But the Abortion Centers consistently refused to argue the hindrance and close-relationship requirements *at all*. They told the district court that it "need not consider" the "alternative basis" of a "close relationship" and a "hindrance." ECF 59, at 2 n.1. Accordingly, the district court did not address those issues. And the Abortion Centers' brief refused to argue a hindrance or close relationship. Response Br. 25–26.

This Court has held that a "fail[ure] to allege" and provide "evidence" of even one of these requirements dooms any third-party standing effort. *Freilich v. Upper Chesapeake Health, Inc.*, 313 F.3d 205, 214–15 (4th Cir. 2002). So to find standing here, the panel substituted its own argument, finding a close relationship and a hindrance for South Carolina women based on two unrelated, out-of-state cases (one 45 years old) and an extra-record press release. Op. 10–11. That evidence is both dubious and contradicted by overwhelming (again, ignored) evidence presented by the

State. Opening Br. 18–25; Reply Br. 4. More fundamentally, "our system is designed around the premise that parties…are responsible for advancing the facts and argument entitling them to relief." *United States v. Sineneng-Smith*, 140 S. Ct. 1575, 1579 (2020) (cleaned up). "No extraordinary circumstances justified the panel's takeover of the appeal." *Id.* at 1581. The panel's departure from party presentation is an independent error warranting rehearing.

III. The panel's §1983 conclusion conflicts with all other courts.

Even if the Abortions Centers had third-party constitutional standing, they cannot state a claim under 42 U.S.C. §1983. As this Court has explained and other circuits broadly agree, "[a] section 1983 claim must be based upon the violation of plaintiff's personal rights, and not the rights of someone else." *Howerton*, 213 F.3d at 173 (quoting *Archuleta v. McShan*, 897 F.2d 495, 497 (10th Cir. 1990)). That conclusion follows from §1983's text, which provides a cause of action only to "the party injured" by a "deprivation" of rights. Under "the language of §1983," "[t]he appropriate plaintiff is obvious." *Andrews v. Neer*, 253 F.3d 1052, 1056 (8th Cir. 2001). Only "*the* party injured" may bring an action. Opening Br. 31–32 (textual analysis).

Too many decisions to count have reached this conclusion and denied third-party claims under §1983. *E.g.*, *Ray v. Maher*, 662 F.3d 770, 773–74 (7th Cir. 2011) ("§1983 claims are personal to the injured party"); *Advantage Media, LLC v. City of*

Eden Prairie, 456 F.3d 793, 801 (8th Cir. 2006) (§1983 imposes liability "only for violations of a party's own constitutional rights"); *Outdoor Media Grp. v. City of Beaumont*, 506 F.3d 895, 907 (9th Cir. 2007) (same); *Jaco v. Bloechle*, 739 F.2d 239, 241–42 (6th Cir. 1984) ("The §1983 cause of action, by virtue of the explicit language of the section itself, is a personal action cognizable only by the party whose civil rights had been violated."); *McKelvie v. Cooper*, 190 F.3d 58, 64 (2d Cir. 1999) (similar); Opening Br. 30–37 & n.6 (collecting more).

Yet the panel disregarded these decisions, summarily concluding that any plaintiff that has third-party constitutional standing can state a derivative §1983 claim. That misunderstands the difference between standing requirements and the ability to state a particular claim. Third-party "standing to assert a claim is distinct from the merits of that claim." *Maryland Shall Issue, Inc. v. Hogan*, 971 F.3d 199, 214 n.5 (4th Cir. 2020). The Supreme Court has specifically held that "the existence of a…cause of action" is a "distinct concept[]" from whether the plaintiffs are "proper litigants" under the third-party standing rule. *Bond v. United States*, 564 U.S. 211, 218–20 (2011) (cleaned up).

That distinction is why most of the §1983 precedents cited involved closely related parties who undoubtedly satisfied the third-party standing requirements but still could not state a §1983 claim. For example, though "a father is closely related to the son and, thus, he feels the injury to a tremendous extent when his son suffers

death," a "§ 1983 civil rights action is a personal suit" that "does not accrue to a relative, even the father of the deceased." *Dohaish v. Tooley*, 670 F.2d 934, 936–37 (10th Cir. 1982). That is true even though a father-son relationship "easily satisfies the 'close relationship' requirement," as well as "the 'hindrance' requirement" when one dies. *Morales-Santana*, 137 S. Ct. at 1689. Same for organizational plaintiffs that might have constitutional and prudential standing but cannot state a §1983 claim. *E.g.*, *Conn. Citizens Def. League, Inc. v. Lamont*, 6 F.4th 439, 447 (2d Cir. 2021) ("Because [the organization] brought this case under 42 U.S.C. § 1983, it lacked standing to assert the rights of its members." (cleaned up));[2] *People Organized for Welfare & Emp. Rts. v. Thompson*, 727 F.2d 167, 170–71 (7th Cir. 1984) (similar).

Nothing in the statute supports the panel's approach. The "plain words" "impose liability" for conduct that subjects "*the complainant* to a deprivation of a right." *Rizzo v. Goode*, 423 U.S. 362, 370–71 (1976) (emphasis added). Section 1983 thus "incorporates, but without exceptions, the Court's 'prudential' principle that the plaintiff may not assert the rights of third parties." Currie, *Misunderstanding Standing*, 1981 Sup. Ct. Rev. 41, 45. An unrelated exception invented decades after §1983

[2] Though this decision uses "standing," courts sometimes invoke "statutory standing" when considering whether the plaintiff has "a cause of action under the statute." *Lexmark Int'l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 128 & n.4 (2014); *Bond*, 564 U.S. at 218–20. All agree that the §1983 argument goes to whether the Abortion Centers can state a claim. Response Br. 30–31.

could not be part of its "ordinary meaning at the time Congress enacted" it. *Wisconsin Cent. Ltd. v. United States*, 138 S. Ct. 2067, 2070 (2018); *id.* at 2074 ("every statute's meaning is fixed at the time of enactment") (both cleaned up). Like the Abortion Centers, the panel cited no precedent supporting its reading. And its interpretation would strip Congress of the ability to limit its own causes of action.

In sum, if §1983 does not allow a parent to sue on behalf of a deceased child or one spouse to sue on behalf of the other, it cannot allow the Abortion Centers to maintain a cause of action on behalf of future mothers and hypothetical customers—much less to invalidate claims those same mothers and customers would have against the Abortion Centers. Reply Br. 14–16. The panel's contrary view would abrogate hundreds of these cases involving third-party plaintiffs. And it would disrupt settled §1983 law in ways that reach far beyond the context of this case. Opening Br. 33 n.6 (collecting recent applications of this rule). Rehearing is urgently needed.

CONCLUSION

The Court should grant rehearing en banc.

Respectfully submitted,

s/ Christopher Mills

CHRISTOPHER MILLS
Spero Law LLC
557 East Bay Street #22251
Charleston, South Carolina 29413
(843) 606-0640
cmills@spero.law

THOMAS A. LIMEHOUSE, JR.
WM. GRAYSON LAMBERT
MICHAEL G. SHEDD
Office of the Governor
South Carolina State House
1100 Gervais Street
Columbia, South Carolina 29201
(803) 734-2100

Counsel for Governor McMaster

ALAN WILSON
ROBERT D. COOK
J. EMORY SMITH, JR.
Office of the Attorney General
P.O. Box 11549
Columbia, South Carolina 29211
(803) 734-3677

Counsel for Attorney General Wilson and Solicitor Wilkins

KEVIN A. HALL
M. TODD CARROLL
Womble Bond Dickinson (US) LLP
1221 Main Street, Suite 1600
Columbia, South Carolina 29201
(803) 454-6504

Counsel for Speaker Lucas

MARCH 8, 2022

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of Fed. R. App. P. 35(b)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), this brief contains 3,899 words.

2. This document 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 this document has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14-point Times New Roman font.

Dated: March 8, 2022

/s Christopher Mills
Christopher Mills

CERTIFICATE OF SERVICE

I, Christopher Mills, an attorney, certify that on this day the foregoing Petition was served electronically on all parties via CM/ECF.

Dated: March 8, 2022

s/ Christopher Mills
Christopher Mills