IN THE SUPREME COURT OF VIRGINIA

Record No. 230865

AMAZON LOGISTICS, INC.,

Appellant,

v.

VIRGINIA EMPLOYMENT COMMISSION,

Appellee.

BRIEF OF *AMICI CURIAE* VIRGINIA CHAMBER OF COMMERCE & CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA

John S. Moran (VSB No. 84326)
Counsel of Record
McGuireWoods LLP
888 16th St. N.W., Suite 500
Black Lives Matter Plaza
Washington, DC 20006
T: (202) 828-2817
F: (202) 828-3327
jmoran@mcguirewoods.com

Counsel for Respondents

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Cases

Statutes

Other Authorities

INTEREST OF *AMICI CURIAE*

The Virginia Chamber of Commerce is the leading non-partisan business advocacy organization that works in the legislative, regulatory, and judicial arenas at the state and federal levels to be a force for long-term economic growth in the Commonwealth. The Virginia Chamber is the voice of the Virginia business community and the most influential business advocacy organization in the Commonwealth. With over 31,000 members, the Virginia Chamber represents virtually every business and industry sector in the Commonwealth.

The Chamber of Commerce of the United States of America is the world's largest business federation. It represents approximately 300,000 direct members and indirectly represents the interests of more than 3 million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the U.S. Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the U.S. Chamber regularly files amicus curiae briefs in cases, like this one, that raise issues of concern to the nation's business community.

Amici have significant interest in the issues before the Court. One of *Amici*'s key priorities is protecting innovation and entrepreneurialism against policies that stifle economic growth. Many members of the Virginia Chamber and U.S.

Chamber rely on the flexibility of independent contractor relationships, including by working alongside so-called “gig” workers who deliver goods and services to the public. Gig work provides millions of people the opportunity to own their own business, set their own hours, and navigate the changing economic landscape. Today, work outside the traditional employment model accounts for tens of millions of jobs and trillions of dollars in economic activity, figures that are increasing every year. *Amici* therefore encourage this Court to reverse the decision below.

INTRODUCTION

The Virginia Employment Commission overstepped its statutory authority to the detriment of businesses, workers, and customers in Virginia. The General Assembly has established a mechanism for the Commission to determine on a generalized basis whether a particular business unit is an “employer” subject to unemployment tax liability. *See* Code § 60.2-500. If the Commission had followed those procedures, Amazon would have had the opportunity to develop a materially different factual record, with a likely different outcome. But the Commission did not follow the Section 60.2-500 procedures. Instead, the Commission made a generalized determination of liability and ordered class relief in the context of reviewing an individual applicant’s claim for unemployment benefits. That process deviated from the Commission's statutory authority, which this Court should correct.

The Commission's procedural error also led it to a bad decision. Amazon Flex drivers, like hundreds of thousands of other Virginians, work as independent contractors in the modern "gig economy." Those jobs have had tremendous benefits for the Virginia economy, for the individual workers who participate, and for customers across the Commonwealth who benefit from such services. The decision below threatens to stifle the gig economy in Virginia. It is misguided and should be promptly corrected.

ARGUMENT

I. The General Assembly Has Not Given the Commission Authority to Order Class Relief Without Following the Procedures in Code § 60.2-500

The Court should reverse the decision below because the Commission does not have the statutory authority to order class relief (in favor of *all* Amazon Flex drivers, and not just the petitioner, Mr. Diggs) in connection with an individual's unemployment claim. Rather, the General Assembly has provided that such group classification decisions be made through the tax-liability procedures set forth in Code § 60.2-500. Because the Commission never afforded Amazon the procedural protections that accompany such proceedings, its broad grant of relief exceeded its statutory authority.

As this case illustrates, classification decisions can come before the Commission in two very different ways: (1) a tax-liability determination for the employer; or (2) an unemployment insurance determination for the employee. A tax-liability determination—which turns on whether the business unit is an "employer"—is governed by Code § 60.2-500. That proceeding may be initiated on the Commissions "own motion or upon application of an employing unit." § 60.2-500(A). The employer is entitled to "not less than 30 days' notice in writing . . . and an opportunity for hearing." *Id*. As relevant here, in a Section 60.2-500 proceeding, the General Assembly has authorized the Commission to "make findings of fact, and on that basis, determine whether . . . [a]n employing unit constitutes an employer . . . [or] [s]ervices performed for or in connection with the business of an employing unit constitute employment for such employing unit." *Id*. The Code sets forth additional procedural safeguards as well. *See* § 60.2-500(B)–(D).

If the Commission had wanted to consider whether all Amazon Flex drivers were "employees," it should have conducted a Section 60.2-500 proceeding. And in that proceeding, Amazon would have had the opportunity to develop a complete record—one that would have exposed the error of concluding that all Amazon Flex drivers are employees.

But the Commission made a blanket determination and ordered effective class relief *without* following the Section 60.2-500 procedures. Instead, the Commission made that determination while reviewing the adjudication of an individual application for unemployment benefits under the standard set forth in Code § 60.2-212(C). In that context, the Commission is called upon to conduct an individualized inquiry to decide whether a single applicant was an "employee." Here, in the case of Mr. Driggs, that determination turned on the distinction between an "employee" and an "independent contractor." When the issue arises in the context of litigation, this Court has admonished that "[w]hether a person is an independent contractor or an employee is generally a question of fact for a jury." *Atkinson v. Sachno*, 261 Va. 278, 284 (2001). The limited record developed before the Commission therefore focused entirely on Mr. Driggs and his unique circumstances. As such, the record did not provide a basis for the Commission to determine that all Amazon Flex drivers are "employees," rather than "independent contractors." By their very nature, independent contractor roles are more varied than employee roles. It is thus hazardous to generalize from one independent contractor's experience to the experience of hundreds or thousands of others. The Commission's end-run around the Section 60.2-500 procedures was all the less justified because the Commission could have triggered them on its own motion, even after first reviewing the particulars of Mr. Driggs' case.

The U.S. Supreme Court explained the dangers of overlooking individualized factual distinctions to provide class relief in *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011). There, the Court held, in the context of a class-action lawsuit for unlawful employment discrimination, that it was reversible error to certify a class action for thousands of employees without an affirmative showing that all employees were similarly situated and could have their claims adjudicated on a class-wide basis. *See id.* at 348–60. The Court recognized particularly in the context of a fact-bound claim that numerous employees might want to assert the same kind of legal claim—there, claims of sex discrimination—but those circumstances "give[] no cause to believe that all their claims can productively be litigated at once." *Id.* at 350. The Court also warned against the risks of using individual employees' "anecdotal evidence" to draw generalizations about all employees. *Id.* at 358. Those same considerations counsel caution here.

The General Assembly has considered whether the Commission should have the authority to determine on a class basis whether a particular business unit's workers constitute "employees." It has determined that the Commission should have that authority *subject to the procedures set forth in Code § 60.2-500*. It is not for the Commission to decide for itself that it can make such a class-wide determination in *other* contexts where it has no statutory authorization.

This Court has not been shy in the past about denying the Commission authority that the General Assembly never granted. *See Virginia Emp. Comm'n v. City of Virginia Beach*, 222 Va. 728, 734 (1981) (holding that Commission lacked authority to appeal a Circuit Court's reversal of the Commission's decision on an unemployment benefit claim). The Court should likewise ensure that the Commission adheres to the statutory process established by the General Assembly and reverse the decision below.

II. Allowing Virginians to Participate in the "Gig Economy" as Independent Contractors Is Good for Virginia

Independent contracting in the "gig economy" has transformed the modern economy for Virginia, for workers, and for customers. The Commission may adjudicate classification issues under existing law within the parameters of its statutory authority. But the Commission cannot make state-wide economic policy in the context of a Code § 60.2-212 proceeding. And in this case, the state-wide policy it has established is a misguided one.

A. The participation of independent contractors in the gig economy contributes an estimated $6.8 billion to Virginia's economy

Virginians have long benefitted from the flexibility to work as independent contractors. Unlike traditional 9-to-5 employment—in which employees "report five days a week to a single firm, take regular direction from management for their hours, activities and methods of operation, and are dependent on a single employer for all or nearly all of their earned income"—independent contractors "earn income by selling goods or services to multiple customers, at times and on terms of their own choosing." Jeffrey A. Eisenach, *The Role of Independent Contractors in the U.S. Economy*, Navigant Econs. 4 (Dec. 2010), https://bit.ly/3UuyAou. The "economic benefits" of the model are manyfold: "workforce flexibility, avoidance of fixed costs, the ability to 'pay for performance,' the avoidance of legal and economic barriers in efficient contracting, and, perhaps most important, the satisfaction of workers' desires to 'be their own boss.'" *Id.* at i. Because of these benefits, there always have been independent contractors in many trades: electricians, plumbers, and house painters are all well-known examples of contractors working multiple jobs for multiple employers.

Although independent contractors have been around "[f]or centuries," "[u]ntil recently . . . connecting customers and workers took time." James Sherk, *The Rise of the "Gig" Economy: Good for Workers and Consumers*, (Oct. 7, 2016) ("*Rise of the Gig Economy*"), https://bit.ly/49M2BEE; *see also* Richard R. Carlson, *Why The Law Still Can't Tell an Employee When It Sees One and How It Ought to Stop Trying*, 22 Berkeley J. Emp. & Lab. L. 295, 303 & fn. 35 (2001) (discussing early origins of the term "independent contractor"). The process of connecting consumers to independent contractors and negotiating a transaction was plagued by what economists call "transaction costs"—*i.e.*, costs accompanying a transaction apart from the cost of the good or service itself—which "can be so prohibitively high that they can prevent otherwise mutually beneficial deals from taking place."[1] For example, consumers traditionally needed to rely on word-of-mouth, local publications, and their own research to find an independent contractor. Independent contractors, for their part, needed to rely on customer referrals or to "wait by the phone" in hopes of finding work. These communication barriers posed a particular problem in suburban and rural areas, where the odds of happening upon a contractor or a consumer looking to hire a contractor were lower than in urban areas.

That all changed with the Internet and the widespread availability of smartphone technology. While "home-sharing and ride-hailing . . . existed long before the emergence of Uber and Airbnb, transaction costs previously limited such activities to an ad-hoc or informal basis or within close-knit communities." Kellen Zale, *When Everything is Small: The Regulatory Challenge of Scale in the Sharing Economy*, 53 San Diego L. Rev. 949, 977 (2016). But new technologies now allow entrepreneurs to instantly connect with potential consumers on a mass scale. Thus, network "companies like Uber and Airbnb . . . have harnessed technological developments such as GPS location services, smartphones, and app software to lower transaction costs of what were often previously expensive or

---

[1] John O. McGinnis, *The Sharing Economy as an Equalizing Economy*, 94 NOTRE DAME L. REV. 329, 342 (2018).

inconvenient exchanges." *Id.* These new network companies are diverse in size and scope. Some specialize in a particular service, such as Gigster (software engineering) and Airbnb (short-term accommodations). Others offer a variety of services, such as Thumbtack (home, business, wellness, creative design) and Upwork (accounting, copy editing, personal fitness). All told, network companies offer services in virtually every industry: not just transportation and delivery services, but also real estate, healthcare, law, finance, and consulting, among other fields.

The result is a dramatically expanded gig economy, in which a large portion of the workforce "is hired, often through a digital marketplace, to work on demand" for "a single project or task." Elka Torpey & Andrew Hogan, *Working in a gig economy*, U.S. Bureau of Lab. Stat. (May 2016) ("*Working in a gig economy*"), https://bit.ly/49Mo54k; U.S. Chamber of Commerce, Employment Policy Division, *Ready, Fire, Aim: How State Regulators Are Threatening the Gig Economy and Millions of Workers and Consumers* 13-17 (Jan. 2020) ("*Ready, Fire, Aim*"), https://bit.ly/3vWi47q (cataloguing data on size of gig economy). This innovation "is changing the face of the US economy." Samantha Delouya, *The rise of gig workers is changing the face of the US economy*, CNN (July 25, 2023) ("*The rise of gig workers*"), https://cnn.it/4bavyem. Economists have observed that "the rapid growth of platform work" is a "defining feature of twenty-first century capitalism." Juliet B. Schor & Steven P. Vallas, "Labor and the Platform Economy," in *Reengineering the Sharing Economy: Design, Policy, and Regulation* 83 (Babak Heydari et al. eds. 2023). Indeed, the independent workforce is growing at a rate three times faster than the overall U.S. workforce; if that growth rate stays steady, independent workers may be the majority of the U.S. workforce by 2027. Freelancers Union & Upwork, *Freelancing in America: 2017* 3 (2017), https://bit.ly/3xpmvaQ; *accord Freelance Forward 2023*, Upwork, https://bit.ly/3W92gbC ("The share of professionals freelancing increased to nearly 64 million Americans, making up 38% of the U.S. workforce.").

The numbers demonstrate the importance of this work to independent contractors, consumers, and the economy. A recent report estimates that there were "7.3 million active drivers and delivery partners on major rideshare and delivery platforms" in 2022. Public First, *U.S. App-Based Rideshare and Delivery: Economic Impact Report* 6 (2024) ("*Economic Impact Report*"), https://bit.ly/4cYFeKJ. A Pew nationwide survey found that 16% of Americans have used a network platform to earn money. Monica Anderson et al., *The State of Gig Work in 2021*, Pew Rsch. Ctr. (Dec. 8, 2021), https://bit.ly/3TGXP5g. Globally, the World Bank estimates that the number of active online gig workers could be around 435 million—a remarkable 12.5% of the global labor force. Namita Datta et al., *Working Without Borders: The Promise and Peril of Online*

Gig Work, at 58 World Bank (2023), https://bit.ly/3JzctXC. Overall, this explosion of activity contributed "an estimated $212 billion to the U.S. economy." *Economic Impact Report*, supra, at 6.

The gig economy is significant in Virginia. "Nearly a quarter of a million Virginians are gig workers." Karri Peifer, Alex Fitzpatrick, & Kavya Beheraj, *How many gig workers are in Virginia*, Axios (Apr. 17, 2024), https://bit.ly/3VOfadI. These gig workers are responsible for approximately 160 million trips and deliveries, and they contribute an estimated $6.8 billion to the Virginia economy. *See Economic Impact Report*, *supra*, at 17.

B. Participation in the gig economy is good for independent contractors; they enjoy flexibility and other benefits that traditional employment does not provide

Workers in the gig economy enjoy all the traditional advantages of independent contracting, such as flexibility and autonomy, but on a greater scale. Gig workers may take full advantage of the flexible working relationships facilitated through apps by "toggling back and forth between different . . . companies and personal clients, and by deciding how best to obtain business," such that their personal profits are "increased through their initiative, judgment, or foresight—all attributes of the typical independent contractor." *Saleem v. Corp. Transp. Grp., Ltd.*, 854 F.3d 131, 144 (2d Cir. 2017) (internal quotation marks and alterations omitted). A driver might use multiple rideshare apps over the course of a morning, choosing platforms and rides based on convenience and pricing; then switch at noon to delivering lunch through DoorDash or groceries through Postmates; then stop in the afternoon to pick up her children from school, run her own small business from home, or pursue a hobby. Or a student might help finance his studies by giving rides through Uber between classes. *See Ready, Fire, Aim*, supra, at 16 (noting that 37% of workers aged 18 to 29 reported engaging in gig work in the previous year, two-thirds of whom were students). The result, as one worker in the gig economy explained, is "a dream come true" for someone who wants "the freedom to set my own hours" and to "do what I do anywhere there's an Internet connection." *Working in a gig economy*, *supra*.

The autonomy that characterizes workers in the gig economy is multifaceted. These workers "enjoy both locational and temporal autonomy"—*i.e.*, they can choose where and when they work—as well as "affiliative autonomy," which allows them to work with whichever platforms they wish. Arvind Malhotra et al., *A Future of Work and Organizations*, Management and Business Review (Spring 2021), https://bit.ly/4d4LLUi. Individuals might choose more or less autonomy on each of these issues, as they see fit, to reach their own personal ideal. *See id*.

Flexibility is enormously important to app-based drivers—like those in the Amazon Flex program—because it enables them to quickly adjust to "shocks"; that is, workers are able to stop or start working in response to various unexpected developments (*e.g.*, a child's illness, new expenses, or another job opportunity). M. Keith Chen et al., *The Value of Flexible Work: Evidence from Uber Drivers*, 127 J. Pol. Econ. 2735, 2740-41 (2019); *see id.* at 2791 ("While traditional workplaces do compete to provide flexibility to workers, the literature suggests that lower wage, lower skill workers typically have limited ability to respond to everyday shocks.").[2] This flexibility has real value to app-based drivers, with one study quantifying its value to Uber drivers as equal to "increases in wages of more than 50 percent." *Id.* at 2792.[3] Another study put the value of flexibility to app-based drivers at $11 billion per year. *Economic Impact Report*, *supra*, at 21.

Indeed, "[i]n survey after survey, gig workers report that the primary benefit of gig work is flexibility. They gravitate to gig work because it allows them to make their own schedules and choose their own projects. They like feeling like their own boss." *Ready, Fire, Aim*, *supra*, at 36. As a result, "77% of independent workers reported being very satisfied with independent work" and "78% plan to continue," while "[o]nly 16% say they plan to seek a full or part-time traditional

---

[2] *See also* Jonathan V. Hall & Alan B. Krueger, *An Analysis of the Labor Market for Uber's Driver-Partners in the United States*, 71(3) ILR Rev. 705, 707 (2018) ("*Uber's Driver-Partners*"), https://bit.ly/3w9l68c (survey of Uber drivers suggesting app-based work "can . . . help workers smooth fluctuations in other sources of income").

[3] *See* Jyoti Madhusoodanan, *Gig Workers Value their Flexibility . . . a Lot*, Yale Insights: Research (Apr. 16, 2019), https://bit.ly/3QgxjPn (finding "that drivers would require almost twice as much pay to accept the inflexibility of the taxi schedule").

job." MBO Partners, *Stronger Together: State of Independence in America 2023* 13 (2023), https://bit.ly/3xRKLCU.[4] In fact, 66% reported that they "felt *more secure* working independently" than in more traditional jobs. *Id.* (emphasis added).

Independent workers in the gig economy are not just happier with their jobs; they are also earning more. Drivers' and delivery partners' "app-based earnings are worth an average of 24% more than their next best alternative source of income." *Economic Impact Report*, *supra*, at 21.[5] The ability to take on discrete jobs using network-based apps also allows drivers to supplement their incomes from other sources (e.g., full-time employment in a traditional job), replace income while looking for new full-time employment, and control their own costs and benefits. *Id.* at 20.[6]

[4] *See also Uber's Driver-Partners*, *supra*, at 706, 712 (finding that a remarkably diverse group of Americans, including "students," older workers who have "retired" from their 9-to-5 jobs, and "stay-at-home parents," are drawn to app-based gigs due to the "nature of the work, the flexibility, and the compensation"); *see also id.* at 715 (finding "81% of driver-partners said they are very satisfied or somewhat satisfied with Uber in 2015").

[5] *See also Uber's Driver-Partners*, *supra*, at 713 (majority of Uber drivers surveyed report that their work with Uber "has increased their overall income"); Lyft, *Economic Impact Report 2024 (Virginia)* 1 ("Lyft Va. Report 2024"), https://bit.ly/4btwVVA (finding a similarly diverse and satisfied workforce among Virginia drivers using Lyft).

[6] Researchers examining data on unemployment claims and credit card debt before and after Uber's arrival in a particular region also found that people who can work on the Uber platform are less likely to rely on unemployment insurance and credit debt, amounting to nearly 5% reduction in unemployment claims and 3% reduction in credit delinquencies. Dylan Walsh, *How the gig economy can reduce unemployment and debt*, MIT Mgmt. Sloan School, Ideas Made to Matter (Sept.

The flexibility of the gig economy also has been shown to create new opportunities for entrepreneurship. A 2023 study found that "individuals who previously received income from the gig economy are significantly more likely to start new" companies, and that this "effect is amplified for individuals with lower income, who are relatively younger, and who might benefit from flexibility." Matthew Denes et al., *Entrepreneurship and the Gig Economy: Evidence from U.S. Tax Returns* 38 (Oct. 31, 2023), https://bit.ly/4aORuw6. Economists have described this effect as "launching with a parachute," explaining that "the introduction of the gig economy creates fallback opportunities for would-be entrepreneurs that reduce risk and encourage new business formation." John M. Barrios et al., *Launching with a parachute: The gig economy and new business formation*, 144(1) J. Fin. Econ. 22 (2022). Summarizing these benefits, a recent Federal Reserve article states that "the gig economy provides services that people value, and it also has a spillover: It encourages entrepreneurial activity by supplementing and smoothing the income of entrepreneurs." Scott A. Wolla, *How Does the Gig Economy Support Entrepreneurship?*, Econ. Rsch., Fed. Reserve Bank of St. Louis (Apr. 2024), https://bit.ly/4bcHvQL.

29, 2020), https://bit.ly/3W9I89G. As one scholar succinctly put it, "[p]eople who have access to the gig economy borrow less money than people who don't." *The rise of gig workers*, *supra*.

Given these many benefits of working in the gig economy, it is no surprise that app-based independent contractors do not want to be reclassified as employees. A survey of Lyft drivers in Virginia showed that the large majority favor keeping their independent-contractor status and 60% would cease their app-based work were they to lose their independence.[7]

C. The participation of independent contractors in the gig economy is good for customers in Virginia

The rise of the gig economy has greatly benefited the public. Now a "customer can quickly and easily find someone willing to perform the service she needs." *Ready, Fire, Aim*, *supra*, at 12. Rideshare and delivery apps illustrate the theme. In the past, robust on-hire transportation services generally were limited to certain urban areas, such that "[o]rdering a taxi outside well-traveled areas [could] involve waiting a half-hour or more." *Rise of the Gig Economy*, *supra*. Today, app-based platforms connect "drivers straight to the nearest customer—dramatically reducing wait times." *Id*. One study found that rideshare apps are "more than twice as fast" at connecting drivers to riders as traditional taxi services. *Id*. The same study also found that ridesharing apps are less expensive for consumers than traditional taxis. *Id*.

Consumers recognize these benefits and have "strongly positive" attitudes toward these platforms. Aaron Smith, *Shared, Collaborative, and On Demand: The*

---

[7] Lyft Va. Report 2024, *supra*, at 1.

New Digital Economy, Pew Rsch. Ctr. 5 (May 2016), https://bit.ly/3Qjqv3l. "[U]sers are in near-universal agreement that ride-hailing saves them time and stress, and that these services offer good jobs for people who prioritize flexible working hours." *Id*. Indeed, a recent survey found that 92% of Virginia consumers who get rides through the Lyft app "say Lyft increases access to transportation in their communities." *Lyft Va. Report 2024*, *supra*, at 2. These benefits have been felt beyond wealthy communities—the same survey shows that "48% of rides start or end in low-income areas." *Id*.

The vibrant and emerging gig economy has ripple effects for the public that extend far beyond the economic. For example, a forthcoming study reports "that ridesharing reduces total U.S. traffic fatalities by 5.2% in areas where it operates," largely due to the decrease in drunk-driving related accidents. Michael L. Anderson & Lucas W. Davis, *Uber and Traffic Fatalities*, 106 The Review of Economics and Statistics, at 3 (forthcoming 2024), https://bit.ly/44f6sZK; *see id.* at 17 (estimating "that Uber saved 627 lives in 2019, a reduction of 5.2%," and noting that "[t]his calculation includes lives saved by Uber only; total lives saved by ridesharing would also include the impacts of competitors like Lyft").[8]

[8] *See also* Brad N. Greenwood & Sunil Wattal, *Show Me the Way to Go Home: An Empirical Investigation of Ride-Sharing and Alcohol Related Motor Vehicle Fatalities*, 41 MIS Quarterly 163, 164-65 (2017), https://bit.ly/3WgsVUu ("results indicate that the entrance of Uber X results in a 3.6% to 5.6% decrease in the rate of motor vehicle fatalities per quarter in the state of California").

CONCLUSION

Independent contractors have become a pillar of the modern economy. Those in the gig economy contribute billions of dollars to the economy in Virginia alone. An increasingly large and diverse bloc of Americans work in the gig economy and are happy with that model. Consumers are happy, too, because app-based independent contracting has made vital services, including rideshares and deliveries, available at competitive prices nationwide, including in Virginia.

By endorsing the Commission's overbroad relief against Amazon, the Court of Appeals has threatened the gig economy in Virginia to the detriment of the economy, workers, and customers. This Court should reverse.

Respectfully submitted,

/s/ John S. Moran
John S. Moran (VSB No. 84326)
Counsel of Record
MCGUIREWOODS LLP
888 16th St. N.W., Suite 500
Black Lives Matter Plaza
Washington, DC 20006
T: (202) 828-2817
F: (202) 828-3327
jmoran@mcguirewoods.com

Counsel for Amici Curiae

CERTIFICATE OF SERVICE

I hereby certify that on July 8, caused a true copy of the foregoing to be electronically filed with the Court using the VACES system in compliance with Rule 5:1B.

I further certify that on July 8, I caused a copy of the foregoing to be sent via electronic mail to the following:

Michelle S. Kallen (VSB #93286)
Counsel of Record
Illyana A. Green (pro hac vice)
Jenner & Block LLP
1099 New York Ave. NW
Suite 900
Washington, DC 20001
T: (202) 639-6000
F: (202) 639-6066
mkallen@jenner.com
igreen@jenner.com

Christina M. Isnardi (pro hac vice)
Jenner & Block LLP
1155 Avenue of the Americas
New York, NY 10036-2711
T: (212) 891-1600
F: (212) 891-1699
cisnardi@jenner.com

Stephanie Schuster (pro hac vice)
Patrick A. Harvey (VSB #78565)
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave. NW
Washington, DC 20004
T: (202) 739-3000
F: (202) 739-3001
stephanie.schuster@morganlewis.com

Christopher Ramsey (pro hac vice)
Morgan, Lewis & Bockius LLP
One Oxford Center, 32nd Floor
Pittsburgh, PA 15219
T: (412) 560-3300
F: (412) 560-7001
christopher.ramsey@morganlewis.com

Counsel for Appellants

Elizabeth Bushnell Myers (VSB #80739)
Office of the Attorney General
202 North 9th Street
Richmond, VA 23219
Tel: (804) 786-9516
Fax: (804) 692-1647
Email: ebmyers@oag.va.us

Counsel for Appellee

/s/ John S. Moran
John S. Moran (VSB No. 84326)