NO. 19-1311

UNITED STATES COURT OF APPEALS
FOR THE
SIXTH CIRCUIT

AMERICAN FREEDOM DEFENSE INITIATIVE; **PAMELA GELLER**; **ROBERT SPENCER**,
PLAINTIFFS-APPELLANTS,

v.

SUBURBAN MOBILITY AUTHORITY FOR REGIONAL TRANSPORTATION (SMART); **JOHN HERTEL**, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS GENERAL MANAGER OF SMART; **BETH GIBBONS**, INDIVIDUALLY AND IN HER OFFICIAL CAPACITY AS MARKETING PROGRAM MANAGER OF SMART,
DEFENDANTS-APPELLEES,
AND
GARY I. HENDRICKSON, INDIVIDUALLY AND IN HIS OFFICIAL CAPACITY AS CHIEF EXECUTIVE OF SMART,
DEFENDANT.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
HONORABLE DENISE PAGE HOOD
Civil Case No. 10-12134

APPELLANTS' REPLY BRIEF

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SUMMARY OF THE ARGUMENT IN REPLY

The factual record reveals that SMART has created a forum for the expression of a wide variety of commercial, noncommercial, public-service, and public-issue ads, specifically including ads on *exceedingly* controversial subjects. (*See* Appellants' Br. at 15-19). Defendants' acceptance of ads, which by their very nature generate conflict,[1] signals a willingness on the part of the government to open the property to controversial speech, which the Court in *Lehman v. City of Shaker Heights*, 418 U.S. 298, 303-04 (1974), recognized as *inconsistent* with operating the property solely as a commercial venture. As a result, SMART's "content" restrictions on Plaintiffs' message do not survive strict scrutiny and thus violate the First and Fourteenth Amendments.

Regardless of the forum question, in light of *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876, 1891 (2018), SMART's ban on "political" speech—which SMART defines for purposes of its advertising guidelines as "*any advocacy of a position of any politicized issue*," with "politicized" meaning "*if society is fractured on an issue and factions of society have taken up positions on it that are not in agreement*" (SMART's Br. at 3)—fails the constitutional requirement that speech restrictions in nonpublic forums must be "guided by objective, workable standards."

[1] As the record reveals, Defendants' acceptance of the Atheist Ad was so controversial that *SMART's own bus drivers* refused to drive the buses displaying the ad because the message "went against their belief." (Gibbons Dep. at 29, Ex. 6, R.58-7, Pg. ID 1445).

Id. at 1891 (holding that the ban on "political" apparel was unreasonable in violation of the First Amendment because it did not provide the necessary standards).

SMART's restriction on ads that are "likely to hold up to scorn or ridicule any person or group of persons" is unquestionably a viewpoint-based restriction that violates the First Amendment regardless of the forum. *Matal v. Tam*, 137 S. Ct. 1744 (2017), a case in which the Court made clear that restrictions prohibiting demeaning or disparaging speech are unlawful viewpoint-based restrictions, *see id*. at 1763 ("Giving offense is a viewpoint."), is controlling. Contrary to Defendants' contention (*see* SMART's Br. at 46-47), this principle of law articulated by the Court in *Matal*, *which relied on forum cases to demonstrate it*, is not limited to just copyright and trademarks. This point was recently reaffirmed by the Second Circuit in *Wandering Dago, Inc. v. Destito*, 879 F.3d 20, 33 (2d Cir. 2018) (holding that "*Matal* compels the conclusion that defendants have unconstitutionally discriminated against WD's viewpoint by denying its Lunch Program application because WD branded itself and its products with ethnic slurs"), and by the Ninth Circuit in *American Freedom Defense Initiative v. King County*, 904 F.3d 1126 (9th Cir. 2018) (holding that the County's refusal to display an ad on its transit advertising space based on a claim that the ad was demeaning and disparaging toward Muslims was a viewpoint-based restriction in violation of the First Amendment and expressly relying on *Matal*). It is error to conclude otherwise. *See Am. Freedom Def. Initiative v. Wash. Metro. Area*

Transit Auth., 901 F.3d 356, 372 (D.C. Cir. 2018) (reversing in part and remanding to determine whether the rejection of the ad was reasonable and stating, "WMATA's defense of the Guidelines against AFDI's unbridled discretion/vagueness challenge was that it banned AFDI's advertisements as 'political' speech, which is not unconstitutional. That argument might be unavailing in light of *Mansky*.").

Finally, Defendants (and the district court) misapprehend the principle of law applicable to Plaintiffs' equal protection claim. (*See* SMART's Br. at 48). And that principle, which was clearly articulated by the U.S. Supreme Court in *Police Department of the City of Chicago v. Mosley*, 408 U.S. 92 (1972), is this: "[U]nder the Equal Protection Clause, not to mention the First Amendment itself, government may not grant the use of a forum to people whose views it finds acceptable, *but deny use to those wishing to express less favored or more controversial views*." *Id*. at 96 (emphasis added). This is precisely the situation presented by the facts and law of this case. The record is fully developed on this issue. Defendants grant the use of SMART's forum to people whose views they find acceptable (*e.g.*, Atheist ad, Status Sexy, *etc*.), but deny use to Plaintiffs because Plaintiffs express a less favored or more controversial view. Under *Mosley*, Defendants not only violated Plaintiffs' rights protected by the Free Speech Clause of the First Amendment, they also violated Plaintiffs' rights protected by the Equal Protection Clause of the Fourteenth

Amendment. No further development of the argument is necessary to establish this point of law and to decide this issue in Plaintiffs' favor.

In the final analysis, this case presents a prime example as to why preliminary injunction rulings, which are often based on an incomplete factual record, as in this case, do not establish the law of the case. *See Univ. of Tx. v. Camenisch*, 451 U.S. 390, 395 (1981); *Wilcox v. United States*, 888 F.2d 1111, 1114 (6th Cir. 1989); *Tech. Publ'g Co. v. Lebhar-Friedman, Inc.*, 729 F.2d 1136, 1139 (7th Cir. 1984); *City of Angoon v. Hodel*, 803 F.2d 1016, 1024 n.4 (9th Cir. 1986). In light of the facts developed during discovery and the controlling law, particularly the U.S. Supreme Court's latest articulations of its First Amendment jurisprudence in *Mansky* and *Matal*, this Court should reverse the district court's grant of summary judgment in favor of Defendants and reverse its denial of Plaintiffs' motion for summary judgment, thereby entering judgment in Plaintiffs' favor. The First Amendment compels such a result.

ARGUMENT IN REPLY

There is no dispute that Plaintiffs' ad is protected speech. And there is no dispute that Defendants rejected the ad based on two "content" restrictions: (1) SMART's ban on "***Political or political campaign advertising***" and (2) SMART's ban on "***Advertising that is clearly defamatory or likely to hold up to scorn or ridicule any person or group of persons***." (SMART's Br. at 3).

Because the forum is a public forum for Plaintiffs' speech, Defendants content-based, prior restraint on Plaintiffs' speech violates the First Amendment. *See, e.g.*, *Lebron v. Wash. Metro. Area Transit Auth.*, 749 F.2d 893, 896 (D.C. Cir. 1984) (Bork, J.) (holding that the transit authority's "refusal to accept [the ad] for display because of its content is a clearcut prior restraint"). And regardless of the nature of the forum, Defendants' restrictions on Plaintiffs' ad are "unreasonable" and viewpoint based in violation of the First Amendment. *Perry Educ. Ass'n v. Perry Local Educators*, 460 U.S. 37, 46 (1983) (stating that even in a nonpublic forum, government speech regulations must be "reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view").

I. Defendants Created a Public Forum for Plaintiffs' Speech.

"[A] public forum may be created by government designation of a place or channel of communication for use by the public at large for assembly and speech, *for use by certain speakers*, or *for the discussion of certain subjects*." *Cornelius v. NAACP Legal Def. & Educ. Fund*, 473 U.S. 788, 802 (1985) (emphasis added). Consequently, a public forum may be created even though the forum has certain limitations as to its use. As stated by the Second Circuit:

> [I]t cannot be true that if the government excludes any category of speech from a forum through a rule or standard, that forum becomes *ipso facto* a non-public forum, such that we would examine the exclusion of the category only for reasonableness. This reasoning would allow every designated public forum to be converted into a non-public forum the moment the government did what is supposed to be impermissible in a

designated public forum, which is to exclude speech based on content. *N.Y. Magazine v. Metro. Transp. Auth.*, 136 F.3d 123, 129-30 (2d Cir. 1998).

To discern the government's intent, courts "look[] to the policy and practice of the government" as well as "the nature of the property and its compatibility with expressive activity." *Id*. There is little doubt that the "nature of the property"—SMART's advertising space—is "compatibl[e] with the expressive activity" at issue in that SMART readily accepts similar types of ads for its advertising space. There is nothing aside from the message content of Plaintiffs' ad that serves as the basis for the ad's rejection.

Defendants contend that *Lehman v. City of Shaker Heights*, 418 U.S. 298 (1974), definitively resolves the forum question in its favor. (SMART's Br. at 10-11, 21-22, 25, 33-34, 47). Defendants are mistaken.

To begin, *Lehman* can hardly be viewed as establishing clear and convincing precedent for Defendants' position, particularly when there was no consensus opinion, no detailed forum analysis,[2] and it provides little, if any, guidance for the lower courts, which are typically faced with a myriad of advertising guidelines, many of which lack

[2] The Court's forum analysis was not developed at this time. In *Lehman*, the Court simply concluded that "[n]o First Amendment forum is here to be found." *Lehman*, 418 U.S. at 304. As we know, many "First Amendment forum[s]" have been found on government transit advertising space. *See, e.g., N.Y. Magazine*, 136 F.3d at 129-30 (concluding that the advertising space on the outside of buses was a public forum); *Am. Freedom Def. Initiative v. Wash. Metro. Area Transit. Auth.*, 898 F. Supp. 2d 73, 78-79 (D.D.C. 2012) (same).

any clear and objective standards, such as SMART's guidelines at issue here. *See, e.g.*, *Gregoire v. Centennial Sch. Dist.*, 907 F.2d 1366, 1375 (3d Cir. 1990) ("[I]f the concept of a designated open forum is to retain any vitality whatever, the definition of the standards for inclusion and exclusion must be unambiguous and definite.").

In *Lehman*, a 1974 case in which the city's advertising program had never permitted any political or public-issue advertising, the Court found that the consistently enforced, twenty-six-year ban on political advertising[3] was consistent with the government's role as a proprietor because the government "limit[ed] car card space to innocuous and less controversial commercial and service oriented advertising." *Lehman*, 418 U.S. at 304. Four justices dissented. And while five members of the Court agreed that the judgment upholding the city's speech restriction should be affirmed, a majority did not agree on the reason for doing so.

Justice Blackmun announced the judgment of the Court, and in an opinion joined by Justices Burger, White, and Rehnquist, expressed the view that the city's advertising policy did not violate the First or Fourteenth Amendments since (1) no First Amendment forum was present, and (2) the city reasonably limited access to the advertising space. *Id*. at 304.

However, Justice Douglas, concurring in the judgment, expressed the view that the commuters on the transit system had a right to be free from forced intrusions on

[3] The "political" advertising at issue in *Lehman* was political campaign advertising; *Lehman* did not involve some amorphous definition of "political" as in this case.

their privacy. And based on *this* reasoning, he concluded that the city was precluded from transforming its transit vehicles into forums for the dissemination of ideas. *Id*. at 307. ("In my view the right of the commuters to be free from forced intrusions on their privacy precludes the city from transforming its vehicles of public transportation into forums for the dissemination of ideas upon this captive audience."). Thus, based on Justice Douglas's view, a transit advertising space could never be a public forum because the "right of the commuters" would trump any such designation. We know today that this view is wrong. (*See supra* n.2).

Justice Brennan and the other three dissenting justices (Stewart, Marshall, and Powell) resolved the forum question in *Lehman* as follows:

> [T]he city created a forum for the dissemination of information and expression of ideas when it accepted and displayed commercial and public service advertisements on its rapid transit vehicles. Having opened a forum for communication, the city is barred by the First and Fourteenth Amendments from discriminating among forum users solely on the basis of message content.

Lehman, 418 U.S. at 310 (Brennan, J., dissenting, joined by Stewart, J., Marshall, J., and Powell, J.).

The dissent's view of the forum issue most closely comports with the Supreme Court's more recent forum precedent. Per the Court, a public forum exists when the government intentionally opens its property for expressive activity. *Perry Educ. Ass'n*, 460 U.S. at 45. As noted, "a public forum may be created by government designation of a place or channel of communication for use by the public at large for

assembly and speech, *for use by certain speakers*, or for the discussion of *certain subjects*." *Cornelius*, 473 U.S. at 802 (emphasis added). Thus, even though the government might impose restrictions that limit its forum to certain speakers and for certain subjects, such restrictions do not automatically convert the forum into a nonpublic forum. Compare the forum created by SMART—a forum which permits a wide array of commercial and (controversial) non-commercial ads submitted by private citizens (a public forum)—with "display cases in public hospitals, libraries, office buildings, military compounds, and other public facilities," such as this circuit's court building (non-public forums), and the difference is stark. *See Lehman*, 418 U.S at 304 (providing examples of non-public forums). The standard for restricting speech in the former is not the same as the standard applied to the latter. SMART's forum is a public forum. And Defendants always have the choice of closing the forum altogether.

This Court recognized this distinction in *United Food & Commercial Workers Union, Local 1099 v. Southwest Ohio Regional Transit Authority*, 163 F.3d 341 (6th Cir. 1998) ("United Food"), when it stated that the acceptances of ads "which by their very nature generate conflict, signals a willingness on the part of the government to open the property to controversial speech, which the Court in *Lehman* recognized as inconsistent with operating the property solely as a commercial venture." *Id*. at 355; *see also N.Y. Magazine*, 136 F.3d at 130 (finding a public forum and noting with

importance the "deliberate acceptance of the possibility of clashes of opinion and controversy" by the transit authority "that the Court in *Lehman* recognized as inconsistent with sound commercial practice").

Here, the record developed during discovery is clear: Defendants have accepted "a wide array of advertisements," including very controversial, public-issue ads, such as the Atheist ad, which SMART's own bus drivers protested by refusing to drive the buses that displayed it, and ads that are "political" *per Defendants' definition*, such as the Atheist ad and ads promoting "Status Sexy,"[4] contraception, and other controversial subjects. Defendants' actions are "inconsistent with operating the property solely as a commercial venture." Defendants *deliberately* accept "the possibility of clashes of opinion and controversy" by the very ads they allow.

In sum, SMART's advertising space is a public forum for Plaintiffs' speech, thereby subjecting SMART's "content" restrictions to strict scrutiny. *Cornelius*, 473 U.S. at 800 ("[S]peakers can be excluded from a public forum only when the exclusion is necessary to serve a compelling state interest and the exclusion is

[4] Defendants' criticism of Plaintiffs' characterization of the "Status Sexy" ad campaign defies reality and commonsense. (*See, e.g.*, SMART's Br. at 17 & n.3 [referring to Plaintiffs' "prurient mischaracterization" of the ad campaign]). The ad itself depicts an undressed man in a sexual pose superimposed over the word "SEXY" with a caption stating, "Knowing your HIV status *before you get down*. That's SEXY." (SMART Dep. at 135, Ex. 4, R.58-5, Pg. ID 1359; Dep. Ex. 16, *see also* Dep. Exs. 13-19, Ex. 5, R.58-6, Pg. ID 1398, 1394-1401) (emphasis added). Plaintiffs are confident that the Court will view this as a controversial ad campaign as opposed to the innocuous, benign campaign characterization urged by Defendants.

narrowly drawn to achieve that interest."). Defendants have not satisfied strict scrutiny (nor have they attempted to do so). Therefore, Defendants' rejection of Plaintiffs' ad violates the First Amendment. *S.O.C., Inc. v. Cnty. of Clark*, 152 F.3d 1136, 1145 (9th Cir. 1998) (stating that content-based restrictions "are presumptively unconstitutional").

II. Defendants' Restriction on "Political" Ads Lacks Objective, Workable Standards in Violation of the First Amendment.

"[T]he danger of censorship and of abridgment of our precious First Amendment freedoms is too great where officials have unbridled discretion over a forum's use." *Southeastern Promotions, Ltd. v. Conrad*, 420 U.S. 546, 553 (1975).

As this Court held in a similar case involving the government's regulation of bus advertising: a speech restriction "offends the First Amendment when it grants a public official 'unbridled discretion' such that the official's decision to limit speech is not constrained by *objective criteria*, but may rest on 'ambiguous and subjective reasons.'" *United Food*, 163 F.3d at 359 (quoting *Desert Outdoor Adver., Inc. v. City of Moreno Valley*, 103 F.3d 814, 818 (9th Cir. 1996)) (emphasis added).

Defendants' "political" restriction suffers from the very same defects found in the unconstitutional restriction at issue in *United Food*. "Political," as that term is *commonly* understood and as it was used in *Lehman* to refer to political campaign ads, could, when appropriately limited by an objective standard, provide a measure of guidance for a government official responsible for regulating speech. However,

Defendants' application of their "political" restriction is entirely arbitrary and subjective and, indeed, no different than the way in which the "controversial public issues" guideline was employed and thus found unconstitutional in *United Food.*

But more to the point, Plaintiffs' position is confirmed by *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 (2018), which, contrary to Defendants' argument (*see* SMART's Br. at 34-38), compels this Court to rule in Plaintiffs' favor.

As we learned through discovery, SMART's "political" speech restriction suffers from the very defect that the Supreme Court found when it analyzed and struck down a Minnesota statute banning voters from wearing a "political badge, political button, or other political insignia" at a polling place, a nonpublic forum. Defendants make the demonstrably false argument that Plaintiffs "misstate the holding" of *Mansky*. (SMART's Br. at 34). Plaintiffs do no such thing. And this Court need only read the section of *Mansky* quoted at length in Defendants' brief (as well as *Mansky* itself) to conclude the same.

As SMART admits, the term "political" for purposes of its advertising guidelines means "*any advocacy of a position of any politicized issue*." (SMART's Br. at 3) (emphasis added). In an effort to explain the tautology (*i.e.*, "political" = politicized issue), SMART defines "politicized" as follows: "*if society is fractured on an issue and factions of society have taken up positions on it that are not in agreement, it's politicized*." (SMART's Br. at 3). By this definition, anything and

everything could qualify as "political" if Defendants so chose.[5] Defendants' construction "introduces confusing line-drawing problems." *See Mansky*, 138 S. Ct. at 1881 ("[F]ar from clarifying the indeterminate scope of the provision, Minnesota's 'electoral choices' construction introduces confusing line-drawing problems.").

In *Mansky*, the Court stated, "A rule whose fair enforcement requires an election judge to maintain a mental index of the platforms and positions of every candidate and party on the ballot is not reasonable." *Id.* at 1889. Here, under SMART's definition of "political," the universe of what is and is not acceptable is far greater and thus this definition is far more *unreasonable* than the definition applied in *Mansky*. (*See* SMART's Br. at 37 [acknowledging that "[t]he Court felt that it was the manner in which Minnesota was applying the definition of 'political' that was not reasonable."]). It's not even close. SMART's "political" speech restriction violates the First Amendment.

[5] Defendants' reliance on allegations in the Complaint using the term "political" in reference to Plaintiffs' *objectives* for its ad (SMART's Br. at 27-34) is unavailing for at least three reasons. First, the content of Plaintiffs' ad is judged by the ad itself. Obviously, Defendants did not have a copy of the Complaint prior to rejecting Plaintiffs' ad as violating its "political" speech restriction. Second, the allegations in the Complaint were for the purpose of demonstrating that this is a non-commercial (as opposed to commercial) ad and thus subject to the greatest protection under the First Amendment. Indeed, from a legal and factual perspective, the ad is best described as public-issue speech, the subject of which is Islam. And third, regardless of the prior two reasons, SMART's "political" speech guideline cannot serve as a basis for restricting Plaintiffs' ad because the guideline itself is invalid per *Mansky*.

III. Defendants' Restriction on Plaintiffs' Ad Is Viewpoint Based.

Defendants' restriction on Plaintiffs' ad is viewpoint based for two separate reasons. First, religion is an acceptable subject matter in the forum. Defendants permitted ads that addressed religion from the *viewpoint* that God does not exist (Atheist ad) and from the *viewpoint* that Christianity is the "path" to salvation (Union Grace Church ad). However, Defendants rejected the *viewpoint* expressed by Plaintiffs about Islam—an includable subject. (*See, e.g.*, SMART Dep. at 48, Ex. 4, R.58-5, Pg. ID 1341 [claiming that Plaintiffs' "website," which Defendants reviewed to make their decision to reject Plaintiffs' ad, "*is clearly anti-Islam*," which is a viewpoint-based judgment] (emphasis added)). "The principle that has emerged from [Supreme Court] cases is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others." *Lamb's Chapel v. Ctr. Moriches Union Free Sch. Dist.*, 508 U.S. 384, 394 (1993) (internal quotations and citation omitted); *see also Rosenberger v. Rector & Visitors of the Univ. of Va.*,515 U.S. 819, 829 (1995) ("When the government targets *not subject matter*, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.") (emphasis added). Thus, when speech "fall[s] within an *acceptable subject matter* otherwise included in the forum, the State may not legitimately exclude it from the forum based on the viewpoint of the speaker." *Cogswell v. City of Seattle*, 347 F.3d 809, 815 (9th Cir. 2003) (emphasis added). In

sum, Defendants' rejection of Plaintiffs' ad is a classic form of viewpoint discrimination that is prohibited in all forums. *See Cornelius*, 473 U.S. at 806.

Second, SMART's "scornful" speech guideline is on its face and in its application a viewpoint-based restriction. As noted, the Supreme Court's decision in *Matal v. Tam*, 137 S. Ct. 1744, 1763 (2017), is dispositive on this issue. Contrary to Defendants' argument (*see* SMART's Br. at 47), a forum analysis is not required because viewpoint discrimination is prohibited under the First Amendment regardless of the forum. As the Court held in *Matal*, "Speech may not be banned on the ground that it expresses ideas that offend." *Id.* at 1751. As the Court affirmed, "Giving offense is a viewpoint." *Id*. at 1763; *see also Iancu v. Brunetti*, No. 18-302, 2019 U.S. LEXIS 4201, at *13-14 (June 24, 2019) ("[A] law disfavoring 'ideas that offend' discriminates based on viewpoint, in violation of the First Amendment.").

As we noted in our opening brief and reinforce here, the Court in *Matal* explained the concept of viewpoint discrimination—a concept that is applicable to all speech restrictions—making it clear that SMART's restriction is unlawful:

> Our cases use the term "viewpoint" discrimination in a broad sense, and in that sense, the disparagement clause discriminates on the bases of "viewpoint." To be sure, the clause even-handedly prohibits disparagement of all groups. It applies equally to marks that damn Democrats and Republicans, capitalists and socialists, and those arrayed on both sides of every possible issue. It denies registration to any mark that is offensive to a substantial percentage of the members of any group. But in the sense relevant here, *that is viewpoint discrimination*: *Giving offense is a viewpoint*.

Id. (emphasis added) (citation omitted).

In light of *Matal*, SMART's restriction on ads that are "likely to hold up to scorn or ridicule any person or group of persons" is unquestionably a viewpoint-based restriction that violates the First Amendment regardless of the forum. *See Am. Freedom Def. Initiative*, 904 F.3d at 1131-32 (relying on *Matal* and holding that the transit authority's "disparagement" restriction violated the First Amendment); *Wandering Dago, Inc.*, 879 F.3d at 33 (holding that "*Matal* compels the conclusion that defendants have unconstitutionally discriminated against WD's viewpoint"); *see also Iancu*, 2019 U.S. LEXIS 4201, at *17 ("In *Tam*, for example, we did not pause to consider whether the disparagement clause might admit some permissible applications (say, to certain libelous speech) before striking it down. The Court's finding of viewpoint bias ended the matter.").

In sum, this Court's finding of viewpoint discrimination should "end[] the matter" in Plaintiffs' favor.

CONCLUSION

This Court should reverse the district court and grant summary judgment in Plaintiffs' favor on all claims.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that pursuant to Fed. R. App. P. 32(a), the foregoing Brief is proportionally spaced, has a typeface of 14 points Times New Roman, and contains 4,099 words, excluding those sections identified in Fed. R. App. P. 32(f).

AMERICAN FREEDOM LAW CENTER

/s/ *Robert J. Muise*
Robert J. Muise, Esq.

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2019, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that all of the participants in this case are registered CM/ECF users.

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