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SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO FLORIDA RULES OF CIVIL PROCEDURE
_______________________________________/

CASE NO. SC2023-0962

COMMENT OF THE INTERNATIONAL ASSOCIATION OF DEFENSE COUNSEL, DRI CENTER FOR LAW AND PUBLIC POLICY, FEDERATION OF DEFENSE & CORPORATE COUNSEL, ASSOCIATION OF DEFENSE TRIAL ATTORNEYS, FLORIDA CHAMBER OF COMMERCE, ASSOCIATED INDUSTRIES OF FLORIDA, FLORIDA INSURANCE COUNCIL, AMERICAN TORT REFORM ASSOCIATION, NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL BUSINESS LEGAL CENTER, INC., AMERICAN PROPERTY CASUALTY INSURANCE ASSOCIATION, NATIONAL ASSOCIATION OF MUTUAL INSURANCE COMPANIES, COALITION FOR LITIGATION JUSTICE, INC., WASHINGTON LEGAL FOUNDATION, PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF AMERICA, AND ALLIANCE FOR AUTOMOTIVE INNOVATION

The above-listed organizations file this comment to ask the Court to consider three revisions to the proposed Florida Rules of Civil Procedure that were published in the September 1, 2023, Bar News: (1) revise Florida Rule of Civil Procedure 1.280 to state that discovery must be "proportional to the needs of the case" like Federal Rule of Civil Procedure 26(b)(1)); (2) require disclosure of third-party litigation funding agreements; and (3) address the extreme unfairness under new Florida Rule of Civil Procedure 1.460 if failure to continue trial would result in a defendant having to defend

multiple trials simultaneously or close together, forcing the defendant to try some cases with a lawyer who is not the defendant's preferred choice of counsel.[1]

"Proportional" Discovery Should be the General Rule

Federal Rule of Civil Procedure 26(b)(1) employs a different scope for discovery than Florida Rule of Civil Procedure 1.280. Under the federal rule, "[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case…." Chief Justice John Roberts has explained that federal Rule 26(b)(1) "crystalizes the concept of reasonable limits on discovery through increased reliance on the common-sense concept of proportionality…." 2015 Year-End Report on the Federal Judiciary 6 (Dec. 31, 2015). The federal proportionality concept should be the rule in Florida.

According to the Sedona Conference, "Achieving proportionality in civil discovery is critically important to securing the 'just, speedy, and inexpensive resolution of civil disputes,' …." The Sedona Conf., *Commentary on Proportionality in Electronic Discovery*, 18 Sedona

[1] For a summary of the signatory organizations, see Appendix.

Conf. J. 141, 147 (2017). The National Center for State Courts has said, "proportionality must be a guiding standard in discovery and the entire pretrial process." Nat'l Ctr. for State Courts, *Call to Action: Achieving Justice for All* 24 (2016).[2]

Approximately sixteen states and the District of Columbia require proportional discovery. *See* Mark A. Behrens & Christopher E. Appel, *States Are Embracing Proportional Discovery, Moving Into Alignment With Federal Rules*, 29:5 Legal Opinion Letter (Wash. Legal Found., July 17, 2020) ("The federal proportionality concept is well on its way to becoming the majority rule in the states....").

States that have adopted proportional discovery have recognized the benefit of closer alignment between state and federal rules. *See* Gregory C. Cook & Sloane Bell, *Alabama Supreme Court Amends Rules 26 and 37 to Address Proportionality and ESI*, 80 Ala. Law. 96, 102 (Mar. 2019) (proportionality makes "discovery a more efficient and right-sized process"); Ryan M. Billings et al., *Sweeping*

[2] *See also* Final Report on the Joint Project of The American College of Trial Lawyers Task Force on Discovery and The Institute for the Advancement of the American Legal System 8 (rev. Apr. 15, 2009) (civil discovery "should be limited to documents or information that would enable a party to prove or disprove a claim or defense or enable a party to impeach a witness.").

Changes to Rules of Civil Procedure, 91 Wis. Law. 12 (June 2018) ("Wisconsin courts will have the benefit of the early federal experience in interpreting this new [proportional discovery] standard.").

Florida would benefit from the national jurisprudence that would come with the federal approach. As Attorney General Ashley Moody explained in calling for this Court to adopt a proportionality standard for discovery:

> Because Florida court opinions on discovery issues are infrequent, fashioning clear discovery rules is essential. Overly broad and irrelevant discovery can impose substantial costs on litigants that cannot be recovered in most cases. Hewing closely to the federal rules provides a source of caselaw that can help guide Florida trial courts and parties, reducing discovery disputes and forum shopping.

Comment of Attorney General Ashley Moody, In re: Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases, No. SC22-122, at 8 (June 1, 2022).

Further, "[a] proportionality standard applicable at the outset should lead to more focused discovery requests and court involvement." Fast-Track Report of the Civil Procedure Rules Committee, In re: Amendments to the Florida Rules of Civil Procedure-Civil Workgroup Referral to the Civil Procedure Rules

Committee (July 3, 2023) (Appendix J-1). As members of the Florida Rules of Civil Procedure Committee have noted, the "existing rules contemplate a proportionality factor or standard for discovery," but only "after parties have already triggered the discovery burdens using the broader scope currently allowed by Florida Rule of Civil Procedure 1.280(b)(1)." Consequently, a party facing broad discovery requests today generally must move for a protective order, "consuming court time to make those decisions." *Id.*

Proportionality for all discovery would also address an internal inconsistency in the Florida rules with respect to the scope of discovery for electronically stored information (ESI) as compared to other information.[3] Current Rule 1.280(d)(2)(ii) incorporates several of the proportionality factors expressed in Federal Rule 26(b)(1). *See* Fla. R. Civ. P. 1.280(d)(2)(ii) ("In determining any motion involving discovery of [ESI], the court must limit the frequency or extent of discovery . . . if it determines . . . the burden or expense of the discovery outweighs its likely benefit, considering the needs of the

[3] *See* The Business Litigation Practice Group of Gunster Yoakley & Stewart P.A.'s Comment to the Workgroup on Improved Resolution of Civil Cases, In re: Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases, No. SC22-122 (June 1, 2022).

case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action, and the importance of the discovery in resolving the issues."). Further, comments to current Florida Rule of Civil Procedure 1.280(d)(2) list "proportionality and reasonableness factors" for ESI whereby "the court must limit the frequency or extent of discovery if it determines that the discovery sought is excessive in relation to the factors listed." Florida's rules should be consistent and apply the "proportionality" standard to all discovery.[4]

Proportionality is particularly important in Florida with the change proposed in Florida Rule of Civil Procedure 1.280 to require initial disclosures. As members of the Florida Rules of Civil Procedure Committee have noted, "Without proportionality to constrain the disclosures required, a party may have a heavy burden to comply with the mandate to disclose witnesses and documents unless

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[4] *See* Hon. Paul W. Grimm & David S. Yellin, *A Pragmatic Approach to Discovery Reform: How Small Changes Can Make a Big Difference in Civil Discovery*, 64 S.C. L. Rev. 495, 519 (2013) (Discovery Subcommittee Chair of federal judiciary's Advisory Committee on Civil Rules arguing for the "scope of discovery rule" to incorporate "proportionality" language "in the hope that lawyers and judges will more fully appreciate the primacy of this principle").

bounded by proportionality." Fast-Track Report of the Civil Procedure Rules Committee, *supra* (Appendix J-1).

Numerous comments previously filed with the Court support a proportionality standard. Here are some examples:

- Attorney General Ashley Moody: "In state court litigation . . . OAG attorneys . . . face discovery abuses and unnecessary litigation over discovery. . . . By contrast, OAG's federal cases are resolved more quickly and with less litigation over discovery. . . . Expressly putting proportionality considerations in Rule 1.280 would elevate the focus for trial courts, ensuring that the requested discovery—beyond the initial disclosures and discovery mandated by the new rules—is proportional to the needs of the case . . . [and] that discovery costs do not outpace the value and needs of the case."[5]
- Business Law Section of the Florida Bar: "[R]efusal to include a consideration of proportionality within the genera[l] scope of discovery under Rule 1.280 fails to take account of the burgeoning cost and inefficiency in discovery. . . . To ignore the elephant in the room which is the massive delays, costs, and inefficiency brought on by lawyers using old-time advocacy tactics and boilerplate requests in discovery and motion practice, will regrettably circumvent an opportunity to make the system better."[6]

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[5] Comment of Attorney General Ashley Moody, *supra*, at 2, 8-9.

[6] Comments of the Business Law Section of the Florida Bar to the Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases, In re: Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases, No. SC22-122, at 31-32 (Apr. 20, 2022).

- NFIB Florida: "[W]e join the chorus of groups that urge the Court to adopt proportionality in Rule 1.280(b)(1). We believe amending this rule to reflect its federal counterpart will help small businesses from incurring unjustified costs they cannot absorb."[7]
- Florida Justice Reform Institute: "Expressly incorporating the concept of proportionality into Florida Rule of Civil Procedure 1.280 would bring Florida in line with the federal rules, similar to what the Court has already accomplished in adopting the federal standards for expert testimony and for deciding motions for summary judgment."[8]

The current discovery standard makes Florida less competitive as compared to other states. A Harris Poll for the U.S. Chamber Institute for Legal Reform ranked Florida 47th in the nation for "proportional discovery." U.S. Chamber Institute for Legal Reform, *2019 Lawsuit Climate Survey: Ranking the States* (2019). The survey polled over 1,300 in-house general counsel, senior litigators, and other senior executives at companies with at least $100 million in

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[7] Comment of NFIB Florida, In re: Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases, No. SC22-122, at 3 (May 19, 2022).

[8] Comment by the Florida Justice Reform Institute, In re: Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases, No. SC22-122, at 15-17 (May 25, 2022).

annual revenue. Business leaders clearly believe that Florida's current discovery rules need to be improved.[9]

Florida should expressly adopt the federal proportionality concept for new Rule 1.280. E.G.:

> **RULE 1.280. GENERAL PROVISIONS GOVERNING DISCOVERY**
>
> **(~~b~~c) Scope of Discovery.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:
>
> (1) *In General*. Parties may obtain discovery regarding any matter, not privileged, that is relevant to a party's ~~the subject matter of the pending action, whether it relates to the~~ claim or defense and proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit. Information within this scope of discovery need not be admissible in evidence to be discoverable. ~~of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and~~

[9] *See also* The American Tort Reform Association's Comments on the Final Report of the Workgroup on Improved Resolution of Civil Cases, In re: Report and Recommendations of the Workgroup on Improved Resolution of Civil Cases, No. SC22-122, at 4 (June 1, 2022) ("In 2022, the Perryman Group released an economic study showing that lawsuit abuse costs Floridians annually more than 173,000 jobs and 11.7 billion in direct costs to the economy. Most pernicious is the financial abuse foisted on Florida's elderly citizens and those on fixed incomes.").

> ~~location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.~~

Disclosure of Third-Party Litigation Funding Agreements

The Court should take the opportunity to require disclosure of third-party litigation funding (TPLF) agreements. Litigation funders front money to plaintiffs' law firms in exchange for an agreed-upon cut of any settlement or money judgment. TPLF is a profit-driven investment that bets on the plaintiff's outcome in a lawsuit. TPLF arrangements occur across a wide range of cases, including mass tort litigation, commercial disputes, antitrust, and intellectual property.

As Professor Donald Kochan of the Antonin Scalia Law School at George Mason University explained in a *Wall Street Journal* editorial, "Third-party litigation funding turns the American justice system into a financial playground by transforming lawsuits into investment vehicles." Donald Kochan, Editorial, *Keep Foreign Cash Out of U.S. Courts*, Wall St. J., Nov. 25, 2022, at A13. Investors are attracted by potentially hefty returns that are not tied to economic or market conditions. *See, e.g.*, Matt Wirz, *The 26-Year-Old Dropout Lapping the Hedge-Fund Field*, Wall St. J., Apr. 26, 2022.

A December 2022 report by the U.S. Government Accountability Office (GAO) estimates that the amount of funds provided to clients by commercial litigation funders "more than doubled" between 2017 and 2021. *See* U.S. General Accounting Office, *Third-Party Litigation Financing: Market Characteristics, Data, and Trends*, GAO-23-105210, at 11 (Dec. 2022). GAO identified "47 active commercial litigation funders, and reported that they had a total of $12.4 billion in assets under management and had committed $2.8 billion to new litigation financing agreements in 2021." *Id.* at 11-12. Litigation finance investment could reach $31 billion by 2028. *See* Thomas Holzheu et al., *U.S. Litigation Funding and Social Inflation: The Rising Costs of Legal Liability*, at 8 (Swiss Re Inst. Dec. 2021); *see also* Mark Popolizio, *Third-party Litigation Funding in 2022—Three Issues for Your Radar*, Verisk (Jan. 31, 2022).

Florida permits TPLF arrangements, *see Kraft v. Mason*, 668 So. 2d 679 (Fla. 4th DCA 1996), and is an attractive state for funders because of its size and its settled case law. *See* Michael McDonald, *The Best and Worst States for Litigation Finance (Part II),* Above the Law (July 11, 2017). Florida's so-called "billboard attorneys" and "cottage industry of litigation," as described by Governor DeSantis,

also make the Sunshine State highly attractive to litigation funders. *See* Dan Scanlan, *DeSantis Announces Lawsuit Reforms to Fight 'Billboard Attorneys*,' Jacksonville Today, Feb. 14, 2023 (quoting Gov. DeSantis).

Boston University Law School Professor Maya Steinitz, one of the nation's leading experts on litigation and law firm finance, has observed that litigation funders are "reshaping every aspect of the litigation process—which cases get brought, how long they are pursued, when are they settled. But all of this is happening without transparency. So we have one of the three branches of government, the judiciary, that's really being quietly transformed." Leslie Stahl, *Litigation Funding: A Multibillion-dollar Industry for Investments in Lawsuits with Little Oversight*, 60 Minutes, Dec. 18, 2022).

Lewis & Clark Law School Professor Samir Parikh is "sounding the alarm on a surge of outside funding in mass tort cases." Roy Strom, *Private Equity Critic Sounds Alarm on Mass Tort Suit Investors*, Bloomberg L., June 22, 2023. Investors backing mass tort lawsuits "have the tools and leverage to control case outcomes," he says, and "there's nothing stopping private equity firms or other capital providers from commandeering mass tort cases to satisfy their

financial goals." *Id.* Professor Parikh believes "the ultimate effect will push victims further away from financial recovery." Samir Parikh, *Opaque Capital and Mass Tort Financing*, 133 Yale L.J. Forum, at 2 (forthcoming 2023).

Disclosure of TPLF arrangements is necessary so that courts and parties are aware when, behind the scenes, a third party may be influencing the litigation, driving up settlement demands, and complicating the ability to resolve cases. Recently, a dispute between food distributor Sysco Corp. and litigation funder Burford Capital exposed the funder actively working to prevent a funded client from settling claims. *See* Editorial, *The Litigation Finance Snare*, Wall St. J., Mar. 21, 2023; Hannah Albarazi, *When a Litigation Funder is Accused of Taking Over the Case*, Law360, Mar. 15, 2023. The dispute seemed to contradict public statements by Burford's CEO that funded parties are "free to run their litigations as they see fit." Stahl, *supra* (quoting Burford's CEO). Requiring disclosure of TPLF agreements will help mitigate outsized influence by strangers to the transaction or incident at the core of the litigation dispute.

The lack of disclosure of third party litigation funding may also hide when litigation is driven by an improper purpose, such as to

harass an individual, weaken a competitor, or another ulterior motive. A few high-profile cases have highlighted the potential for third party funders to sponsor litigation for purposes such as personal revenge or improper business tactics. *See* Anusheh Khoshima, *Malice Maintenance is "Running' Wild": A Demand for Disclosure of Third-Party Litigation Funding*, 83 Brook. L. Rev. 1029, 1056 (2018) ("Malice maintenance amplifies the legal and ethical concerns related to TPLF by empowering wealthy individuals to instigate and influence litigation for personal interests without consequences."). Requiring disclosure of TPLF agreements will help mitigate outsized influence by strangers to the transaction or incident at the core of the litigation dispute.

There is also a growing concern that foreign adversaries, such as China, may fund lawsuits in the United States to "weaken critical industries" or "obtain confidential materials through the discovery process." Kochan, Op-ed, *Keep Foreign Cash Out of U.S. Courts*, *supra*. A former chair of the U.S. House Armed Services Committee supports "[g]reater transparency measures in our courts," because "[t]he longer we wait to put a spotlight on litigation investment entities, the larger the threat grows. . . ." Howard "Buck" McKeon,

Some Third-Party Litigation Funders Pose a Threat to US Security, Bloomberg L., Apr. 7, 2023.

"[J]udges and parties need to know when and how TPLF is being used, so that appropriate steps can be taken to avoid conflicts of interest, to ensure compliance with ethical rules, and to protect the legitimate interests of all litigants." Letter from Hon. Bob Goodlatte, Chair, U.S. House of Representatives, Committee on the Judiciary, to Ms. Rebecca Womeldorf, Secretary of the Committee on Rules of Practice and Procedure of the Administrative Office of the U.S. Courts, Nov. 1, 2017, No. 17-CV-FFFFFF.

Courts might be more open to defendant requests for cost-shifting in discovery if they are aware that there is not a wide disparity in each side's ability to pay. Likewise, because TPLF cuts to the heart of a plaintiff's resources, disclosure is necessary to prevent courts from being misled as to the true facts of proportionality. A multi-million dollar hedge fund that is making a business decision to invest in a case for profit should not be entitled to the same producer-pays free ride as an impecunious citizen. Further, where sanctions are appropriate for misconduct, courts need to know about the

presence of a third-party in the litigation to determine how to impose sanctions or other costs.

Adoption of a disclosure rule is consistent with the clear trend toward transparency. *See* David H. Levitt with Francis H. Brown III, *Third Party Litigation Funding: Civil Justice and the Need for Transparency*, DRI Ctr. for L. & Pub. Pol'y, Third Party Litigation Funding Working Group, at 31-32 (2018). At the state level, Wisconsin and Montana have enacted laws to require commercial TPLF disclosure. *See* Wis. Code § 804.01(2)(bg) (2018); Mont. S.B. 269 (2023).

Florida should require disclosure of TPLF agreements. E.G.:

RULE 1.280. GENERAL PROVISIONS GOVERNING DISCOVERY

(~~b~~c) Scope of Discovery. Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) *In General*....

(2) *Indemnity Agreements*....

(3) *Third-party litigation funding agreements*. A party must, without awaiting a discovery request, provide to the other parties any agreement under which a person, other than an attorney permitted to charge a contingent fee representing a party, has a right to receive compensation that is contingent on and sourced from any proceeds of the civil action, by settlement, judgment, or otherwise. A party shall have a continuing duty to disclose any third-party litigation

funding agreement that has not been disclosed previously to the other parties.

[Renumber remaining sections]

Grant Continuances for Potential Overlapping Trials

The proposed amendment to Rule 1.460 (“Continuances”) does not fully account for the reality of mass tort and other multi-case litigation, which are frequently handled by the circuit courts of this state. Parties involved in such cases are often litigating cases in multiple counties at the same time, and even in different states.

Current Florida Rule of Civil Procedure 1.460 provides the parties and the courts with flexibility to prioritize cases and takes into account the schedules of parties and their counsel. This flexibility allows defendants to secure their counsel of choice for particular trials.

In contrast, proposed Rule 1.460 would create an unreasonably high bar for securing a continuance. Trial courts may interpret the proposed Rule’s statement that motions to continue trial are “disfavored and should rarely be granted,” as well as the spirit of the Rule, as effectively eliminating the court’s discretion and requiring judges to narrowly interpret the exception “for good cause shown.” Such interpretations would result in courts and parties losing their

ability to prioritize cases and manage multi-party/multi-jurisdictional litigation.

It is not unheard of for mass tort defendants to face multiple simultaneous trial settings in multiple jurisdictions. Under the new amendment, defendants could be forced to resolve claims without regard to their merits simply because they do not have a lawyer available to try the case on a date when it is set.

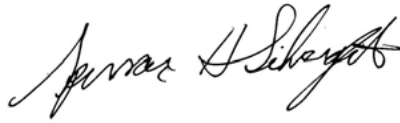
Some practical solutions to this issue include (1) leave Rule 1.460 as is, or (2) add additional language to the case management rules (Rules 1.200 and 1.201) to allow for trial settings that account for the lawyers' schedules, or (3) make clear that "good cause" exists to continue trial under proposed Florida Rule of Civil Procedure 1.460 if failure to reschedule would result in a defendant losing its right to be represented by chosen counsel or having to defend multiple trials simultaneously or close together.

Conclusion

We thank the Court for the opportunity to file this Comment.

Respectfully submitted this 2nd day of October, 2023.

Sincerely,



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APPENDIX: SUMMARY OF SIGNATORY ORGANIZATIONS

- **International Association of Defense Council (IADC).** The IADC has served a distinguished membership of corporate and insurance defense attorneys and insurance executives since 1920. The IADC is an invitation-only, peer-reviewed membership organization of the world's leading lawyers who primarily represent the interest of defendants in civil litigation. The IADC's substantive committees cover over twenty different areas of law.
- **DRI Center for Law and Public Policy.** The Center for Law and Public Policy ("the Center") is part of DRI, Inc. ("DRI"), the leading organization of civil defense attorneys and in-house counsel. Founded by DRI in 2012, the Center is the national policy arm of DRI. It acts as a think tank and serves as the public face of DRI. The Center undertakes in-depth studies on a variety of issues, such as class actions, judicial independence, climate change litigation, data privacy, legal system abuse, and artificial intelligence, and also advocates for meaningful changes to rules of civil procedure and evidence at both the state and federal level. Since its inception, the Center has been the voice of the civil defense bar on substantive issues of national importance.

- **Federation of Defense & Corporate Counsel (FDCC).** The FDCC is a not-for-profit corporation with national and international membership of over 1,500 defense and corporate counsel working in private practice or as in-house counsel, and as insurance claims representatives, including over 110 members in Florida.
- **Association of Defense Trial Attorneys (ADTA).** The ADTA is a select group of diverse and experienced civil defense trial attorneys whose mission is to improve their practices through collegial relationships, educational programs, and business referral opportunities, while maintaining the highest standards of professionalism and ethics.
- **Florida Chamber of Commerce.** Established in 1916 as Florida's first statewide business advocacy organization, the Florida Chamber of Commerce is the voice of business and the state's largest federation of employers, chambers of commerce and associations aggressively representing small and large businesses from every industry and every region. Consisting of more than 139,000 member businesses that employ more than three million workers in Florida, the Florida Chamber advocates among all

branches of government for policies necessary to secure Florida's future.

- **Associated Industries of Florida (AIF).** Known as "The Voice of Florida Business," AIF has represented the principles of prosperity and free enterprise before the three branches of state government since 1920. A voluntary association of diversified businesses, AIF was created to foster an economic climate in Florida conducive to the growth, development, and welfare of industry and business and the people of the state.
- **Florida Insurance Council (FIC).** FIC is a state trade association representing companies writing most lines of insurance.
- **American Tort Reform Association (ATRA).** ATRA is a broad-based coalition of businesses, corporations, municipalities, associations, and professional firms that have pooled their resources to promote the goal of ensuring fairness, balance, and predictability in civil litigation.
- **National Federation of Independent Business Small Business Legal Center, Inc.** The NFIB Legal Center is a nonprofit, public interest law firm established to provide legal resources and be the voice for small business in the nation's courts through

representation on issues of public interest affecting small businesses. It is an affiliate of the National Federation of Independent Business, Inc. (NFIB), which is the nation's leading small business association. NFIB's mission is to promote and protect the right of its members to own, operate and grow their businesses. NFIB represents, in Washington, D.C., and all fifty state capitals, the interests of its members.

- **American Property Casualty Insurance Association (APCIA).** APCIA is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in Florida, throughout the U.S., and across the globe.
- **National Association of Mutual Insurance Companies (NAMIC).** NAMIC consists of more than 1,500 member companies, including seven of the top ten property/casualty insurers in the United States. The association supports local and regional mutual insurance companies on main streets across America as well as

many of the country's largest national insurers. NAMIC member companies write $391 billion in annual premiums and represent sixty-eight percent of homeowners, fifty-six percent of automobile, and thirty-one percent of the business insurance markets. Through its advocacy programs NAMIC promotes public policy solutions that benefit member companies and the policyholders they serve and fosters greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies.

- **Coalition for Litigation Justice, Inc.** The Coalition is a nonprofit association formed by insurers in 2000 to address the litigation environment for asbestos and other toxic tort claims. The Coalition has filed nearly 200 *amicus* briefs in asbestos and other toxic tort cases, including cases before this Court. The Coalition includes Century Indemnity Company; Great American Insurance Company; Nationwide Indemnity Company; Allianz Reinsurance America, Inc.; Resolute Management, Inc., a third-party administrator for numerous insurers; and TIG Insurance Company.

- **Washington Legal Foundation (WLF).** The WLF is a nonprofit, public-interest law firm and policy center dedicated to defending the economic freedoms that are the bedrock of America's free-enterprise system. WLF supports efforts, in Florida and nationwide, to improve the resolution of civil cases.
- **Pharmaceutical Research and Manufacturers of America (PhRMA).** PhRMA represents the country's leading innovative biopharmaceutical research companies, which are devoted to discovering and developing medicines that enable patients to live longer, healthier and more productive lives. Over the last decade, PhRMA member companies have more than doubled their annual investment in the search for new treatments and cures, including nearly $101 billion in 2022 alone. PhRMA's mission is to advocate public policies that encourage the discovery of life-saving and life-enhancing medicines.
- **Alliance for Automotive Innovation.** From the manufacturers producing most vehicles sold in the U.S. to autonomous vehicle innovators to equipment suppliers, battery producers and semiconductor makers – Alliance for Automotive Innovation represents the full auto industry, a sector supporting 10 million

American jobs and five percent of the economy. Active in Washington, D.C. and all fifty states, the association is committed to a cleaner, safer and smarter personal transportation future.

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CERTIFICATE OF COMPLIANCE

I certify that this comment was prepared in Bookman Old Style 14-point font and complies with the font requirements in Florida Appellate Rule of Procedure 9.045.

/s/ Spencer H. Silverglate
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CERTIFICATE OF SERVICE

I certify that on October 2, 2023, the foregoing was filed via the Florida Courts E-Filing Portal with a copy sent by U.S. Mail to:

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