No. 21-60845

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BST HOLDINGS, L.L.C., *et al.*

Petitioners,

v.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, *et al.*,

Respondents.

On Petition for Review of an Emergency Temporary Standard from the Occupational Safety and Health Administration.

MOTION FOR LEAVE TO FILE BRIEF OF THE AMERICAN MEDICAL ASSOCIATION AS *AMICUS CURIAE* IN OPPOSITION TO PETITIONERS' MOTIONS FOR STAY OF EMERGENCY TEMPORARY STANDARD

Jeffrey B. Dubner
Rachel L. Fried
Jessica Anne Morton
DEMOCRACY FORWARD FOUNDATION
P.O. Box 34553
Washington, DC 20043
jdubner@democracyforward.org
rfried@democracyforward.org
jmorton@democracyforward.org

Counsel for Proposed Amicus Curiae *American Medical Association*

MOTION FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*

Pursuant to Federal Rule of Appellate Procedure 29 and Fifth Circuit Rule 29, Proposed *Amicus* moves for leave to file the attached brief in opposition to Petitioners' motions for stay of the emergency temporary standard.

Proposed *Amicus* is the American Medical Association ("AMA"). The AMA is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in the AMA's policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every medical specialty and in every state.

As the leading membership organization of physicians nationally, the AMA has a strong interest in promoting public health and reducing the spread of COVID-19. The attached brief reflects the AMA's extensive review of medical literature supporting the efficacy and safety of the COVID-19 vaccines authorized or approved by the Food and Drug Administration. Accordingly, the proposed brief will assist the Court because it sets forth

medical and scientific information demonstrating that the emergency temporary standard is neither arbitrary nor capricious, and that a stay of that Standard would cause severe and irreparable harm to the public interest. *See Neonatology Assoc., P.A. v. Comm'r of Internal Revenue*, 293 F.3d 128, 129 (3d Cir. 2002) (Alito, J.) (granting leave to file amicus brief where "amici have a sufficient 'interest' in the case and . . . their brief is 'desirable' and discusses matters that are 'relevant to the disposition of the case' (quoting Fed. R. App. P. 29(b))); *Lefebure v. D'Aquilla*, 15 F.4th 670, 676 (5th Cir. 2021) (Ho, J.) ("[W]e would be 'well advised to grant motions for leave to file amicus briefs unless it is obvious that the proposed briefs do not meet Rule 29's criteria as broadly interpreted.'" (quoting *Neonatology Assoc.*, 293 F.3d at 133)).

Counsel for the AMA has consulted with the parties' counsel. Respondents have consented to this motion and to the filing of the attached *amicus curiae* brief. Counsel for Petitioners indicated that they do not oppose this motion, except for counsel for Cox Operating, L.L.C., Dis-Tran Steel, L.L.C., Dis-Tran Packaged Substations, L.L.C., Beta Engineering, L.L.C., Optimal Field Services, L.L.C., Louisiana, Mississippi, South Carolina, and Utah, who had not responded by the time of this filing.

Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E),

Proposed *Amicus* states that no counsel for any party authored the proposed brief inwhole or in part, and no person or entity, other than *amicus* and its counsel, made a monetary contribution intended to fund the preparationor submission of this brief.

Dated: November 11, 2021

Respectfully submitted,

/s/ Jeffrey B. Dubner

Jeffrey B. Dubner
Rachel L. Fried
Jessica Anne Morton
DEMOCRACY FORWARD FOUNDATION
P.O. Box 34553
Washington, DC 20043
jdubner@democracyforward.org
rfried@democracyforward.org
jmorton@democracyforward.org

Counsel for Proposed Amicus Curiae
American Medical Association

CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) and 5th Cir. R. 32(b), this document contains 472 words according to the word count function of Microsoft Word 365.

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14-point Century Schoolbook font.

/s/ Jeffrey B. Dubner

Date: November 11, 2021

CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2021, a true and accurate copy of the foregoing motion was electronically filed with the Court using the CM/ECF system. Service on counsel for all parties will be accomplished through the Court's electronic filing system.

/s/ Jeffrey B. Dubner

Date: November 11, 2021

No. 21-60845

IN THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BST HOLDINGS, L.L.C., *et al.*,

Petitioners,

v.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, *et al.*,

Respondents.

On Petition for Review of an Emergency Temporary Standard from theOccupational Safety and Health Administration.

BRIEF OF THE AMERICAN MEDICAL ASSOCIATION AS *AMICUS CURIAE* IN OPPOSITION TO PETITIONERS' MOTIONS FOR STAY OF EMERGENCY TEMPORARY STANDARD

Jeffrey B. Dubner
Rachel L. Fried
Jessica Anne Morton
DEMOCRACY FORWARD FOUNDATION
P.O. Box 34553
Washington, DC 20043
jdubner@democracyforward.org
rfried@democracyforward.org
jmorton@democracyforward.org

Counsel for Proposed Amicus Curiae *American Medical Association*

CORPORATE DISCLOSURE STATEMENT

The American Medical Association ("AMA") is a non-profit entity and has no parent corporation. No publicly owned corporation owns 10% or more of the stocks of the AMA.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

Other Authorities

INTEREST OF *AMICUS CURIAE*

The American Medical Association ("AMA") is the largest professional association of physicians, residents, and medical students in the United States. Additionally, through state and specialty medical societies and other physician groups seated in its House of Delegates, substantially all physicians, residents, and medical students in the United States are represented in the AMA's policy-making process. The AMA was founded in 1847 to promote the art and science of medicine and the betterment of public health, and these remain its core purposes. AMA members practice in every medical specialty and in every state. The AMA has an interest in providing evidence-based guidance on public health issues and working to reduce the spread of contagious illnesses.[1]

INTRODUCTION

The United States is in an unprecedented and ongoing public health crisis. SARS-CoV-2, the causative agent of COVID-19, has wreaked havoc in communities across the country, taxed hospitals to the point of rationing care, upended the lives of countless families, and killed over

[1] *Amicus* certifies that no party's counsel authored this brief in whole or in part, no party or party's counsel contributed money intended to fund this brief, and no person other than *amicus*, its members, and their counsel contributed money intended to fund this brief.

753,000 Americans. Widespread vaccination is essential to ending the COVID-19 pandemic and preventing thousands more needless deaths.

For nearly two years, the AMA has monitored the COVID-19 pandemic and advocated for evidence-based public health measures to end it. Many COVID-19 outbreaks have occurred in workplaces. The AMA's extensive review of the medical literature demonstrates that COVID-19 vaccines authorized or approved by FDA are safe and effective, and the widespread use of those vaccines is the best way to keep COVID-19 from spreading within workplaces. A stay of OSHA's Emergency Temporary Standards would therefore severely and irreparably harm the public interest.

ARGUMENT

I. COVID-19 poses a grave danger to public health.

COVID-19 presents a severe risk to public health in this Circuit and throughout the nation. Although most people infected with the virus will experience mild to moderate symptoms, individuals with COVID-19 can become seriously ill or die at any age. As of November 5, 2021, there have

been over forty-six million confirmed cases of COVID-19 in the United States, leading to more than 3,250,000 hospitalizations.[2]

Even those who recover from COVID-19 may experience post-COVID conditions with debilitating symptoms lasting for several months after the acute phase of infection. A systematic review of forty-five studies including 9,751 participants found that 73% of infected individuals experienced at least one long-term symptom.[3] Over half of previously hospitalized patients continue to experience cardiopulmonary symptoms and abnormalities six months later.[4] And over 753,000 people in the United States have died from COVID-19—more than twenty-one times the number of people in the United States who die from influenza in the average year.[5] This public health crisis has been particularly devastating in the states within this Circuit: Mississippi has suffered

[2] *COVID Data Tracker Weekly Review: This is Their Shot*, Centers for Disease Control and Prevention, CDC (Nov. 5. 2021), https://bit.ly/3EYAdAb.
[3] Tahmina Nasserie et al., *Assessment of the Frequency and Variety of Persistent Symptoms: A Systematic Review*, JAMA Netw. Open (2021), https://bit.ly/3qocFkk.
[4] M.P. Cassar et al., *Symptom Persistence Despite Improvement in Cardiopulmonary Health – Insights from longitudinal CMR, CPET and lung function testing post-COVID-19*, EClinicalMedicine (2021), https://bit.ly/3H7AeDB.
[5] *Disease Burden of Flu*, CDC (Oct. 4, 2021), https://bit.ly/3ocAuZA.

more deaths per 100,000 residents than any other state since the pandemic began; Louisiana the fourth most.[6]

SARS-CoV-2 is highly transmissible. The original strain was more contagious than the flu, and the Delta variant of SARS-CoV-2, now the leading strain, is more than twice as contagious as the original.[7] Crucially, over 50% of the spread of the virus may be from individuals who have no symptoms at the time of transmission.[8]

Workplace transmission has been a major factor in the spread of COVID-19. COVID-19 outbreaks have occurred among workers in numerous industries, including service and sales, education, hospitality, construction, domestic work, meat-processing, transportation, prison, and of course healthcare industries.[9] Studies found widespread COVID-

---

[6] *Id.*

[7] *Delta Variant: What We Know About the Science*, CDC (Aug. 26, 2021), https://bit.ly/3plAmcy; Apoorva Mandavilli, *C.D.C. Internal Report Calls Delta Variant as Contagious as Chickenpox*, N.Y. Times (Jul. 30, 2021), https://nyti.ms/3wxXaHB.

[8] *Use of Cloth Masks to Control the Spread of SARS-CoV-2*, CDC (May 7, 2021), https://bit.ly/30inWYx.

[9] *Update 64—COVID-19 Prevention at the Workplace*, World Health Organization (Jul. 28, 2021), https://bit.ly/307J1V6; *Investigating and Responding to COVID-19 Cases in Non-Healthcare Work Settings*, CDC (Oct. 25, 2021), https://bit.ly/3qC74XN.

19 outbreaks in meat- and poultry-processing facilities and "identified high proportions of asymptomatic or presymptomatic infections."[10]

Forty-five percent more people reported missing work for medical reasons during 2020 than the previous twenty-year average.[11] Another study found that adults who tested positive for SARS-CoV-2 were significantly more likely to report going to an office or school setting than adults who tested negative.[12] Protecting workers from COVID-19 is especially important given that "a large proportion of the United States workforce, across a variety of occupational sectors, are exposed to disease or infection at work more than once a month."[13]

---

[10] Michelle A. Waltenburg et al., *Coronavirus Disease among Workers in Food Processing, Food Manufacturing, and Agriculture Workplaces*, 27 Emerging Infectious Diseases 243 (2021), https://bit.ly/3kp3Lip.

[11] Charisse Jones & Matt Wynn, *Coronavirus and the Workplace: The Virus Causes Record Numbers of Job Absences in 2020*, USA Today (Jan. 21, 2021), https://bit.ly/3C39lgx.

[12] Kiva A. Fisher et al., *Telework Before Illness Onset Among Symptomatic Adults Aged ≥18 Years With and Without COVID-19 in 11 Outpatient Health Care Facilities — United States, July 2020*, 69 Morbidity & Mortality Weekly Rpt. 1648 (Apr. 28, 2020), https://bit.ly/3F5Ybt8.

[13] Marissa G. Baker et al., *Estimating the burden of United States workers exposed to infection or disease: A key factor in containing risk of COVID-19 infection*, PLoS ONE (2020), https://bit.ly/3BWDoq8.

II. Vaccines provide a safe and effective way to help reduce transmission of COVID-19 in the workplace.

COVID-19 vaccines are safe. Before FDA authorized/approved and CDC recommended use of the COVID-19 vaccines in the population, scientists conducted clinical trials. FDA, CDC, and their advisory committees conducted rigorous reviews of the data.[14] CDC and FDA continue to monitor the safety of COVID-19 vaccines through both passive and active safety surveillance systems.[15] A study of over six million people who received the Pfizer or Moderna vaccines found that serious side effects are very rare.[16] Another study concluded that there is no increased risk for mortality among recipients of any of the COVID-19 vaccines, and that vaccine recipients in fact had lower non-COVID-19 mortality risks than did unvaccinated people.[17]

COVID-19 vaccines are also effective. First, each of the three vaccines greatly reduce the likelihood of contracting infection. The Pfizer,

---

[14] *Benefits of Getting a COVID-19 Vaccine*, CDC (Nov. 5, 2021), https://bit.ly/3H6BsiF.
[15] Nicola P. Klein et al., *Surveillance for Adverse Events After COVID-19 mRNA Vaccination*, 326 J. Am. Med. Ass'n 1390, (Sep. 3, 2021), https://bit.ly/3F1XQYM; *COVID-19 vaccine safety surveillance*, FDA (Jul. 12, 2021), https://bit.ly/3wxPlB.
[16] Klein et al., *supra* n. 15.
[17] Stanley Xu et al., *COVID-19 Vaccination and Non–COVID-19 Mortality Risk — Seven Integrated Health Care Organizations, United States, December 14, 2020–July 31, 2021*, 70 Morbidity & Mortality Weekly Rpt. 1520 (Oct, 29, 2021), https://bit.ly/3D1ZRn4.

Moderna, and J&J/Janssen vaccines are 91.3%, 90%, and 72% effective against infection, respectively.[18] Although the vaccines' efficacy wanes over time, initial data on Pfizer booster shots show that they may boost the vaccine efficacy to over 95%.[19] For comparison, the flu vaccination reduces the risk of flu illness by between forty and sixty percent.[20]

Second, each of the three vaccines is even more effective against serious illness and death. Studies have estimated the Pfizer, Moderna, and J&J/Janssen vaccines as 95.3–97%, 95%, and 86% effective against severe disease, respectively.[21] The vaccines are likewise highly effective against hospital admissions, "even in the face of widespread circulation of the delta variant."[22] According to one analysis, between March 11 and August 15, 2021, unvaccinated people accounted for 84.2% of patients

[18] Kathy Katella, *Comparing the COVID-19 Vaccines: How Are They Different?*, Yale Med. (Nov. 3, 2021), https://bit.ly/307jEU5.
[19] *Pfizer and BioNTech Announce Phase 3 Trial Data Showing High Efficacy of a Booster Dose of Their COVID-19 Vaccine*, Pfizer (Oct. 21, 2021), https://bit.ly/3EXQa9K.
[20] *How Well Flu Vaccines Work: Questions & Answers*, CDC (last visited Nov. 9, 2021), https://bit.ly/3HifLMP.
[21] Katella, *supra* n. 18.
[22] Sara Y Tartof et al., *Effectiveness of mRNA BNT162b2 COVID-19 Vaccine Up to 6 Months*, 398 Lancet 1407, 1407 (Oct. 16, 2021).

hospitalized for COVID-19, including those infected with the Delta variant.[23]

The initial rollout of COVID-19 vaccines in the United States "was associated with reductions in COVID-19 cases, emergency department visits, and hospital admissions among older adults."[24] In August 2021, unvaccinated people had a 6.1 times greater risk of testing positive for COVID-19, and an 11.3 times greater risk of dying from COVID-19, than fully vaccinated people.[25]

Third, as OSHA acknowledged, evidence suggests that those who are fully vaccinated are contagious for shorter periods than unvaccinated people.[26] Most importantly, "[r]egardless of viral loads in vaccinated and unvaccinated individuals, the fact remains clear that unvaccinated people pose a higher risk of transmission to others than vaccinated

---

[23] Mark W. Tenforde, *Association Between mRNA Vaccination and COVID-19 Hospitalization and Disease Severity*, J. Am. Med. Ass'n (Nov. 4, 2021), https://bit.ly/3bZBHhb.

[24] Lucy A. McNamara et al., *Estimating the Early Impact of the US COVID-19 Vaccination Programme on COVID-19 Cases, Emergency Department Visits, Hospital Admissions, and Deaths Among Adults Aged 65 Years and Older: An Ecological Analysis of National Surveillance Data*, Lancet (Nov. 3, 2021), https://bit.ly/31NqTRq.

[25] *Rates of COVID-19 Cases and Deaths by Vaccination Status*, CDC (last visited Nov. 9, 2021), https://bit.ly/3F3YMLV.

[26] *See* COVID-19 Vaccination and Testing; Emergency Temporary Standard, 86 Fed. Reg. 61,402, 61,419 (Nov. 5, 2021).

people, simply because they are much more likely to get COVID-19 in the first place."[27]

III. The more workers who get vaccinated, the safer the workplace becomes.

The more workers who get vaccinated, the closer we are to slowing the spread of the virus and creating a safer environment. As the AMA has explained, "[t]he only way to truly end this pandemic is to ensure *widespread* vaccination."[28] Infectious diseases such as COVID-19 continue to circulate as long as the average infected individual is able to transmit the disease to one or more uninfected individuals within the community.[29] Widespread vaccination is the only practical way to push the effective reproduction rate of the SARS-CoV-2 virus below one, the rate at which endemic transmission begins to die out.

Widespread vaccination reduces the likelihood of infections among both vaccinated and unvaccinated people. "[S]tates with high vaccination rates (>70% of the population) are reporting lower numbers of vaccine breakthrough cases as well as hospitalizations and deaths from COVID-

---

[27] *Id.*

[28] Press Release, Am. Med. Ass'n, *AMA, AHA, ANA urge vaccinations as U.S. reaches 750,000 COVID-19 deaths* (Nov. 4, 2021) (emphasis added), https://bit.ly/3C07CIS.

[29] *See generally* Paul Fine et al., *"Herd Immunity": A Rough Guide*, 52 Clinical Infectious Diseases 911 (2011).

19."[30] This is particularly important for people who cannot get vaccinated due to age or medical condition, as well as immunocompromised people, who remain particularly susceptible to infection even after vaccination.[31]

History has shown that vaccine requirements are critical to achieving the degree of vaccination necessary to curb or eradicate infectious disease. Countries or states that mandated smallpox vaccination saw 10 to 30 times fewer smallpox cases than those that declined to do so.[32] Before compulsory school vaccination laws were in place throughout the United States, states with strict vaccination requirements had incidence rates of measles less than half those of states that did not.[33] For example, in the four years before Texas enacted its compulsory school vaccination law in 1971, it accounted for between 31% and 53% of all diphtheria cases in the United States each year, between 25% and 79% of all polio cases, and an outsized percentage of tetanus and

---

[30] Carlos del Rio et al., *Confronting the Delta Variant of SARS-CoV-2, Summer 2021*, 326 J. Am. Med. Ass'n 1001, 1002 (2021), https://bit.ly/3bVL5Cj.
[31] *How Effective Are COVID-19 Vaccines in Immunocompromised People?*, Am. Soc'y for Microbiology (Aug. 12, 2021), https://bit.ly/3F24HBh.
[32] Rajaie Batniji, *Historical Evidence to Inform COVID-19 Vaccine Mandates*, 397 Lancet 791 (2021) (citing Frank Fenner, et al., World Health Org., *Smallpox and Its Eradication* (1988)).
[33] Kevin M. Malone & Alan R. Hinman, *Vaccination Mandates: The Public Health Imperative and Individual Rights*, *in* Law in Public Health Practice 262 (1st ed., 2003), https://bit.ly/3BUviyg.

measles cases; by 1973, it had seen a "reduction in morbidity . . . unprecedented in Texas communicable disease history."[34]

COVID-19 spreads in communities with fewer vaccinated individuals, even if they are within or adjacent to communities with a higher proportion of vaccinated individuals. The more people who share a workspace who are vaccinated, the better protected all workers—vaccinated and unvaccinated alike—will be.

IV. Widespread vaccination is the most effective way to protect workers from COVID-19.

The statistics on COVID-19 vaccine efficacy speak for themselves. No other measure has been shown to reduce the risk of infection, hospitalization, and death to the degree that vaccination does. Although misinformation about the efficacy of vaccines abounds, the science is clear: no arguments against the need for vaccination are medically valid, other than instances where an individual has a medical contraindication.

Natural immunity—the immunity against SARS-CoV-2 that develops following recovery from infection—is not an adequate substitute

[34] *See* Lon Gee & R.F. Sowell, Jr., *A School Immunization Law Is Successful in Texas*, 90 Pub. Health Rep. 21, 23 (1975).

for vaccination.[35] Infection carries a significant risk of death or serious illness; vaccination does not. Moreover, vaccination better protects previously infected people against reinfection. Studies have shown that unvaccinated people are at least twice as likely to become reinfected as are vaccinated people.[36] There is no evidence that vaccination is harmful to people who were previously infected.

Other mitigation measures, such as mask wearing and social distancing, remain important. They do not, however, provide the same level of protection against COVID-19 as does vaccination. Although wearing a face mask can be highly effective at limiting the transmission of SARS-CoV-2, many people choose not to wear face masks, even when encouraged or legally required to do so. Noncontinuous face mask

---

[35] *See* Catherine H. Bozio et al., *Laboratory-Confirmed COVID-19 Among Adults Hospitalized with COVID-19-Like Illness with Infection-Induced or mRNA Vaccine-Induced SARS-CoV-2 Immunity – Nine States, January–September 2021*, 70 Morbidity & Mortality Weekly Rpt. 1539 (Nov. 5, 2021), https://bit.ly/3kvoBwR (finding 5.5 times higher odds of laboratory-confirmed COVID-19 among previously infected patients than among fully vaccinated patients).

[36] Alyson M. Cavanaugh et al., *Reduced Rick of Reinfection with SARS-CoV-2 After COVID-19 Vaccination — Kentucky, May–June 2021*, 70 Morbidity & Mortality Weekly Rpt. 1081 (2021); Meredith Wadman, *Having SARS-CoV-2 Once Confers Much Greater Immunity Than a Vaccine — but Vaccination Remains Vital*, 373 Science 1067 (Aug. 26, 2021), https://bit.ly/2YB8I08.

wearing has been shown to result in the spread of COVID-19 in the workplace.[37]

The ETS's alternative to vaccination—testing at regular intervals—protects workers better than no requirement at all. It does not, however, rise to the level of protection that widespread uptake of vaccinations would provide. The ETS is appropriately structured to "strongly encourag[e] vaccination."[38] Immediate, widespread vaccination against COVID-19 is the surest way to protect the U.S. workforce and the public and to end this costly pandemic.

CONCLUSION

For the reasons stated above and in Respondents' filings, the American Medical Association urges this Court to deny Petitioners' motions to stay enforcement of the ETS.

[37] Donatella Sarti et al., *COVID-19 in Workplaces: Secondary Transmission*, 65 Annals of Work Exposures & Health 1145 (2021), https://bit.ly/3Cj6oJ3.
[38] 86 Fed. Reg. at 61,402.

Respectfully submitted,

/s/ Jeffrey B. Dubner

Jeffrey B. Dubner
Rachel L. Fried
Jessica Anne Morton
DEMOCRACY FORWARD FOUNDATION
P.O. Box 34553
Washington, DC 20043
jdubner@democracyforward.org
rfried@democracyforward.org
jmorton@democracyforward.org

Counsel for Proposed Amicus Curiae *American Medical Association*

CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Fed. R. App. P. 29(a)(5) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f) and 5th Cir. R. 32(b), this document contains 2,596 words according to the word count function of Microsoft Word 365.

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 365 in 14-point Century Schoolbook font.

/s/ Jeffrey B. Dubner

Date: November 11, 2021

CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2021, a true and accurate copyof the foregoing motion was electronically filed with the Court using theCM/ECF system. Service on counsel for all parties will be accomplished through the Court's electronic filing system.

/s/ Jeffrey B. Dubner

Date: November 11, 2021