No. 25-1187

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

DARREN PATTERSON CHRISTIAN ACADEMY,
Plaintiff-Appellee,

v.

LISA ROY, ET AL.,
Defendants-Appellants.

On Appeal from the United States District Court
for the District of Colorado
D.C. No. 1:23-CV-01557-DDD-STV

BRIEF OF SOUTH CAROLINA AND 19 OTHER STATES AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF-APPELLEE

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INTEREST OF *AMICI CURIAE*[1]

This *amicus curiae* brief is filed by the states of South Carolina, Alabama, Alaska, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Louisiana, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Dakota, Texas, Utah, West Virginia, and Wyoming (*Amici* States) in support of Plaintiff-Appellee Darren Patterson Christian Academy. *Amici* States care deeply about the growth and development of young children in their midst. They know that preschool care provides long-term benefits. That's why many of *Amici* States provide funding for some of their youngest citizens to access an array of private preschool care options. *Amici* States also care deeply about protecting the religious liberties of their citizens. They know that families and schools shouldn't have to choose between living out their faith and receiving public aid.

Colorado has also offered young children free preschool with a variety of private preschool options. But Colorado's Department of Early Childhood attached unconstitutional strings to that offer. It prohibited Darren Patterson Christian Academy, which operates a faith-based preschool in Colorado, from aligning its own bathroom, dress code, and personal pronoun policies with its deeply held religious beliefs regarding sexuality and gender in order to accept state preschool funding.

[1] *Amici* States timely file this brief as permitted by Fed. R. App. P. 29(a)(2).

That's not how states should care for their citizens. The Constitution agrees. *Amici* States write to express their support for constitutional preschool choice, bringing to bear their unique perspective as sister states that operate their own preschool choice programs. The district court got it right. This Court should affirm.

SUMMARY OF ARGUMENT

Colorado's exclusion of religious preschools from receiving state preschool funding is perilous for at least two reasons.

First, religious preschools play an important role in meeting the needs of families in *Amici* States. They provide states, parents, and students with more care options to help the next generation grow, develop, and thrive. And not just more options, but quality options that are often more affordable than many other programs.

Second, state preschool choice programs can respect the beliefs of religious care centers while meeting the needs of families. That's historically been the case in the U.S. In fact, such programs *must* respect the beliefs of religious care centers as a legal matter.

Excluding a religious entity "from a public benefit for which it is otherwise qualified, solely because it is a [religious entity], is odious to our Constitution." *Trinity Lutheran Church of Columbia*, *Inc. v. Comer*, 582 U.S. 449, 467 (2017). That's why the Supreme Court concluded that the Free Exercise Clause is violated when religious schools and parents are excluded "from public benefits solely because of

[their] religious character." *Espinoza v. Montana Dept. of Revenue*, 591 U.S. 464, 476 (2020). And when reviewing a state's exclusion of religious schools from a tuition assistance program because of the schools' religious activity, the Supreme Court concluded that the program violated the Free Exercise Clause because it "operate[ed] to identify and exclude otherwise eligible schools on the basis of their religious exercise." *Carson as next friend of O. C. v. Makin*, 596 U.S. 767, 789 (2022).

Colorado ignored the Supreme Court's instruction. It's "equal opportunity" requirements deprive religious schools of funds needed to provide preschool care to young children who need it, simply because of the religious beliefs of the schools. Parents and children are left with less choices, not more. This Court should reject that error and affirm.

ARGUMENT

I. Religious preschools play an important role in meeting the needs of families in *Amici* States.

A feature of federalism is that states serve as "laboratories" of democracy. *Arizona State Legislature v. Arizona Indep. Redistricting Comm'n*, 576 U.S. 787, 817 (2015). As such, states have experimented with funding private preschool care, including care provided by faith-based centers. That experiment is working.

A. Religious preschools provide states more options to promote education.

Amici States have employed various tools to support and promote the education and wellbeing of their citizens. To be sure, public schools play a significant educational role. About 85% of students in America attend public schools. U.S. DEP'T OF EDUC., REPORT ON THE CONDITION OF EDUCATION 2024, at 2–3 (2024). And public schools play an important part in instilling civic virtues in American society. Public education "prepare[s] pupils for citizenship in the Republic" by "inculcat[ing] the habits and manners of civility," which is "indispensable to the practice of self-government in the community and the nation." *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 681 (1986). The States undoubtedly take their role in administering public education seriously.

But public schools generally do not serve the preschool population. That's why 44 states and the District of Columbia have set aside funding to allow young children to attend private child-care centers for preschool. THE NATIONAL INSTITUTE FOR EARLY EDUCATION RESEARCH, *The State of Preschool 2024*, at 20, April 2025 (https://tinyurl.com/bvaew2um). And for good reason: preschool attendance is an important aid to early childhood development.

Consider Boston, Massachusetts, as a case study. In the mid-to-late 1990s, the City of Boston provided limited preschool funding and a lottery system for available seats. Greg Rosalsky, NPR, *The Case for Universal Pre-K Just Got Stronger*, May

18, 2021 (https://tinyurl.com/yvphddj8). In a 2021 study, researchers at MIT examining the long-term outcomes of children in Boston who attended preschool through the lottery system found improved outcomes over those who did not. Guthrie Gray-Lobe, Parag Pathak, Christopher Walters, MIT DEPARTMENT OF ECONOMICS, *The Long-Term Effects of Universal Preschool in Boston*, May 2021 (https://tinyurl.com/5ybac297). For example, preschool attendees were more likely to graduate high school, more likely to take the SAT and attend college, and less likely to face suspension or juvenile incarceration. *Id.*

State funding for preschool is catching on around the country. During the 2023–2024 school year, enrollment in state-funded preschool reached a record high of 1.75 million children, a 7% increase from the prior year. *See* NIEER at 20. In fact, state-funded preschool enrollment increased in all but nine states. *Id.*

Many states acknowledge the benefits that additional educational options can afford. They also acknowledge that parents and students have varying educational needs and interests. And they endeavor to adapt their educational strategies to help the most students reach their full potential while positioning parents to best direct the upbringing of their children. That's why many states offer alternative opportunities for students to receive a free education, including scholarships, tuition assistance, and charter schools. In fact, most states and the district of Columbia have at least one private school choice program. Stanford, L., Lieberman, M., Ifatusin, V.,

EDUCATIONWEEK, *Which States Have Private School Choice*, Sept. 25, 2024 (https://tinyurl.com/yuzafyaa). And 46 states have charter school programs. Jacob Fischler and Cole Claybourn, U.S. NEWS & WORLD REPORT, *Understanding Charter Schools vs. Public Schools*, Aug. 20, 2025 (https://tinyurl.com/bdefp6sk). In short, more options is better than less.

Preschools are no different. And many families choose to send their children to religious preschools. In fact, faith-based preschool providers comprise over 48 percent of all pre-K options. Nicole Stelle Garnett, Tim Rosenberger, J. Theodore Austin, CITY JOURNAL, *States Discriminate Against Faith-Based Preschools*, Feb. 5, 2025 (https://tinyurl.com/444jw35e). In a December 2020 national survey, 31% of households with a single parent or two working parents sent their young children to childcare centers, and over half (53%) of those families used a center that was affiliated with a faith organization. Suzann Morris and Linda K. Smith, BIPARTISAN POLICY CENTER, *Examining the Role of Faith-Based Child Care*, at 5, May 2021 (https://tinyurl.com/48c26j8n).

Faith-based preschool centers provide excellent opportunities for states to provide early childcare. On a practical level, faith-based preschool programs are often more affordable than other private options. WINNIE, *What to Know About Church Preschools and Daycares* (accessed Nov. 5, 2025) (https://tinyurl.com/ypvvzzhc). That's because some churches subsidize part of the cost as part of their ministry,

while others provide financial aid or sliding scale tuition to help make childcare more accessible. *Id.* Additionally, houses of worship are natural venues for childcare due to the availability of suitable classroom space and child-sized furnishings. E.J. Dionne, Jr., PEW RESEARCH CENTER, *Sacred Places, Civic Purposes: Child Care Conference*, Mar. 14, 2001 (https://tinyurl.com/2yfwyeft). The geographic placement of houses of worship at the heart of their communities and their tax-exempt status also make them natural venues for childcare services. *Id.*

Additionally, the altruistic foundations for faith-based preschool can give states confidence that funds devoted to such care is money well spent. Among the theological reasons that congregations provide early childhood services includes a sense of responsibility to neighbors in their communities, commitment to education, and outreach to at-risk populations such as low-income families or special-needs children. *Id.* The sincere commitment of faith-based centers to the care of children in need demonstrates that religious affiliation is an asset, not a liability.

By disqualifying religious organizations from eligibility for school choice programs, the Colorado Department of Early Childhood narrowed Colorado's options for promoting the education of its citizenry. And a circuit-wide ruling in support of that effort would hamstring other states' efforts to provide quality preschool care for their citizens.

B. Religious preschools provide children more educational options.

Due to economic constraints, "[m]ost parents, realistically, have no choice but to send their children to a public school." *Morse v. Frederick*, 551 U.S. 393, 424 (2007) (Alito, J., concurring). Yet religious private schools have historically played a significant role in educating children in underserved populations. Michael Bindas, *The Once and Future Promise of Religious Schools for Poor and Minority Students*, 132 YALE L.J. FORUM 529, 549 (2022) ("Poor, minority, and immigrant children have long relied on religious schools to procure an education that respects and meets their needs.").

The same is true in the preschool context. The availability of quality preschool options is especially important for children who experience risk factors that affect school readiness. SOUTH CAROLINA FIRST STEPS, *Risk Factors Affecting School Readiness*, Sept. 2024 (accessed Nov. 4, 2025) (https://tinyurl.com/bdenvd8p). While some states have implemented universal preschool programs, many states like South Carolina limit eligibility to underserved communities, such as those that are eligible for Medicaid, free or reduced-price lunch, or SNAP/TANF; those experiencing homelessness or transiency; or those in foster care. SOUTH CAROLINA FIRST STEPS, *First Steps 4K* (https://tinyurl.com/23nny45m) (accessed Sept. 24, 2025). And under South Carolina's preschool program, "[f]amilies can select the private,

community-based, or faith-based program of their choice." *Id.* In 2023–2024 alone, South Carolina's 4K program served over 4,000 children. *Id.*

Religious schools' participation in state preschool choice programs bridges the gap between the low cost of public schools with the historical mission of religious schools to care for the underserved. Yet in Colorado, "[r]eligious entities that are equally or better qualified than secular ones" to provide education to students "are disqualified solely because they are" operated by religious organizations that won't abandon their sincerely held religious beliefs. *Loffman v. California Dep't of Educ.*, No. 23-55714, 2024 WL 4586970 *15 (9th Cir. Oct. 28, 2024). If a state excludes religious schools from participating in a preschool choice program, it necessarily prioritizes secular values over quality of education and childcare. When a failing nonsectarian preschool is allowed to accept students under a preschool choice program but a thriving religious preschool is excluded, students suffer for it.

C. Religious preschools provide parents more opportunities to direct the upbringing of their children.

Many parents increasingly want alternatives to state-operated secular education. A Gallup poll from February of this year shows that dissatisfaction with the U.S. public education system is on the rise, with the percentage of adults who reported satisfaction with public education falling from 37% in 2017 to 24% in 2025. Lydia Saad, GALLUP, *Americans' State of the Nation Ratings Remain at Record Low*, Feb. 5, 2025 (https://tinyurl.com/wkmty9d3). And "[t]he post-pandemic era has

accelerated interest in numerous alternative education models." Sarah Hernholm, FORBES, *The $10 Billion Rise of Classical Christian Education*, Apr. 8, 2025 (https://tinyurl.com/58fk83b9). Unsurprisingly, "[p]arents increasingly seek educational options aligned with their children's particular values, learning styles, and future aspirations." *Id.* For example, "[b]etween 2019 and 2023 alone, 264 new classical schools launched nationwide, representing a 4.8% annual growth rate that outpaces most education sectors." *Id.*

Since the beginning of the pandemic, public school enrollment has declined by approximately 2 million students, and almost half of the students who left turned to private alternatives and homeschooling. Mark Lieberman, EDUCATIONWEEK, *What's Going On With Public School Enrollment? All the Big Questions, Answered*, Jun. 27, 2024 (https://tinyurl.com/3uw3mxe6). In the 2023–24 school year alone, district public schools lost 274,412 students, a "'clear sign that families are not waiting for the system to catch up to their needs.'" Sean Salai, THE WASHINGTON TIMES, *Report finds charter school enrollment booming while traditional school districts decline*, Oct. 8, 2024 (quoting Starlee Coleman) (https://tinyurl.com/45ucvs3j).

And what parents want matters. The Supreme Court has time and again upheld the right of parents "to direct the education and upbringing of one's children." *Washington v. Glucksburg*, 521 U.S. 702, 720 (1997) (citing *Meyer v. Nebraska*, 262 U.S. 390 (1923)); *see also Wisconsin v. Yoder*, 406 U.S. 205, 233 (1972) (parents have a

fundamental right to direct the "inculcation of moral standards" and "religious beliefs" of their children). Without question, "[t]he values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society." *Yoder*, 406 U.S. at 213–14.

American law prioritizes parental control over the upbringing of children for multiple reasons. For example, "historically [the law] has recognized that natural bonds of affection lead parents to act in the best interests of their children." *Parham v. J.R.*, 442 U.S. 584, 602 (1979) (citing 1 W. Blackstone, Commentaries * 447). And "[t]he law's concept of the family rests on a presumption that parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions." *Id.* at 602. Indeed, the law reflects a "basic assumption that our society makes about children as a class," that "they do not yet act as adults do, and thus we act in their interest by restricting certain choices that … they are not yet ready to make with full benefit of the costs and benefits attending such decisions." *Thompson v. Oklahoma*, 487 U.S. 815, 826 n.23 (1988).

Another key reason that "the custody, care and nurture of the child reside first in the parents" is because parents' "primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Id.* Parents—not governments—are the ones "who nurture [their child] and direct [their child's] destiny," and they "have the right, coupled with the high duty, to recognize and prepare [their

child] for additional obligations." *Pierce v. Society of Sisters*, 268 U.S. 510, 535 (1925). Importantly, "[t]he child is not the mere creature of the state." *Id.* There in fact exists a "private realm of family life which the state cannot enter." *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944).

True, parental rights are not absolute. For example, parents may not abuse or neglect their children. *Parham*, 442 U.S. at 602–04 ("[A] state is not without constitutional control over parental discretion in dealing with children when their physical or mental health is jeopardized."). And states, under *parens patriae*, may act "to guard the general interest in youth's well being" in circumstances such as "requiring school attendance" and "regulating or prohibiting the child's labor." *Prince*, 321 U.S. at 166 (internal citations omitted). But ultimately, parents have the right to direct their children's education and upbringing. *Glucksburg*, 521 U.S. at 720.

That right is largely illusory when choices are few. 132 YALE L.J. FORUM at 551 ("The practice of assigning children to schools based not on their needs but on their home addresses (read: wealth) relegates poor and often minority students to public schools that are far more likely to be underperforming or failing."). And preventing religious schools from participating in state school choice programs only exacerbates education outcomes. *Id.* at 558 ("By maintaining residence-based school-assignment policies, which so often trap the most vulnerable children in the worst performing schools, and opposing educational-choice programs, thereby

denying those children any alternative to their assigned schools, the public-school establishment is harming the very children it purports to serve."). But allowing religious schools to more meaningfully participate in the marketplace of education "empowers every child to access the school that will best serve her rather than the school to which the government assigns her." *Id.* at 558.

Importantly, "[s]ome parents prefer religious education for their students, as well as the moral education associated with a religious school." Kathleen C. Ryan, *The Emerging Possibility of Religious Charter Schools: A Case Study of Arizona and Massachusetts*, 98 NOTRE DAME L. REV. 2257, 2263 (2023). But not all parents can afford private religious preschool care for their children. State preschool choice provisions expand access to those who cannot afford private tuition but desire religious education and excellent care. Colorado was wrong to prevent parents from accessing preschool funds for faith-based preschool.

II. State preschool choice programs can respect the beliefs of religious preschool centers while meeting the needs of families.

Respect for the religious convictions of private preschool centers is a feature of preschool choice programs, not a flaw. Not only does such respect avoid First Amendment entanglements, but it encourages competition among providers by making it possible for more centers to provide care to more children. Such competition encourages other schools to "up their game." Matt Barnum, THE WALL STREET JOURNAL, *At the Epicenter of School Choice, Arizona Public Schools Battle Existential*

Crisis, Sept. 26, 2025 (https://tinyurl.com/mpfxc3y5). That encourages the growth of innovation in the education space.

Preschool choice programs are designed to expand educational options while preserving the independence of private schools. By attaching illegal and intolerant strings to the receipt of state preschool choice funds, the Colorado Department of Early Childhood undermined a key rationale for preschool choice programs.

A. Faith-based preschools in the U.S. have historically played a significant role in providing care for young children.

Faith-based childcare in the U.S. has deep roots. In fact, "the religious motivations of a group of female Quakers appeared to have been the driving force behind the earliest known child care institution in America." *See supra*, PEW RESEARCH CENTER. That institution was a nursery founded in 1798 as part of the Philadelphia House of Industry, which "sought to counter family breakup by offering poor women the means to support themselves and keep their children with them." *Id.*

By the late 1800s, "[i]n Philadelphia and elsewhere, settlement houses affiliated with local church congregations and synagogues, immigrant benevolent associations, and colleges dotted the urban landscape." EXPLORE PA HISTORY, *House of Industry Historical Marker*, (https://tinyurl.com/4b2m2fka) (accessed Sept. 26, 2025). "'Along with nonsectarian agencies, … settlements operated under Baptists, Presbyterian, Quaker, Roman Catholic, Methodist, Episcopalian, Jewish, and unspecified, but Christian, auspices.'" *Id.* (quoting Richard N. Juliani, 7

PENNSYLVANIA LEGACIES 2, *Social Reform through Social Service: The Settlement Movement in South Philadelphia*, Nov. 2007).

In the early 1900s, "[e]vidence of actual congregation-based child care emerges" whereby "congregations began to respond to the tide of immigration from Europe by sponsoring day nurseries for immigrant children in settlement and neighborhood houses." *See supra*, PEW RESEARCH CENTER. Entering the post-World War II era, "congregations fully came of age in their capacity to provide child care." *Id.* A post-war building boom of church educational wings arose from a desire to accommodate the Sunday School needs of the baby boom generation, but "the stewards of these spaces also began to view child care as a natural weekday use." *Id.*

By the 1970s and '80s, "providing child care was a response of many houses of worship to the high rate of women leaving full-time child rearing for the paid labor market." *Id.* More recently, "the phenomenon of congregation-based child care has entered a new phase, one which is characterized by a wide and growing variety of institutional responses from denominational home offices, cross-faith partnerships, and the vendors and membership associations which serve educational concerns within the religious community." *Id.* From the earliest days of our country until now, religious childcare has been a driving force in early childhood development.

B. State and federal governments have historically supported faith-based preschool programs without issue.

Congregation-based early childcare efforts have historically been supported by taxpayer dollars. For example, "since its establishment in the 1960s, the Head Start program has partnered with congregation-based providers, particularly those housed in churches with predominantly African-American congregations." *Id*. And in the 1980s, "Title XX block grant funds were made available to congregation-based child care programs on a widespread basis." *Id.* The Child Care and Development Block Grant Act (CCDGB), which was signed into law in 1990 and reauthorized since then, provided vouchers to parents who could apply the appropriated funds to pay for childcare directly to a provider or organization. *Id.* More recently, President Trump issued an executive order instructing the Secretary of Health and Human Services to "issue guidance regarding whether and how States receiving block grants for families and Children from the Department [of Health and Human Services], including the [CCDGB], can use them to expand educational choice and support families who choose educational alternatives to governmental entities, including private and faith-based options." Exec. Order No. 14191, 90 Fed. Reg. 8859, at § 5 (Jan. 29, 2025) (https://tinyurl.com/2r2ayjj4).

States often provide funding for faith-based childcare as well. *See, e.g.*, SOUTH CAROLINA FIRST STEPS, *First Steps 4K* (https://tinyurl.com/23nny45m) (accessed Sept. 29, 2025) (South Carolina offers "free, full-day four-year-old kindergarten to

qualifying children in South Carolina" and "[f]amilies can select the private, community-based, or faith-based program of their choice."); LEAGUE OF CHRISTIAN SCHOOLS, *FLOCS ACCREDITED Centers can receive VPK Funds* (https://tinyurl.com/mrycd2ex) (accessed Sept. 29, 2025) (Florida's Voluntary Prekindergarten Education Program provides funding for "age-eligible children" that is available "in accredited Christian preschools."); GEORGIA DEP'T OF EARLY CARE AND LEARNING, *Applications to Provide Georgia's Pre-K Program Now Available*, Mar 10, 2025 at 1 (https://tinyurl.com/bv6ea56x) (accessed Sept. 29, 2025) (Georgia's Pre-K Program is "an educational program for age-eligible children in Georgia funded by the Georgia Lottery for Education" that is offered through a variety of settings, including "public schools; for profit and nonprofit child care learning centers; military bases, and faith-based organizations.").

C. State-funded preschool choice programs cannot require religious preschools to check their beliefs at the schoolhouse gate.

Faith-based preschools should not have to abandon their religious convictions to receive public benefits. Just ask the Supreme Court.

In *Trinity Lutheran v. Comer*, the Supreme Court concluded that a religious preschool could not be excluded from receiving a state grant due to its religious character. 582 U.S. at 467. That's because excluding a religious entity "from a public benefit for which it is otherwise qualified, solely because it is a [religious entity], is odious to our Constitution." *Id.*; *see also Sherbert v. Verner*, 374 U.S. 398, 404

(1963) ("Governmental imposition" of a choice "between following the precepts of her religion and forfeiting benefits, on the one hand, and abandoning one of the precepts of her religion in order to accept work, on the other hand," puts an impermissible "burden upon the free exercise of religion.").

Subsequently, in *Espinoza v. Montana Department of Revenue*, the Supreme Court concluded that a state could not prohibit state scholarship recipients from using their scholarships at religious schools. 591 U.S. at 476. In doing so, the Supreme Court held that the Free Exercise Clause is violated when religious schools and parents are excluded "from public benefits solely because of [their] religious character." *Id.*

And in *Carson v. Makin*, the Supreme Court rejected a state's exclusion of religious schools from a tuition assistance program because of their religious activity. 596 U.S. at 789. The *Carson* Court reasoned that a state cannot "exclude religious persons from the enjoyment of public benefits on the basis of their anticipated religious use of the benefits." *Id.*

State exclusion of public aid for religious schools reflects open hostility toward religion and communicates the government's preference for secularism. And "official expressions of hostility to religion" are "inconsistent with what the Free Exercise Clause requires." *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm.*, 138 S.Ct. 1719, 1732 (2018); *see also Espinoza*, 591 U.S. at 499 (Alito, J.,

concurring) (explaining how states' "no-aid" provisions originated from the failed Blaine Amendment championed by the Ku Klux Klan in 1875). While States have a "deeply rooted commitment to education," religious liberties become "meaningless" if they must yield to the State's interest in education. *People v. DeJonge*, 501 N.W.2d 127, 138–39 (Mich. 1993).

Colorado put faith-based preschools in a completely unfair situation: they must renounce their deeply held convictions to even qualify for public benefits that are available to other preschools. Thankfully, the Constitution does not permit that. This Court should say so.

CONCLUSION

This Court should affirm.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2025, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Joseph D. Spate
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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(G), this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 29(a)(5) because it contains 4,137 words. This brief complies with the typeface and typeset requirements of Federal Rule of Appellate Procedure 29(a)(4) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

November 17, 2025 s/ Joseph D. Spate
Joseph D. Spate

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing: (1) all required privacy redactions have been made per 10th Cir. R. 25.5; (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents; (3) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Microsoft Defender, and according to the program are free of viruses.

November 17, 2025 s/ Joseph D. Spate
Joseph D. Spate