No. 26-50192

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

AMERICAN BEVERAGE ASSOCIATION; Consumer Brands Association; National Confectioners Association; Food Marketplace, Incorporated d/b/a FMI-The Food Industry Association,
Plaintiffs-Appellees,

v.

KEN PAXTON, Attorney General of the State of Texas,
Defendant-Appellant.

On Appeal from the United States District Court for the Western District of Texas, Case No. 25-566 (Albright, J.)

BRIEF OF WASHINGTON LEGAL FOUNDATION AS AMICUS CURIAE SUPPORTING APPELLEES AND AFFIRMANCE

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August 10, 2026

CERTIFICATE OF INTERESTED PERSONS

<u>Case No. 25-50192</u>
American Beverage Association, et al.,
v.
Ken Paxton

I certify that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in this case's outcome. These representations are made so that the judges of this Court may evaluate possible disqualification or recusal.

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August 10, 2026

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

Cases

Constitutional Provision

Statutory Provisions

INTEREST OF AMICUS CURIAE*

Washington Legal Foundation is a nonprofit, public-interest law firm and policy center with supporters nationwide. WLF promotes free enterprise, individual rights, limited government, and the rule of law. To advance that mission, it often appears as amicus curiae in the Supreme Court and this Court to oppose government efforts to unlawfully compel speech. *Moody v. NetChoice*, 603 U.S. 707 (2024); *R.J. Reynolds v. FDA*, 96 F.4th 863 (5th Cir. 2024).

INTRODUCTION AND SUMMARY OF ARGUMENT

Texas wants shoppers to "think twice" before buying food containing at least one of 44 ingredients. Paxton Br. 11, 28, 32; Tex. Health & Safety Code § 431.0815(a). So it insists that companies place a scary warning on certain products, alerting consumers that the food inside the package, bag, or tin "contains an ingredient that is not recommended for human consumption by the appropriate authority in Australia, Canada, the European Union, or the United Kingdom." Tex. Health & Safety Code § 431.0815(b). Manufacturers that refuse to follow

* No party's counsel authored any part of this brief. No one, apart from WLF and its counsel, contributed money intended to fund the brief's preparation or submission. All parties consented to the filing of this brief.

the State's regime face $50,000-a-day penalties and compensation—not to "injured" consumers, but to the State itself "for the reasonable value of investigating and bringing an enforcement action." *Id.* § 431.0816(b).

Texas hasn't undertaken an effort to show all 44 ingredients are hazards, and it doesn't rely on peer-reviewed science to make that case. Nor, other than a few ingredients that are already literally illegal to use in human food, ABA Br. at 7 n.2, does the State's list plausibly cover toxins. Yet it insists on this labeling. It doesn't take a rocket scientist—or a food one—to see what the State's doing. A reasonable consumer will read "not recommended for human consumption," think the package in her hand is banned abroad because it's deadly poison, and carefully place it back on the shelf.

On appeal, Texas plays cute. It doesn't see what the problem is. Its frightening labels merely say "not recommended," and that's to be taken literally, not seriously. By "not recommended for human consumption," Texas simply means that at least one of its preferred "aligned, sophisticated jurisdiction[s]" doesn't actively cheerlead for the ingredient. Paxton Br. 28. Technically correct, one supposes—but hardly the damning evidence of human health risk that Texas archly implies.

Like Mr. Zauderer's infamous ads touting that his clients wouldn't pay fees (while carefully omitting that clients carry costs), *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 652 (1985), the State's scary-label regime cobbles together facts that just don't add up to the truth.

Perhaps cognizant that there's no compelling governmental interest in forcing private companies to spout the State's deceptive wording, Texas insists that Plaintiffs-Appellees (ABA) don't have standing. But just last year this Court determined that a trade association could stand in the shoes of its members to bring a First Amendment challenge. *NetChoice v. Fitch*, 134 F.4th 799, 804–07 (5th Cir. 2025). What's more, litigation is protected by the Petition Clause, *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731, 741 (1983), and so another First Amendment right—freedom of association—forbids closing the courthouse door to Article III-injured companies just for filing through a trade group. *First Choice Women's Res. Ctrs. v. Davenport*, 146 S. Ct. 1114, 1122 (2026) (freedom of association bars government from reducing petition rights "to nothing more than the power to sign one's own name alone").

On the merits, the State asks for rational-basis review. No kidding—the laugh test can be met by abstract conjecture rather than concrete evidence of need. But the First Amendment is made of sterner stuff. "Mere conjecture" is *never* sufficient to "carry a First Amendment burden." *Nixon v. Shrink Mo. Gov't PAC,* 528 U.S. 377, 392 (2000) (capitalization altered). The State's misunderstanding to the contrary seems at least partially sourced in its reliance on *Zauderer*, as refracted through this Court's decision in *R.J. Reynolds Tobacco Company v. FDA*. Paxton Br. 23–29.

ABA wins even under *Reynolds*'s misreading of *Zauderer*. ABA Br. 34–38. But *Reynolds* relies, in relevant part, on a vacated Fifth Circuit decision and shouldn't be extended in this case. Properly understood, *Zauderer* is a more relaxed form of a judicial review (albeit not as lenient as rational basis), but that laxity is sharply limited: the government may easily redline a misleading ad only to combat "self-evident" fraud. *Zauderer*, 471 U.S. at 652. This "less exacting scrutiny," *Milavetz, Gallop & Milavetz, P.A. v. United States*, 559 U.S. 229, 249 (2010), has no purchase when the government mandates deceptive scripts to deter a commercial transaction. Such a plainly "controversial" demand yanks Texas's labeling regime from *Zauderer*'s limited reach. *See Zauderer*, 471

U.S. at 651 (even anti-fraud disclaimers must survive heightened review unless the disclosure is "factual and uncontroversial").

That means either strict or exacting scrutiny applies. And while that question is doctrinally important (and the district court got it right), it's academic to this case's outcome. Under either standard, Texas's law must fall. Spotting the State a substantial interest, Texas has a wide variety of non-speech-compelling tools to preach about the alleged harms caused by items on its naughty-ingredient list. It may educate. It may tax. It may even ban. Any or all of those options may be bad policy or politically hard to accomplish, but none trespass on a company's "right to refrain from speaking." *Wooley v. Maynard*, 430 U.S. 705, 714 (1977). Since that's so, the State's scary-labeling regime must fall under any form of elevated First Amendment review.

ARGUMENT

I. THE FIRST AMENDMENT FAVORS ASSOCIATIONAL STANDING.

Texas argues that ABA lacks standing. Paxton Br. 14–17. But ABA's properly before the Court for the same reasons that NetChoice, a similarly structured trade association, was last year. *Fitch*, 134 F.4th at 804–07; *cf.* ABA Br. 19 ("[P]laintiffs' associational standing to bring this suit on behalf of their members is self-evident") (*see* citing *Ctr. for Biological Diversity v. EPA*, 937 F.3d 533, 542 n.4 (5th Cir. 2019)). Like NetChoice, ABA's "individual members would have standing to bring the suit," "the association seeks to vindicate interests germane to its purpose," and "neither the claim asserted nor the relief requested requires the individual members' participation." *Fitch*, 134 F.4th at 804; *see also NAACP v. Alabama*, 357 U.S. 449, 459 (1958) ("If [NAACP's] rank-and-file members are constitutionally entitled to withhold their connection with the Association . . . it is manifest that this right is properly assertable by the Association"). There's no need to force every member of each trade association plaintiff to clog the federal docket with virtually identical complaints to ensure all Article III-injured parties get complete relief.

But there's more. Litigating a claim in the federal courts is covered by the Petition Clause. *Bill Johnson's Restaurants*, 461 U.S. at 741. And First Amendment freedom of association precludes the government from shrinking "the right to petition" down "to nothing more than the power to sign one's own name alone." *First Choice*, 146 S. Ct. at 1122. Groups like ABA have long been permitted to bring complaints as a "collective effort"—not simply as a mere measure of judicial efficiency, but in recognition of associational freedom. *See NAACP*, 357 U.S. at 463.

That's why the Supreme Court and this Court regularly bless associational standing. *Fitch*, 134 F.4th at 804–07; *see also Sec'y of State of Md. v. Joseph H. Munson Co.*, 467 U.S. 947, 956–59 (1984); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248, 1252 (5th Cir. 1995) ("[A] business . . . may properly assert its employees' or customers' First Amendment rights where the violation of those rights adversely affects the financial interests or patronage of the business"). Sure, those cases can be hair-split from this one (ABA isn't bringing a traditional overbreadth case), but that shouldn't unsettle the general rule that standing is easily found when the First Amendment is at stake. *See Virginia v. Am. Booksellers Ass'n*, 484 U.S. 383, 392–93 (1988). At minimum, those cases ensure that if something of doubt remains as to ABA's standing, in this First Amendment context as in others, *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 474 (2007) (Roberts, C.J., controlling), that doubt resolves in the most First Amendment friendly fashion. *See Fitch*, 134 F.4th at 807 (collecting cases). ABA is rightfully before the Court.

II. THIS ISN'T A *ZAUDERER* CASE.

A. The State's understanding of Zauderer *rests on a vacated decision.*

Texas asks that its deceptive scripts receive the lightest touch of judicial review, Paxton Br. 28, "the minimum constitutional standard that *all* legislation"—even that which risks no constitutional injury—"must satisfy." *Free Speech Coal., Inc. v. Paxton*, 606 U.S. 461, 471 (2025) (emphasis supplied). And no wonder the State would like that, given how little effort it has put into proving the statute's full list of disfavored ingredients cause human harm. Under rational basis, "a legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data." *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 315 (1993). But "mere conjecture" is "*never* . . . adequate to carry a First Amendment burden." *Nixon*, 528 U.S. at 392 (emphasis supplied).

Undaunted, Texas insists its conjecture slips by via *Zauderer*, so long as its compulsory scripts are "factual and uncontroversial." Not so. *Zauderer* may be a "less exacting scrutiny"—but it's not the laugh test. *Milavetz*, 559 U.S. at 249. For example, applying *Zauderer*, the Ninth Circuit rejected a commercial disclaimer that took up 20 percent of an ad, when the government's own evidence suggested it need not go beyond 10 percent to successfully make its point. *Am. Bev. Ass'n v. City & County of San Francisco*, 916 F.3d 749, 757 (9th Cir. 2019). True rational-basis review doesn't insist on tailoring. *Zauderer* does.

The State's misunderstanding of *Zauderer* likely sources to *R.J. Reynolds v. FDA*, which its brief cites as support for the argument that unless a compelled-speech regime "fall[s] within 'a national political debate'" the government's hijacking of private speech for public purposes becomes sufficiently uncontroversial to be waved through. Paxton Br. 23 (quoting *Reynolds*, 96 F.4th at 882). As ABA's brief notes, the debate over proper nutrition is a robust and loud one—suffused with political controversy from literal soup to nuts. ABA Br. 37. And *Reynolds* was a tobacco case, where the direct link between product use and deadly cancer has long been conclusively established and accepted by even the noisiest participants in America's political debate. So even under *Reynolds*, the State's case crumbles and ABA should prevail.

That said, *Reynolds*'s understanding of controversiality shouldn't be extended here. *Reynolds* relies on vacated caselaw. It's true, of course, that the Court—breaking new ground in this circuit—held that compelled speech is "uncontroversial" when the imposition is generally truthful and "the inherent nature of the subject" does not "raise[] a live, contentious political dispute." 96 F.4th at 881. That portion of the opinion directly relies on just two cases—*National Institute of Family and Life Advocates v. Becerra*, 585 U.S. 755 (2018) (*NIFLA*) and *NetChoice v. Paxton*. But while *NIFLA* determined that "*Zauderer* ha[d] no application" when governments compel speech that sides with a state's position on abortion, it hardly limited the zone of controversiality to similarly divisive political questions. 585 U.S. at 768–69.

That means *Reynolds*'s narrow test for controversiality is carried by *Paxton*. 96 F.4th at 881. Let's review the relevant analysis:

> In *NIFLA*, the Court found that the abortion-services notifications were controversial, 585 U.S. at 769, 138 S. Ct. 2361, but, in *NetChoice*, we found that disclosures of social media censorship decisions were not controversial, 49 F.4th at 485. From these disparate results, we distill the following: A factual statement is "controversial" under *Zauderer* where the truth of the statement is not settled or is overwhelmingly disproven or where the inherent nature of the subject raises a live, contentious political dispute. In other words, that the speaker does not like the message does not make it controversial; there must be something more. *See Chamber of Commerce*, 85 F.4th at 770 (weighing the level of political controversy) . . . if mere connection to a live, contentious, political issue sufficed, NetChoice would have prevailed.

Id. That's really it. Sure, some caselaw, including a pre-*Zauderer* opinion, is *see* cited without commentary in a footnote. *Reynolds*, 96 F.4th at 881 n.57 (*see* citing *Consol. Edison Co. of N.Y. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 530, 535 (1980); *Pac. Gas & Elec. Co. v. Pub. Utils. Comm'n*, 475 U.S. 1, 8–9 (1986); *Nat'l Ass'n of Wheat Growers v. Bonta*, 85 F.4th 1263, 1277–78 (9th Cir. 2023)). As for the Court's unadorned *see* citation to *Chamber of Commerce v. SEC*, 85 F.4th 760 (5th Cir. 2023)—another case Texas relies on, Paxton Br. 27—that's a case this Court correctly characterized as merely "[a]pplying *Zauderer* and *NetChoice* [*v. Paxton*]." 96 F.4th at 877 (citing *Chamber of Com.*, 85 F.4th at 768–72); *Chamber of Com.*, 85 F.4th at 770 (argument on controversiality "foreclosed by *NetChoice*"). The *Reynolds* Court's novel "uncontroversial" standard—and subsequent order to reverse the district court—hinged solely on *Paxton*. 96 F.4th at 881–82 (applying *Paxton*-reliant standard).

But *Paxton* has been vacated, *Moody*, 603 U.S. at 726, and is no longer good law. *O'Connor v. Donaldson*, 422 U.S. 563, 577 n.12 (1975) (Supreme Court "decision vacating the judgment of the Court of Appeals deprives that court's opinion of precedential effect"). The *Reynolds* Court could not have foreseen this, of course. *Reynolds* was handed down on

March 21, 2024, and a petition for rehearing en banc was denied on May 21, 2024. ECF No. 162, *R.J. Reynolds v. FDA*, Case No. 23-40076 (5th Cir.). *Moody* vacated *Paxton* on July 1, 2024. In doing so, the Supreme Court imploded *Reynolds*'s foundation. If *Zauderer*'s relevant at all here, *Moody*'s vacatur counsels in favor of taking a fresh look at what counts as "*Zauderer*-controversial," not extending *Reynolds* one step further.

B. When compelled speech seeks to countermand a proposed commercial transaction, the government's script is controversial.

Let's go back to the original case—*Zauderer* "did not appear *ex nihilo*, nor can its analysis be read *in vacuo*." *Am. Meat Inst. v. U.S. Dep't of Agric.*, 760 F.3d 18, 38 (D.C. Cir. 2014) (Brown, J., dissenting). Recall that Philip Q. Zauderer was a deceiver. A lawyer working on contingency, Mr. Zauderer wished to distribute ads that promised "'[i]f there is no recovery, no legal fees are owed by our clients.'" *Zauderer*, 471 U.S. at 631. But Zauderer didn't wish to inform his audience "that the client may have to bear certain expenses"—namely, costs. *Id*. at 650. So his commercial advertisements courted a "self-evident" risk of fraud or deception. *Id*. at 652. A lay consumer might consider a "no fees" ad as a pitch for genuinely free-if-you-lose-your-case legal services—then be suckered into signing a pay-costs-no-matter-what contract. The Supreme

Court ruled that if Ohio wasn't going to ban Zauderer's deceptive speech, the State could certainly redline it to make it truthful and clarify that clients may have to pay.

Because his speech was deceptive or fraudulent, Ohio likely could have prohibited Mr. Zauderer's commercials outright. But out of an abundance of constitutional caution, the Supreme Court decided that a disclaimer requirement worked against unscrupulousness while still letting the man speak. *Wis. Right to Life*, 551 U.S. at 474 (Roberts, C.J., controlling) ("Where the First Amendment is implicated, the tie goes to the speaker, not the censor"). Correcting for Zauderer's deception with a "'narrowly drawn'" disclaimer, *Cent. Hudson*, 447 U.S. at 565 (quoting *In re Primus*, 436 U.S. 412, 438 (1978)), was simply a less restrictive means of furthering the government's ancient interest in clearing fraud from the marketplace. *See Ibanez v. Fla. Dep't of Bus. & Prof. Regul., Bd. of Accountancy*, 512 U.S. 136, 146 (1994) (*Zauderer* is "an appropriately tailored check against deception or confusion").

So the *Zauderer* Court's note that the State could append only "factual and uncontroversial information" to Mr. Zauderer's speech was a limiting instruction to the government, not an open invitation to force whatever it wants—let alone insist on misleading spin. 471 U.S. at 651. Ohio could instruct Mr. Zauderer to disclose that clients would pay costs, if not fees. But the State couldn't also compel him to parrot the government's broader views. *NIFLA*, 585 U.S. 768–69 ("*Zauderer* has no application" where the government goes beyond providing "'information about the terms under which [goods or] services will be available'") (quoting *Zauderer*, 471 U.S. at 651) (ellipses omitted).

So a compelled-speech regime slips out of *Zauderer*'s grasp the minute the government moves from correcting for fraud to correcting consumer behavior—trying to "make [shoppers] think twice before purchasing the product." Paxton Br. 28. Since that's precisely what Texas is doing, its scheme is "*Zauderer*-controversial" and must face rigorous constitutional review.

III. TEXAS'S REGIME CAN'T SURVIVE ANY FORM OF HEIGHTENED SCRUTINY.

Strict scrutiny applies whenever a government "target[s] speech based on its communicative content . . . the topic discussed or the idea or message expressed." *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015). All food packaging is designed to express a single message: please buy this product. And Texas has conceded that its law is designed to contradict that message. Paxton Br. 28. This is a strict scrutiny case.

Yes, that standard applies even if the State's compelled-speech regime targets businesses. *Contra id.* at 18 (insisting that "[m]ore forgiving standards apply to laws regulating *commercial* speech") (emphasis in original). Sure, *Central Hudson*—the foundational case in this area—doesn't use the term "strict scrutiny" to describe its form of judicial review. But it didn't call it an "intermediate" test, either. Only two concurring justices did so. *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557, 573 (1980) (Blackmun and Brennan, JJ., concurring). The majority opinion doesn't really use the familiar language of the modern tiers-of-scrutiny—which were still somewhat in flux in 1980—but it does say that "the First Amendment mandates that speech restrictions be 'narrowly drawn,'" *id.* at 565 (citation omitted), and infringements must be "no more extensive than necessary to further the State's interest." *Id.* at 569–70. And in describing its "four-step analysis for commercial speech," *id.* at 566, the *Central Hudson* Court referred to *First National Bank of Boston v. Bellotti*, 435 U.S. 765 (1978), a strict scrutiny case striking down a ban on political speech, and *Carey v.*

Population Services International, 431 U.S. 678 (1977), which held that commercial speech about contraceptives could be restricted only when doing so furthered "a compelling state interest"—classic strict-scrutiny talk. *Id*. at 690.

In short, there's real "artificiality" to insisting on "a rigid, commercial/noncommercial distinction" when it comes to whether strict scrutiny applies to a state law. *Rubin v. Coors Brewing Co.*, 514 U.S. 476, 494 (1995) (Stevens, J., concurring). After all, in the right circumstances, a "'consumer's concern for the free flow of commercial speech may often be far keener than [her] concern for urgent political dialogue.'" *Sorrell v. IMS Health Inc.*, 564 U.S. 552, 566 (2011) (quoting *Bates v. State Bar of Ariz.*, 433 U.S. 350, 364 (1977)). Just this past Term, the Supreme Court applied strict scrutiny to Colorado's misbegotten effort to force talk therapists to recite state preferences. The fact that Kaley Chiles's speech was delivered as a result of a commercial transaction—she practiced therapy as a paid vocation, not a volunteer avocation—didn't stop eight justices from holding that the State couldn't "command [her] tongue" any more than it could "silence [her] voice." *Chiles v. Salazar*, 146 S. Ct. 1010, 1021 (2026) (pluralization altered).

That's not to say that *Central Hudson* review always rises to strict scrutiny. It doesn't. *Students Engaged in Advancing Tex. v. Paxton*, 177 F.4th 665, 669 (5th Cir. 2026) (describing *Central Hudson* as "intermediate scrutiny"). But, as in other First Amendment contexts, "[t]he quantum of empirical evidence needed to satisfy heightened judicial scrutiny of legislative judgments will vary up or down with the novelty and plausibility of the justification raised." *Nixon*, 528 U.S. at 391. The more the government wants and the more implausible that ask, *Central Hudson* review ratchets—all the way to strict scrutiny in the right case.

Here, the State demands something novel and justifies it quite implausibly. Texas is compelling speech not to report the State's own science, but to darkly (and misleadingly) imply that "an aligned, sophisticated jurisdiction," Paxton Br. 28, thinks an ingredient kills. The State's scary label—*not recommended for human consumption*—doesn't apply solely to ingredients that the Canadians ban or the British discourage, but to substances that these sophisticated foreigners just aren't terribly enthusiastic about. *Id.* at 25 (conceding an ingredient may be listed because a single covered jurisdiction demonstrates "agnosticism, indifference, or inaction" about it). Texas's concession is a fatal admission that its regime is less a bog-standard health-and-safety one than a kind of noble deception—an effort to trick consumers into using ingredients the State is sure are bad, even if it can't prove it.

Even assuming that hoodwinking the public this way could possibly be a compelling state interest, the State has plenty of non-speech-compelling weapons at hand to spread its spin. It could carry out education campaigns, hike taxes on foods with disfavored substances, or even ban the sale of products using covered ingredients. *See Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 391 (2023). Those measures are all less-restrictive means of completing the State's mission without forcing companies to mislead consumers on the State's behalf.

Nor does Texas fare any better if we lower the bar. Let's spot the State the least-intensive form of *Central Hudson* review that the Supreme Court allows. When it comes to compelled disclosures, that's exacting scrutiny. *Cf. Ams. for Prosperity Found. v. Bonta*, 594 U.S. 595, 609 (2021) (Roberts, C.J., controlling) ("Regardless of the type of association, compelled disclosure requirements are reviewed under exacting scrutiny"). Under exacting scrutiny, the State still must do the demanding work of proving that its mandate is narrowly tailored to directly advance a substantial interest. *Cent. Hudson*, 447 U.S. at 564.

Let's reduce the burden on the State further still, and grant Texas a substantial health-and-safety interest in scaring its citizens straight into the government's preferred diet. The same options—education campaigns, taxes, and bans—are still available. None of these approaches infringe on the First Amendment "right to refrain from speaking," *Wooley*, 430 U.S. at 714, and all of them would directly advance the State's concerns. No doubt, these alternatives might be politically difficult to accomplish. But hard work for the legislature is no excuse for softening liberty—and no hall pass from the Constitution's insistence that laws compelling speech be narrowly tailored.

The First Amendment "was designed to fence in the government and make its intrusions on liberty difficult and its interference with freedom of expression well-nigh impossible." *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, 72–73 (1963) (Douglas, J., concurring) (tense and capitalization altered). That puts the onus on censors and speech-compellers to show their work. Texas refuses to connect the dots and insists its deceptive literalism clears the constitutional bar. But "[t]he

First Amendment is no word game. And the rights it protects cannot be" extinguished because a state legislature wrote a clever label. *Chiles*, 146 S. Ct. at 1023.

CONCLUSION

Texas can't force companies to carry scary, deceptive labels on disfavored food products because it believes—rather than knows—something inside the package is bad for you. This Court should affirm.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limits of Federal Rule of Appellate Procedure 29(a)(5) because it contains 3,983 words, excluding the parts exempted by Federal Rule of Appellate Procedure 32(f).

I also certify that this brief complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 32(a)(5) and (6) because it uses 14-point Century Schoolbook font.

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August 10, 2026

CERTIFICATE OF SERVICE

I hereby certify that, on August 10, 2026, I served all counsel of record via the Court's CM/ECF system.

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