

No. 20-0979

In the Supreme Court of Texas

AMAZON.COM, INC.,

Defendant-Appellant,

v.

MORGAN MCMILLAN,

INDIVIDUALLY AND AS NEXT FRIEND OF E.G., A MINOR CHILD,

Plaintiff-Appellee.

On Certified Question from the
United States Court of Appeals for the Fifth Circuit
Case No. 20-20108

**BRIEF OF THE CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA AS AMICUS CURIAE
SUPPORTING DEFENDANT-APPELLANT**

Scott A. Keller
State Bar No. 24062822
LEHOTSKY KELLER LLP
200 Massachusetts Ave. NW
Washington, DC 20001
T: (202) 365-2509
F: (833) 233-2202
scott@lehotskykeller.com

Counsel for Amicus Curiae

TABLE OF CONTENTS

	Page
Index of Authorities.....	iii
Interest of Amicus Curiae	1
Summary of the Argument	2
Argument.....	4
I. When a Company Operates an Online Marketplace and Provides Logistics Support for Others to List and Sell Products, that Company is Not a “Seller” Subject to Strict Products Liability.....	4
A. Texas law imposes strict products liability on a company that “actually placed a product in the stream of commerce” –not a company that “facilitates the stream.”	4
B. The overwhelming majority position in other jurisdictions recognizes online marketplace operators are not “sellers” of a third-party’s products for the purpose of strict products liability.	9
II. The Extension of Strict Liability Harms American Businesses, Consumers, and the National Economy.	11
Prayer	15
Certificate of Service	16
Certificate of Compliance.....	16

INDEX OF AUTHORITIES

	Page(s)
Cases	
<i>Armstrong Rubber Co. v. Urquidez</i> , 570 S.W.2d 374 (Tex. 1978)	6
<i>Bolger v. Amazon.com, LLC</i> , 53 Cal. App. 5th 431 (2020).....	10, 11
<i>Erie Ins. Co. v. Amazon.com, Inc.</i> , 925 F.3d 135 (4th Cir. 2019)	9
<i>Firestone Steel Prods. Co. v. Barajas</i> , 927 S.W.2d 608 (Tex. 1996)	6
<i>Hegar v. Am. Multi-Cinema, Inc.</i> , 605 S.W.3d 35 (Tex. 2020)	6
<i>Ind. Farm Bureau Ins. v. Shenzhen Anet Tech. Co.</i> , No. 4:19-cv-00168-TWP-DML, 2020 WL 7711346 (S.D. Ind. Dec. 29, 2020).....	9
<i>McMillan v. Amazon.com, Inc.</i> , 433 F. Supp. 3d 1034 (S.D. Tex. 2020)	6, 7
<i>McMillan v. Amazon.com, Inc.</i> , 983 F.3d 194 (5th Cir. 2020)	4, 6
<i>New Texas Auto Auction Servs., L.P. v. Gomez De Hernandez</i> , 249 S.W.3d 400 (Tex. 2008)	<i>passim</i>
<i>State Farm Fire & Cas. Co. v. Amazon.com Inc.</i> , 407 F. Supp. 3d 848 (D. Ariz. 2019), <i>aff'd</i> , 835 F. App'x 213 (9th Cir. 2020)	10

State Farm Fire & Cas. Co. v. Amazon.com, Inc.,
835 F. App'x 213 (9th Cir. 2020)9, 10

Stiner v. Amazon.com, Inc.,
___ N.E.3d ___, 2020 WL 5822477 (Ohio Oct. 1, 2020).....9

Statutes and Rules

Tex. Bus. & Com. Code § 2.106(a)6

Tex. Civ. Prac. & Rem. Code § 82.005(e)8

Tex. R. App. P. 11(c).....1

Other Authorities

Thomas J. Campbell, Daniel P. Kessler & George B. Shepherd,
*The Causes and Effects of Liability Reform: Some Empirical
Evidence*, NBER Working Paper No. 4989 (1995)12

Joni Hersch & Kip Viscusi, *Tort Liability Litigation Costs for
Commercial Claims*, 9 Am. L. & Econ. Rev. 330 (2007)12

Peter W. Huber & Robert E. Litan, *The Liability Maze: The Impact
of Liability Law on Safety and Innovation* (1991).....13

Jeremy A. Leonard, *How Structural Costs Imposed on U.S.
Manufacturers Harm Workers and Threaten Competitiveness*
(2003)13

A. Mitchell Polinsky & Steven Shavell, *The Uneasy Case for
Product Liability*, 123 Harv. L. Rev. 1437 (2010)13

Restatement (Second) of Torts § 402A (Am. Law Inst. 1965).....5, 6, 8, 9

Restatement (Third) of Torts: Prod. Liab. § 20
(Am. Law Inst. 1998).....5

Joanna M. Shepherd, *Products Liability and Economic Activity: An
Empirical Analysis of Tort Reform’s Impact on Businesses,
Employment, and Production*, 66 Vand. L. Rev. 257 (2013).....13, 14

U.S. Chamber Institute for Legal Reform, *Costs and
Compensation of the U.S. Tort System* (2018).....1, 2, 12

INTEREST OF AMICUS CURIAE

The Chamber of Commerce of the United States of America is the world's largest business federation.¹ It represents approximately 300,000 direct members and indirectly represents the interests of more than three million companies and professional organizations of every size, in every industry sector, and from every region of the country. An important function of the Chamber is to represent the interests of its members in matters before Congress, the Executive Branch, and the courts. To that end, the Chamber regularly files amicus curiae briefs in cases that raise issues of concern to the Nation's business community. Specifically, the Chamber routinely files amicus curiae briefs addressing state tort and products-liability law, especially in cases involving the potential for strict liability.

The Chamber and its members have an interest in cabining strict liability. The expansion of strict liability under tort law is harmful to American businesses, customers (due to higher prices and reduced availability of goods), and the national economy. The Chamber's Institute for Legal Reform has published several reports that detail the harmful consequences of such expansion of tort law. *See, e.g.*, U.S. Chamber Institute for Legal Reform, Costs

¹ No counsel for a party authored this brief in whole or in part, and no party made a monetary contribution intended to fund the preparation or submission of this brief. No one other than the Chamber of Commerce of the United States of America or its counsel made a contribution to the preparation or submission of this brief. *See* Tex. R. App. P. 11(c).

and Compensation of the U.S. Tort System (2018) [hereinafter 2018 Chamber Report], https://instituteforlegalreform.com/wp-content/uploads/2020/09/Tort_costs_paper_FINAL_WEB.pdf.

The Chamber is thus well situated to assist the Court in understanding the dangers of misreading Texas law to expand strict liability in this context. In so doing, the Chamber takes no position on the meaning of the term “seller” in other contexts. Further, the Chamber expresses no view on the proper treatment of counterfeit or infringing goods sold through online platforms—matters governed by other laws not addressed in this brief.

SUMMARY OF THE ARGUMENT

Strict products liability—which does not depend on proof of a defendant’s negligence or intent to do harm—is the exception to general principles of tort liability. Accordingly, it has been carefully and deliberately cabined by Texas law. This Court should join courts across the country—that have considered similar questions about online marketplaces—by answering the certified question in a manner that confirms the limits Texas law places on strict products liability.

I. Texas law imposes strict products liability on a “seller” in certain situations, but a party does not become a “seller” subject to Texas’s strict liability tort law by merely facilitating the sales of others. *New Texas Auto Auction Servs., L.P. v. Gomez De Hernandez*, 249 S.W.3d 400, 403 (Tex. 2008). Texas’s strict liability tort law requires those “who *place* products in the

stream of commerce to stand behind them; it does not require everyone who *facilitates* the stream to do the same.” *Id.* at 402 (emphasis in original). When Amazon.com acts as an online marketplace and provides logistics support for a different party to list and sell products, Amazon.com does not “*place* products in the stream of commerce,” *id.*, and is not “engaged in the business of selling” products, *id.* at 403.

This Court need not examine authority from other jurisdictions to conclude that operating online marketplaces that facilitate sales of third-party sellers does not give rise to strict products liability under Texas law. Regardless, the overwhelming majority position in other jurisdictions recognizes that such online marketplaces are not sellers subject to strict products liability.

II. Texas law has made the considered decision to limit strict products liability. The American tort system costs businesses and consumers billions of dollars annually. And Texas consumers already bear their share of those costs—which generate higher prices, stifle innovation, and result in less competition. An expansion of strict products liability would impose more costs on Texas consumers—and businesses nationwide—than Texas law has decided is prudent.

ARGUMENT

I. When a Company Operates an Online Marketplace and Provides Logistics Support for Others to List and Sell Products, that Company is Not a “Seller” Subject to Strict Products Liability.

This Court should properly cabin strict liability under Texas law by holding that a company is not a “seller” when it operates an online marketplace and provides logistics support for *others* to sell their products.²

A. Texas law imposes strict products liability on a company that “actually placed a product in the stream of commerce” — not a company that “facilitates the stream.”

For products sold by others through Amazon.com’s online marketplace, Amazon.com does not “introduce[]” or “*place* products in the stream of commerce.” *New Texas Auto*, 249 S.W.3d at 402, 405. Consequently, in its capacity as providing an online marketplace and logistics support, Amazon.com cannot be a “seller” for purposes of strict products liability. *Id.* at 403. Instead, it merely “*facilitates* the stream” by providing services to the actual third-party sellers. *Id.* at 402. Texas has long declined to extend strict products liability

² To be clear, Amazon.com does sell products itself on this online marketplace. *Cf. McMillan v. Amazon.com, Inc.*, 983 F.3d 194, 200 (5th Cir. 2020) (“And Amazon cannot genuinely contend that it only makes occasional sales or that it is not in the business of selling.”). But the issue before this Court does not concern those products that Amazon.com itself sells. Rather, Amazon.com allows other third parties to sell their products using the online marketplace and logistics support offered by Amazon.com. This case concerns those products sold by third parties.

to such service providers, and this Court should not undermine that established decision.

This Court has adopted Section 402A of the Second Restatement of Torts, which “hold[s] those who sell defective products strictly liable for physical harm they cause to consumers.” *Id.* at 403. And the Court has identified the Restatement’s key requirement to determine who are “sellers”: a party must be “engaged in the business of selling . . . a product” to be strictly liable for its defects. *Id.* (emphasis added by *New Texas Auto*) (quoting Restatement (Second) of Torts § 402A(1) (Am. Law Inst. 1965)).³

To qualify as a “seller,” an entity must “introduce[]” or “actually place[] a product in the stream of commerce.” *Id.* at 403, 405. Both “introducing” and “placing” products in the stream of commerce are “concepts [] intended

³ *New Texas Auto* also relied in part on the Third Restatement, which similarly supports the argument that Amazon.com, as an online marketplace, is not a “seller.” See 249 S.W.3d at 404. The Third Restatement expressly excludes those who merely “assist[] or provid[e] services to product distributors,” even if they “indirectly facilitat[e] the commercial distribution of products.” Restatement (Third) of Torts: Prod. Liab. § 20, cmt. g (Am. Law Inst. 1998).

Moreover, Amazon.com as an online marketplace neither (1) “transfers ownership” of a product, because it never holds title to the products sold by third-party sellers (describing manufacturers, wholesalers, and retailers), nor does it (2) “otherwise distribute[] a product . . . to another either for use or consumption or as a preliminary step leading to ultimate use or consumption” (describing “lessors, bailors, and those who provide products to others as a means of promot[ion]”). *Id.* § 20.

to describe *producers*” —in contrast to those who have “nothing to do with making” the product. *Id.* at 405 (emphasis added). From this core understanding, Texas law has imposed strict products liability on “manufacturers, distributors, lessors, bailors, and dealers.” *Id.* at 403 (footnotes omitted); *see also* Restatement (Second) of Torts § 402A, cmt. f (listing manufacturers, retailers, wholesalers, distributors, and the operators of restaurants as being “in the business of selling products”).

All these recognized “sellers” share a common feature: If they do not actually sell a product, they are at least “in the same position as one who sells the product.” *New Texas Auto*, 249 S.W.3d at 403-04 (quoting *McKisson v. Sales Affiliates, Inc.*, 416 S.W.2d 787, 792 (Tex. 1967)). *Cf.* Appellee’s Br. 14 (discussing *Firestone Steel Prods. Co. v. Barajas*, 927 S.W.2d 608, 613 (Tex. 1996), and *Armstrong Rubber Co. v. Urquidez*, 570 S.W.2d 374, 375 (Tex. 1978), without mentioning *New Texas Auto*’s subsequent clarification of Texas law). And, under Texas law, “every sale must transfer property, and where no transfer occurs, nothing is sold.” *Hegar v. Am. Multi-Cinema, Inc.*, 605 S.W.3d 35, 42 (Tex. 2020); *see* Tex. Bus. & Com. Code § 2.106(a) (“A ‘sale’ consists in the passing of title from the seller to the buyer for a price”).

The District Court noted that Texas law does not necessarily require a “seller” to “transfer title” for purposes of strict products liability. *McMillan v. Amazon.com, Inc.*, 433 F. Supp. 3d 1034, 1044 (S.D. Tex. 2020) (emphasis added); *see, e.g., New Texas Auto*, 249 S.W.3d at 403 (noting that *lessors* can be subject to strict products liability); *McMillan*, 983 F.3d at 200-01 (same

observation by the Fifth Circuit). But nothing in Texas law suggests that a party who *never held title* to a product can somehow be deemed a “seller” of that product when, as here, the product reaches the consumer through a sale. See Appellant’s Br. 19 (distinguishing “cases where the product was distributed through a means other than a sale”). For a party to qualify as a “seller” when a sale has occurred, that party must have held title to the product at some point.⁴

In all events, Texas law has steadfastly declined to extend strict liability to those who merely facilitate sales made by others. So shipping companies, payment facilitators (like credit card processing services), warehouses, and advertisers are not “sellers” for purposes of strict products liability. See *New Texas Auto*, 249 S.W.3d at 403 (identifying non-“sellers”). Here, Amazon.com has just combined those facilitating logistics functions into one service. There is no basis in Texas law for the proposition that, by combining facilitating logistics functions, an entity somehow stands “in the same position as one who sells the product.” *Id.* at 403-04 (quoting *McKisson*, 416 S.W.2d at 792).

The District Court’s contrary decision relies on Chapter 82 of the Texas Civil Practice and Remedies Code. See *McMillan*, 433 F. Supp. 3d at 1042-44. But that ignores this Court’s express directive that Chapter 82 “was not

⁴ But even acquiring and transferring title to a product may not make the party a “seller.” See *New Texas Auto*, 249 S.W.3d at 405 (auctioneer that “actually held title to” a product and transferred that title after an auction was not a “seller”).

intended to replace section 402A [of the Second Restatement] or the common law except in limited circumstances.” *New Texas Auto*, 249 S.W.3d at 405 (citing Tex. Civ. Prac. & Rem. Code § 82.005(e)). Rather, Chapter 82’s “broad definitions were drafted to provide indemnity for all retailers.” *Id.* Consequently, “[t]o the extent chapter 82 addresses product claims generally, it reflects a legislative intent to *restrict liability* for defective products to those who *manufacture* them.” *Id.* (emphases added). Chapter 82’s definitions therefore cannot expand strict liability by supplanting the common law’s distinction between sellers and facilitators.

More fundamentally, the District Court’s decision does not comport with the common-law policy justifications underlying strict products liability—which is designed to ensure that those with control over the design and manufacture of products are responsive to consumer harms. *See id.* at 404 (collecting authorities). That does not describe Amazon.com, which, as relevant here, simply operated an online marketplace with logistics support for third-party sellers. For sales by third parties, while Amazon.com as an online marketplace is “obviously engaged in sales, the only thing they sell for their own account is their services; the items . . . are generally sold for others.” *New Texas Auto*, 249 S.W.3d at 402. It lacks the degree of control over the product and level of responsibility contemplated by Texas’s strict liability law.

B. The overwhelming majority position in other jurisdictions recognizes online marketplace operators are not “sellers” of a third-party’s products for the purpose of strict products liability.

This Court, of course, need not consult authority from other jurisdictions to enforce the limited scope of Texas law on strict products liability. In all events, “[m]yriad burgeoning federal and state court cases agree that an online marketplace operator is not a ‘seller’ of a third-party vendor’s products.” *Ind. Farm Bureau Ins. v. Shenzhen Anet Tech. Co.*, No. 4:19-cv-00168-TWP-DML, 2020 WL 7711346, at *6 (S.D. Ind. Dec. 29, 2020) (collecting cases); *see, e.g., Stiner v. Amazon.com, Inc.*, ___ N.E.3d ___, 2020 WL 5822477, at *5 (Ohio Oct. 1, 2020) (“While not controlling on this court, these decisions demonstrate a prevailing understanding that Amazon’s role in the chain of distribution is not sufficient to trigger the imposition of strict liability for defective products sold by third-party vendors on its marketplace.”).

For example, the Fourth and Ninth Circuits held that Maryland and Arizona law, respectively, does not treat Amazon.com as a “seller” when it facilitates third-party sales. *See Erie Ins. Co. v. Amazon.com, Inc.*, 925 F.3d 135, 144 (4th Cir. 2019); *State Farm Fire & Cas. Co. v. Amazon.com, Inc.*, 835 F. App’x 213, 216 (9th Cir. 2020). Under Section 402A of the Second Restatement, regardless of whether Amazon.com provides “extensive” services “in facilitating the sale,” the combination of those services is “no more meaningful to the analysis” than the provision of individual services. *Erie*, 925 F.3d at 142. Likewise, “while Amazon facilitated the shipping of the third-party seller’s

[products] from the warehouse to the consumer, this did not make Amazon the seller of the product any more than the U.S. Postal Service or United Parcel Service are when they take possession of an item and transport it to a customer.” *State Farm*, 835 F. App’x at 216. Similarly, “[t]hat Amazon sometimes stores third-party vendors’ products in its warehouses does not make it the owner of those products, just as a mall does not become an owner of the products sold by the various stores contained therein.” *State Farm Fire & Cas. Co. v. Amazon.com Inc.*, 407 F. Supp. 3d 848, 853 (D. Ariz. 2019), *aff’d*, 835 F. App’x 213 (9th Cir. 2020). *Cf.* Appellee’s Br. 8 (erroneously suggesting that online marketplaces are attempting to “carve out an exception for online retailers” that would not apply to physical marketplaces).

This Court should not follow the outlier approach adopted by a California intermediate appellate court, which recently held that Amazon.com was strictly liable under California law when operating its online marketplace. *Bolger v. Amazon.com, LLC*, 53 Cal. App. 5th 431, 438 (2020). *Cf.* Appellee’s Br. 26. The California “Supreme Court has ‘given [the] rule of strict liability a broad application.’” *Bolger*, 53 Cal. App. 5th at 448 (quoting *Price v. Shell Oil Co.*, 2 Cal. 3d 245, 250 (Cal. 1970); alteration in original); *see id.* at 459 (“Our Supreme Court, which originated the doctrine of strict products liability, has not hesitated to disagree with the Restatement where it has unduly limited the doctrine.”). *Bolger* therefore recognized that “[o]ut-of-state authorities” addressing online marketplaces involving “other state statutes or case law have limited strict liability in a manner inconsistent with [that court’s view

of] California law.” *Id.* at 455 & n.6. Indeed, this Court and the Texas Legislature have instead cabined the reach of strict products liability. *See, e.g., New Texas Auto*, 249 S.W.3d at 405 (“To the extent chapter 82 addresses product claims generally, it reflects a legislative intent to restrict liability for defective products to those who manufacture them.”).

Bolger also held that Amazon.com would be strictly liable if it were “merely [a] ‘facilitator’” of commerce, 53 Cal. App. 5th at 438, reasoning that “Amazon was a link in the chain of product distribution even if it was not a seller as commonly understood,” *id.* at 451. But that is not sufficient for strict liability under Texas law, as a company that merely “*facilitates* the stream” of commerce is not strictly liable. *New Texas Auto*, 249 S.W.3d at 402.

II. The Extension of Strict Liability Harms American Businesses, Consumers, and the National Economy.

Texas has made the wise policy decision to cabin strict products liability and exclude those entities who merely provide facilitating services that third parties use to place products in the stream of commerce. This case is just one in a nationwide wave of litigation attempting to extend strict products liability beyond that limited scope.

This Court should resist plaintiff’s attempt to expand strict liability and impose greater costs on Texas consumers and American businesses. The tort system already costs billions of dollars annually and fails to provide commensurate benefits to consumers. For instance, in 2016, it imposed \$429 billion in costs (accounting for 2.3% of gross domestic product), but only 57%

was compensation for plaintiffs — the remaining 43% “covered the cost of litigation of both sides, operating costs for the insurers, and profits to effectuate risk transfer.” 2018 Chamber Report at 4.

This inefficient allocation is especially acute in Texas. And as the second-most populous state in the country — full of consumers who purchase products from third-party sellers on online marketplaces — extension of strict products liability will produce more of the same. One study of personal injury claims in Texas concluded that for every \$1.00 received by a claimant, on average \$0.75 went to legal and administrative costs, which increased to \$0.83 when the claimant retained legal counsel and filed a lawsuit. *See* Joni Hersch & Kip Viscusi, *Tort Liability Litigation Costs for Commercial Claims*, 9 *Am. L. & Econ. Rev.* 330, 362 (2007). The U.S. Chamber’s Institute for Legal Reform has come to similar conclusions. *See* 2018 Chamber Report at 6.

At the same time the tort system fails to compensate plaintiffs, it also creates externalities. The most immediate burdens are shouldered by businesses, whose entire operations are affected by increased costs. For example, excessive tort liability has been linked to lower worker productivity and employment. *See, e.g.*, Thomas J. Campbell, Daniel P. Kessler & George B. Shepherd, *The Causes and Effects of Liability Reform: Some Empirical Evidence* 18-22, NBER Working Paper No. 4989 (1995), https://www.nber.org/system/files/working_papers/w4989/w4989.pdf. More broadly, the threat and costs of litigation can hinder the development of new products, halting innovation within firms and stifling competition among them. *See, e.g.*, Peter

W. Huber & Robert E. Litan, *The Liability Maze: The Impact of Liability Law on Safety and Innovation* 16 (1991). And any domestic harms to businesses are magnified by losses to their competitiveness in international markets. One study found that domestic liability costs decrease manufacturing-cost competitiveness by at least 3.2%. See Jeremy A. Leonard, *How Structural Costs Imposed on U.S. Manufacturers Harm Workers and Threaten Competitiveness* 16 (2003) (report prepared for the Manufacturing Institute of the National Association of Manufacturers), <https://www.cmta.net/multimedia/NAMReport.pdf>.

Any harms to businesses eventually make their way to consumers because litigation and administrative costs “constitute the majority of the price increases” that reach consumers. Joanna M. Shepherd, *Products Liability and Economic Activity: An Empirical Analysis of Tort Reform’s Impact on Businesses, Employment, and Production*, 66 *Vand. L. Rev.* 257, 287 (2013). Completing the circle of harms between consumers and businesses, cost increases can “discourage most consumers from purchasing the product and consequently cause the manufacturer to withdraw the product from the marketplace or to go out of business.” A. Mitchell Polinsky & Steven Shavell, *The Uneasy Case for Product Liability*, 123 *Harv. L. Rev.* 1437, 1472 (2010).

The general costs imposed by the tort system disproportionately burden small businesses and entrepreneurs—exactly those who most benefit from the facilitator services that Amazon.com provides. Those small businesses and entrepreneurs use marketplaces and other facilitation services to gain

access to a nationwide market that would otherwise be unattainable. But if those marketplaces are subject to strict liability for the sales of third parties, the marketplaces would become more expensive. The higher costs will either be passed along to consumers—decreasing sales—or simply make the marketplaces cost-prohibitive for those sellers. Particularly now during an ongoing pandemic, more consumers are shopping online, and these online marketplaces have become even more essential for small businesses and entrepreneurs.

Precisely at a time in our history when innovation is essential to America's economic competitiveness, strict liability reduces the incentives for innovation, competition, and entrepreneurial activity. *See* Shepherd, 66 Vand. L. Rev. at 287-88. Accordingly, the Court should continue to properly cabin strict products liability under Texas law.

PRAYER

The Court should answer the certified question as follows: An online marketplace where third parties sell their products is not liable as a “seller” for products sold in that marketplace by third parties.

Respectfully submitted.

/s/ Scott A. Keller

Scott A. Keller

State Bar No. 24062822

LEHOTSKY KELLER LLP

200 Massachusetts Ave. NW

Washington, DC 20001

T: (202) 365-2509

F: (833) 233-2202

scott@lehotskykeller.com

Counsel for Amicus Curiae

CERTIFICATE OF SERVICE

On March 11, 2021, this document was served electronically on: (1) Jeff Meyerson, lead counsel for Appellee, via jeffm@mlfirm.com; and (2) Brendan Murphy, lead counsel for Appellant, via BMurphy@perkinscoie.com.

/s/ Scott A. Keller
Scott A. Keller

CERTIFICATE OF COMPLIANCE

Microsoft Word reports that this brief contains 3,433 words, excluding the portions of the brief exempted by Rule 9.4(i)(1).

/s/ Scott A. Keller
Scott A. Keller

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below:

Scott Keller on behalf of Scott Keller
Bar No. 24062822
scott@lehotskykeller.com
Envelope ID: 51398013
Status as of 3/11/2021 4:05 PM CST

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Jeffrey Meyerson	788051	jeffm@meyersonfirm.com	3/11/2021 3:49:36 PM	SENT
Clifford Harrison		charrison@munsch.com	3/11/2021 3:49:36 PM	SENT
Robin Ellermann		robine@meyersonfirm.com	3/11/2021 3:49:36 PM	SENT
Brendan Murphy		bmurphy@perkinscoie.com	3/11/2021 3:49:36 PM	SENT

Associated Case Party: Amazon.com, Incorporated

Name	BarNumber	Email	TimestampSubmitted	Status
Linda Fernandez		LFernandez@munsch.com	3/11/2021 3:49:36 PM	SENT