No. 20–510

In the Supreme Court of the United States

IQVIA INC.,
Petitioner,

v.

FLORENCE MUSSAT, M.D., S.C.,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

BRIEF OF *AMICUS CURIAE* DRI—THE VOICE OF THE DEFENSE BAR IN SUPPORT OF PETITIONER

EMILY G. COUGHLIN
PRESIDENT OF DRI—THE VOICE OF THE DEFENSE BAR
COUGHLIN BETKE LLP
175 Federal Street
Boston, MA 02110
(617) 988-8046
ecoughlin@coughlinbetke.com

SCOTT BURNETT SMITH
Counsel of Record
BRADLEY ARANT BOULT CUMMINGS LLP
200 Clinton Avenue West
Suite 900
Huntsville, AL 35801
(256) 517-5100
ssmith@bradley.com

MICHAEL R. PENNINGTON
BRADLEY ARANT BOULT CUMMINGS LLP
1819 Fifth Avenue North
Birmingham, AL 35203

JAMES STEPHEN FRITZ, JR.
BRADLEY ARANT BOULT CUMMINGS LLP
188 E. Capitol Street
Suite 1000
Jackson, MS 39201

Counsel for Amicus Curiae

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Rules

Other Authorities

INTEREST OF THE *AMICUS CURIAE*[1]

DRI—The Voice of the Defense Bar (www.dri.org) is an international membership organization composed of approximately 20,000 attorneys involved in the defense of parties in civil litigation. DRI's mission includes promoting appreciation of the role of defense lawyers in the civil justice system, addressing substantive and procedural issues germane to defense lawyers and their clients, improving the civil justice system, and preserving the civil jury. To help foster these objectives, DRI participates as *amicus curiae* at both the certiorari and merits stages in carefully selected cases presenting questions important to civil defense attorneys, their clients, and the conduct of civil litigation.

The question presented is of significant interest to DRI members and their clients. DRI and its members have witnessed the importance for defendants of the constitutional limits on personal jurisdiction.

But DRI and its members have also witnessed the crippling defense costs and liability that can follow erroneous class-certification decisions. Such decisions can force DRI members' clients into *in terrorem* settlements of even non-meritorious suits. And this risk is exponentially greater in a nationwide class action.

---

[1] Pursuant to Rule 37, the amicus provided notice and obtained the consent of both parties, who have also filed blanket consents on this Court's docket. No party or its counsel authored this brief in whole or in part. No party, counsel, or any other person contributed to the cost of preparing or submitting this brief.

The decision below magnifies that risk. By subordinating the constitutional right to due process to a functional analysis of Federal Rule of Civil Procedure 23, it forces defendants to defend against claims in forums everyone agrees lack any contact with those claims. This Court's intervention is required.

SUMMARY OF THE ARGUMENT

Courts and commentators alike have acknowledged that courts are split over the question presented. Given the realities of class litigation, the question presented will likely evade significant appellate review. Because certified class actions place immense settlement pressure on defendants, this Court's review now is both necessary and appropriate.

This case presents questions implicated but not directly decided in this Court's decision in *Bristol-Myers Squibb Company* v. *Superior Court of California*. 137 S. Ct. 1773, 1779-1781 (2017). This Court made clear that due process requires claim-specific analysis of defendants' forum contacts. Where, as with the absent putative class members here, those contacts are non-existent, so too is personal jurisdiction for those claims.

Class actions are no exception to this constitutional requirement. Neither may courts' embellishment of Rule 23's procedures and musings on the party status of class members substitute for what the Constitution commands. Rule 23 is no substitute for personal jurisdiction. Due process instead restricts personal jurisdiction in class actions as well as individual

actions. Personal jurisdiction exists with respect to nationwide class actions like the one here only where defendants are subject to general personal jurisdiction. This Court should take this opportunity to so hold.

This Court has recognized the immense potential costs defendants face in class actions. It has also acknowledged the settlement pressure they create by virtue of the sheer cost of defending them and the necessity of defendants' risking findings of massive, crushing liability before class certification decisions may be appealed as of right. If anything, then, due process should place even greater restrictions on the ability of courts to impose class action judgments on behalf of persons whose claims have nothing to do with the forum.

But the decision below says just the opposite—there are no meaningful due process personal-jurisdiction restrictions on nationwide class action judgments. By working an end-run around the constitutional limits on general personal jurisdiction, the decision below promotes the judicial blackmail effect of class actions in its own right. It also magnifies that effect by allowing would-be class counsel to engage in nationwide forum shopping and hale defendants into the most plaintiff-friendly venues in the country, even if those venues lack any connection at all to the claims of the vast majority of class members. This serves neither due process nor federalism.

ARGUMENT

I. DEFINITIVE RESOLUTION OF THE QUESTION PRESENTED, ON WHICH COURTS HAVE ACKNOWLEDGED A SPLIT, IS VITAL TO CLASS ACTION PRACTICE.

Courts and commentators have acknowledged courts are split over the applicability of *Bristol-Myers* to class actions. *Cruson* v. *Jackson Nat'l Life Ins. Co.*, 954 F.3d 240, 247 n.4 (5th Cir. 2020) ("To date, courts have split on how *Bristol-Myers* applies to class actions brought in federal court." (citations omitted)); A. Benjamin Spencer, *Out of the Quandary: Personal Jurisdiction Over Absent Class Member Claims Explained*, 39 Rev. Litig. 31, 33 (2019) ("The lower courts have quickly confronted the issues left open in *Bristol-Myers*, reaching varying results."); 2 William B. Rubenstein, Newberg on Class Actions § 6:26 (5th ed. 2019) ("In the wake of the Supreme Court's 2017 decision in *Bristol-Myers Squibb*, the extent of its effect [on nationwide class actions] is still unknown. To date, district court decisions reflect widely divergent interpretations of *Bristol-Myers Squibb*'s effect on class action practice."). This Court itself has also recognized this important question remains unresolved. 137 S. Ct. at 1783-1784; *see also id.* at 1789 n.4 (Sotomayor, J., dissenting).

Although in other contexts this Court often awaits a split among circuit courts, the split here warrants this Court's immediate resolution because this important question will almost always evade appellate review. Dismissal decisions pursuant to Rule 12(b) are not immediately appealable. *See, e.g.*,

Bolivarian Republic of Venez. v. *Helmerich & Payne Int'l Drilling Co.*, 137 S. Ct. 1312, 1323 (2017). Neither, as here, are rulings on Rule 12(f) motions to strike class allegations. *See* Spencer, 39 Rev. Litig. at 50. Although circuit courts may permit interlocutory appeal of class-certification decisions, Fed. Rule Civ. Proc. 23(f), they grant less than one quarter of such petitions. *See Rule 23(f) Review of Certification Declining, Certification Disfavored on Appeal, Study Says, Class Action Litigation Report* (BNA May 2, 2014), underlying survey data available at https://files.skadden.com/newsletters%2Foutcomes_table.pdf (last accessed October 26, 2020); Tanner Franklin, *Rule 23(f): On the Way to Achieving Laudable Goals, Despite Multiple Interpretations*, 67 Baylor L. Rev. 412, 433 (2015) ("[M]ost circuits have taken a narrow view of Rule 23(f) appeals. * * * Rule 23(f) appeals are rarely granted."). And whether a Rule 23(f) appeal would be an appropriate vehicle to challenge an issue of personal jurisdiction is itself hardly clear in any event. But the largest obstacle to review is reality. Because defendants can face potentially crushing litigation costs and liability, most class actions settle. Carlton Fields, P.A., *2020 Class Action Survey: Best Practices in Reducing Cost and Managing Risk in Class Action Litigation* 35 (2020). This Court has recognized this reality. "Faced with even a small chance of a devastating loss, defendants [are] pressured into settling questionable claims." *AT&T Mobility LLC* v. *Concepcion*, 563 U.S. 333, 350 (2011).

Given the unique difficulty in obtaining appellate review of class-certification issues, this Court has

previously chosen not to await a circuit split in granting review. *Compare* Pet. at 19, *Std. Fire Ins. Co.* v. *Knowles*, 568 U.S. 588 (2013) (No. 11–1450) ("While the [decision below] was the first court of appeals to address the question presented squarely, this error is likely to go uncorrected for a long time if this Court waits for an express circuit split to develop."), *with Std. Fire Ins. Co.* v. *Knowles*, 567 U.S. 964 (2012) (granting certiorari).

This Court should follow that same course here. The question is squarely presented. It is important. Its resolution is essential for fair treatment of defendants in class action practice. Spencer, 39 Rev. Litig. at 34 ("Given the importance of the class action device and the need for courts to know whether plaintiffs may bring nationwide class actions in a given jurisdiction, it is critical to resolve the question of whether *federal courts* may exercise personal jurisdiction over defendants with respect to the claims of *unnamed* class members whose claims are unconnected with the forum."). And forcing litigants to incur substantial costs attempting to litigate the question through appeals from final judgments in class actions or longshot Rule 23(f) petitions will only unfairly delay the answer to a question that everyone acknowledges this Court will sooner or later have to resolve.[2]

---

[2] Highlighting the urgency of this Court's final resolution, federal courts are seeing surging pandemic-related class actions. National Law Review, *Class Action Litigation Related to COVID-19: Filed and Anticipated Cases* (Oct. 15, 2020) ("Although the

II. THE DECISION BELOW CREATES A CLASS ACTION EXCEPTION TO THE CONSTITUTION'S PERSONAL-JURISDICTION REQUIREMENTS.

This Court meant what it said in *Bristol-Myers*. Due process requires claim-specific analysis of defendant's forum contacts. That constitutional requirement should apply with as much force in a class action as it does in an individual case.

In *Bristol-Myers*, this Court emphasized that the "primary focus of [the] personal jurisdiction inquiry is the *defendant's* relationship to the forum." *Bristol-Myers*, 137 S. Ct. at 1779. When a claim lacks "an affiliation" to the forum, "specific jurisdiction is lacking regardless of the extent of a defendant's unconnected activities in the State." *Id.* at 1781. (citing *Goodyear Dunlop Tires Ops., S.A.* v. *Brown*, 564 U.S. 915, 919, 931 n.6 (2011)).

The Constitution does not have a different rule for class actions. Regardless of the connections between the claims of the class representative and the forum, specific jurisdiction is lacking where absent putative class members' claims lack any connection to the

---

COVID-19 pandemic is still unfolding, class actions related to the coronavirus have already arrived and are on the rise. Despite unprecedented court closures and changing procedural rules, COVID-19 class actions have steadily increased and are expected to expand across industries, jurisdictions, and areas of law."), natlawreview.com/article/class-action-litigation-related-to-covid-19-filed-and-anticipated-cases-updated; Carlton Fields, *2020 Class Action Survey* 8 ("By mid-May 2020, * * * more than 70 percent of companies reported an increase in class actions.").

forum. This is inherent in our federal structure. *J. McIntyre Machinery, Ltd.* v. *Nicastro*, 564 U.S. 873, 880 (2011) ("As a general rule, neither statute nor judicial decree may bind strangers to the [forum].").[3]

That the class representative's claim satisfies constitutional limits does not mean all other claims in the action receive a pass on personal jurisdiction. "[L]ike the mass action in *Bristol-Myers*, a class action is just a species of joinder, which 'merely enables a federal court to adjudicate claims of multiple parties at once, instead of in separate suits.'" *Molock* v. *Whole Foods Market Grp., Inc.*, 952 F.3d 293, 306 (D.C. Cir. 2020) (Silberman, J., dissenting) (quoting *Shady Grove Orthopedic Assocs., P.A.* v. *Allstate Ins. Co.*, 559 U.S. 393, 408 (2010)).[4] "[M]uch like the class action mechanism cannot circumvent the

---

[3] To resolve the question presented, this Court need not resolve broader questions about the extent of overlap between the Fifth Amendment's and Fourteenth Amendment's due process clauses. At least for this purpose, they share equivalent principles. *See* App. 9a.

[4] Underscoring this connection, the Class Action Fairness Act of 2005 extends federal jurisdiction over both. 28 U.S.C. 1332(d)(11)(A). As one commentator has noted, "CAFA's mass action provision was born from the realization that despite their formal differences, nonclass aggregate litigation can resemble 'class actions in disguise.' Thus, according to Congress, the evils inherent in class actions that CAFA hoped to eliminate were equally present in mass actions." Guyon Knight, *The CAFA Mass Action Numerosity Requirement: Three Problems with Counting to 100*, 78 Fordham L. Rev. 1875, 1877 (2010) (quoting S. Rep. No. 14, 109th Cong., 1st Sess. 47 (2005)).

requirements of Article III, *see Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036, 1053 (2016) (Roberts, C.J., concurring), it is not a license for courts to enter judgments on claims over which they have no power." *Id.* at 307. It is cold comfort indeed to a defendant forced to write a check to potentially millions of absent class members that the court entering that judgment had personal jurisdiction over one class representative's claim.

Totemic incantation of Rule 23 cannot excuse this due process violation. For starters, the civil rules "do not extend or limit the jurisdiction of the district courts." Fed. Rule Civ. Proc. 82. Nor could they alter due process constraints given the Rules Enabling Act. 28 U.S.C. 2072(b) ("[The rules promulgated by this Court] shall not abridge, enlarge or modify any substantive right."). And, most fundamentally, due process is a constitutional requirement to which the civil rules must conform. *Shady Grove*, 559 U.S. at 399 (noting federal civil rule governs "unless [it] is ultra vires"); *Walker* v. *Armco Steel Corp.*, 446 U.S. 740, 748 (1980) (requiring rule be "within a constitutional grant of power"). The civil rules cannot trump the Constitution.

Moreover, Rule 23 and due process address different concerns. Rule 23's "prerequisites" ensure the claims and class representative are proper for class treatment. *See Shady Grove*, 559 U.S. at 399. Due process, by contrast, is concerned with limitations on governmental authority. *E.g.*, *DeShaney* v. *Winnebago Cty. Dep't of Soc. Servs.*, 489 U.S. 189, 196 (1989) ("[T]he Due Process Clause * * *

was intended to prevent government from abusing [its] power, or employing it as an instrument of oppression." (third alteration in original; internal quotation marks and citation omitted)). And *Bristol-Myers* is just the latest case in which this Court has recognized that this foundational concern limits the exercise of personal jurisdiction. 137 S. Ct. at 1779 (citing *Daimler AG* v. *Bauman*, 571 U.S. 117, 124-132 (2014); *World-Wide Volkswagen Corp.* v. *Woodson*, 444 U.S. 286, 291 (1980); *Int'l Shoe Co.* v. *Washington*, 326 U.S. 310, 316-317 (1945); *Pennoyer* v. *Neff*, 95 U.S. 714, 733 (1878)).

This distinction matters. For example, a putative class' similarity, both as to members and their claims, is an important consideration under Rule 23's commonality requirement. *See Wal-Mart Stores, Inc.* v. *Dukes*, 564 U.S. 338, 349-351, 359 (2011). But, as this Court recognized in *Bristol-Myers*, that kind of similarity is no substitute for the constitutional requirement of due process. *Bristol-Myers*, 137 S. Ct. at 1779, 1784 (rejecting contention personal jurisdiction established over non-residents' claims because they "were similar in several ways to [residents'] claims"); *see also Molock*, 952 F.3d at 308 (Silberman, J., dissenting).

This is far from petitioner's "*ipse dixit*." *See* App. 7a. Instead, this Court has, in other contexts, held that supposedly "unique" procedures with distinctive histories are nonetheless subject to due process constraints. *See, e.g.*, *Bristol-Myers*, 137 S. Ct. at 1779; *Shaffer* v. *Heitner*, 433 U.S. 186, 204-212 (1977) (concluding exercise of *in rem* and *quasi in rem* jurisdiction subject to ordinary due process

constraints). In sum, "procedural tools like class actions and mass actions are not an exception to ordinary principles of personal jurisdiction." *Molock*, 952 F.3d at 310 (Silberman, J., dissenting).

Beyond conflating Rule 23 with due process, the decision below incorrectly constrains *Bristol-Myers* to California's mass-action procedure. App. 10a. This Court did not grant certiorari in *Bristol-Myers* simply to correct one state's misapplication of personal jurisdiction to its peculiar mass-action procedure. *See* Pet. at 9, *Bristol-Myers*, 137 S. Ct. 1773 (2017) (No. 16–466) ("The California Supreme Court's decision exacerbates a well-established conflict over when a plaintiff's suit is sufficiently connected to the defendant's contacts with the forum State to expose the defendant to specific jurisdiction."). This Court instead applied "settled principles regarding specific jurisdiction" to answer the question, does mere joinder with local claims eliminate the need to consider the connection between the other claims and the forum? *Bristol-Myers*, 137 S. Ct. at 1781. The Court said no. By refusing to give effect to those "settled principles," the decision below narrows *Bristol-Myers* to the point of irrelevance.

To justify its novel outcome, the decision below relies on a supposed "general consensus" that one class representative may represent a "nationwide class in federal court, even if the federal court did not have general jurisdiction over the defendant." App. 6a–7a (citing, among other cases, *Phillips Petrol. Co.* v. *Shutts*, 472 U.S. 797 (1985)). But, as this Court recognized in *Bristol-Myers*, "the fact remains that [the defendant in *Shutts*] did not assert that [the

court] improperly exercised personal jurisdiction over it, and the Court did not address that issue." *Bristol-Myers*, 137 S. Ct. at 1783.

And there is nothing exceptional about this. All that is at work is the black-letter rule that a party must raise a personal-jurisdiction objection, or else forfeit it. *See, e.g.*, *Omni Capital Int'l, Ltd.* v. *Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987) ("The requirement that a court have personal jurisdiction flows not from Art[icle] III, but from the Due Process Clause. * * * It represents a restriction on judicial power not as a matter of sovereignty, but as a matter of individual liberty." (citation omitted)); *Ins. Corp. of Ir., Ltd.* v. *Compagnie des Bauxites de Guinee*, 456 U.S. 694, 703 (1982) ("Because the requirement of personal jurisdiction represents first of all an individual right, it can, like other such rights, be waived."). That some defendants may not have appreciated the "*implications* of the Court's [pre-*Bristol-Myers*] personal jurisdiction decisions" does not mean this Court somehow tacitly blessed the exercise of personal jurisdiction over absent putative class members' claims. *Molock*, 952 F.3d at 310 n.13 (Silberman, J., dissenting).

Compounding that error, the decision below's focus on "the party status of absent class members" is simply "irrelevant." *Molock*, 952 F.3d at 307 (Silberman, J., dissenting). Commentators agree. The "content[ion] that absent class members are not 'parties' for purposes of the personal jurisdiction analysis" is "not particularly helpful" because "absent class members are parties for some purposes and not

others and the label alone means very little." Newberg on Class Actions § 6:26 (5th ed. 2019) n.29. "Thus, regardless of how a court resolves the 'party' question, the fact remains that the goal of the nationwide class action is to disgorge nationwide relief from the defendant in the instant forum." *Ibid.* The purpose of due process limitations on personal jurisdiction is to limit the ability of courts in foreign venues to impose liability on a defendant. In a nationwide class action, the very goal is to obtain a judgment on behalf of every class member.

III. IF ALLOWED TO STAND, THE DECISION BELOW COMPOUNDS THE JUDICIAL BLACKMAIL EFFECTS THAT NATIONWIDE-CLASS ACTION DEFENDANTS ALREADY FACE.

Class action litigation costs have soared to $2.64 billion annually and only continue to climb. Carlton Fields, *2020 Class Action Survey* 11. The average company defending against class actions faces 10.2 class actions, a number that is expected to increase. *Id.* at 14.

This Court has reiterated that, because of these enormous defense costs and the threat of crushing liability, class action defendants face immense settlement pressure, even for patently non-meritorious claims. *See, e.g., Epic Sys. Corp.* v. *Lewis*, 138 S. Ct. 1612, 1632 (2018) ("[I]t's also well known that [class actions] can unfairly "'plac[e] pressure on the defendant to settle even unmeritorious claims.'" (third alteration in original) (quoting *Shady Grove*, 559 U.S. 393, 445 n.3 (Ginsburg, J., dissenting)); *AT&T Mobility*, 563 U.S. at 350 ("Faced with even a

small chance of a devastating loss, defendants will be pressured into settling questionable claims."); *Shutts*, 472 U.S. at 810 (discussing costs defendants face). These problems become exponential in a nationwide class action.

The decision below also facilitates an end-run around the constitutional limits on general personal jurisdiction, a vital protection for defendants. It substitutes for those protections a judicial carte blanche for would-be class counsel to engage in nationwide forum shopping. This carte blanche means defendants will haled into the most class-friendly jurisdictions possible, regardless of those jurisdictions' connections to the claims of the putative nationwide class. This Court has carefully restricted the locations in which defendants are subject to general personal jurisdiction. *See, e.g.*, *Daimler*, 571 U.S. at 137-138. But this protection would be hollow indeed if it applied only to the smallest claims and not the largest, most aggregated claims. The procedural wand of class allegations possesses no such Constitutional magic.

Even those states in which defendants "engage[] in a substantial, continuous, and systematic course of business" are inappropriate forums for the exercise of general personal jurisdiction. *Ibid.* The proper inquiry for general personal jurisdiction, this Court has emphasized, is instead whether defendant's "affiliations with the State are so 'continuous and systematic' as to render [defendant] essentially at home in the forum State." *Id.* at 139 (quoting *Goodyear*, 564 U.S. at 919).

The decision below weakens this vital protection. In the guise of specific personal jurisdiction over the named plaintiff's claims, it permits the functional exercise of general personal jurisdiction as to all class members' claims. As the decision below admits, under the rules manufactured below "the unnamed class members are not required" to demonstrate the forum court has either general or specific personal jurisdiction over defendant for their claims. App. 11a. The result for defendants is as simple as it is radical. If plaintiffs' counsel can locate just one class representative who can show personal jurisdiction, they can aggregate in as many nationwide claims as they can find into any jurisdiction they choose.

For all practical purposes, then, if the rule below stands, defendants facing a nationwide class action are back to staring down the sort of wide-open general jurisdiction this Court has consistently rejected. *See, e.g.*, *Daimler*, 571 U.S. at 138 (rejecting as "unacceptably grasping" "the exercise of general jurisdiction in every State in which a corporation engages in a substantial, continuous, and systematic course of business (internal quotation marks and citation omitted)); *Goodyear*, 564 U.S. at 929 (rejecting exercise of general jurisdiction over defendants having only "attenuated connections" to forum).

A ruling in petitioner's favor would not eliminate nationwide class actions but would merely conform them to the same personal-jurisdiction rules governing all other civil actions. Defendants would remain subject to nationwide class actions in any jurisdiction in which they are subject to general

jurisdiction. *Bristol-Myers*, 137 S. Ct. at 1783 ("Our decision does not prevent the California and out-of-state plaintiffs from joining together in a consolidated action in the States that have general jurisdiction over [defendant]."); *Daimler*, 571 U.S. at 137-138. Defendants lacking any such jurisdiction may even remain subject to federal-question claims. *See* Fed. Rule Civ. Proc. 4(k)(2) ("For a claim that arises under federal law, serving a summons * * * establishes personal jurisdiction over a defendant if the defendant: is not subject to jurisdiction in any state's courts of general jurisdiction; and exercising jurisdiction is consistent with the United States Constitution and laws.").

Constitutional protections should not be sacrificed on the altar of forum shopping. Nor on the altar of convenience. *E.g.*, *Rumsfeld* v. *Padilla*, 542 U.S. 426, 447 (2004) (habeas petitions); *Ferens* v. *John Deere Co.*, 494 U.S. 516, 527 (1990) (transfers of venue); *Hanna* v. *Plumer*, 380 U.S. 460, 468 (1965) (*Erie* doctrine). Class counsel should not be able to evade *Bristol-Myers*' restrictions on personal jurisdiction over claims that arose in other states by simply joining those claims under Rule 23 instead of Rule 20.

CONCLUSION

For the foregoing reasons and those advanced in the petition for a writ of certiorari, the petition should be granted.

Respectfully submitted.

EMILY G. COUGHLIN
PRESIDENT OF DRI—THE VOICE OF THE DEFENSE BAR
COUGHLIN BETKE LLP
175 Federal Street
Boston, MA 02110
(617) 988-8046
ecoughlin@coughlinbetke.com

SCOTT BURNETT SMITH
Counsel of Record
BRADLEY ARANT BOULT CUMMINGS LLP
200 Clinton Avenue West
Suite 900
Huntsville, AL 35801
(256) 517-5100
ssmith@bradley.com

MICHAEL R. PENNINGTON
BRADLEY ARANT BOULT CUMMINGS LLP
1819 Fifth Avenue North
Birmingham, AL 35203

JAMES STEPHEN FRITZ, JR.
BRADLEY ARANT BOULT CUMMINGS LLP
188 E. Capitol Street
Suite 1000
Jackson, MS 39201

Counsel for Amicus Curiae

NOVEMBER 2020