E-FILED
4/19/2022 3:05 PM
CYNTHIA A. GRANT
SUPREME COURT CLERK

No. 128004

IN THE SUPREME COURT OF ILLINOIS

LATRINA COTHRON,

Plaintiff-Appellee

v.

WHITE CASTLE SYSTEM, INC.,

Defendant-Appellant

Question of Law Certified by the United States District Court of Appeals for the Seventh Circuit, Case No. 20-3202

Question of Law ACCEPTED on December 23, 2021 under Supreme Court Rule 20

On appeal from the United States District Court for the Northern District of Illinois under 28 U.S.C. § 1292(b), Case No. 19 CV 00382
The Honorable Judge John J. Tharp, Judge Presiding

BRIEF OF NELA/ILLINOIS, NATIONAL EMPLOYMENT LAW PROJECT, AND RAISE THE FLOOR ALLIANCE AS AMICUS CURIAE IN SUPPORT OF PLAINTIFF-APPELLEE LATRINA COTHRON

Catherine Simmons-Gill
OFFICES OF CATHERINE SIMMONS-GILL, LLC
111 West Washington Street
Suite 1110
Chicago, Illinois 60602
(312) 609-6611

Chiquita L Hall-Jackson
Hall-Jackson & Associates, PC
180 West Washington Street
Chicago, Illinois 60602
(312) 255-7105
chj@hall-Jacksonandassociates.com

Counsel for Amici Curiae

TABLE OF CONTENTS AND STATEMENTS OF POINTS AND AUTHORITIES

STATEMENT OF IDENTITY AND INTEREST OF THE AMICI

Amici are non-profit organizations that engage in legal and policy advocacy for low-wage workers. *Amici* have a strong interest in this case because BIPA protects low-wage workers who are particularly vulnerable to having their rights violated.

Amici submit this brief Pursuant to Illinois Supreme Court Rule 345 and 362, and do not repeat arguments made by the Parties. Neither Party's counsel authored this brief, in whole or in part, and nor did either Party or Party's counsel contribute money intended to fund the preparation or submission of the brief. No person, including *amici curiae*, their members, or their counsel, contributed money intended to fund the preparation or submission of the brief. Counsel for both parties have consented to the filing of this brief.

Amici describe the work circumstances of workers like the plaintiff/appellee in this case, who make up the backbone of today's service-based economy. *Amici* illustrate the disproportionate impact that a new standard for the accrual of legal claims – as advocated by Appellant – would have on low-wage workers and other vulnerable worker populations.

NELA/Illinois is the Illinois affiliate of the National Employment Lawyers Association ("NELA"), the largest organization of lawyers who primarily represent employees in labor, employment, and civil-rights disputes in the country. With approximately 69 state and local affiliates and

a membership of over 4,000 attorneys, NELA is the nation's leading advocate for employee rights. Founded in 1986, NELA/Illinois is dedicated to advocating for employee rights and advancing justice in the workplace.

NELA/Illinois has a current membership of approximately 175 individuals – primarily attorneys from Illinois and the surrounding states who solely or primarily represent individuals in employment-related matters. NELA/Illinois provides educational programs, technical support, and networking benefits to its members, which also includes mediators and law students.

The National Employment Law Project ("NELP") is a non-profit legal organization with over 50 years of experience advocating for low-wage workers' employment and labor rights. In partnership with community groups, unions, and state and federal public agencies, NELP seeks to ensure that all employees, especially those more susceptible to exclusion, receive the basic workplace protections guaranteed in our nation's labor and employment laws. NELP has litigated and participated as *amicus* in numerous cases addressing the rights of workers.

Raise the Floor Alliance (hereafter, "Raise the Floor") originated in 2007 as the "Working Hands Legal Clinic" to provide direct legal assistance and strategic legal advice for low-wage workers in Illinois. Since its founding, it has grown substantially to reach marginalized workers in numerous industries across northern Illinois. As Working Hands Legal Clinic, the organization

provided legal assistance to tens of thousands of low-wage workers throughout Illinois, recovering millions of dollars for workers through litigation and mediation.

The efforts started through Working Hands Legal Clinic have since continued through Raise the Floor, an alliance of community-based non-profit worker advocacy organizations. Raise the Floor works to ensure that low-wage workers have access to quality jobs and are empowered to uphold and improve workplace standards. Raise the Floor continues to litigate on behalf of low-wage workers to expose injustice and enforce workers' legal rights. The organization also actively shapes policy, having drafted or advised the Illinois legislature on amendments to eight different laws to increase and protect the rights of low-wage workers in Illinois, including the Illinois Day and Temporary Labor Services Act and amendments to the Illinois Wage Payment and Collection Act. Raise the Floor has worked for years to ensure that all workers have access to dignified, family-supporting work.

In this case, Plaintiff worked at a fast-food restaurant chain – White Castle – and was paid on an hourly basis. Plaintiff received low wages and was not allowed to negotiate the terms or conditions of her employment. Like many low-wage workers, Plaintiff was required by her employer to use her biometrics – a fingerprint scan – to clock in and clock out of work.

Amici write not to repeat arguments made by the Parties but to describe for the Court the importance of maintaining the traditional notion

of when employment-based legal claims accrue and when continued violations of the law create a continuing violation for statute of limitations accrual purposes. Adopting the new standard as proposed by Defendant would upend decades of precedent and would severely disadvantage vulnerable low-wage workers subjected to multiple instances of unlawful conduct – especially where day-to-day actions by an employer are unlawful.

The Biometric Information Privacy Act ("BIPA") provides a several important protections to individuals in Illinois. 740 ILCS § 14/1 *et seq*. As a core protection, BIPA guarantees that the biometric information and biometric identifiers (together "biometric data") of individuals who reside in Illinois will not be collected or captured unless the individual agrees to such collection in writing. 740 ILCS § 14/15(b). Each time an unlawful collection of biometric data occurs in violation of BIPA, the individual whose rights have been violated incurs a new harm during each new violation.

For these reasons, *amici* urge the Court to affirm the district court's ruling denying Defendant's Motion to Dismiss. All parties in this case have consented to the filing of this *amicus* brief.

ARGUMENT

I. INTRODUCTION

The protections afforded to individuals in Illinois by BIPA undoubtedly provide a bedrock foundation of protection against the unlawful collection of biometric data from, *inter alia*, vulnerable and low-wage workers. As discussed

below, in the employment context, BIPA's protections against the unlawful collection or capture of biometric data are essential for low-wage workers, a population more susceptible to abuse and likely to have their biometric data captured as part of a time-keeping process than other employees.

Defendant takes two positions that would fundamentally – and negatively – impact employment law jurisprudence. First, Defendant's narrow view of the fundamental privacy rights protected by BIPA minimizes the rights created by the Illinois legislature over a decade ago. Second, Defendant's arguments overlook the fundamental principles of claim accrual, especially in the workplace setting.

II. BIPA PROTECTS VULNERABLE WORKER POPULATIONS AND THEIR RIGHT TO MAKE INFORMED DECISIONS

BIPA undoubtedly provides important protections to low-wage workers who cannot negotiate their terms and conditions of employment. Fast-food restaurants, warehouses, and nursing homes rely almost exclusively on minimum wage workers and use biometric timekeeping devices to track their employees.

The number of potentially affected Illinois employees is massive. Based on Census Bureau data from 2019, approximately 1.2 million Illinois employees work in industries commonly associated with the use of biometrics in the workplace including ambulatory health care services, clothing and clothing accessories stores, food and beverage stores, health and personal care stores, hospitals, restaurants and other eating places, and warehousing and

storage. United States Bureau of the Census, *Quarterly Workforce Indicators Release R2021Q1*, Washington, DC, USA, 2021.

BIPA requires an employer to receive an affirmative written release from any employee before their biometric data can be collected or stored. 740 ILCS 14/15(b). This prerequisite for collecting biometric data protects the employees' right to make an informed decision as to whether or not they agree to the collection of his or her biometric data and its inevitable use.

The right to this statutorily requisite information is a critical protection for vulnerable employees in Illinois who are already fearful of electronic monitoring. Over half of the Illinois workforce is subjected to electronic workplace monitoring, and more than one-third of Illinois employees are subjected to discipline or termination based on electronic monitoring. (Ugo Okere, et al., *Secure Jobs, Safe Workplaces, and Stable Communities: Ending At-Will Employment in Illinois* (2021) at p. 11 (*available at* https://s27147.pcdn.co/wp-content/uploads/Secure-Jobs-Safe-Workplaces-Stable-Communities-Ending-At-Will-Employment-Illinois.pdf)). With such a broad application of electronic monitoring technology, BIPA's informational requirements provide bedrock protections to Illinois employees, especially those most vulnerable, like low-wage workers who cannot negotiate the terms and conditions of their employment.

Moreover, as made clear by this Court in *Rosenbach*, "[c]ompliance [with BIPA] should not be difficult…" *Rosenbach v. Six Flags Ent. Corp.*, 2019 IL

123186, ¶ 37. This Court's revelation is aptly demonstrated by correcting the "Allie" hypothetical described by the Retail Litigation Center, Inc. and the Restaurant Law Center (Brief of Retail Litigation Center, Inc., Restaurant Law Center, And National Retail Federation As

Amici Curiae in Support of Defendant-Appellant, at 14). Allie consents to using the finger-scan process after her employer provides her with a valid disclosure. The provision of this disclosure agreement clearly demonstrates this Court's observation that compliance with BIPA is easy and manageable. However, *amici* then argue – incorrectly – that Allie's employer "could" be liable for millions of dollars in liquidated damages for a negligent violation of BIPA. This is untrue because the employer took the easy and straightforward step of complying with BIPA (providing Allie with a one-page disclosure and allowing her to make an informed decision as to whether or not she wanted to use the fingerprint scanning device).

The Retail Litigation Center, Restaurant Law Center, and National Retail Federation propound the ludicrous hypothesis that "Allie" and her co-workers are conspiring against their employer, even thought they'd consented to having their biometric data collected – capitalizing on the employer's imagined lack of BIPA compliance and seeking out further violations of their rights via use of the timeclock system. The 18-year-old fast food worker is not conspiring to enter early retirement on the back of her BIPA claims. Nor could she. The "per scan" theory of damages Defendant and *amici* shallowly advocate

for has never been endorsed, nor could it be. At the end of the day, employees like Allie are low-wage, hourly paid workers. It is not their responsibility to ensure their employers comply with the law, nor is it their job to avoid the damages they are owed when their employer violates their rights; minimum-wage hourly workers should not be required to educate employers on their legal obligations nor should they be required to impress upon those same employers the seriousness of their statutory obligations.

In practice, compliance with BIPA is not difficult. Employers already require a variety of documents to be completed before employees start work. At a minimum, employers must receive the federally mandated Form I-9, which must be completed for every new hire – including Allie – to confirm he or she is eligible for work. In addition to legally required documents, many employers frequently require employees to sign other documents including arbitration and non-disclosure agreements, and – likely for Allie – documents related to the tipped-minimum wage and tip-sharing.

The Economic Policy Institute estimates that 60.1 million workers (more than half of non-union, private-sector employees) have signed arbitration agreements with their employers, and this number is expected to grow to 80% by 2024. More specifically, for Allie and her co-workers, 64.5% of workers making less than $13.00 per hour are forced to sign arbitration agreements. Moreover, Allie's employer is likely required to obtain a written consent regarding the use of a tip-credit. Adding a BIPA consent form to the myriad

documents required of new hires does not add any burden to Illinois employers. Thus, the *de minimis* burden of BIPA compliance "should not be difficult."

Furthermore, the resources available to employers underscores the minimal burden of BIPA compliance. First, industry trade groups like the Restaurant Law Center could easily draft template BIPA compliant policies and practices to help inform and educate its members about the requirements of BIPA. Instead of helping restaurants comply with BIPA, the Restaurant Law Center has focused on writing *amicus briefs* in various BIPA appeals, *see, for e.g.* (https://restaurantlawcenter.org/?s=BIPA, and railed against any added protections for Illinois' low income workers. The employers requiring workers to agree to arbitration as a condition of employment already employ legal counsel—which could easily prepare and deploy appropriate BIPA waivers and policies to adhere to the law. Frankly, these same sophisticated, management-side lawyers should already be stressing the importance of BIPA compliance not ignoring their obligation to fully and faithfully advise their clients only to litigate these straightforward issues through the court of last resort.

Even though the compliance burden is minuscule, many employers violated BIPA and their employees' rights to make an informed decision about their biometric data. Considering the *de minimis* burden placed on employers, as well as the resources and protections available to them, especially weighed against the privacy interests of employees, any damages flowing from BIPA

violations are self-inflicted and completely avoidable as long as Illinois employers follow the law.

III. ACCRUAL IN OTHER TYPES OF CLAIMS SUPPORTS AFFIRMING THE DISTRICT COURT'S REASONING

Defendant argues that a BIPA claim only accrues at the first violation—that is to say, the first time, and only the first time, an employee's rights are violated. But their proffered interpretation of claim accrual is contrary to the overwhelming weight of authority and if adopted, its construction of the accrual of workplace related claims would be a complete reconstruction of when claims that arise out of a series of related unlawful conduct accrue.

Multiple types of analogous claims – where there are separate unlawful acts that cause separate and distinct harm – are governed by accrual regimes that focus on each separate harm. The Equal Pay Act's accrual jurisprudence is persuasive here. Generally, the "paycheck accrual rule" provides "'a new cause of action for pay discrimination ar[ises] every time a plaintiff receive[s] a paycheck resulting from an earlier discriminatory compensation practice' even one that 'occurr[ed] outside the statute of limitations period.'" *Kellogg v. Ball State Univ.*, 984 F.3d 525, 529 (7th Cir. 2021), *reh'g denied* (Jan. 28, 2021) (quoting *Groesch v. City of Springfield*, 635 F.3d 1020, 1027 (7th Cir. 2011)). The same logic also extends to claims alleging violations of 42 U.S.C. § 1983, even though there is no specific statutory authority authorizing this method for determining when a claim (or claims) accrues.

Also, the Copyright Act is subject to a three-year statute of limitations period, pursuant to 17 U.S.C. § 507(b). However, when there are multiple violations of the statute, those separate violations are governed by the "separate-accrual" rule, meaning that "'when a defendant commits successive violations [of the Copyright Act], the statute of limitations runs separately from each violation.'" *Richardson v. Kharbouch*, No. 19 C 02321, 2020 WL 1445629, at *7 (N.D. Ill. Mar. 25, 2020) (quoting *Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 671. In analyzing this issue, the Seventh Circuit has stated, "[e]ach time an infringing work is reproduced or distributed, the infringer commits a new wrong. Each wrong gives rise to a discrete 'claim' that 'accrue[s]' when the wrong occurs. In short, each infringing act starts a new limitations period." *Chicago Bldg. Design, P.C. v. Mongolian House, Inc.*, 770 F.3d 610, 614 (7th Cir. 2014) (quoting *Petrella*, 572 U.S. at 671).

Here, the District Court's rationale fits squarely with the rationale employed in the separate accrual and paycheck rule jurisprudence. A §15(b) violation of BIPA occurs when a private entity "collects, captures, or otherwise obtains a person's biometric information without prior informed consent." *Cothron v. White Castle Sys., Inc.*, (A11). As persuasively explained by the Court below, "[t]his is true the first time an entity scans a fingerprint or otherwise collects biometric information, but it is no less true with each subsequent scan or collection." *Id*.

Just as in the paycheck rule cases, each new collection of an employee's biometric data without complying with BIPA's mandates, including obtaining a prior written release, is a new wrong and results in a new harm – the collection of biometrics without written consent. Each time an employee's fingerprint is scanned a new piece of biometric information is created from the scan. This new biometric information is captured by the employer's fingerprint scanning device and then compared to a stored "biometric template" to identify the employee and allow (or disallow) a specified action, such as a time punch. In this respect, BIPA violations are akin to a series of copyright infringements. Accordingly, separate harm model is the only logical framework for assessing the accrual of BIPA claims – especially in the workplace – because new, never previously collected or captured biometric information is created, captured, and collected with each fingerprint scan.

The above framework lends support for the district court's decision wherein it found that each time an employer violates BIPA – collects its employee's biometric data without securing a written release – it has visited a new and distinct harm on its employee and therefore the employee has a new and distinct claim. The District Court's decision adeptly reconciled BIPA's statutory informed consent framework with the real-world application of fingerprint scanning technology, and clarifies that, just as intended by the Illinois Legislature, each collection of biometric data without prior informed written consent is a separate and distinct unlawful act.

IV. DEFENDANT'S POSITION WOULD LEAD TO ABSURD RESULTS, AND ACTUALLY ENCOURAGE THE UNLAWFUL SALE AND DISCLOSURE OF BIOMETRIC DATA

Finally, Defendant's and Defendant-supporting *amici's* interpretation of BIPA, that BIPA's protections only apply at the first instance and once violated cease to exist, would lead to an absurd interpretation of the statute and ignore the Legislature's intent.

There can be no doubt that BIPA was enacted to regulate "the collection, use, safeguarding, handling, storage, retention, and destruction of biometric identifiers and information." 740 ILCS 14/5(g). Defendant mistakenly casts BIPA as applying only to the first collection of biometric data based on the incorrect assumption that BIPA only confers a singular "right to control [] biometric information." D. Brief at 36. Defendant apparently views this "right of control" as a finite, disposable right that, once invaded, ceases to exist. This view, however, cannot be correct.

Such an interpretation would allow – and encourage – violations of BIPA. For example, if a private employer collects and discloses its employees' biometrics in violation of BIPA the employer – following Defendant's logic – would be incentivized to seek out purchasers and profit from its employees' biometric data, violating §§ 15(c) and 15(d) with impunity because the employer had already violated the employees' "right to control" their biometric data. After the first unlawful sale of employees' biometric data, in Defendant's view, nothing should stop the second, fifth, or fiftieth sale of employees'

biometric data either. All the harm that could ever be done – harming an individual's right to control – had already happened and any secondary or tertiary damage is wrapped up in that first violation. Defendant's "in for a penny, in for a pound" approach to violations of BIPA flies in the face of the Illinois Legislature's intent in enacting BIPA, sets a dangerous precedent for the control of private information, and should be soundly rejected by this Court.

One unlawful violation of an employee's privacy rights cannot and should not be grounds to insulate that employer from liability for continued unlawful conduct, particularly in a situation like this one. If an employer continuously requests the social media passwords of its employees, each request is a violation of the statute and triggers a new limitations period under the statute. See 820 ILCS 55/10(b)(1). Just as each violation of the Right to Privacy in the Workplace triggers a new harm, so too does a violation of an employee's biometric privacy rights.

Defendant's categorization of an individual's biometric privacy rights as "single use" conflicts with the plain language of BIPA and this Court's holding in *Rosenbach*. First, such a construction would eliminate essential protections conferred by BIPA, Section 15(a) requires an entity in possession of biometric data to have a written policy governing the use of the same in place; Section 15(b) requires a written authorization permitting the collection of biometric data; Section 15(d) prohibits the "disclosure" of biometric data unless specific

prerequisites are met and prohibits the redisclosure or other dissemination of biometric data all of which would be obviated by Defendant's "single-use" approach. Clearly, by including specific language highlighting prohibitions on both disclosure and redisclosure of biometric data, the Illinois Legislature intended for BIPA's protections to survive one unlawful act and remain intact to protect employees' rights, even after an initial violation.

Second, in *Rosenbach*, this Court made clear that the Illinois Legislature "codified that individuals possess a right to privacy in and control over their biometric identifiers and biometric information." 2019 IL 123186, ¶ 33, 129 N.E.3d 1197, 1206. Defendant seizes on "control over" an employee's biometric data, but completely omits the "right to privacy in" an employee's biometrics. The difference is astounding. If an employee's only right is in the "control" of his or her biometric data, and, as argued by Defendant, once the right of control is invaded, it is lost forever, an employee would only ever have a right of action against the first entity to unlawfully collect his or her biometric data. Fortunately, BIPA provides a right to privacy *in* one's biometric data that is not lost after the first instance of unlawful conduct. Any other interpretation completely undermines the very protections created by BIPA.

Defendant has similarly asserted that the Plaintiff's interpretation of the statute would lead to absurd results and be contrary to the statute's intent, but this interpretation fails to correctly interpret the entire language of the statute. Furthermore, *amici* claim that the per scan theory would "discourage

the adoption of biometric technology and innovation" because employers would fear any sort of liability under the statute. (Brief of *Amici Curiae* at 23). As consistently asserted, Illinois employers should have no fear of the statute, as compliance is easy and simple. Biometric technology innovation is welcome and encouraged, as long as employers provide their employees with a simple consent and disclosure form.

While Defendant contorts BIPA's plain language, the rights conferred by BIPA, and this Court's precedent, the absurd results that would occur demonstrate why the "single right" logic must be rejected.

V. THE DEFENDANT'S CONSTITUTIONAL CONCERNS ARE WITHOUT MERIT AS THEY ARE BASED ON PURELY HYPOTHETICAL ARGUMENTS

The Defendant and *amici* quote the U.S. Supreme Court *State Farm Mut. Auto. Ins. Co. v. Campbell,* 538 U.S. 408, 416–17 (2003), for the proposition that damages must comport with notions of Due Process and not be without limit. While the proposition in *Campbell* is correct, Defendant and the *amici* attempt to use this ruling to demonstrate how the "per scan" interpretation would lead to constitutional violations; an argument that lacks any merit. As stated by the Plaintiff in her brief to the Seventh Circuit, "it is not possible to evaluate the "excessiveness" of damages before damages are ascertained." (Brief *Amici Curiae* at 35).

The Defendant wants this Court to accept that the damages for every violation of BIPA would result in an absurd figure ($12 billion, in fact) in

damages for the average Illinois employer. This is not and has never been the role of this Court and allowing this practice to become precedent would result in countless meritless arguments over hypothetical and "stratospheric" damages awards for a plaintiff. As this Court stated in *Petersen v. Wallach*, 198 Ill. 2d at 447 (Ill. 2002), the court's duty is to construe a statute without regard to "hypothetical absurdities."

Other courts within Illinois have addressed similar Constitutional challenges to BIPA and consistently rejected the same. For example, in *Haywood v. Flex-N-Gate, LLC, et al.*, the Cook County Circuit court rejected an employer's argument that BIPA's liquidated damages clause is so fundamentally excessive that it violates the Eighth Amendment. No. 2019-CH-12933, at 2-5 (Ill. Cir. Ct. Apr. 8, 2021). *See also Stauffer v. Innovative Heights Fairview Heights, LLC,* 408 F. Supp. 3d 888, 901-03 (S.D. Ill. 2020); *Bryant v. Compass Grp. USA, Inc.*, No. 19 C 6622, 2020 WL 7013963, at *3 (N.D. Ill. Nov. 29, 2020); *McGinnis v. United Stated Cold Storage, Inc.*, No. 19-L-9, at 5-6 (Ill. Cir. Ct. Nov. 4, 2020). Moreover, a *potentially* unconstitutional excessive damages award is not grounds for dismissing a civil lawsuit. *See Soprych v. T.D. Dairy Queen, Inc.*, No. 08 C 2694, 2009 WL 498535, at *1 (N.D. Ill. Feb. 26, 2009) ("it would be premature to dismiss the complaint based on the potential for a constitutionally excessive damages award"); *Irvine v. 233 Skydeck, LLC*, 597 F. Supp. 2d 799, 804 (N.D. Ill. Feb. 12, 2009); *Holtzman v. Caplice*, No. 07 C 7279, 2008 WL 2168762, at *7 (N.D. Ill. May 23,

2008) (citation omitted); *Cent. Mut. Ins. Co. v. Tracy's Treasures, Inc.*, 2014 IL App (1st) 123339, ¶ 72 (citation omitted) (the court cannot deny class certification because it *might* later produce an unconstitutionally-excessive damages award); *Ballard RN Ctr., Inc. v. Kohll's Pharm. & Homecare, Inc.*, 2014 IL App (1st) 131543, ¶ 42, *rev'd on other grounds*, 2015 IL 118644 ("[w]hether a reduction in damages to comply with due process is required … is not a reason to deny class certification"); *Murray v. GMAC Mortg. Corp.,* 434 F.3d 948, 954 (7th Cir. 2006) (same).

This Court further rejected this argument by the *amici curiae* in *Rosenbach* and ruled purely on the issue at hand and not the baseless speculation that a potential unconstitutional outcome could result. Following this precedent, the Plaintiff and *amici* respectfully asks this Court to ignore the fictional result proposed by the Defendant and focus solely on the matter at hand.

CONCLUSION

The Illinois Biometric Information Privacy Act protects Illinois workers and their right to privacy in their biometric identifiers and biometric information. Narrowing the breadth of the statue would negatively impact at risk and low wage workers throughout the State. Furthermore, narrowing the statute conflicts with the plain meaning as well as the legislative intent to confer special protections to Illinois residents and workers.

Accordingly, the *amici* support Plaintiff Latrina Cothron and the District Court's ruling denying judgment on the pleadings.

Respectfully submitted,

Catherine Simmons-Gill
OFFICES OF CATHERINE
SIMMONS-GILL, LLC
111 West Washington Street
Suite 1110
Chicago, Illinois 60602
(312) 609-6611

Chiquita L Hall-Jackson
Hall-Jackson & Associates, PC
180 West Washington Street
Chicago, Illinois 60602
(312) 255-7105
chj@hall-Jacksonandassociates.com

Counsel for Amici Curiae

CERTIFICATE OF COMPLIANCE

I, Catherine Simmons-Gill certify that this conforms to the requirements of Rule 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a) is 19 pages.

Dated: April 7, 2022

By: */s/ Catherine Simmons-Gill*
Catherine Simmons-Gill
OFFICES OF CATHERINE
SIMMONS-GILL, LLC
111 West Washington Street
Suite 1110
Chicago, Illinois 60602
(312) 609-6611