

No. 22-1056  
IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

---

John Doe,

*Plaintiff – Appellant*

v.

Massachusetts Institute of Technology,

*Defendant – Appellee*

---

On Appeal from the United States District Court for the District of Massachusetts,  
Boston Division  
No. 1:21-cv-12060-RGS

---

BRIEF OF *AMICUS CURIAE*

STOP ABUSIVE AND VIOLENT ENVIRONMENTS

IN SUPPORT OF APPELLANT

/s/ Benjamin F. North  
Benjamin F. North (1st Cir. #1203266)  
BINNALL LAW GROUP, PLLC  
717 King Street, Suite 200  
Alexandria, Virginia 22314  
Tel: (703) 888-1943  
Fax: (703) 888-1930  
ben@binnall.com

*Attorney for SAVE*

*Attorney for Amicus Curiae*

## TABLE OF CONTENTS

TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES .....	ii
SUMMARY OF ARGUMENT .....	3
ARGUMENT .....	4
I.    Discrimination violative of Title IX has proliferated on college campuses since 2011. ....	4
II.   Public policy favors broad enforcement of Title IX, which necessarily involves liberal granting of pseudonymity. ....	9
CONCLUSION.....	12
CERTIFICATE OF SERVICE.....	1
CERTIFICATE OF COMPLIANCE.....	2

## TABLE OF AUTHORITIES

### Cases

*Cannon v. Univ. of Chicago,*

441 U.S. 677, 706 (1979) ..... 9

*Doe v. Colgate Univ.,*

No. 5:15-CV-1069 LEK/DEP, 2016 WL 1448829, at \*3 (N.D.N.Y. Apr. 12, 2016)..... 10

*Doe v. Oberlin College,*

963 F.3d 580 (6th Cir. 2020) ..... 8

*Doe v. Princeton Univ.,*

No. 21-1458, 2022 WL 965058 (3d Cir. Mar. 31, 2022) ..... 8

*Doe v. Purdue Univ.,*

321 F.R.D. 339, 342 (N.D. Ind. 2017) ..... 10

*Doe v. Purdue Univ.,*

928 F.3d 652 (7th Cir. 2019) ..... 8

*Doe v. The Rector & Visitors of George Mason Univ.,*

179 F. Supp. 3d 583, 593 (E.D. Va. 2016)..... 12

*Jackson v. Birmingham Bd. of Educ.,*

544 U.S. 167 (2005) ..... 3, 9, 11, 12

*Sheppard v. Visitors of Virginia State U.,*

993 F.3d 230 (4th Cir. 2021) ..... 4

**Statutes**

20 U.S.C. §1681(a) ..... 4

**Other Authorities**

*Analysis of Judicial Decisions Affirming the 2020 Title IX Regulations,*

SAVESERVICES.ORG, <https://www.saveservices.org/title-ix-regulation/analysis-of-judicial-decisions/> (last visited April 15, 2022). 2

B. H. French, J. D. Tilghman, and D. A. Malebranche, *Sexual coercion context and psychological correlates among diverse males*, 16(1)

PSYCHOL. OF MEN AND MASCULINITY, 42-53 (2015) ..... 7

Benjamin North, *Interactive Spreadsheet of Lawsuits Against*

*Universities*, SAVESERVICES.ORG, <http://www.saveservices.org/sexual-assault/complaints-and-lawsuits/lawsuit-analysis/> (last visited April 15, 2022)..... 1

Centers for Disease Control, *National Intimate Partner and Sexual Violence Survey*

<https://www.cdc.gov/violenceprevention/datasources/nisvs/index.html>  
(last visited April 15, 2022)..... 6

*Faculty Members*, SAVESERVICES.ORG,  
<http://www.saveservices.org/sexual-assault/faculty-members/> (last  
visited April 15, 2022) ..... 2

J.A. Turchik, *Sexual victimization among male college students: Assault  
severity, sexual functioning, and health risk behaviors*, 13(3) PSYCHOL.  
OF MEN AND MASCULINITY, 243-255 (2012)..... 7

Jake New, *Out of Balance*, INSIDE HIGHER ED (Apr. 14, 2016),  
[https://www.insidehighered.com/news/2016/04/14/several-students-  
win-recent-lawsuits-against-colleges-punished-them-sexual-assault...](https://www.insidehighered.com/news/2016/04/14/several-students-win-recent-lawsuits-against-colleges-punished-them-sexual-assault...) 5

Jonathan Taylor, *Plaintiff Demographics in Accused Student Lawsuits*,  
*TITLE IX FOR ALL (July 7, 2020)*, available at  
[https://www.titleixforall.com/wp-content/uploads/2020/07/Plaintiff-  
Demographics-by-Race-and-Sex-Title-IX-Lawsuits-2020-7-6.pdf](https://www.titleixforall.com/wp-content/uploads/2020/07/Plaintiff-Demographics-by-Race-and-Sex-Title-IX-Lawsuits-2020-7-6.pdf)..... 8

KC Johnson, *Post Dear-Colleague Letter Rulings/Settlements*,  
[https://docs.google.com/spreadsheets/d/1CsFhy86oxh26SgTkTq9GV\\_B  
Brv5NAA5z9cv178Fjk3o/edit#gid=0](https://docs.google.com/spreadsheets/d/1CsFhy86oxh26SgTkTq9GV_BBrv5NAA5z9cv178Fjk3o/edit#gid=0) (last visited April 15, 2022) ..... 5

KC Johnson, *Sexual Misconduct Accused Student Lawsuits Filed (post 2011-Dear Colleague Letter)*,

[https://docs.google.com/spreadsheets/d/1ldNBm\\_ynP3P4Dp3S5Qg2JX Fk7OmI\\_MPwNPmNuPm\\_Kn0/edit#gid=0](https://docs.google.com/spreadsheets/d/1ldNBm_ynP3P4Dp3S5Qg2JX Fk7OmI_MPwNPmNuPm_Kn0/edit#gid=0) (last visited April 15, 2022)

..... 5

Lara Stemple and Ilan Meyer, *The Sexual Victimization of Men in America: New Data Challenge Old Assumptions*, 104(6) AM J PUBLIC HEALTH, e19-26 (June 2014) .....

7

*Proposed Title IX Regulations Target Sex Bias on College Campuses*, SAVESERVICES.ORG, (Jan. 24, 2019),

<http://www.saveservices.org/2019/01/proposed-title-ix-regulations-target-sex-bias-on-college-campuses/> .....

1

Samantha Harris & KC Johnson, *Campus Courts in Court: The Rise in Judicial Involvement in Campus Sexual Misconduct Adjudications*, 22 N.Y.U. J. LEGIS. & PUB. POL'Y 49 (2019) .....

5

*Special Reports*, SAVESERVICES.ORG, <http://www.saveservices.org/reports/> (last visited April 15, 2022).....

1

*Statement in Support of Due Process in Campus Disciplinary Proceedings*, SAVESERVICES.ORG, (November 29, 2018),

<http://www.saveservices.org/wp-content/uploads/Due-Process-Statement-11.29.2018.pdf>..... 1

*Title IX Regulation: Defending The Title IX Regulation*, SAVESERVICES.ORG, <http://www.saveservices.org/title-ix-regulation/> (last visited April 15, 2022)..... 2

U.S. Dep’t of Educ., *Dear Colleague Letter*, (Apr. 4, 2011), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>..... 4

*Victims Deserve Better: Complainants*, SAVESERVICES.ORG, <http://www.saveservices.org/sexual-assault/victims-deserve-better/> (last visited April 15, 2022)..... 1

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, Amicus Curiae SAVE makes the following disclosure:

SAVE is a privately held 501(c)(3) corporation. None of its shares are publicly traded. It is a DBA entity of the Center for Prosecutor Integrity, which is similarly not publicly traded.

/s/ Benjamin F. North  
Benjamin F. North

*Attorney for SAVE*



**STATEMENT OF IDENTITY, INTEREST,  
AND AUTHORITY TO FILE**

Established in 2008, *amicus curiae* Stop Abusive and Violent Environments (“SAVE”) is a 501(c)(3) non-profit, DBA entity of the Center for Prosecutor Integrity and leader in the national movement to assure fairness and due process on college campuses. In recent years, SAVE has identified numerous cases in which complainants were mistreated by campus Title IX procedures,<sup>1</sup> published at least five relevant Special Reports,<sup>2</sup> commented on the current Title IX regulations,<sup>3</sup> coordinated a Due Process Statement signed by nearly 300 leading law professors and other interested parties,<sup>4</sup> sponsored an interactive spreadsheet of lawsuits against universities,<sup>5</sup> compiled

---

<sup>1</sup> *Victims Deserve Better: Complainants*, SAVESERVICES.ORG, <http://www.saveservices.org/sexual-assault/victims-deserve-better/> (last visited April 15, 2022).

<sup>2</sup> *Special Reports*, SAVESERVICES.ORG, <http://www.saveservices.org/reports/> (last visited April 15, 2022).

<sup>3</sup> *Proposed Title IX Regulations Target Sex Bias on College Campuses*, SAVE.COM, (Jan. 24, 2019), <http://www.saveservices.org/2019/01/proposed-title-ix-regulations-target-sex-bias-on-college-campuses/>.

<sup>4</sup> *Statement in Support of Due Process in Campus Disciplinary Proceedings*, SAVESERVICES.ORG, (November 29, 2018), <http://www.saveservices.org/wp-content/uploads/Due-Process-Statement-11.29.2018.pdf>.

<sup>5</sup> Benjamin North, *Interactive Spreadsheet of Lawsuits Against Universities*, SAVESERVICES.ORG, <http://www.saveservices.org/sexual-assault/complaints-and-lawsuits/lawsuit-analysis/> (last visited April 15, 2022).

information on the due process violations of faculty members,<sup>6</sup> published a comprehensive analysis of the current Title IX regulations and the overwhelming weight of judicial authority supporting the regulations,<sup>7</sup> and more.<sup>8</sup> Through its research and experiences, SAVE identified the disparate treatment and discrimination, particularly against male students, in campus disciplinary processes since 2011.

The undersigned firm was retained by SAVE to draft and file this *amicus* brief. The brief was specifically authorized by SAVE's President, Edward Bartlett, who reviewed and approved it to be filed on behalf of SAVE. No party or their counsel drafted any part of this brief. Apart from SAVE, no person or entity funded the preparation and submission of this brief. Appellant consents to the filing of this brief, and Appellee takes no position on its filing.

---

<sup>6</sup> *Faculty Members*, SAVESERVICES.ORG, <http://www.saveservices.org/sexual-assault/faculty-members/> (last visited April 15, 2022).

<sup>7</sup> *Analysis of Judicial Decisions Affirming Title IX Regulations – 2022 Update*, SAVESERVICES.ORG, <https://www.saveservices.org/title-ix-regulation/analysis-of-judicial-decisions/> (last visited April 15, 2022).

<sup>8</sup> *Title IX Regulation: Defending The Title IX Regulation*, SAVESERVICES.ORG, <http://www.saveservices.org/title-ix-regulation/> (last visited April 15, 2022).

## SUMMARY OF ARGUMENT

Title IX was enacted to eradicate sex discrimination from educational institutions that receive federal funding. *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 173 (2005). One of the more pernicious forms of sex discrimination in schools is the kind that occurs in the university sexual misconduct disciplinary process because students are forced to publicly disclose extremely sensitive information regarding their sexual experiences in order to vindicate their rights.<sup>9</sup> This type of discrimination has widely spread across campuses since 2011, which is reflected in the case law and in social science data.

Title IX's purpose is frustrated when victims of discrimination choose not to sue their universities for fear of public ridicule. As proposed *amici* Education Law Attorneys and FACE have expertly articulated, courts have typically permitted these plaintiffs to proceed pseudonymously.<sup>10</sup> Courts have done so because these plaintiffs, typically

---

<sup>9</sup> *See generally*, Proposed *Amicus Curiae* Brief, Families Advocating for Campus Equality.

<sup>10</sup> This brief does not analyze the various tests courts have used to determine whether to grant pseudonymous treatment, which has already been eloquently argued by Appellant and other *amici curiae*. SAVE agrees that under any Federal Circuit test,

male students accused of sexual offenses, risk suffering the same permanent reputational harm they wish to avoid by filing the lawsuit. For these plaintiffs, public policy requires that leave to proceed pseudonymously be liberally granted in order to properly enforce Title IX.

## ARGUMENT

### **I. Discrimination violative of Title IX has proliferated on college campuses since 2011.**

---

Title IX provides “[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.” 20 U.S.C. §1681(a). “The text of Title IX prohibits all discrimination on the basis of sex,” including in university disciplinary processes. *Haidak v. Univ. of Massachusetts-Amherst*, 933 F.3d 56, 74 (1st Cir. 2019). Since the April 4, 2011 “Dear Colleague Letter,”<sup>11</sup> sex discrimination has grown like a cancer on college

---

the balance of factors weighs in favor of pseudonymous treatment for Title IX plaintiffs.

<sup>11</sup> U.S. Dep’t of Educ., *Dear Colleague Letter*, (Apr. 4, 2011), <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.

campuses.<sup>12</sup> Where pre-2011 accused student Title IX lawsuits were “few and far between,”<sup>13</sup> over 640 have been filed since 2011.<sup>14</sup>

According to Brooklyn College Professor, KC Johnson, to date, there have been at least 225 judicial decisions primarily favorable to accused students, 223 favorable to a university, and 110 settled before any court decision.<sup>15</sup> Gary Pavela, a fellow for the National Association of College and University Attorneys, explained, “[i]n over 20 years of reviewing higher education law cases, I’ve never seen such a string of legal setbacks for universities, both public and private, in student conduct cases . . . . University sexual misconduct policies are losing legitimacy in the eyes of the courts.”<sup>16</sup> In failing to cite any case law since 2011, the district court

---

<sup>12</sup> Samantha Harris & KC Johnson, *Campus Courts in Court: The Rise in Judicial Involvement in Campus Sexual Misconduct Adjudications*, 22 N.Y.U. J. LEGIS. & PUB. POL’Y 49 (2019).

<sup>13</sup> *Id.*

<sup>14</sup> KC Johnson, *Sexual Misconduct Accused Student Lawsuits Filed (post 2011-Dear Colleague Letter)*,

[https://docs.google.com/spreadsheets/d/1ldNBm\\_ynP3P4Dp3S5Qg2JXFk7OmI\\_MPwNPmNuPm\\_Kn0/edit#gid=0](https://docs.google.com/spreadsheets/d/1ldNBm_ynP3P4Dp3S5Qg2JXFk7OmI_MPwNPmNuPm_Kn0/edit#gid=0) (last visited April 15, 2022).

<sup>15</sup> KC Johnson, *Post Dear-Colleague Letter Rulings/Settlements*, [https://docs.google.com/spreadsheets/d/1CsFhy86oxh26SgTkTq9GV\\_BBrv5NAA5z9cv178Fjk3o/edit#gid=0](https://docs.google.com/spreadsheets/d/1CsFhy86oxh26SgTkTq9GV_BBrv5NAA5z9cv178Fjk3o/edit#gid=0) (last visited April 15, 2022).

<sup>16</sup> Jake New, *Out of Balance*, INSIDE HIGHER ED (Apr. 14, 2016), <https://www.insidehighered.com/news/2016/04/14/several-students-win-recent-lawsuits-against-colleges-punished-them-sexual-assault>.

in this case failed to take note of this important and decisive development.

The growth in Title IX case law is all the more alarming when one considers the social science data relating to the gender makeup of this epidemic on college campuses. Males comprise the overwhelming majority of accused and disciplined students; yet, the following studies indicate that males may not commit the majority of sexual misconduct offenses. Government data through the CDC’s National Intimate Partner and Sexual Violence Survey (“NISVS”)<sup>17</sup> includes “made to penetrate” offenses (where a victim is forced to penetrate the perpetrator) and reports the following numbers of persons who were sexually victimized in the general population between 2010 and 2012: 1.7 million males were made to penetrate<sup>18</sup> and 1.5 million women were victims of rape.<sup>19</sup> UCLA researchers Lara Stemple and Ilan Meyer explain that “by introducing the term, ‘made to penetrate,’ the CDC has added new detail to help understand what happens when men are sexually victimized...therefore,

---

<sup>17</sup> Centers for Disease Control, *National Intimate Partner and Sexual Violence Survey* <https://www.cdc.gov/violenceprevention/datasources/nisvs/index.html> (last visited April 15, 2022).

<sup>18</sup> *Id.* at Table 3.5.

<sup>19</sup> *Id.* at Table 3.1.

to the extent that males experience nonconsensual sex differently (*i.e.*, being made to penetrate), male victimization will remain vastly undercounted in federal data collection on violent crime.”<sup>20</sup> While the NISVS does not provide separate results for college students, two other methodologically rigorous studies focused on this population: (1) a survey of 302 male college students found that 51.2% reported experiencing at least one sexual victimization since age 16<sup>21</sup>; and (2) a study of 284 college and high school males found that 43% reported being sexually coerced, with the majority of such incidents resulting in unwanted sexual intercourse. Of these, 95% of men reported female perpetrators.<sup>22</sup>

In light of this data, the near-total male composition of student respondents and accused student plaintiffs appear suspect. Indeed, under the current data, there should be a near-equal number of female and male respondents on campus and plaintiffs in court. Both lists,

---

<sup>20</sup> Lara Stemple and Ilan Meyer, *The Sexual Victimization of Men in America: New Data Challenge Old Assumptions*, 104(6) AM J PUBLIC HEALTH, e19-26 (June 2014).

<sup>21</sup> J.A. Turchik, *Sexual victimization among male college students: Assault severity, sexual functioning, and health risk behaviors*, 13(3) PSYCHOL. OF MEN AND MASCULINITY, 243-255 (2012).

<sup>22</sup> B. H. French, J. D. Tilghman, and D. A. Malebranche, *Sexual coercion context and psychological correlates among diverse males*, 16(1) PSYCHOL. OF MEN AND MASCULINITY, 42-53 (2015).

however, are “overwhelmingly male.”<sup>23</sup> This composition reflects not only that male sexual assault is underreported, but that, additionally, males are erroneously disciplined by their universities at a disproportionate rate.<sup>24</sup>

This, of course, implicates Title IX as educational institutions are prohibited from discriminating on the basis of sex. *See, e.g., Doe v. Purdue Univ.*, 928 F.3d 652 (7th Cir. 2019) (holding that, among other things, university promotion of an article titled “Alcohol isn’t the cause of campus sexual assault. Men are.” raised an inference of sex discrimination); *Doe v. Princeton Univ.*, No. 21-1458, 2022 WL 965058 (3d Cir. Mar. 31, 2022) (failure to investigate male’s complaint of harassment while prosecuting female’s complaint raised an inference of sex discrimination); *see also Doe v. Oberlin College*, 963 F.3d 580 (6th Cir. 2020) (holding that the erroneous disciplinary finding itself can be

---

<sup>23</sup> *See, e.g., supra*, Harris & Johnson; *see also* Jonathan Taylor, *Plaintiff Demographics in Accused Student Lawsuits, TITLE IX FOR ALL (July 7, 2020)*, available at <https://www.titleixforall.com/wp-content/uploads/2020/07/Plaintiff-Demographics-by-Race-and-Sex-Title-IX-Lawsuits-2020-7-6.pdf> (showing that 97.69% of these plaintiffs are male).

<sup>24</sup> Female students likely suffer discrimination in the form of sex-based discipline as well. Further, any instance of sex discrimination in the form of deliberate indifference to sexual misconduct is also a serious issue. All of these plaintiffs have substantially similar privacy interests and would benefit from anonymity.



strong evidence of Title IX discrimination against an accused male).<sup>25</sup> In light of the above data, facts from cases, including those set forth by Appellant, Education Law Professors, and FACE, it is clear that sex discrimination remains a serious issue on college campuses,<sup>26</sup> particularly against accused male students. Title IX, with pseudonymity, is the solution to this problem.

**II. Public policy favors broad enforcement of Title IX, which necessarily involves liberal granting of pseudonymity.**

Congress enacted Title IX “to provide individual citizens effective protection against [discriminatory] practices.” *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167, 179 (2005), *citing Cannon v. Univ. of Chicago*, 441 U.S. 677, 706 (1979). Indeed, the private enforcement of Title IX is “in some cases even necessary to the orderly enforcement of the statute.” *Cannon*, 441 U.S. at 706. For Congress’ purpose to be effectuated, plaintiffs must sue the discriminating perpetrators. Thus, any deterrent to plaintiffs bringing meritorious Title IX claims frustrates that purpose.

---

<sup>25</sup> These issues were brought to light through pseudonymous litigation.

<sup>26</sup> While this brief highlights one form of discrimination on campus, there are undoubtedly others, including deliberate indifference to legitimate sexual misconduct claims brought by students of both sexes.

In Title IX cases brought by accused students, there is a powerful deterrent involved: the risk of being labeled as a sexual offender in the public square through filing the complaint. *See, e.g., Doe v. Purdue Univ.*, 321 F.R.D. 339, 342 (N.D. Ind. 2017) (“If Plaintiff’s identity is revealed, Plaintiff would suffer the very harm to his reputation that he seeks to remedy by bringing this lawsuit”); *Doe v. Colgate Univ.*, No. 5:15-CV-1069 LEK/DEP, 2016 WL 1448829, at \*3 (N.D.N.Y. Apr. 12, 2016) (“The Court is also mindful of the potential chilling effect that forcing Plaintiff to reveal his identity would have on future plaintiffs facing similar situations”). This is a concern unique to accused student cases.<sup>27</sup>

The powerful testimony submitted by FACE members demonstrates the sweeping harmful effects which result from this public branding. *See* FACE Brief, Exhibit I. If forced to litigate in their own name, which necessarily invites severe and irreparable harm, students will be far less likely to litigate Title IX claims.<sup>28</sup>

---

<sup>27</sup> Victims of sexual misconduct may have a similar justified fear of retribution or severe embarrassment upon public identification. Forcing those plaintiffs to name themselves similarly deters enforcement of Title IX through lawsuits. These plaintiffs, however, do not risk suffering the additional harm of being labeled a sexual offender.

<sup>28</sup> As explained by Appellant and Education Law Attorneys, there is no comparable harm to the defendants in most of these cases. In the vast majority of Title IX cases,

In a similar context, the Supreme Court spoke to the importance of limiting deterrence to the enforcement of Title IX. *Jackson*, 544 U.S. at 180. In holding that Title IX provided for a retaliation claim, the Court explained that, were it to hold the contrary, “individuals who witness discrimination would be loath to report it, and all manner of Title IX violations might go unremedied as a result.” *Id.* The Supreme Court concluded that if individuals were deterred from reporting Title IX violations, “the statute’s enforcement scheme would be subverted. We should not assume that Congress left such a gap in its scheme.” *Id.* at 181.

The principle is the same here: unnecessary deterrence is to be avoided. Congress desired the eradication of sex discrimination and intended to generally avoid impediments to that outcome. Forcing Title IX plaintiffs to litigate in their real names “may well discourage aggrieved students from seeking recourse when they fall victim to defective university disciplinary procedures or may discourage victims from reporting sexual misconduct in the first instance.” *Doe v. The Rector*

---

the school cannot plausibly be prejudiced by the use of a pseudonym when it knows the identity of the student.

*& Visitors of George Mason Univ.*, 179 F. Supp. 3d 583, 593 (E.D. Va. 2016). Indeed, “discrimination would go unremedied.” *Jackson*, 544 U.S. at 181. Public policy, therefore, demands reversal of the district court, and the liberal granting of pseudonyms for Title IX plaintiffs.

## CONCLUSION

Title IX plaintiffs must be able to litigate without fear of social reprisal for bringing claims to address discrimination they face on campuses. Accordingly, this Court should reverse the district court and permit the use of a pseudonym for Doe.

Dated: April 18, 2022

Respectfully submitted,

/s/ Benjamin F. North

Benjamin F. North (1st Cir. #1203266)

BINNALL LAW GROUP, PLLC

717 King Street, Suite 200

Alexandria, Virginia 22314

Tel: (703) 888-1943

Fax: (703) 888-1930

ben@binnall.com

*Attorney for SAVE*

## CERTIFICATE OF SERVICE

I certify that on April 18, 2022, a copy of the foregoing was filed with the Clerk of the Court using the Court's CM/ECF system, which will send a copy to all counsel of record.

Dated: April 18, 2022

*/s/ Benjamin F. North*  
Benjamin F. North

*Attorney for SAVE*

## CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) because this brief contains 2,285 words and at 12 pages is less than one-half the maximum length authorized for a party's principal brief.

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because: this brief has been prepared in a proportionally spaced typeface using Word 2019 in 14 point Century font, except footnotes which are in 12 point Century font.