No. 25-140

In the Supreme Court of the United States

THE STATE OF FRANKLIN DEPARTMENT OF SOCIAL AND HEALTH SERVICES, et. al.,
Petitioners

v.

Sarah KILBORN, et. al.,
Respondents

and

THE UNITED STATES OF AMERICA
Intervenor-Respondents

ON WRIT OF CERTIORARI FROM THE UNITED STATES COURT OF APPEALS FOR THE TWELFTH CIRCUIT

BRIEF FOR THE RESPONDENTS

Team 3411

QUESTIONS PRESENTED FOR REVIEW

(1) Whether a person at risk of institutionalization and segregation in a hospital in the future, but who is not currently institutionalized or segregated, can maintain a claim for discrimination under Title II of the Americans with Disabilities Act.

(2) Whether the United States can file a lawsuit to enforce Title II of the Americans with Disabilities Act and thus has an interest relating to the subject matter of a private Americans with Disabilities action under Federal Rule of Civil Procedure 24(a)(2).

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statues and Constitution

Secondary Sources

JURISDICTIONAL STATEMENT

The State of Franklin Department of Social and Health Services appeals the Appellate Court's affirmation of the District Court's grant of summary judgment in favor of Sarah Kilborn, Eliza Torrisi, by her guardians Joseph and Marina, and Malik Williamson, by his guardian Laila Thomas, for subsequent proceedings on June 26, 2025. The State of Franklin Department of Social and Health Services then filed a timely Writ of Certiorari to the Supreme Court of the United States to address whether a person at risk of institutionalization, but not presently institutionalized, may file a claim for discrimination under Title II of the Americans with Disabilities Act. Writ was additionally filed to address whether the United States can file a lawsuit to enforce Title II and therefore, has interest relating to the subject matter of a private Americans with Disabilities Act action pursuant to Federal Rule of Civil Procedure 24(a)(2). The Writ of Certiorari was granted, and the case number is 25-140.

STATEMENT OF THE ISSUES

I. RESPONDENTS HAVE ASSERTED A VALID CLAIM PURSUANT TO TITLE II OF THE ADA, BECAUSE COMMUNITY TREATMENT WAS NOT FURNISHED AFTER BEING DETERMINED APPROPRIATE, CONSENTED TO, AND SUCH PLACEMENT SHOULD HAVE BEEN REASONABLY ACCOMMODATED GIVEN THE RESOURCES AVAILABLE TO THE STATE OF FRANKLIN DEPARTMENT OF SOCIAL AND HEALTH SERVICES.

Olmstead v. L.C by Zimmering, 527 U.S. 581 (1999)

Edison v. Douberly, 604 F.3d 1307, 1308 (11th Cir. 2010)

Pashby v. Delia, 709 F.3d 307, 322 (4th Cir. 2013)

Auer v. Robbins, 519 U.S. 452, 461 (1997)

Fisher v. Oklahoma Health Care Authority, 335 F.3d 1175, 1182 (10th Cir. 2003)

M.R. v. Dreyfus, 663 F.3d 1100, 1116 (9th Cir. 2011)

II. THE ATTORNEY GENERAL HAS THE AUTHORITY TO ENFORCE TITLE II OF THE ADA AND THUS, HAS AN INTEREST PERTAINING TO THE SUBJECT MATTER OF THIS SUIT AND A RIGHT TO INTERVENE UNDER FRCP 24(a)(2).

United States v. Florida, 938 F.3d 1221 (11th Cir. 2019)

Sec'y Fla. Agency, 21 F.4th 730 (11th Cir. 2021).

International Paper Co. v. Jay, 887 F.2d 338 (1st Cir. 1989)

Illinois v. City of Chicago, 912 F.3d 979 (7th Cir. 2019)

Bost v. Illinois State Board of Elections, 75 F.4th 682 (7th Cir. 2023)

STATEMENT OF THE CASE AND REQUEST FOR ORAL ARGUMENT

Sarah Kilborn, Eliza Torrisi (by her guardians), and Malik Williamson (by his guardian) (the "Individuals") initially filed suit against the State of Franklin Department of Social and Health Services alleging discrimination in violation of Title II of the Americans with Disabilities Act. The alleged discrimination was due to their risk of institutionalization, and subsequent segregation, from other similar patients and the public due to the State's failure to provide adequate state-operated community health care facilities.

Sarah Kilborn was diagnosed with Bipolar Disorder in 1997. (R. 12). In 2002, Kilborn voluntarily admitted herself to a facility run by the State of Franklin, where she remained institutionalized until 2004. (R. 12). She experienced intermittent periods of more severe symptoms, eventually leading to readmission in 2011 to another state facility. (R. 13). Kilborn continued being admitted, released, and re-admitted to state facilities until 2021, when she was ultimately released. (R. 13). In each of these instances, Kilborn's physicians recommended a community mental health facility rather than institutionalization, but the State failed to provide adequate treatment options in each of these instances. (R. 13).

Eliza Torrisi was similarly diagnosed with Bipolar Disorder as a teenager, in 2016. (R. 14). In 2019, her symptoms led to admission to an inpatient facility at Newberry State Hospital. (R. 14). Torrisi's care team determined she was a good

candidate for community mental health treatment rather than institutional treatment in 2020. (R. 14). However, there were no community mental health treatment centers within four (4) hours of Torrisi's home - as such she was released from Newberry in 2022, but did not receive the prescribed community treatment. (R. 14).

Malik Williamson, like the other Individuals, has struggled with management of symptoms of mental illness since 1972, when he was diagnosed with schizophrenia. (R. 14). Over the years, Mr. Williamson has received both inpatient and outpatient services from a number of hospitals in Franklin. (R. 14-15). Following fifty (50) years of treatment in State institutions, Williamson's physicians determined community placement was proper, and that it would be important for Williamson to remain in close physical proximity with family. (R. 15). As Franklin does not have adequate facilities to accommodate for this, Mr. Williamson was released from State care, to remain close to family. (R. 15).

Each of the three Individuals remained institutionalized in a Franklin hospital, or were released without alternative due to the failure of the State to provide proper community mental health care facilities. (R. 1).

In February 2022, Kilborn, Torrisi (through her guardians), and Williamson (through his guardian), filed a complaint against the State of Franklin Department of Social and Health Services alleging their discrimination under Title II of the

Americans with Disabilities Act. (R. 2). Shortly after filing their complaint, the United States Department of Justice Civil Rights Division announced an investigation of the State of Franklin Department of Social and Health Services and its compliance with Title II. (R. 2).

On May 27, 2022, the United States, through the Attorney General, filed a motion to intervene on the Individuals' behalf, stating that Petitioners violated Title II of the ADA, and the Individuals' claim was substantiated. (R. 2). The United States additionally included a proposed complaint against Petitioners alleging a claim under Title II similar to the Individuals' claim, but requesting broader relief for all those who are at risk of unnecessary institutionalization and segregation in Franklin hospitals in the future. (R. 2). The Individuals consented to the United States' motion to intervene - Petitioners filed an opposition arguing in part that the United States cannot maintain a cause of action under Title II, and thus has no interest in this litigation warranting intervention. (R. 2).

On June 29, 2022, the United States District Court for the District of Franklin, with the Honorable P. Sathi presiding, granted the United States' motion to intervene, directing parties to confer and submit a new scheduling order within fourteen (14) days. (R. 9).

On March 22, 2024, the United States District Court for the District of Franklin, with the Honorable P. Sathi presiding, granted Plaintiffs' motion for

summary judgment, along with the United States' motion for summary judgment. (R. 21). The court held that someone at risk of institutionalization or segregation, but not actually institutionalized, can maintain a claim for discrimination under the ADA and its regulations. (R. 20).

On December 12, 2024, the State of Franklin Department of Social and Health Services filed timely notice of appeal, asking the Twelfth Circuit Court of Appeals to find that the District Court erred in holding the United States could intervene as of right to enforce Title II of the ADA. Petitioners further asked that because of this err, the United States no longer has an interest in the subject matter of an ADA case for purposes of intervention. (R. 23). The State additionally appealed whether individuals who are at risk of being institutionalized and segregated in the future may maintain a cause of action under Title II. (R. 23).

On June 26, 2025, the United States Court of Appeals for the Twelfth Circuit, with the Honorable Okpara, Chief Judge, presiding, upheld the decision of the District Court granting Kilborn, Torrisi, and Williamson's motions for summary judgment, joined by Circuit Judge Parks, and with Circuit Judge Hoffman dissenting. (R. 22).

Subsequently, The State of Franklin Department of Social and Health Services filed a timely Writ of Certiorari to the Supreme Court of the United States, to address whether individuals at risk of, but not presently institutionalized,

could bring claims under Title II of the ADA, and whether the United States could intervene as of right on the matter pursuant to Federal Rule of Civil Procedure 24(a)(2). (R. 39). Respondents request twenty (20) minutes for oral argument to aid in judgment of the merits.

SUMMARY OF THE ARGUMENT

The first issue before the Court is whether a person "at risk" of institutionalization and segregation in a hospital in the future, but who is not currently institutionalized and segregated, can maintain a claim for discrimination under Title II of the Americans with Disabilities Act (the "ADA"). The Court of Appeals did not err in finding that an "at risk" person can maintain a claim under Title II, regardless of institutional status. Subsequently, the Court of Appeals's holding that Kilborn, Torrissi, and Williamson were "at risk" under the established *Olmstead* test, is proper.

The second issue before the Court is whether the United States can file a lawsuit to enforce Title II of the ADA and thus, has an interest relating to the subject matter of a private ADA action under FRCP 24(a)(2). The Court of Appeals did not err in finding that the United States can intervene in a Title II action. Additionally, the Court of Appeals properly held that the district court did not abuse its discretion when it concluded the United States met all of the requirements under FRCP 24(a)(2). Should this Court elect to apply a *de novo* standard, the United States still meets the requirements for FRCP 24(a)(2).

STANDARD OF REVIEW

We review issues regarding the ADA or the Rehabilitation Act de novo, as they ordinarily are on appeal from summary judgment. *Bd. of Educ. v. Ross,* 486 F.3d 267, 270 (7th Cir. 2007).

We review a court decision to grant summary judgment de novo, resolving all ambiguities and drawing all permissible factual inferences in favor of the party against whom summary judgment is sought. *Loeffler v. Staten Island Univ. Hosp.*, 582 F.3d 268, 274 (2d Cir. 2009). Claims under the ADA is a question of law which this Court reviews de novo. *Robinson v. Univ. of Akron Sch. of L.*, 307 F.3d 409, 412 (6th Cir. 2002).

We review a timeliness challenge to a motion to intervene under FRCP 24(a)(2) for abuse of discretion. *San Jose Mercury News, Inc. v. United States Dist. Ct. – N. Dist.*, 197 F.3d 1096, 1100 (9th Cir. 1999). Circuits are split on the standard of review for a challenged motion based on the other three FRCP 24(a)(2) factors and, this Court has yet to determine the proper standard of review. The Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh circuits apply a de novo standard. *See, e.g.*, *Ceres Gulf v. Cooper*, 957 F.2d 1199, 1202 (5th Cir. 1992); *Grubbs v. Norris*, 870 F.2d 343, 345 (6th Cir. 1989); *Sierra Club v. Robertson*, 960 F.2d 83, 85 (8th Cir. 1992); *League of United Latin Am. Citizens v. Wilson*, 131 F.3d 1297, 1302 (9th Cir. 1997); *DeJulius v. New Eng. Health Care Emples. Pension Fund*,

429 F.3d 935, 942–943 (10th Cir. 2005); *Walters v. City of Atlanta*, 803 F.2d 1135, 1151 n.16 (11th Cir. 1986). The First, Second, Third, and Fourth Circuits, along with the Court of Appeals in this case (R. 25), apply an abuse of discretion standard. *See, e.g.*, *International Paper Co. v. Town of Jay, Me.*, 887 F.2d 338, 344 (1st Cir. 1989); *American Lung Ass'n v. Reilly*, 962 F.2d 258, 261 (2d Cir. 1992); *Brody v. Spang*, 957 F.2d 1108, 1115 (3d Cir. 1992); *In re Sierra Club*, 945 F.2d 776, 779 (4th Cir. 1991). Given the fact-based nature of an FRCP 24(a)(2) analysis and the trial court's unique position to best evaluate the facts, this Court should apply an abuse of discretion standard.

ARGUMENT

I. RESPONDENTS HAVE ASSERTED A VALID CLAIM PURSUANT TO TITLE II OF THE ADA, BECAUSE COMMUNITY TREATMENT WAS NOT FURNISHED AFTER BEING DETERMINED APPROPRIATE, CONSENTED TO, AND SUCH PLACEMENT SHOULD HAVE BEEN REASONABLY ACCOMMODATED GIVEN THE RESOURCES AVAILABLE TO THE STATE OF FRANKLIN DEPARTMENT OF SOCIAL AND HEALTH SERVICES.

The Americans with Disabilities Act (hereafter, "the ADA") was written and passed to provide broad protections for individuals with disabilities, so that they may enjoy the same freedoms as individuals without disabilities. John V. Jacobi, *Federal Power, Segregation, and Mental Disability*, 39 Houston L. Rev. 1232, 1236 (2003). The ADA was written to provide a clear, comprehensive mandate for the elimination of discrimination against individuals with disabilities. 42 U.S.C § 12101(a)(7). Integral to the protections of the ADA is the idea that individuals shall not be discriminated against for reason of disability by a public agency pursuant to Title II. 42 U.S.C § 12132.

Interpretation of a statute such as the ADA requires consideration of the statute's plain language, before considering any alternate interpretation or construction. *Edison v. Douberly*, 604 F.3d 1307, 1308 (11th Cir. 2010). Title II's plain text protects the rights of "qualified individuals with disabilities." 42 U.S.C § 12312. As Respondents are each identified as individuals with disabilities, the

protections of Title II should be afforded to them accordingly. Subsequently, Kilborn, Torrisi, and Williamson may assert a claim pursuant to Title II.

A Title II claim can be asserted where states fail to place persons with mental disabilities in community settings rather than in institutions when (1) the state's treatment professionals have determined that community placement is appropriate, (2) the transfer from institutional care to a less restrictive setting is not opposed by the affected individual and (3) the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities. *Olmstead v. L.C by Zimmering*, 527 U.S. 581 (1999).

Kilborn, Torrisi, and Williamson are able to assert, and have presented, a claim of discrimination pursuant to Title II of the ADA given their "at risk" status of unnecessary institutionalization as a result of their mental disabilities. Each of the three individuals has demonstrated their healthcare providers in the State of Franklin consent to community treatment, and have consented themselves. The State of Franklin has failed to provide adequate resources for their treatment, and budgetary constraints alone are an insufficient defense for the lack of adequate treatment and continued risk of improper institutionalization. For these reasons, we respectfully ask this Court to affirm the decision of the lower court, finding

Kilborn, Torrisi, and Williamson are able to assert a claim for relief under Title II of the ADA.

A. Kilborn, Torrisi, and Williamson are "At Risk" of Institutionalization for their Mental Disabilities and as a Result of the Integration Mandate, Title II Protection Extends to At Risk Individuals.

Congress has instructed the Department of Justice (DOJ) to issue regulations pertaining to Title II of the ADA. *Pashby v. Delia*, 709 F.3d 307, 322 (4th Cir. 2013). The ADA's integration mandate and relevant DOJ guidance regarding its interpretation require public entities to provide individuals with disabilities with the opportunity to live their lives in a manner similar to those without disabilities. 28 C.F.R. § 41.51(d) see United States Department of Justice, Statement of the Department of Justice on the Integration Mandate of Title II of the ADA and *Olmstead v. L.C.*, https://archive.ada.gov/olmstead/q&a_olmstead.htm. Not only does the mandate require nondiscrimination, but the integration mandate also indicates individuals can show sufficient risk of institutionalization and bring a discrimination claim under Title II by raising an Olmstead violation if a public entity's failure to provide community services or cut to such services will likely cause a decline in health, safety, or welfare that would likely lead to eventual institutionalization. United States Department of Justice, Statement of the Department of Justice on the Integration Mandate of Title II of the ADA and *Olmstead v. L.C.*, https://archive.ada.gov/olmstead/q&a_olmstead.htm.

The Department of Justice's view on the scope of Title II and implementation of the integration mandate should be viewed as controlling "unless plainly erroneous or inconsistent with the regulation." *Auer v. Robbins*, 519 U.S. 452, 461 (1997). Not only is the DOJ interpretation neither erroneous nor inconsistent with the regulation itself, forcing individuals to suffer significant and persistent harm in order to seek relief from such harm would be counter to the purpose of the provision in the first place. Having suffered initial harm, and being at risk of future harm should be enough to satisfy requirements under Title II, and has been proven to be such via the integration mandate.

The Tenth Circuit held that disabled individuals imperiled with segregation can bring claims under the ADA's integration mandate without first having submitted to institutionalization. *Fisher v. Oklahoma Health Care Authority*, 335 F.3d 1175, 1182 (10th Cir. 2003). In this case, the court held that nothing in the plain language of the statute limited protection to persons who were currently institutionalized. *Id*. at 1181. Plaintiffs in Fisher faced a "substantial risk" of harm due to their high risk of premature institutionalization because of state policies. *Id*. at 1184.

Similarly, the Ninth Circuit held in *M.R. v. Dreyfu*s that ADA plaintiffs need not show that institutionalization is entirely inevitable, or that they have no choice but to submit to institutional care in order to assert a violation of the integration

mandate under Title II. *M.R. v. Dreyfus*, 663 F.3d 1100, 1116 (9th Cir. 2011). The court additionally held that institutionalization creates unnecessary risk for individuals, rendering their ability to function in less structured, less restrictive environments compromised. *Id*. at 1118. Like *Fisher*, the *M.R*. court afforded a considerable level of respect to the DOJ's view on the integration mandate, and deferred to the DOJ's "reasonable interpretation of its own statutorily authorized regulation." *Id*. at 1117.

Following similar suit, the Fourth Circuit held that individuals at risk of institutionalization who must enter institutions to obtain services for which they qualify could bring valid claims under the ADA. *Pashby v. Delia*, 709 F.3d 307, 322 (4th Cir. 2013). The Pashby court relies on Fisher from the Tenth Circuit to assert the fact that there is no indication in the plain language of the regulation that protection is limited to persons who are presently institutionalized. *Id.*

Here, the Court should find similarly that the integration mandate and protections of Title II of the ADA extend to individuals at risk of institutionalization, but who are not presently institutionalized. Not only are they at significant risk of institutionalization due to the State of Franklin's inadequate provision of resources, but Kilborn, Torrisi, and Williamson have each been institutionalized previously. (R. 12-15).

Kilborn, after being diagnosed with Bipolar Disorder in 1997, voluntarily admitted herself to a state facility in 2002, where she remained until 2004. (R. 12). Following intermittent periods of severe symptoms, Kilborn was re-admitted to a state facility in 2011. (R. 13). The cycle of admission, release, and re-admission continued for Ms. Kilborn until 2021, when she was ultimately released. (R. 13).

Torrisi was similarly diagnosed with Bipolar Disorder as a teenager in 2016. (R. 14). With similar episodic symptoms, Torrisi was admitted to an inpatient facility at Newberry State Hospital in 2019. (R. 14). In 2020, it was determined by her care team that she was a good candidate for community treatment rather than institutional treatment. (R. 14). However, there are no community mental health treatment centers within four (4) hours of Torrisi's home. (R. 14). She was released from Newberry as prescribed by her treatment team in 2022, but was not put in community treatment. (R. 14).

Williamson, who has struggled with schizophrenia since 1972, received inpatient and outpatient treatment from a number of hospitals in Franklin over the years. (R. 14). Eventually, it was determined after fifty (50) years of varying degrees of treatment, that community placement in close proximity to family was most important. (R. 14-15). However, the State failed to provide adequate facilities for Williamson, and as a result, he moved home without treatment, rather than remaining institutionalized. (R. 15).

Each of the Respondents, Kilborn, Torrisi, and Williamson have been recommended for community mental health treatment by their treating physicians on multiple occasions. (R. 12-15). The State of Franklin has failed to provide adequate treatment facilities and has not taken steps to remedy the situation in violation of Olmstead. Because the interpretation proposed through the integration mandate is consistent with the underlying spirit of the ADA - wherein an individual should not face discrimination by a public entity for reason of their disability - the Court should give deference to the Department of Justice here and find that an individual need not be presently institutionalized in order to assert a Title II claim.

B. This Court should Affirm the Lower Court's Finding that Individuals Have Met the Olmstead Test for Asserting a Valid Claim of Discrimination under Title II of the ADA.

Title II of the ADA is intended to prevent discrimination against individuals by public entities, so that they may enjoy the full rights and freedoms of individuals without disabilities. 42 U.S.C § 12312. Individuals bear the burden of production in demonstrating that a state or other public entity has failed to place an individual with a mental disability in an appropriate community setting rather than an institution. *Olmstead*, 527 U.S. at 581. Further, individuals should be in the most integrated setting - one which enables individuals with disabilities to interact

with non-disabled persons to the fullest extent possible. *Disability Advocates v. Paterson,* 653 F.Supp.2d 184, 188 (E.D.N.Y. 2009).

Individuals intending to raise a claim under Title II per Olmstead must assert that (1) the State's treatment professionals have determined that community placement is appropriate for the individual, (2) transfer from an institution to a less restrictive environment is not opposed by the affected individual, and (3) less restrictive placement can be reasonably accommodated, taking into account the resources available to the State and needs of others with disabilities. *Olmstead*, 527 U.S. at 606. Kilborn, Torrisi, and Williamson are able to meet all parts of the Olmstead test because their treating physicians, on numerous occasions, recommended community care, each individual consented to that recommendation, and the State of Franklin bears responsibility to provide adequate treatment settings, even in the face of financial challenge.

1. *Kilborn, Torrisi, and Williamson each received recommendations from their treating physicians on more than one occasion to transition from institutional settings to varying levels of community treatment.*

When asserting a violation of Title II of the ADA using the Olmstead test, plaintiffs first must demonstrate that treatment professionals from the State have determined community placement is appropriate given the state of the individual's mental disability. *Id.* at 607. Documentation, or recommendation from a treating physician is sufficient to meet the first Olmstead prong when bringing a claim for

violation of the integration mandate. *Cota v. Maxwell-Jolly*, 688 F.Supp.2d, 980, 994 (N.D. Ca. 2010). Rarely is this prong of the test disputed. Id.

The two original Olmstead plaintiffs faced institutionalization in state-operated facilities for mental illness, and their physicians had determined they could be discharged for continued treatment in less restrictive, state-run community care facilities. *Olmstead*, 527 U.S. at 593. However, they were not actually transferred until years later, despite physician recommendation. *Id*. It was the State's failure to immediately transfer plaintiffs into a less restrictive setting following physician recommendation that was determined to be in violation of Title II of the ADA. *Id*. at 594. By statute, public entities are required to make reasonable modifications to policies, practices, and procedures when such modifications would be necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making such modifications would fundamentally alter the nature of the service. 28 C.F.R. § 35.130(b)(7)(i). Similarly, the plaintiffs in Cota each had specific documentation indicating their respective needs for ADHC (Adult Day Health Care) services to avoid unnecessary institutionalization. *Cota* at 994.

Here, Torrisi, Kilborn, and Williamson each received specific notice from their treating physicians that community placement, or some form of treatment other than hospital institutionalization, was appropriate for treatment of their

mental disabilities. Like in *Olmstead* and *Cota*, Torrisi's doctors determined in 2020, because her manic episodes due to her bipolar disorder diagnosis became less frequent, that she could be released to a community mental health facility for inpatient treatment. (R. 14). This treatment recommendation differed from the institutional setting she was previously placed in, because community mental health facilities allow patients a greater degree of socialization, making the setting more integrated than other treatment alternatives. (R. 14). Similarly, Kilborn's treatment team determined in 2013 that she could benefit from being transferred from Southern Franklin Regional Hospital to a community mental health facility. (R. 13). However, following this recommendation, there were no state-operated community health facilities within three and a half hours of Kilborn's home, and she could not afford the only privately operated facility in the area. (R. 13). This continued for Kilborn, where she was institutionalized again until another recommendation for community treatment was given in 2020. (R. 13). Williamson had been receiving inpatient and outpatient treatment for schizophrenia since 1972, and in 2017 it was recommended that he be transferred to a community mental health facility for treatment, and to be closer to family. (R. 15).

Given all three plaintiffs' recommendations directly from their treating physicians in various state hospitals, the Court should find similarly to the lower court that the first prong of the *Olmstead* test has been satisfied.

2. *None of the three individuals has opposed placement in a community mental health facility or other type of treatment, as opposed to continuation in an institutional setting for treatment of their respective mental disabilities.*

The second prong of the Olmstead test requires that the affected person is not opposed to such community placement recommended by a State physician. *Olmstead,* 527 U.S. at 607. Whether or not an individual is institutionalized at the time the claim is brought, this prong of the test can be met. *Fisher,* 335 F.3d at 1181. Aside from large, class action lawsuits - which the instant case is not - the second prong generally is not at issue, given that a plaintiff would not bring suit pursuant to Title II by the integration mandate if they were themselves opposed to community treatment. *Olmstead v. L.C.*: History and Current, https://www.olmsteadrights.org/about-olmstead/.

Here, all three individuals have agreed to recommendations from their treating physicians that community treatment was appropriate given their individual situations. Torrisi, Kilborn, and Williamson each accepted the recommendations from their physicians, therefore meeting the second prong of Olmstead.

3. *The Court should find that community placement can be reasonably accommodated, given the resources available to the State, and understanding that financial burden is not a valid defense to accommodation under the integration mandate.*

States are required under the integration mandate to provide adequate community treatment for individuals. *Olmstead*, 527 U.S. at 607. The requirement is not defensible for reason of financial stress. *Fisher*, 335 F.3d at 1182. The fact that a state has a fiscal problem, on its own, cannot constitute a defense to adherence to the integration mandate. *Id.*

The *Fisher* court held that fiscal problems on their own, especially when the cuts to programming would result from budgetary constraints that would fundamentally alter program delivery in a manner that would make the program ineffective for affected individuals, are not a valid defense to providing accommodation to individuals with mental disabilities. *Id.* at 1183. The court held that while integration of individuals with disabilities sometimes involves short-term financial and administrative burdens, the long-term effects of integration benefit society as a whole and therefore should be accommodated. *Id.* Additionally, the court highlighted that institutional care costs nearly double what community-based care costs - which makes it unlikely that implementing additional community treatment would be unreasonably burdensome to a state. *Id.* Reasonable accommodation, as a result, is not defensible by financial burden when

it would fundamentally alter the treatment required given the community in need. *Id.*

The Seventh Circuit also held that states may violate the integration mandate if they operate programs that segregate individuals with disabilities through planning, service system design, or funding choices that rely upon the segregation of individuals with disabilities in private facilities or programs. *Steimel v. Wernert*, 823 F.3d 902, 914 (7th Cir. 2016). The court further discusses the maximalist language of the integration mandate - demanding that individuals with disabilities should be able to interact with non-disabled persons to the fullest extent possible, and in the most integrated setting possible. *Id*. Furthering the argument of reasonableness - Steimel indicates that the substantial increase in cost of a few plaintiffs' services does not defeat a Title II claim. *Id*. at 915. Rather, resources available to the state, and the needs of others with mental disabilities, must be taken into account in determining whether implementing community mental health facilities is appropriate. *Id*. The question then becomes: what effect will changing a state's practices have on the provision of care to the developmentally disabled, taking into account resources available to the state and the needs to avoid discrimination pursuant to the ADA. *Id*. The court held that the state failed to demonstrate that proposed changes would fundamentally alter their programs, because the plaintiffs did not demand a significant increase in total services, but

rather a different apportionment of services already available to allow the plaintiffs to be taken into community. *Id*. at 916.

Here, the State of Franklin does not offer community mental health care in geographic proximity to the plaintiffs, which is what was recommended by Torrisi, Kilborn, and Williamson's treating physicians for their mental disabilities. (R. 12-15). Instead, each of the three plaintiffs has been in and out of institutional settings for the past ten years. (R. 12-15).

Torrisi was told by treating physicians that she would be released from inpatient institutionalization to a community mental health facility for inpatient treatment in May 2020. (R. 14). At that time, no state or privately-owned mental health facilities existed within four hours of Torrisi's home, and the only state-operated facility failed to offer inpatient mental health treatment. (R. 14). As a result, Torrisi faced a longer period of institutionalization, until her mental illness could be managed without any inpatient care. (R. 14). She then continued to be in and out of Newberry Memorial Hospital's institutional care until release in 2022, still with no community mental health treatment available. (R. 14).

Similarly, Kilborn was recommended inpatient community mental health treatment for the first time by her physician in 2013. (R. 13). At this time there were no state-operated facilities within three and a half hours of Kilborn's home. (R. 13). As a result, she remained institutionalized until release in 2015, but

was readmitted in 2018 without alternative care upon release. (R. 13). When she was recommended for release to a community mental health facility again in 2020, the situation was no different, and Kilborn was ultimately released from a state hospital without adequate community mental health care in 2021. (R. 13).

The Court should find that Torrisi, Kilborn, and Williamson are at risk of institutionalization, and therefore can assert a proper discrimination claim pursuant to Title II of the ADA. Subsequently, the individuals are able to demonstrate that the State of Franklin failed to provide proper community treatment as an alternative to institutionalization, thereby violating Title II and failing the well-established Olmstead test with its integration mandate. Therefore, we ask this Court to affirm the lower court's decision.

II. THE ATTORNEY GENERAL HAS THE AUTHORITY TO ENFORCE TITLE II OF THE ADA AND THUS, HAS AN INTEREST PERTAINING TO THE SUBJECT MATTER OF THIS SUIT AND A RIGHT TO INTERVENE UNDER FRCP 24(a)(2).

The Americans with Disabilities Act ("ADA") explicitly states its purpose is "to ensure the *Federal Government* plays a central role in enforcing the standards established [under the ADA] on behalf of individuals with disabilities." 42 U.S.C. § 12101(b)(3). When Congress enacted Title II, it intentionally included a series of cross-references in the Title's enforcement mechanism. *United States v. Florida*, 938 F.3d 1221, 1245 (11th Cir. 2019) ("The legislative, regulatory, and precedential background of the statutes that Congress incorporated demonstrate that Congress intended to create a system of federal enforcement for Title II of the ADA."). The Attorney General, through references to the Rehabilitation Act and Title VI of the Civil Rights Act of 1964 ("Title VI"), is designated the authority to enforce violations of the anti-discrimination provision in public entities under Title II and intervene on *behalf* of individuals when necessary. *Sec'y Fla. Agency*, 21 F.4th 730, 733 (11th Cir. 2021) (Pryor, J., opinion respecting denial of rehearing en banc). The Department of Justice ("DOJ") maintains a specific, unique interest in the subject matter of this action because of its Title II enforcement authority and its ability to intervene.

The threshold is low for intervention to be granted under FRCP 24(a)(2). *Bost v. Illinois State Board of Elections*, 75 F.4th 682, 689-90 (7th Cir. 2023). To intervene requires: (1) a timely application; (2) an interest relating to the subject matter of the action; (3) the disposition of the action may potentially impair its interests; and (4) its interest is inadequately represented by existing parties to the action. *Illinois v. City of Chicago*, 912 F.3d 979, 984 (7th Cir. 2019). A proposed intervenor meets their burden of production of the fourth requirement by simply showing the representation of the present party *may* be inadequate. *Bost*, 75 F.4th at 689-90.

The United States' decision to intervene on behalf of Sarah Kilborn, Eliza Torrisi, and Malik Williamson (the "Individuals") falls within its designated authority under Title II. The United States well surpasses the low threshold of the fourth requirement under FRCP 24(a)(2) because it seeks relief for all "at risk" individuals in the State of Franklin. Furthermore, its timely application did not prejudice Petitioners, its authority under Title II creates an inherent interest in the subject matter, and the disposition of this action may impact future ADA Title II cases. Recognizing the DOJ's authority and the United States' interest, the Court of Appeals correctly concluded that the United States may enforce Title II of the ADA. The court also correctly granted the United States' motion to intervene by

stating it "has an interest relating to the subject matter of this action." (R. 28). The Individuals kindly ask this Court to affirm the Court of Appeals' decision.

A. The United States has the authority to sue on behalf of individuals to enforce Title II of the ADA through its series of cross-references to the Rehabilitation Act and Title VI.

The DOJ has a long history of enforcing Title II. Outside of a now-reversed lower court decision in the Eleventh Circuit and a recent district court decision that is currently on appeal, no court has found the United States lacks authority to bring suit to enforce Title II. *See C.V. v. Dudek*, 209 F.Supp.3d 1279, 1282 (S.D. Fla. 2016), *rev'd and remanded subnom*; *Florida*, 938 F.3d at 1250; *Haymarket DuPage, LLC v. Village of Itasca*, No. 22-cv-160, 2025 WL 975668, at *1, *5 (N.D. Ill. Mar. 31, 2025) (on appeal). The DOJ's authority in this subject matter is continually recognized by courts who conduct a detailed analysis of Title II's legislative history.

Title II's remedial measures are incorporated through cross-references to the Rehabilitation Act and Title VI of the Civil Rights Act. When "Congress adopts a new law incorporating sections of a prior law, [it] normally can be presumed to have knowledge of the interpretation given to the incorporated law." *Lorillard v. Pons*, 434 U.S. 575, 581 (1978). Thus, Congress's election to cross-reference the Rehabilitation Act and Title VI also included the administrative and judicial

interpretations of both measures. Under those interpretations, because the Attorney General can bring suit in federal court to enforce the Rehabilitation Act and Title VI, the Attorney General can also bring suit to enforce Title II.

Section 12133 identifies Title II's enforcement mechanism. *See* 42 U.S.C. § 12133. Specifically, Title II's enforcement provision states "[t]he remedies, procedures, and rights set forth in [Section 505 of the Rehabilitation Act] shall be the remedies, procedures, and rights [the ADA] provides to any person alleging discrimination." *Id*. Section 505 then cross-references another statute, Title VI of the Civil Rights Act of 1964. 29 U.S.C. § 794a(a)(2). Title VI prohibits recipients of federal assistance from discriminating based on race, color, or national origin. *Id*. Section 505 states "[t]he remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 […] shall be available to any person aggrieved" under Section 504. *Id*.

Before the ADA's enactment, regulations specific to the implementation of Title VI and the Rehabilitation Act provided enforcement procedures for filing an administrative complaint. *See* 28 C.F.R. § 41.5; 45 C.F.R. § 80.8. The Title VI administrative process permits persons believed to have been discriminated against to file complaints with agencies. *See* 29 Fed. Reg. 16,241, 16,301. Agencies are then tasked with investigating those complaints and resolving them through

"informal means." 45 C.F.R. § 80.7(d)(1). If informal means fail, the agency may then terminate funding or pursue "any other means authorized by law," which includes referring the matter to the DOJ. 45 C.F.R. § 80.8(a)(1). The administrative referral can ultimately result in a suit by the DOJ. *See* 45 C.F.R. § 80.8 (explicitly stating that "any other means authorized by law" can result in "a reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States (including other titles of the Act) […]"). A referral to the DOJ for "appropriate proceedings" has been found to be a crucial part of the agency enforcement process of Title VI. *E.g.*, 45 C.F.R. 80.8.

DOJ guidelines that outline enforcement of Title VI further specify that "appropriate court action" may be a quicker way to achieve compliance with the nondiscrimination mandate under Title VI. 28 C.F.R. § 50.3(I)(B)(1). The guidelines even provide an example of possible judicial enforcement stating, "a suit to enforce[] compliance with other titles of the 1964 Act, other Civil Rights Acts, or constitutional or statutory provisions requiring nondiscrimination" is permitted. 28 C.F.R. § 50.3(I)(B)(1). Furthermore, Congress' enactment of Title II intentionally incorporated the administrative procedures under Title VI and the Rehabilitation Act and reinforced that they are available to "any person alleging discrimination" through Section 12133. 42 U.S.C. § 12133. Thus, the United States

can bring suit on behalf of "any person alleging discrimination" under Title II because it can bring suit on behalf of those alleging violations under Title VI.

Therefore, through cross-references to the Rehabilitation Act and Title VI, the Attorney General can bring suit under Title II.

1. *While Petitioners may argue the United States cannot enforce Title II because it does not qualify as a "person" given statutory interpretation, this argument misses the mark entirely as the United States sues on* behalf *of persons, not as a person.*

A "person" under Title II is not exclusive to the individual initiating the lawsuit, it also encompasses the "person" who the United States elects to intervene on behalf of. As stated by the Eleventh Circuit, claiming the Attorney General is not a "person" within the meaning of the statute "miss[es] the mark entirely." *Sec'y Fla. Agency*, 21 F.4th at 733 (Pryor, J., opinion respecting denial of rehearing en banc). "Any person alleging discrimination" under Title II is provided with the "remedies, procedures, and rights" available under the Rehabilitation Act and Title VI. 42 U.S.C. § 12133. In fact, here, the lower court acknowledged the United States is not, and will never be, defined as a "person." (R. 32). Instead of suing as a person itself, the United States sues on *behalf* of a person or persons. When administrative procedures are exhausted and left unresolved, the Attorney General may elect to intervene and sue on behalf of those alleging discrimination. *Sec'y Fla. Agency*, 21 F.4th at 733. Here – the United States filed a motion to intervene

on *behalf* of Sarah Kilborn, Eliza Torrisi, and Malik Williamson, and to seek relief for all "at risk" individuals in the State of Franklin.

The Individuals encompass the "person" as required under Title II and thus, the Attorney General intervened on their behalf. Under Title II, the three individuals alleging discrimination in this suit are afforded the same administrative process as provided under Title VI of the Civil Rights Act of 1967. 42 U.S.C. § 12133. Under Title VI regulations, the complaint is filed with administrative agencies who then investigate. 28 C.F.R. § 35.170. Here, the individuals filed a complaint against the State of Franklin Department of Social and Health Services. (R. 2). The complaint led to an investigation by the United States Department of Justice Civil Rights Division. (R. 2). Therefore, the Individuals followed the designated administrative process and qualified as the "person" alleging discrimination under Title II in the United States' motion.

2. The Court of Appeals correctly held the United States had the authority to intervene in this Title II case.

The United States correctly intervened on behalf of the individuals following its investigation. Title VI regulations further state that if an agency believes the complaint has merit, it must initially attempt to resolve the alleged discrimination through "informal means." 45 C.F.R. § 80.7(d)(1). If those efforts fail, the agency may refer the matter to the DOJ to bring "appropriate proceedings" against the

party in violation. 45 C.F.R. § 80.8. A lawsuit – which has long been considered "appropriate proceedings" – allows the DOJ to bring a suit on behalf of individuals alleging discrimination. 28 C.F.R. § 50.3(I)(B)(1). Here, following its investigation, the DOJ filed its motion to intervene, signifying informal means were not achieved. (R. 2). Furthermore, each court permitted this case to proceed, showing that all parties agreed the administrative remedies were exhausted. Given its investigation and the significance of the alleged Title II violation, the United States was well-qualified to intervene on behalf of the individuals.

Therefore, by properly intervening on behalf of the individuals, the United States meets the "person" requirement. Moreover, because the United States meets this requirement and Title II cross-references the Rehabilitation Act and Title VI, it has the authority to bring this suit. This Court should affirm the lower court's decision.

B. The Court of Appeals did not abuse its discretion when granting the motion to intervene under FRCP 24(a)(2).

The Court of Appeals correctly held the district court did not abuse its discretion when ruling the United States could intervene in this matter. Intervention requires: (1) a timely application; (2) an interest relating to the subject matter of the action; (3) the disposition of the action may potentially impair its interests; and (4) its interest is inadequately represented by existing parties to the

action. *City of Chicago*, 912 F.3d at 984. The third requirement is not at issue in the present appeal. The other three requirements are discussed below.

The Court of Appeals properly applied the abuse of discretion standard of review to the inherently fact-based analysis required under FRCP 24(a)(2). Additionally, the United States maintains a specific, unique interest in the enforcement of Title II and meets the minimal burden required to assert intervention under the fourth requirement. Furthermore, Petitioners were not prejudiced by the United States intervention. Therefore, this Court should affirm the lower court's decision.

1. *The district court and the Court of Appeals correctly applied the abuse of discretion standard when granting the motion to intervene.*

The Court of Appeals properly applied the abuse of discretion standard of review to its FRCP 24(a)(2) analysis. (R. 25). A fact-based analysis is necessary to determine whether a party meets all four FRCP 24(a)(2) requirements, which is an analysis better suited for the trial court level. Because of this, appellate courts should be "flexible" when analyzing a lower court's decision on a motion to intervene, thereby applying the abuse of discretion standard. *See Ceres Gulf v. Cooper*, 957 F.2d 1199, 1202 (5th Cir. 1992) (noting this inquiry must be "flexible" to the particular facts and circumstances of the case). Thus, this Court should affirm the Court of Appeals decision under the abuse of discretion standard.

The decision of whether to grant a motion to intervene involves the application of the rule of law and a fact-based inquiry. *See International Paper Co. v. Jay*, 887 F.2d 338, 344 (1st Cir. 1989) (recognizing the importance of an evaluation "in light of 'the great variety of factual circumstances in which intervention motions must be decided, the necessity of having the "feel of the case" in deciding these motions, and other considerations essential under a flexible reading of FRCP 24(a)(2)" when determining whether a party should intervene) (citing *United States v. Hooker Chemicals & Plastics Corp.*, 749 F.2d 968, 983 (2d Cir. 1984)). Given the importance and relevance of the fact-based inquiry, abuse of discretion is the proper standard of review because the trial court is in a unique position to see the facts first-hand. Many circuits apply the abuse of discretion standard to its FRCP 24(a)(2) analysis. *See id.*; *American Lung Ass'n v. Reilly*, 962 F.2d 258, 261 (2d 1992); *Brody v. Spang*, 957 F.2d 1108, 1115 (3d Cir. 1992); *In re Sierra Club*, 945 F.2d 776, 779 (4th Cir. 1991). Even circuits that apply the de novo standard of review recognize the inherent fact-based analysis under FRCP 24(a)(2). *See Ceres Gulf,* 957 F.2d at 1202 (stating the importance of flexibility when reviewing the facts and circumstances). Under the abuse of discretion standard, a lower court's decision is only overturned when there is clear abuse in the district court's findings.

Each of FRCP 24(a)(2)'s requirements need detailed information that involves a lengthy fact-based analysis to determine whether the motion should be granted. This fact-based analysis is what led the lower court to apply the abuse of discretion standard of review. Due to the present split in the circuits, it is important for this Court to determine the proper standard of review in FRCP 24(a)(2) reviews. Because of the inherent fact-based nature of this analysis, this Court should affirm the lower court's application of the abuse of discretion standard.

2. The United States's interest in the enforcement of Title II satisfies the second and fourth requirements under FRCP 24(a)(2).

Under FRCP 24(a)(2), to successfully intervene in a matter, the intervenor must meet the second requirement that the intervenor's interest relates to the subject matter of the action and the fourth requirement that the intervenor's interest is inadequately represented by existing parties to the action. The Court of Appeals properly held that the district court did not abuse its discretion when it ruled the United States met the second and fourth requirements.

Title II vests its regulatory and enforcement authority in the DOJ. Due to this authority, the United States maintains a significant interest in the adjudication of Title II claims and meets the second requirement under FRCP 24(a)(2). *Bost*, 75 F.4th at 686 (stating the United States Attorney General is provided with a "direct, significant and legally protectable interest in the [subject] at issue in this lawsuit"

to enforce Title II claims). In fact, it is explicitly stated in the ADA's purpose "to ensure the *Federal Government* plays a central role in *enforcing* the standards established [under the ADA] on behalf of individuals with disabilities." 42 U.S.C. § 12101(b)(3) (emphasis added). The United States has a "right to maintain a claim for relief sought" in a case involving Title II. *Keith v. Daley*, 764 F.2d 1265, 1268 (7th Cir. 1985). Furthermore, federal agencies maintain an interest in statutes that fall under their jurisdiction. *See Heaton v. Monogram Credit Card Bank*, 297 F.3d 416, 424 (5th Cir. 2002). Title II falls under the jurisdiction of the DOJ. Given this clear authority, the United States meets the interest requirement under FRCP 24(a)(2).

Additionally, the United States' broader request for relief easily meets the low burden required to demonstrate the Individuals will not provide adequate representation under 24(a)(2). FRCP 24(a)(2) only requires a potential intervenor to meet a "minimal" burden to demonstrate that an existing party will not adequately represent their interest. *Bost*, 75 F.4th at 689-90. While both the Individuals and the United States maintain the goal of the State of Franklin's adherence to Title II, the United States' requested relief is significantly broader than the Individuals' requested relief. (R. 2). The United States seeks relief for *all* "at risk" individuals in the State of Franklin. (R. 2). A divergence in the relief requested demonstrates the Individuals are unable to adequately represent the

United States in this matter because their goals are not aligned. Therefore, the United States meets the minimal burden to satisfy the fourth requirement under FRCP 24(a)(2).

Therefore, the United States' interests satisfy the second and fourth requirements under FRCP 24(a)(2).

3. *There is no clear abuse of discretion in the timeliness analysis and Petitioners were not wrongly prejudiced by the intervention of the United States, thus meeting the first requirement.*

FRCP 24(a)(2) requires a timely application. *City of Chicago*, 912 F.3d at 984. Courts unanimously apply an abuse of discretion standard of review to timeliness inquiries under FRCP 24(a)(2) – even the circuits that review the rest of the FRCP 24(a)(2) inquiry de novo. *See San Jose Mercury News, Inc. v. United States Dist. Ct. – N. Dist.*, 197 F.3d 1096, 1100 (9th Cir. 1999) ("[A] district court's determination of timeliness in connection with a motion to intervene pursuant to Rule 24(b)(2) is reviewed for an abuse of discretion."). Four factors are involved in the timeliness inquiry: (1) Length of time the intervenor knew or should have known of their interest in the case; (2) The prejudice caused to the original parties by the delay; (3) The prejudice to the intervenor if the motion is denied; and (4) Any other unusual circumstances. *Grochocinski v. Mayer Brown Rowe & Maw, LLP*, 719 F.3d 785, 797-98 (7th Cir. 2013). Here, the second factor

is the only one at issue. Only when there is a clear abuse of discretion in a timeliness inquiry will courts reverse. *Stallworth v. Monsanto Co.*, 558 F.2d 257, 263 (5th Cir. 1977).

Here, no clear abuse of discretion exists. Petitioners claim that the significant delay and costs associated with the United States' intervention were prejudicial. (R. 33). Specifically, Petitioners claim the case would have proceeded through discovery, settlement negotiations, cross-motions for summary judgment, and, if necessary, a trial in less than one year. (R. 33). But in the United States court system, that timeline is highly unlikely. *See* U.S. Courts, *Table C-5–U.S. District Courts–Civil Statistical Tables For The Federal Judiciary* (Dec. 31, 2024) (stating the median time from filing to disposition in civil cases is 18.2 months) https://www.uscourts.gov/data-news/data-tables/2024/12/31/statistical-tables-federal-judiciary/c-5. Even if that timeline were feasible, Petitioners claim that discovery "ballooned" to include 31 depositions and 48 subpoenas. (R. 33). When the United States filed the motion to intervene, it was *before* discovery occurred. (R. 27). The discovery process uncovers information that was not previously known, which can result in additional depositions and subpoenas. The timeliness analysis looks at the potential prejudice if the motion is granted, not a complete analysis of the case at hand following the grant of that motion. *Grochocinski*, 719 F.3d at 797. Unlike the intervenors in *Alvarez*, where the court found it prejudicial

that the parties would be forced into another round of discovery if the motion to intervene was granted *Alvarez v. Experian Information Solutions, Inc.*, 758 F.Supp.3d 60, 91 (E.D.N.Y. 2024), here, discovery had not yet occurred (R. 27). Following the grant of the motion to intervene, the case simply proceeded to the next step – discovery – and the initial plan was never interrupted. Thus, there is simply no way Petitioners could have known exactly what would have been discovered. The alleged delay was not prejudicial.

Petitioners further claim the United States' involvement may have suppressed any opportunity for an alternative resolution. Nothing in the facts indicates settlement negotiations did not occur. Additionally, the Attorney General has the power to compromise and settle any civil case. *See* 38 U.S. Op. Atty Gen. 98 (1934). Because of this authority, the United States' involvement does not automatically suppress any opportunity for alternative resolution. An alternative resolution involves many factors and there could many reasons that no alternative resolution occurred in this case

Therefore, the Court of Appeals properly ruled the district court did not abuse its discretion when it held the United States' motion to intervene was timely.

CONCLUSION

For the foregoing reasons, Respondents, Sarah Kilborn, Eliza Torrisi, and Malik Williamson, respectfully request that this Court affirm the decision of the Twelfth Circuit Court of Appeals, finding that individuals at risk of institutionalization, but not presently institutionalized may bring valid discrimination claims under Title II of the ADA, and finding that the United States can file a lawsuit to enforce TItle II of the ADA and thus, has an interest relating to the subject matter of a private ADA action under FRCP 24(a)(2).

Respectfully submitted,

/s
Team 3411
Attorneys for Respondent

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), we hereby certify that this Brief in Support of Respondent contains 8,789 words, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d). We additionally certify this brief is in compliance with Rules 24.1 and 33.2 of the Supreme Court of the United States. This first argument of this brief contains 3,323 words and complies with the length requirement of this Court. The second argument of this brief contains 3,513 words and complies with the length requirement of this Court. This brief was prepared using Microsoft Office Word Version 2409 Build Volume 18025.20160, Times New Roman font, 14-point type.

We declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

/s
Team 3411
Attorneys for Respondent

CERTIFICATE OF SERVICE

We, Team 3411, attorneys for Respondent, do hereby certify that we have served upon Petitioners a complete and accurate copy of this Brief for Respondents Sarah Kilborn, Eliza Torrisi, and Malik Williamson, by personal service on this 9 day of September, 2025 to the following party:

Opposing Counsel
Attorneys for Petitioner

/s

Team 3411
Attorneys for Respondent