No. 127318

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS, Respondent-Appellee, -vs- JUAN VILLAREAL, Petitioner-Appellant.	Appeal from the Appellate Court of Illinois, No. 1-18-1817. There on appeal from the Circuit Court of Cook County, Illinois, No. 12 CR 13785: 11 CR 1862501. Honorable Angela Munari Petrone, Judge Presiding.

BRIEF OF *AMICUS CURIAE* AMERICAN CIVIL LIBERTIES UNION OF ILLINOIS

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IDENTIFICATION AND INTEREST OF THE AMICUS

The American Civil Liberties Union of Illinois ("ACLU-IL") is a not-for-profit, non-partisan, membership-supported organization dedicated to the protection of civil rights and liberties.[1] It is the statewide affiliate of the American Civil Liberties Union and has more than 60,000 members in Illinois. Its purpose is to protect the rights and liberties guaranteed to all Illinoisans by the state and federal constitutions and laws. ACLU-IL has litigated issues of due process and cruel and unusual punishment for decades in the state and federal courts of Illinois.

ARGUMENT

Simply belonging to a gang turns a Class 4 felony into a Class 2 felony for anyone in Illinois unlawfully possessing a firearm without a valid Firearm Owner's Identification ("FOID") card. Pursuant to 720 ILCS 5/24-1.8, defendants are guilty of unlawful possession of a firearm by a street gang member ("UPF/gang member") if they: (1) possessed a firearm; (2) without a currently valid FOID card; (3) while a member of a street gang. The offense is a Class 2 felony, punishable by one to three years in prison. The same conduct is only a Class 4 felony for anyone who is not a gang member. *See* 720 ILCS 5/24-1(a)(4), (b).

Because "gang membership" may entail many years of extra punishment for a person who unlawfully possesses a firearm, that term should be clearly defined, include a *mens rea* and *actus reus,* and have an explicit relationship with the underlying criminal act. Since the definition of "gang member" contains none of those features, the UPF/gang

[1] Other than the identified amicus and its counsel, no person has made a monetary contribution to the preparation or submission of this brief. No counsel for either party authored the brief in whole or in part.

member statute is facially invalid under the Fourteenth Amendments of the United States Constitution.

I. The Definition of "Gang Member" is Not Proper as an Element of a Criminal Offense.

The UPF/gang member statute incorporates the definitions of "gang" and "gang member" from Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act ("ISTOP Act") (740 ILCS 147/10). Based on a legislative finding that Illinois communities "are being terrorized and plundered by streetgangs," whose "activities present a clear and present danger to public order and safety," 740 ILCS 147/5(b), (d), the ISTOP Act creates a civil remedy against gangs and their members. *See* 740 ILCS 147/15.

The ISTOP Act defines a gang as a group "of 3 or more persons with an established hierarchy that, through its membership or through the agency of any member engages in a course or pattern of criminal activity." 740 ILCS 147/10. A "course or pattern of criminal activity" is two or more "gang-related criminal offenses" (1) committed in whole or in part within Illinois, (2) within five years of each other, (3) at least one of which was committed after January 1, 1993, and (4) at least one of which involved planning, attempting, or committing a felony. *Id*. "Gang-related" criminal offenses are those authorized by an authority figure in a gang with the intent of benefitting the gang, exacting revenge, or obstructing justice. *Id.* These definitions underlie the definition of a gang member, which is:

> [1] any person who actually and in fact belongs to a gang, and [2] any person who knowingly acts in the capacity of an agent for or accessory to, or is legally accountable for, or voluntarily associates himself with a course or pattern of gang-related criminal activity, whether in a preparatory, executory, or cover-up phase of any activity, or who knowingly performs, aids, or abets any such activity.

Id. Under this definition, an individual, who has neither committed nor intended to commit any criminal activity, may be a gang member.

A. A person who has not participated in any criminal activity may nonetheless be prosecuted as a "gang member."

Under the ISTOP Act definition, "any person who actually and in fact belongs to a gang" is a gang member. 740 ILCS 147/10.[2] This definition does not require a person to have engaged in any gang activity, as the following background clarifies.

According to researchers, "gang membership patterns are dynamic and multilayered and are not reliably reducible to a simple gang-versus-nongang perspective." Frequently Asked Questions, National Gang Center, U.S. DOJ Office of Justice Programs, https://nationalgangcenter.ojp.gov/about/faq (last visited March 28, 2022). Gang members may differ in their authority within a gang, their involvement in criminal activity, and the persistence of their membership. Irving Spergel et al., *Gang Suppression and Intervention: Problem and Response* 2 (Office of Juvenile Justice and Delinquency Prevention, October 1994), available at https://www.ojp.gov/pdffiles/gangprob.pdf. "Gang members are not a homogenous group, nor is the gang experience homogenous across individuals." David C. Pyrooz et al., *Continuity and Change in Gang Membership and Gang Embeddedness*, 50(2) J RSCH CRIME AND DELINQ 239, 242 (2013). Research shows that "there is a robust relationship between embeddedness [in a gang] and continuity in gang membership." *Id.* As even the Chicago Police Department recognizes, marginal or peripheral members may "drift into and out of gang activities according to their needs." Gang Awareness, Community

[2] A person who does *not* "actually and in fact belong to a gang," including a person who has aided or abetted a course of gang-related criminal activity, may be a gang member under the second definition. The second definition has its own ambiguities and internal contradictions, but *Amicus* does not address them here because a defendant may be held liable based solely on the first definition.

Policing Group, Chicago Police Department, https://home.chicagopolice.org/community-policing-group/gang-awareness/ (last visited March 2, 2022). However, gang membership is "far more complex than a simple core-periphery distinction." Pyrooz et al., at 243.

Youths are one of the most challenging groups to classify with respect to gang membership status. The ISTOP Act acknowledges that "streetgangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the streetgang." 740 ILCS 147/5. Youths may also become exposed to gangs through family, friends, and neighbors, achieving a gang-marginal status simply due to their proximity to these individuals. *See, e.g.*, Karine Descormiers, From Getting In to Getting Out: The Role of Pre-Gang Context and Group Processes in Analyzing Turning Points in Gang Trajectories (Nov. 1, 2013) (Ph.D. Dissertation, Simon Fraser University), EDT8080; Arlen Egley, Levels of Involvement: Differences Between Gang, Gang-Marginal, and Nongang Youth (2003) (Ph.D. Dissertation Abstract, University of Missouri - St. Louis), https://www.umsl.edu/ccj/files/pdfs/dissertation_abstracts/Egley_dissertation.pdf (last visited March 28, 2022).

Thus, gang membership is varied, shifting, and may be transitory. A gang member may or may not be in a position to conceive, plan, or execute "gang-related activity." Under these circumstances, a person may satisfy the first definition of "gang member"—"any person who actually and in fact belongs to a gang"—without committing any criminal activity or other wrongdoing.

The ISTOP Act's legislative history underscores its potential to sweep up people who have not committed any criminal offense. In legislative debates, skeptics of the bill repeatedly asked its proponents how the state would identify gang members and whether gang membership necessarily entailed participation in gang activities. *See*, *e.g.*, 87th General Assem., Senate Transcript, May 21, 1992, pp. 235-244 ("Senate Tr."); 87th General Assem., House Transcript, June 19, 1992, pp. 18-24 ("House Tr."). The supporters of the bill generally responded as follows:

- They asserted that the statute would not affect people who had committed no criminal activity, but provided no language to that effect. Senate Tr., pp. 237 (Barkhausen), 239 (Barkhausen).
- They referred to the definition of "gangs" without addressing the question of gang membership. Senate Tr., pp. 237 (Barkhausen), 244 (Hawkinson).
- They talked about the violence and terror inflicted by gangs, and related tragic examples. Senate Tr., pp. 238 (Geo-Karis), 239 (Raica); House Tr. p. 23 (Kubik).

In other words, the bill's proponents were unable to clarify how gang members would be identified, or how the bill would ensure that only those who had participated in criminal activity would be liable.

More persuasively, however, proponents noted that the bill merely created a civil cause of action, so there was no cause for concern that police would indiscriminately jail innocent young people. *See*, *e.g.* Sen. Tr. pp 241 (Barkhausen), 243-44 (Hawkinson). The definitions in the ISTOP Act were never intended to apply to criminal causes of action. Nonetheless, nearly two decades later, the General Assembly incorporated the ISTOP

definitions into the criminal offense of UPF/gang member. Once again, opponents of the bill pressed supporters on how gang members would be identified. The House sponsor brushed aside these concerns, referring to the Chicago Police Department's gang database and adding that "most of the gang members are proud of their affiliation. They'll tell you themselves. Either that, or they have tattoo markings." 96th General Assem., House Transcript, October 15, 2009, pp. 72, 74 (Acevedo).

This was a vast oversimplification. First, Chicago's Inspector found that the gang database "raise[d] significant data quality concerns" and contained "incomplete and contradictory data." *Review of the Chicago Police Department's "Gang Database,"* City of Chicago Office of Inspector General (April 11, 2019), https://igchicago.org/wp-content/uploads/2019/04/OIG-CPD-Gang-Database-Review.pdf, p.1. The Chicago Police Department has made only "minimal progress" toward upgrading the system. Follow-Up Inquiry on CPD's "Gang Database," City of Chicago Office of Inspector General (March 1, 2021), OIG-Follow-Up-Inquiry-on-the-Chicago-Police-Departments-Gang-Database.pdf (igchicago.org), p.18. Moreover, since the ISTOP Act specifically provides that "it shall not be necessary to show that a [gang] possesses, acknowledges, or is known by any common name, . . . means of recognition, . . . or other unifying mark . . .." 740 ILCS 147/10, a person may be a considered a "gang member" without a tattoo or similar identifier.

While the definition of gang member continues to raise more questions than it settles, it is clear that involvement in criminal activity is not a prerequisite to gang membership for purposes of the UPF/gang member statute. The sheer *status* of gang membership is sufficient to warrant years of extra punishment.

B. An individual without an intent to commit or knowledge of gang activity may nonetheless be prosecuted as a gang member.

Just as the tautological definition of "gang member" as someone who "actually and in fact belongs to a gang" lacks any requirement of criminal conduct, it also lacks any *mens rea* requirement. Again, the absence of *mens rea* is perhaps less disturbing in the civil context where the definition arose. Here, however, "gang membership" is the only thing standing between the Class 4 felony of simple UPF and the Class 2 felony of UPF/gang member. No one should face years of additional prison time for a condition beyond one's intention or knowledge.

In the same way that there are many different types of gang members, there are also many different ways to *become* a gang member. While gang membership is voluntary and intentional for some, this is not always the case. For example, a young person may be intimidated or coerced into gang membership, as the ISTOP Act acknowledges. 740 ILCS 147/5. Youths may also achieve a gang-marginal status simply through their proximity to family, friends, and neighbors who happen to be gang members. *See*, *e.g.*, Descormiers, *supra* at Part I.A., p.4. Neither of these paths to gang membership involve volition or intention.

Moreover, in recent years, "large cross-neighborhood street organizations" have given way to "independent neighborhood groups." Lakeidra Chavis, *An Outdated Understanding of Chicago Gangs Could Be Hampering Gun Violence Prevention*, THE TRACE: INVESTIGATING GUN VIOLENCE IN AMERICA (July 31, 2020), https://www.thetrace.org/2020/07/chicago-gang-gun-violence-law-enforcement/. Because "[n]eighborhood identity is often a proxy for gang identity," this transition to smaller, neighborhood-based gangs has blurred the line between gang members and non-gang

members. *Id*. A person who "actually and fact belongs" to such a gang may do so quite unintentionally.

Finally, some of these unintentional gang members may not even *know* about a gang's criminal activity, or even that they are members of a gang. Nonetheless, if they unlawfully possess a firearm, they may be prosecuted as gang member.

II. The Statute Violates the Due Process Clause.

These defects in the definition of "gang member" create serious issues for the UPF/gang member statute under the Due Process Clause of the Fourteenth Amendment. The Due Process Clause forbids the statute's added penalty based solely on "gang membership" for two reasons. First, the gang penalty bears no reasonable relationship to the statute's purpose of reducing gang-related gun violence, because the statute does not require the firearm possession to be gang-related or that the gang affiliation include any criminal activity. Second, the statute is unconstitutionally vague, because it fails to give a person of ordinary intelligence notice of whether they may be considered a "gang member" and does not give law enforcement and prosecutors sufficient guidance to constrain their discretion in making that determination.

A. The "gang member" penalty is not reasonably related to the statute's purpose.

"Criminal statutes that potentially punish innocent conduct not related to the statute's purpose violate the principles of due process." *People v. Ashley*, 2020 IL 123989, ¶ 78. Because of the inadequate definition of "gang member," the UPF/gang member statute potentially punishes (to the tune of two felony degrees and years of extra imprisonment) not only *innocent* conduct, but no conduct at all. Moreover, this extra punishment is wholly untethered from the purpose of the statute.

First, the statute does not require proof that the defendant unlawfully possess a firearm in *furtherance* of gang activity, or for any reason remotely related to a gang. That is, the statute draws no distinction between a so-called "gang member" who unlawfully possesses a firearm for hunting and one who unlawfully possess a firearm for shooting gang rivals. The two are subject to the same inflated punishment—years longer than any other person who unlawfully possess a firearm.

Further, because the definition of "gang member" includes individuals who have never engaged in "gang activity" or other illegal conduct, *see* Part I.A, the UPF/gang member statute allows this extra punishment without any showing that the defendant is any more "dangerous" or less trustworthy than any other person who unlawfully possesses a firearm. In this way, the UPF/gang member statute resembles the one this Court invalidated in *People v. Carpenter*, 228 Ill. 2d 250, 269 (2008). There, the statute "visit[ed] the status of a felon upon anyone who owns or operates a vehicle he or she knows to contain a . . . compartment . . . intended and designed to conceal the compartment or its contents from law enforcement officers," even when the "contents of the compartment do not have to be illegal for a conviction to result." Like a secret compartment in one's car, one's "gang membership" may arise from circumstances having nothing to do with one's own personal conduct or intention, and therefore may not be the sole basis for extra years in prison.

Nor does the statute require prosecutors to prove that a defendant intends to be a "gang member," or has any other "culpable mental state." *People v. Madrigal*, 241 Ill. 2d 463, 467 (2011). In *Madrigal*, the Court considered an identity theft statute that criminalized the use of another person's "personal identification information"—including a person's name, address, date of birth, or telephone number—"for the purpose of gaining

access to any record of the actions taken, communications made or received, or other activities or transactions of that person, without the prior express permission of that person." *Id.* at 471. As the Court explained, this could include such innocent conduct as using someone's name to Google someone, or calling a friend's workplace to find out if the friend is at the office or on vacation. *Id.* at 471-72. Therefore, "the problem with [the provision] . . . is that it lacks a culpable mental state, as it does not require a criminal purpose for a person to be convicted of a felony." *Id.*

The UPF/gang member statute has the same problem: It does not require a criminal purpose to be convicted of a Class 2 felony (as opposed to Class 4), or to serve years of extra prison time as a result. A young person who was "intimidate[d]" or "coerce[d]" into gang membership is subject to the same added punishment as the "sophisticated adult" who intimidated the youth. *See* 740 ILCS 147/5(c) (legislative findings). Indeed, that extra punishment applies even to "gang members" who do not *know* that they are gang members, because they are unaware of the "course or pattern of criminal activity" leading to their group's gang status, which may have taken place in the early nineties, before they were even born. As in *Madrigal*, the statute is unconstitutional because it "potentially punishes a significant amount of wholly innocent conduct not related to the statute's purpose," and therefore is not "a rational way of addressing the problem" of gang violence. 241 Ill. 2d at 472-73.

In sum, the UPF/gang member statute potentially adds years to the sentence a defendant would otherwise serve for UPF, even when the defendant (1) does not possess the firearm in furtherance of gang activity (or any criminal activity); (2) has not committed

any other criminal offense or wrongdoing; and (3) is unaware of the gang's criminal activity. The Statute is not a rational means to prevent gang-related gun violence.

B. The definition of "gang member" is void for vagueness.

"It is a basic principle of due process that an enactment is void for vagueness if its prohibitions are not clearly defined." *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972). Vague laws are fundamentally unfair for two related reasons. First, vague laws do not "give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly." *Id.* "Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them." *Id.* The definition of "gang member" is unconstitutional for both reasons.

1. The definition does not provide adequate notice.

"Gang member" is not "sufficiently defined so it provides persons of ordinary intelligence adequate notice of proscribed conduct." *City of Chicago v. Morales*, 177 Ill. 2d 440 (1997). In *Morales*, this Court reviewed Chicago's gang loitering ordinance, which required a police officer to order the dispersal of any group of people who "remain[ed] in any one place with no apparent purpose" when the officer "reasonably believed that" one member of the group was a "criminal street gang member." *Morales*, 177 Ill. 2d at 445-46. Failure to obey the dispersal ordinance was an offense punishable by a $500 fine, six months in prison, and 120 hours of community service. *Id.* The ordinance contained no definition or criteria for gang membership, because "the Chicago law and police departments informed the city council that any limitations on the discretion police have in enforcing the ordinance would be best developed through police policy, rather than placing such limitations into the ordinance itself." *Id.* at 446.

The Court found that the statute was unconstitutionally vague, in part because the element of "gang membership" was vague.[3] The ordinance "conveys no precise warning of the proscribed conduct understandable by an ordinary person," because a person "has no way of knowing whether an approaching police officer has a reasonable belief that the group contains a member of a criminal street gang." *Id.* at 453-54. Moreover, although the ordinance allowed an affirmative defense if it turned out that no one in the group "was in fact a member of a criminal street gang," this did not cure the lack of notice, because "[s]howing that one person in a group of loiterers is a gang member does not ultimately prove that a defendant had knowledge of that fact." *Id.* at 454.

The UPF/gang member statute has the same problems. Unlike the gang loitering ordinance, the statute does provide a definition of "gang member"—but that definition is so empty that it fails to give a person notice of the conduct required to be found guilty of the Class 2 felony of UPF/gang member, instead of the Class 4 felony of simple UPF. Again, a "gang member" may be "any person who actually and in fact belongs to a gang." 740 ILCS 147/10. This definition is no clearer than the term it defines. It provides no standards or criteria for gang membership—including gang-related activity. Exacerbating the problem, a "gang" need not have any "common name, insignia, flag, means of recognition, secret signal or code, creed, belief, structure, leadership or command structure, method of operation or criminal enterprise, concentration or specialty, membership, age, or other qualifications, initiation rites, geographical or territorial situs or boundary or location, *or other unifying mark, manner, protocol or method of expressing or indicating*

[3] This Court also held that the definition of "loitering" was unconstitutionally vague. *Morales* at 451-53. The U.S. Supreme Court affirmed that holding and did not reach the issue of the gang membership. *Chicago v. Morales*, 527 US 41 (1999).

membership." *Id.* (emphasis added). But the statute does not explain how to prove that someone is "actually and in fact belongs to a gang" that has no "method of expressing or indicating membership"—except by "any evidence reasonably tending to show or demonstrate, in law or in fact . . ., membership in" such a group. *Id.* The definition goes around in circles and stops nowhere.

Since a person may be a "gang member" based on undefined conduct or no conduct at all, it is a trap for the unwary, subjecting them to prison sentences years longer that they could predict. Certainly, people who unlawfully possess a firearm without a FOID card are on notice that they may be prosecuted for a Class 4 felony. 720 ILCS 5/24-1(a)(4). But "gang members" are not on notice that they may be prosecuted for a *Class 2* felony if they unlawfully possess a firearm because they are not even on notice that they are gang members.

2. *The definition contains no guidelines to constrain official discretion.*

Since a person who has not participated in gang activities and has no "mark, manner, protocol or method of expressing or indicating membership" may nonetheless be a "gang member," the UPF/gang member statute allows police, prosecutors, judges, and juries to "pursue their personal predilections" to make the determination. *Morales*, 177 Ill.2d at 456 (quoting *Kolender v. Lawson*, 461 U.S. 352, 358 (1983)). The statute, therefore, "permits and encourages an arbitrary and discriminatory enforcement of the law," furnishing "a convenient tool for 'harsh and discriminatory enforcement by local prosecuting officials, against particular groups deemed to merit their displeasure.'" *Id.* (quoting *Papachristou v. City of Jacksonville*), 405 U.S. 156, 170 (1972)).

In *Morales*, this Court noted that "ordinances such as the gang loitering ordinance are drafted in an intentionally vague manner so that persons who are undesirable in the eyes of police and prosecutors can be convicted even though they are not chargeable with any other particular offense." *Id.* at 459. The ISTOP Act—in which the definitions of "gang" and "gang membership" first appeared—was similarly motivated. Like the Chicago City Council, the General Assembly declared that "gang members a public menace" and "crafted an exceptionally broad [statute] to sweep these intolerable and objectionable gang members from the city streets," *Id.* at 458. Senator Raica, a Chicago paramedic, captured this sentiment on the floor of the House:

> Are we going to sit here and talk about due process for gang members? Huh? You pull them over in a car; they got three baseball bats, knives and chains in the front seat. . . . And the Chicago aldermen did the exact -- the right thing when they went in there and says they can't congregate on the corner. If I have reason to believe they're gang members, I'm going to go in there and I'm going to search them -- absolutely correct. How you [*sic*] supposed to keep them off the street? . . . This is a step in the right direction to get rid of gangs, and we better take that step, before they take us.

Senate Tr., pp. 239-40.

The ISTOP Act used the sweeping definition of "gang" and "gang member" in order to impose civil liability on the broadest possible swath of people and recover the greatest possible value in assets. But the UPF/gang member statute adopted the same standardless definitions in order to lock up the greatest number of people for the longest possible time, as legislators straightforwardly expressed. One House member said:

> The fact of the matter is, we're not harsh enough on people who carry firearms illegally in the State of Illinois. Maybe if there wasn't probation and people were locked up, they would think twice about this and about killing kids in Chicago public schools . . . . We need to look at the fact that

> more people should be locked up when they are out carrying firearms illegally.

96th General Assem., House Transcript, October 15, 2009, pp. 78-79 (Reboletti). Another added,

> I'm willing . . . to make sure that these people are sent away to prison so they're taught a lesson, that if you are going to carry a firearm, there is zero tolerance in the State of Illinois. And the fact is, if that's what we have to do to make our neighborhoods safer, so be it.

Id. at 80 (Durkin). According to a third,

> [w]e have, on many occasions in the downstate perspective, discussed the fact that we would be there and we would be supportive when legislation was brought forward that would enhance the penalties for criminals, while protecting law-abiding citizens."

Id. at 81 (Eddy).

None of these members articulated who, exactly, should spend more time in prison for UPF beyond "they," "these people," and "criminals," and neither do the ISTOP definitions imported into the UPF/gang member statute. Instead, the statute allows the "personal predilections" of law enforcement, prosecutors, judges, and juries to fill the vacuum. This vast discretion and uncertainty violates the Due Process Clause.

CONCLUSION

For the foregoing reasons, and for those set forth in the Brief for Petitioner-Appellant, the *Amicus* respectfully urges the Court to hold the UPF/gang member statute unconstitutional on its face and to vacate the Defendant's conviction under the statute.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 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 16 pages.

/s/ *Rebecca K. Glenberg*
Rebecca K. Glenberg
Attorney for *Amicus Curiae* ACLU of Illinois

NOTICE OF FILING AND PROOF OF SERVICE

The undersigned, an attorney, certifies that on March 29, 2022, she caused the foregoing **Brief of *Amicus Curiae* American Civil Liberties Union of Illinois in Support of Petitioner-Appellant** to be filed with the Clerk of the Supreme Court of Illinois using the Court's electronic filing system and that the same was served by e-mail to the following counsel of record:

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Within five days of acceptance by the Court, the undersigned also states that she will cause thirteen copies of the **Brief of *Amicus Curiae*** to be mailed with postage prepaid to the following address: Clerk of the Supreme Court of Illinois, Supreme Court Building, 200 E. Capitol Ave, Springfield, IL 62701.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ *Rebecca K. Glenberg*
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