ORIGINAL

No. 126139

IN THE SUPREME COURT OF ILLINOIS

MOORE LANDSCAPES, LLC, Petitioner, v. SAMUEL VALERIO, JOSE PAZ, RUBEN GARCIA BARDOMIANO PAZ, EVARISTO VALERIO, LUIS MONDRAGON, SERGIO APARICIO, RAUL BERMUDEZ, RODRIGO VALERIO, JAVIER MORA, MARCOS HUERTA, JAIME MORA, Respondents.	On Appeal from the Appellate Court of Illinois, First Judicial District, No. 1-19-0185. There on Appeal from the Circuit Court of Cook County, No. 18 L 9656, the Honorable Ann Brennan, Judge Presiding.

BRIEF *AMICUS CURIAE* OF ILLINOIS LANDSCAPE CONTRACTORS ASSOCIATION AND ILLINOIS LANDSCAPE CONTRACTORS BARGAINING ASSOCIATION IN SUPPORT OF DEFENDANT-APPELLANT

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POINTS AND AUTHORITIES

INTEREST OF *AMICUS CURIAE*

The Illinois Landscape Contractors Association ("ILCA") is a non-profit trade association with more than 800 member companies throughout the State of Illinois. Since 1959, the ILCA has provided its members with resources needed to enhance their performance and ensure continued growth and success. These resources include, but are not limited to, legislative advocacy and assistance with understanding how applicable laws and regulations, including the Illinois Prevailing Wage Act ("PWA"), impact their business and the landscape industry as a whole. Many of the ILCA's members also are members of co-*amicus*, Illinois Landscape Contractors Bargaining Association ("ILCBA"), are covered by the collective bargaining agreements negotiated by the ILCBA (as discussed below), and perform work on public projects that are covered by the PWA.

The ILCBA is a not-for-profit corporation organized to improve the landscape and nursery industry in Illinois. It is comprised of thirteen unionized landscape companies, including McGinty Bros. (Long Grove, Illinois), Atrium Landscaping (Lemont, Illinois), Clauss Brothers, Inc. (Streamwood, Illinois), Del Toro Landscaping, Inc. (Dundee, Illinois), Great Lakes Landscape Company, Inc. (Elk Grove Village, Illinois), Gro Horticultural Enterprises (Union, Illinois), Moore Landscapes, LLC (Northbrook, Illinois), Natural Creations Landscaping, Inc. (Joliet, Illinois), Otto Damgaard Sons, Inc. (Kaneville, Illinois), Pedersen Company (St. Charles, Illinois), Twin Oaks Landscaping, Inc. (Oswego, Illinois), and Woodland Commercial Landscape, Inc. (Naperville, Illinois). All or substantially all of the ILCBA's members are also members of co-*amicus*, ILCA.

The ILCBA negotiates and administers two multiemployer collective bargaining agreements ("CBAs"), which set the standards for unionized landscape construction contractors operating in the geographic areas covered by the CBAs (including Northeast,

Illinois), and are binding on the ILCBA's members and hundreds of other contractors who sign them on a "me-too" basis. These CBAs include: (1) the Landscape Construction Labor Agreement between the ILCBA and International Union of Operating Engineers Local 150 ("IUOE Local 150"), which covers Landscape Equipment Operators and Leadman Operators (the "Operators Agreement"), and (2) the Landscape Construction Labor Agreement between the ILCBA, IUOE Local 150, and Teamsters Local 703, which covers Plantsmen, Lead Plantsmen, Junior Plantsmen, Installers, Plantsmen/Installer Trainees, Equipment Mechanics, Small Engine Mechanics, Shop Helpers, Truck Drivers, and Water Truck Operators (the "Plantsmen Agreement"). Most of the ILCBA's members and many of the me-too signatory companies bound by the ILCBA's CBAs regularly perform work on public projects that are covered by the PWA.

The ILCA and ILCBA were actively involved in the discussions among the Illinois Department of Labor ("IDOL"), public bodies, labor unions, and other stakeholders that resulted in the Prevailing Wage Landscaping FAQ (the "*Landscaping FAQ*"), which has appeared on the DOL's website since approximately May 2013.[1] The *Landscaping FAQ* represents the IDOL's position as a matter of enforcement policy regarding the application of the PWA to landscaping because of the uniqueness of the work and materials involved. The intent of the *Landscaping FAQ* was to provide much-needed guidance for landscape contractors, public bodies, workers, and the IDOL regarding how the broad language of the PWA applies to landscape work. Landscaping is unique because it does not necessarily occur in connection with what everyone would readily recognize as a "construction project" and does not necessarily end with the installation of landscape materials as

[1] *See* https://www2.illinois.gov/idol/FAQs/Pages/Landscaping.aspx

typically is the case with other types of construction projects. As such, there was much greater room for interpretation and, accordingly, much greater uncertainty, regarding the types of landscape work that were and were not covered by the PWA. Prior to the *Landscaping FAQ*, the industry relied on a series of opinion letters from IDOL leadership that generally were not specific to landscaping or failed to address specific landscape tasks. The clarity and specificity provided by the *Landscaping FAQ* was a significant improvement for all parties and created a much fairer bidding environment.

One of the examples of landscape work that the *Landscaping FAQ* provides is *not* covered by the PWA, as long as it is not performed in conjunction with or as part of other covered work, is the replacement and removal of trees that are planted as a replacement due to the removal of diseased or irreparably damaged trees, or trees that constitute a hazard. Municipalities, including the City of Chicago, who were engaged in or about to launch large-scale tree replacement programs, were instrumental in securing this exemption. The ILCA and ILCBA are informed and believe that the contract at issue in *Samuel Valerio, et al. v. Moore Landscapes, LLC*, No. 1:-19-0185 Ill. App., First District, Fourth Division (the "*Moore Case*") involved, at least in part, the replacement and removal of trees covered by the foregoing exemption.

The ILCA also was actively involved in the discussions with the IDOL and other groups that resulted in the Prevailing Wage Public Body FAQ (the "*Public Body FAQ*"), which has appeared on the DOL's website for many years.[2] The principal purpose of the *Public Body FAQ* was to clarify and reinforce the public bodies' statutory obligation under Section 4 of the PWA (820 ILCS 130/4) to insert into the specifications and contract for

[2] *See* https://www2.illinois.gov/idol/FAQs/Pages/public-body-faq.aspx

projects covered by the PWA a stipulation that not less than the prevailing rate shall be paid to all laborers, workers and mechanics performing work under the contract, as well as the consequences set forth in Section 4 of the PWA if the public body fails to properly notify a contractor regarding the application of the PWA to the contract. The *Public Body FAQ* includes sample contract language for proper written notification by the public body.[3] The Circuit Court found that the contract at issue in the *Moore Case* did not include a stipulation as required by the PWA and the *Public Body FAQ*.

Having public bodies fulfill their statutory obligation to notify a contractor regarding the application of the PWA to the particular contract was and is especially important to the ILCA, the ILCBA, and their member companies. For a variety of reasons, landscaping does not have its own prevailing wage classifications. The IDOL does not use the landscape-specific job classifications and rates set forth in the ILCBA's CBA's with IUOE Local 150 and Teamsters Local 703, which apply to the employees of the vast

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[3] The language (https://www2.illinois.gov/idol/Laws-Rules/CONMED/Documents/contract.pdf) reads as follows:

> This contract call for the construction of a "public work," within the meaning of the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act"). The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less that the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Department publishes the prevailing wage rates on its website at http://labor.illinois.gov/. The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department's website for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website. All contractors and subcontractors rendering services under this contract must comply with all requirements of the Act, *including but not limited to*, all wage requirements and notice and recording keeping duties.

majority of unionized landscape contractors in Northeast, Illinois. Instead, the IDOL uses the prevailing rate for the classification of general construction Laborer for the various classifications of landscape laborers covered by the ILCBA's Plantsmen Agreement and the general construction classification of Heavy Highway Operating Engineer, Class 5, for the landscape operator classification covered by the ILCBA's Operators Agreement. The statutory prevailing rates for these general construction classifications are much higher than the standard rates paid in the landscape industry, including those set forth in the CBAs negotiated by the ILCBA.[4]

With other trades, if the contractor is misinformed or makes a mistake about the application of the PWA, but pays the rates prescribed in their industry's collective bargaining agreements, which also are used as the basis for the statutory prevailing wage, the contractor has no exposure under the PWA. However, because of the significant difference between the rates associated with the general construction classifications that the IDOL uses to set the statutory prevailing rates for the landscape industry, and the rates associated with the landscape-specific classifications set forth in the landscape industry's labor agreements, the liability of a similarly situated landscape contractor would be massive. Because the IDOL uses classifications and wage rates from other trades to set

[4] For example, the current statutory prevailing rate (including wages and contributions to the applicable health and welfare, pension, and training funds) for the general Laborer classification, as established by the IDOL, is $75.61 per hour. The comparable contract rates for the landscape-specific classifications of Plantsmen and Junior Plantsmen, under the ILCBA's Plantsmen Agreement, are approximately $30.88 and $18.78 to $21.73 per hour, respectively. The current statutory prevailing rate (including wages and contributions to the applicable health and welfare, pension, vacation, and training funds) for the general classification of Heavy Highway Operating Engineer, Class 5, as established by the IDOL, is $88.00 per hour. The comparable contract rate for the landscape-specific classification of Equipment Operator, under the ILCBA's Operators Agreement, is approximately $49.78 per hour.

prevailing wages for landscaping, the financial risk to a contractor that misapplies the PWA is probably greater in landscaping than any other industry. Therefore, the clarity that the *Landscaping FAQ* and the *Public Body FAQ* provided, from the perspective of both bidding and contract enforcement, was of great importance to landscape construction contractors.

The ILCA and ILCBA believe that the Appellate Court's decision in the *Moore Case* improperly expanded the scope of the private right of action available to employees under Section 11 of the PWA (820 ILCS 130/11) beyond what the language, structure, and public policies underlying the PWA clearly provide, in a way that ignores the IDOL/private right of action dual enforcement scheme set forth in the PWA, and has consequences that are particularly harsh and costly for landscape contractors. The decision also stands to undermine the substantial efforts that the ILCA and ILCBA have devoted to developing the *Landscaping FAQ* and *Public Body FAQ* for the guidance and protection of all interested parties, including the public bodies, landscape contractors, and their employees.

Given their representation of landscape contractors who perform work on public projects that are covered by the PWA, their historical involvement in the development of the *Landscaping FAQ* and the *Public Body FAQ*, their interest in ensuring that issues addressed in the FAQs be presented to the agency that approved, adopted and published them on its website (*i.e.*, the IDOL), and their interest in avoiding the draconian impact of the Appellate Court's decision on landscape contractors, the ILCA and ILCBA have a unique perspective on the issues that the Court will be deciding in the *Moore Case*. This brief will assist the Court's understanding of how the Appellate Court's failure to recognize the clearly delineated lines between PWA enforcement actions brought through the IDOL and private actions brought in the circuit courts works to the particular detriment of

landscape contractors and their hard-fought efforts to secure clarity and uniform enforcement of the PWA through the *Landscaping FAQ* and *Public Body FAQ*.

ARGUMENT

I. Introduction

The case before the Court presents the question of whether the PWA allows employees to bring a private right of action in the circuit courts to recover prevailing wage payments to which they claim to be entitled for work performed under a public contract that fails to stipulate that the work is subject to the PWA, or whether such employees must pursue their claims through a complaint filed with the IDOL. The answer to this question will have no discernable adverse impact on the employees. They will have the ability to secure the prevailing wages to which they are entitled, with interest, in either event. However, the answer to this question has potentially enormous adverse consequences for the contractors who perform the work.

Based on the enforcement mechanism set forth in the PWA, if the employees prevail in an action brought through the IDOL, they will recover the underpayments to which they are entitled, with interest, and penalties and fines will be assessed. However, pursuant to the express language of the PWA, the IDOL is directed to order the public body that failed to include the statutorily-required prevailing wage stipulation in the contract – not the contractor – to pay the interest, fines and penalties. On the other hand, if the employees prevail in a private right of action, the same contractor will be liable for all of the underpayments, interest, penalties, and fines determined to be due (as well as the employees' attorney's fees and costs), without any statutory mechanism or practical option to shift any part of the liability to the responsible public body who failed to include the prevailing wage stipulation in the contract. This result is unfair and particularly injurious

to landscape contractors. More importantly, it is not authorized by the PWA and does not serve any public policy interests embodied in the PWA. In fact, a reasonable interpretation of the plain language of the PWA compels a contrary conclusion and requires reversal of the Appellate Court's decision in the *Moore Case*.

II. The Appellate Court's Improper Expansion of the Private Right of Action Under Section 11 of the PWA Has an Unfair and Punitive Impact on Landscape Contractors and Undermines Their Collective Efforts to Bring Clarity to the Application of the PWA to Unique Issues Involved in Landscape Work

Section 4(g) of the PWA provides for enforcement through a complaint made with the IDOL and specifically directs the IDOL to determine if the public body has provided proper written notice of the application of the PWA as required by Section 4. (820 ILCS 130/4(g).) If the IDOL determines that a statutory violation occurred and that proper written notice was not provided to the contractor by the public body, then the IDOL "shall order the public body … to pay any interest, penalties or fines that would have been owed by the contractor if proper written notice were provided." In such a case, the contractor's liability is "limited to the difference between the actual amount paid and the *prevailing rate of wages required to be paid for the project.*" (*Id.*; italics added.)

Section 11 of the PWA sets forth a separate, private right of action in court designed to enforce a public contract which contains the public body's statutorily-required notice of the application of the PWA and stipulation of the prevailing rates to be paid for the work. (820 ILCS 130/11.) Pursuant to Section 11, the contractor who pays less than the stipulated prevailing wage is liable for "whatever difference there may be between the amount so paid, and the *rates provided by the contract*, together with costs and such reasonable attorney's fees as shall be allowed by the court." (*Id.*; italics added.) The contractor also is "liable to the Department of Labor for 20% of such underpayments and shall be

additionally liable to the laborer, worker or mechanic for punitive damages in the amount of 2% of the amount of any such penalty to the State for underpayments for each month following the date of payment during which such underpayments remain unpaid." (*Id.*)

Under Section 11, the calculus for the contractor's liability specifically is the "*rates provided by the contract.*" (*Id.*; italics added.) This is in sharp contrast with Section 4(g), which uses the statutory "*prevailing rate of wages required to be paid for the project*" as the calculus. (820 ILCS 130/4(g); italics added.) Because Section 11 contemplates that the contract at issue contains the public body's written notice required by Section 4, it does not grant the court in a private right of action any authority or duty, such as that granted to the IDOL in an administrative action under Section 4(g), to determine if such notice was given and, if not, to order the public body to pay any interest, penalties or fines that would have been owed by the contractor.

The different language used as the calculus for determining damages under Section 11 and Section 4, the absence of any provision in Section 11 giving a court the authority to determine if notice was properly given by the public body and to shift liability to the public body for interest, penalties, and fines that would have been owed by the contractor, and the broader range of damages (including punitive damages) to which contractors are subject under Section 11, all show that the private right of action established by Section 11 was intended to be limited to cases in which the underlying contract contains the public body's statutorily-required notice and stipulation of the applicable prevailing rates. It is unlikely that the legislature would have intended to subject contractors to the draconian penalties provided for in Section 11, which are much more severe than those set forth in Section 4, in cases in which the public body violated its statutory obligation by failing to provide the required written notice and stipulation of rates – and, at the same time, provide no

mechanism for shifting any of the contractor's liability to the responsible public body. Those cases, it appears, were intended to be addressed through a complaint filed with the IDOL.

The ILCA and ILCBA believe that the simple and direct approach taken by Judge Margaret Ann Brennan in the Circuit Court's decision in the *Moore Case*, which resulted in dismissal of the Plaintiffs' complaint, reflects the proper interpretation of the applicable language of the PWA, the legislature's clear distinction between the types of claims that properly are brought through complaints filed with the IDOL and those filed in court, and the legislature's allocation of liability between the responsible public body and contractor. It places resolution of disputes regarding whether the public body provided the statutorily-required written notice of the application of the PWA in the contract – which, in the case of landscape contractors, may involve the application and interpretation of the *Landscaping FAQ* – before the IDOL, the agency which the legislature authorized to resolve such disputes and which agreed to, adopted, published, and enforces the *Landscaping FAQ*. It allows the IDOL to perform its statutory duty to shift liability for interest, fines, and penalties to the responsible public body that failed to include the required notice in the contract. At the same time, it permits the aggrieved employees to secure full relief through actions filed with the IDOL in accordance with the terms of the PWA. As such, it achieves the proper balance of two fundamental public policies embodied in the PWA: (1) ensuring that employees receive prevailing rates for prevailing wage work, and (2) ensuring that public bodies fulfill their statutory obligation to provide written notice of the application of the PWA and prevailing rates in the contract.

The Appellate Court's decision in the *Moore Case*, on the other hand, ignores the clear language of the PWA, the statutory enforcement scheme provided for in the PWA,

and the second of the public policies referred to above. It leaves the contractors responsible for the full range of interest, penalties, and fines provided under Section 11, without any legal or practical avenue of recourse against the public body that failed to insert the required PWA notice in the underlying contract. It also places the contractors in an untenable, "no-win" situation during the bidding process. The facts in the *Moore Case* (upon which the discussion below is based) provide a perfect example of how the Appellate Court's improper expansion of the private right of action adversely impacts landscape contractors, initially, when bidding on a project under a public contract that does not include the required PWA stipulation, and after-the-fact, if it is determined that the work performed under the contract was covered by the PWA.

Assume that the contract with the public body does not include a stipulation to the effect that not less than the applicable statutory prevailing rate "shall be paid to all laborers, workers and mechanics under the contract" as required by Section 4(e) of the PWA. The contract also does not include the model language suggested by the IDOL in its *Public Body FAQ* in order for the public body to fulfill its notice obligation under Section 4(e). Instead, the contract provides only that the contractor should pay prevailing wages, "when required," which effectively shifts responsibility for determining whether the prevailing wage applies from the public body to the contractor. The contract also specifically notes that under the IDOL's enforcement policy, as set forth in the *Landscaping FAQ*, landscaping work often is not covered by prevailing wage requirements.

Assume further that the public body did not include a PWA stipulation in the contract because it reasonably concluded that the work to be performed under the contract was covered by one or more of the exemptions set forth in the *Landscaping FAQ* (*e.g.*, replacement of trees that are planted as a replacement due to the removal of diseased or

irreparably damaged trees). Since the public body possesses greater knowledge of the scope and nature of the work to be performed under the contract, as well as the funding sources, and since the PWA places responsibility for making the initial assessment of whether the PWA applies to the work to be performed under the contract on the public body, the contractor should be able to rely on the public body's decision to include or not include a prevailing wage stipulation in the contract. This is particularly true where the work at issue appears to fall within one or more of the unique landscape exemptions set forth in the *Landscaping FAQ*.

Furthermore, where the public body's contract does not include a prevailing wage stipulation as required by the PWA and the *Public Body FAQ*, the landscape contractor would be at a distinct competitive disadvantage and likely would not be awarded the contract if it submitted a bid based on the statutory prevailing rates, instead of the significantly lower rates generally paid by the contractor, which the public body appears to be inviting and expecting.[5] Under these circumstances, the landscape contractor reasonably and in good faith would bid the work at its standard rates, rather than the PWA prevailing rates. Doing otherwise would all but ensure that its bid will be rejected.

The Appellate Court's decision, which recognizes a private right of action in cases where the underlying public contract fails to stipulate that the work is subject to the PWA, not only contradicts the clear language and dual enforcement scheme set forth in the PWA, but also fails to fulfill important public policies embodied in the PWA, while subjecting

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[5] As noted in footnote 5 above, even for unionized landscape construction contractors covered by the ILCBA's CBAs with IUOE Local 150 and Teamsters Local 703, the difference between the prevailing rates of pay under the PWA and the contract rates under the CBAs are approximately $38.22 per hour for Equipment Operators, approximately $44.73 per hour for Plantsmen, and anywhere from approximately $53.88 to $56.83 per hour for Junior Plantsmen.

contractors – and landscape construction contractors, in particular – to potentially enormous liability with no recourse against the responsible public body.

First, the private right of action recognized by the Appellate Court would require the circuit court to decide whether the work was subject to the PWA (*i.e.*, whether a statutory violation occurred) even though no PWA stipulation was included in the contract. However, Section 4(g) of the PWA gives that authority specifically and exclusively to the IDOL in enforcement actions brought through a complaint filed with the IDOL. No such authority is granted to the courts in private actions brought pursuant to Section 11 of the PWA. The court's authority under Section 11 is limited to determining, not whether a statutory violation occurred, but only whether the contractor violated the contract by failing to pay "the stipulated rates for work done under such contract, ..."

Second, and relatedly, the private right of action recognized by the Appellate Court would infringe upon the IDOL's authority to interpret and apply the provisions of the PWA to landscaping through the *Landscaping FAQ*, which the IDOL adopted based on its historical experience with the unique nature of landscape work and materials, after extensive discussions with contractor groups (including the ILCA and ILCBA), labor unions, public bodies, and other stakeholders. This authority not only resides in the IDOL under the clear language of the PWA, it is properly exercised by the regulatory enforcement agency who was directly involved in the discussions and issues that led to the adoption and publication of the *Landscaping FAQ* as it enforcement policy. In addition, all of the interested parties, including the contractors, should be able to rely upon the IDOL's informed and consistent application of the *Landscaping FAQ* when a determination is being made regarding the existence of a statutory violation.

Third, the private right of action recognized by the Appellate court would require the circuit court, after deciding whether the work was covered by the PWA, to award the workers the difference between the amount paid by the contractor and the rates provided by the contract, plus interest on the amount of the underpayment, along with costs and reasonable attorneys' fees. Given the substantial per-hour difference between the statutory prevailing rates established by the IDOL for landscape work and the rates landscape contractors typically pay under their landscape labor agreements, the amount of the underpayments alone could be enormous. On top of that, the court also would be required to order the contractor to pay a penalty to the IDOL in the minimum amount of 20% of the underpayments and to pay the workers punitive damages in the minimum amount of 2% of the amount of such penalty for each month during which the underpayments remained unpaid. (*See* Section 11.) The contractor's liability in a private right of action under Section 11 is greater than that associated with a complaint filed with the IDOL under Section 4.

However, Section 11 does not give the court in a private action the authority, let alone the mandate, which Section 4(g) gives to the IDOL, to determine if the public body gave the contractor proper written notice of the application of the PWA to the contract and, if not, to order the public body to pay any interest, penalties or fines that would have been owed by the contractor if proper written were provided. The only reasonable explanation for this otherwise glaring and potentially costly omission is that it was unnecessary because the private right of action provided for in Section 11 can only be brought when the underlying contract includes the statutorily-required stipulation.

The Appellate Court's contrary decision leaves contractors with no recourse to shift responsibility for interest, penalties, and fines to the public body that failed to include the stipulation. As such it wholly ignores the language of the PWA, fails to advance one of the

fundamental public policies embodied in the PWA (*i.e.*, that public bodies provide the contractor with notice of the application of the PWA to the contract), and exposes landscape contractors to enormous liability to which they would not be exposed if the workers had filed a complaint with the IDOL. At the same time, the Appellate Court's decision serves no countervailing public policy interests embodied in the PWA. The allegedly affected employees will be able to pursue their PWA rights and receive all of the underpayments to which they are found to be entitled, with interest, through the IDOL. The Appellate Court's decision also creates the potential that the courts will be burdened with a host of new civil actions under the PWA, which the legislature clearly intended were to be pursued before the IDOL.

CONCLUSION

Amicus curiae, for and on behalf of themselves, their members, and the hundreds of landscape contractors covered by the landscape industry's collective bargaining agreements, respectfully urge the Court to reverse the decision of the Appellate Court.

Dated: November 4, 2020

Respectfully Submitted,

ILLINOIS LANDSCAPE CONTRACTORS ASSOCIATION

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CERTIFICATE OF COMPLIANCE

I certify that this Brief *Amicus Curaie* conforms to the requirements of Rules 341(a) and (b) and 345(b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) 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 15 pages.

Dated: November 4, 2020

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CERTIFICATE OF SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that on November 4, 2020, a true and correct copy of the foregoing **BRIEF *AMICUS CURIAE* OF ILLINOIS LANDSCAPE CONTRACTORS ASSOCIATION AND ILLINOIS LANDSCAPE CONTRACTORS BARGAINING ASSOCIATION IN SUPPORT OF DEFENDANT-APPELLANT** was filed with the Clerk of the Supreme Court of Illinois via the electronic filing system and was served via e-mail upon the following persons:

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