No. 22-CV-0657

IN THE DISTRICT OF COLUMBIA COURT OF APPEALS

DISTRICT OF COLUMBIA,

Plaintiff-Appellant,

v.

AMAZON.COM, INC.

Defendant-Appellee

ON APPEAL FROM THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

BRIEF FOR THE COMMITTEE TO SUPPORT THE ANTITRUST LAWS AS *AMICUS CURIAE* IN SUPPORT OF PLAINTIFF-APPELLANT

VICTORIA SIMS
CUNEO GILBERT & LADUCA
4725 WISCONSIN AVENUE NW, SUITE 200
WASHINGTON, DC 20016
PHONE: (202) 789-3960

January 30, 2023
Attorney for Amicus Curiae the Committee to Support the Antitrust Laws

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Other Authorities

Rules

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Rules of the District of Columbia Court of Appeals, the Committee to Support the Antitrust Laws states that it is a nonprofit corporation, and no entity has any ownership interest in it.

INTEREST OF AMICUS

Since its founding in 1986, the Committee to Support the Antitrust Laws ("COSAL")[1] has been an independent, nonprofit corporation devoted to preventing, remediating, and deterring anticompetitive conduct. *See* COSAL, https://www.cosal.org/about. COSAL advocates for the enactment, preservation, and enforcement of a strong body of antitrust laws, which it accomplishes through legislative efforts, public policy debates, and by serving as *amicus curiae*.

Our nation has witnessed an unprecedented concentration of market power among large technology platforms—among them, Appellee Amazon.com, Inc. ("Amazon")—that are omnipresent in everyday Americans' lives. At times, the application of existing antitrust laws to emerging technologies can be complex, but not in this instance; Appellant's claims against Amazon are straightforward and well recognized.

In refusing to allow Appellant's case against Amazon to proceed, the Superior Court committed legal error and applied the wrong standard in evaluating Amazon's motion to dismiss, requiring the District of Columbia to plead facts—specifically, naming third-party and first-party sellers that had been Amazon's direct counterparts

[1] All parties consent to the filing of this brief. Amicus COSAL states that no counsel for any party has authored this brief in whole or in part and no party, party's counsel, or any other person or entity—other than COSAL—has contributed money to fund its preparation or submission.

in its scheme to eliminate competition—that are in no way required to survive a motion to dismiss.

In addition, as many courts have recognized, entities with the most direct relationship with an antitrust violator are rightly afraid to sue or otherwise come forward because they do not want to risk a critical relationship. If this ruling is allowed to stand and courts require a plaintiff to specifically name such entities in a complaint, they will be deterred from coming forward and antitrust enforcement will be chilled.

INTRODUCTION

This case presents the question of whether the Superior Court erred in concluding that, in the absence of allegations specifically naming the third-party sellers and first-party sellers that had been Amazon's direct counterparts in its scheme to eliminate competition in the online sales market through the use of Most-Favored Nations clauses, the District of Columbia's complaint was not sufficiently plausible to survive a motion to dismiss under the standard set forth in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). Amicus curiae COSAL respectfully submits that the identification of specific third-party sellers or first-party sellers is not necessary to render the District of Columbia's claims plausible, and that the Superior Court's decision, should it be permitted to stand, will jeopardize both public and private enforcement efforts against powerful monopolists like Amazon, whose

sellers avoid confrontations with Amazon at all costs, out of fear for their livelihoods. Amicus curiae COSAL respectfully requests that this panel reverse the Superior Court's dismissal of the District of Columbia's complaint and its denial of the District's Motion for Reconsideration.

SUMMARY OF ARGUMENT

This Court has interpreted Superior Court Rule 8(a) to include the plausibility standard articulated for Federal Rule of Civil Procedure 8(a) in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). *See Potomac Dev. Corp. v. D.C.*, 28 A.3d 531, 544 (D.C. 2011). Under this standard, a complaint is sufficiently plausible to survive a motion to dismiss if it contains "sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Scott v. FedChoice Fed. Credit Union*, 274 A.3d 318, 322 (D.C. 2022). "All that is required for a complaint to be sufficient is 'a short and plain statement of the claim showing that the pleader is entitled to relief.'" *Id*. Courts "construe the complaint in the light most favorable to the plaintiff by taking the facts alleged in the complaint as true." *Id.* (footnotes omitted).

The Superior Court's dismissal of the District of Columbia's Complaint against Amazon, based in part on the fact that it did not name the first- and third-party sellers who were the direct victims of Amazon's conduct, was improper because this level of specificity is not required to meet the plausibility standard. The dismissal of the District of Columbia's complaint and the denial of the District of

Columbia's motion for reconsideration should be reversed, and this case should be remanded.

ARGUMENT

The Superior Court committed reversible error when it found that the District of Columbia's decision not to identify specific third-party or first-party sellers necessarily rendered its claims implausible, even where the District had specifically alleged the contents of uniform written pricing agreements that have the effect of raising prices for consumers. *See* Order at 12, *District of Columbia v. Amazon.com, Inc.*, No. 2021 CA 001775 B (D.C. Super. Ct. Aug. 1, 2022) (JA 372).

Under Rule 8, "[t]he plaintiff is not required . . . to include 'detailed factual allegations.'" *Close It! Title Servs., Inc. v. Nadel*, 248 A.3d 132, 138 (D.C. 2021) (footnote omitted). Rather, the complaint "need only give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (internal quotation marks and citations omitted); *see Aktieselskabet AF 21. Nov. 2001 v. Fame Jeans Inc.*, 525 F.3d 8, 16 (D.C. Cir. 2008) ("Rule 8 requires, not a specific quantity of facts, but simply a short and plain statement of the claim showing that the pleader is entitled to relief.") (internal quotation marks and citations omitted); *Young v. D.C. Hous. Auth.*, 31 F. Supp. 3d 90, 100 (D.D.C. 2014) ("A complaint needs to plead only enough facts to [nudge] a

claim to relief . . . across the line from conceivable to plausible[.]") (internal quotation marks omitted) (quoting *Twombly*, 550 U.S. at 570)).

Antitrust claims are not subject to a heightened pleading standard. They are "subject only to the notice pleading requirements of Rule 8 of the Federal Rules of Civil Procedure." *Jung v. Ass'n of Am. Med. Colleges*, 300 F. Supp. 2d 119, 159 (D.D.C. 2004). "*Twombly* . . . expressly rejected the notion that a heightened pleading standard applies in antitrust cases, and *Iqbal* made clear that Rule 8's pleading standard applies with the same level of rigor in all civil actions." *W. Penn Allegheny Health Sys., Inc. v. UPMC*, 627 F.3d 85, 98 (3d Cir. 2010) (internal quotation marks and citations omitted); *see Oxbow Carbon & Mins. LLC v. Union Pac. R.R. Co.*, 81 F. Supp. 3d 1, 12 (D.D.C. 2015) (*Twombly* did not impose heightened pleading requirement in antitrust cases); *Sprint Nextel Corp. v. AT & T Inc.*, 821 F. Supp. 2d 308, 315 (D.D.C. 2011); *City of Moundridge v. Exxon Mobil Corp.*, 250 F.R.D. 1, 3 (D.D.C. 2008).

Neither Rule 8 nor the cases applying it distinguish between public and private enforcers. The operative pleading standard is the same for government enforcers, who may have access to pre-suit investigative tools such as civil investigative demands, and for private plaintiffs, who do not have such tools. *See* Stephanie Bornstein, *Public-Private Co-Enforcement Litigation*, 104 Minn. L. Rev. 811, 877 (2019). One reason Rule 8 does not require plaintiffs to include detailed

factual allegations in their complaints is that before obtaining discovery, most non-governmental plaintiffs have access to only limited information. *See Runnion ex rel. Runnion v. Girl Scouts of Greater Chicago & Nw. Indiana*, 786 F.3d 510, 529 (7th Cir. 2015) ("We cannot expect, nor does Federal Rule of Civil Procedure 8 require, a plaintiff to plead information she could not access without discovery."); *Robertson v. Sea Pines Real Est. Companies, Inc.*, 679 F.3d 278, 291 (4th Cir. 2012) ("The requirement of nonconclusory factual detail at the pleading stage is tempered by the recognition that a plaintiff may only have so much information at his disposal at the outset."). Rule 8 does not apply different standards to different types of plaintiffs, based on whether the plaintiff might have certain pre-suit investigative tools at its disposal. But the Superior Court read the universally applicable Rule 8 standard to require a level of detail that, in most instances, private plaintiffs simply cannot satisfy.

The risk of erroneously applying a heightened pleading standard to claims governed under Rule 8 is especially acute in antitrust cases, or others where "a material part of the information needed is likely to be within the defendant's control," and where plaintiffs therefore cannot be expected to plead certain details in their complaints. *See Garcia-Catalan v. United States*, 734 F.3d 100, 104 (1st Cir. 2013). Thus, "dismissal procedures should be used sparingly in complex antitrust litigation until the plaintiff is given ample opportunity for discovery." *2301 M*

Cinema LLC v. Silver Cinemas Acquisition Co., 342 F. Supp. 3d 126, 131 (D.D.C. 2018) (internal quotation marks and citation omitted). By contrast, the Superior Court's emphasis on the lack of certain specific details in the District of Columbia's complaint not only improperly applies a higher standard than that required under Rule 8, but also that heightened standard is one that courts have repeatedly rejected specifically because it would be so onerous for most plaintiffs to satisfy without discovery.

I. The Court erred in holding that not naming specific third-party sellers and first-party sellers rendered the complaint implausible.

The lower court erred in finding the District of Columbia's complaint insufficient because it did not name specific third-party sellers and first-party sellers. Plaintiffs are not required to allege their claims with this level of particularity. In order to state a claim for unlawful restraint of trade, under D.C. Code § 28-4502**Error! Bookmark not defined.**, a plaintiff must allege only "(1) that defendants entered into some agreement for concerted activity (2) that either did or was intended to unreasonably restrict trade in the relevant market, which (3) affects interstate commerce." *Asa Accugrade, Inc. v. Am. Numismatic Ass'n*, 370 F. Supp. 2d 213, 215 (D.D.C. 2005). Plaintiffs are "not required to mention a specific time, place or person involved in each conspiracy allegation." *Starr v. Sony BMG Music Ent.*, 592 F.3d 314, 325 (2d Cir. 2010);**Error! Bookmark not defined.** *see Milliken & Co. v. CNA Holdings, Inc*., No. 3:08-CV-578, 2011 WL 3444013, at *5

(W.D.N.C. Aug. 8, 2011) ("Even when a Plaintiff does not answer all of the specific questions about 'who, what, when and where,' a Plaintiff can still survive a motion to dismiss.") (internal citation omitted).

Specifically, it is not necessary to name all conspirators in order to plausibly plead a claim for unlawful restraint of trade. For example, in *Sonterra Capital Master Fund Ltd. v. Credit Suisse Group AG*, 277 F. Supp. 3d 521, 556 (S.D.N.Y. 2017), the court held that allegations of collusion with an unidentified bank were sufficient to state a claim for conspiracy against a named defendant. Other courts have held that a plaintiff need not name all co-conspirators in its complaint. *See William Inglis & Sons Baking Co. v. ITT Cont'l Baking Co.*, 668 F.2d 1014, 1053 (9th Cir. 1981); *In re TFT-LCD (Flat Panel) Antitrust Litig.*, No. 3:10-CV-03205 SI, 2014 WL 3029634, at *2 (N.D. Cal. July 3, 2014) ("A plaintiff alleging a conspiracy need not name all alleged coconspirators in its complaint. Instead, a plaintiff need only provide a defendant with adequate notice of any claimed coconspirators either through its complaint, or through its discovery responses, such that a defendant is not prejudiced.") (internal citation omitted); *Int'l Constr. Prod., LLC v. Caterpillar Inc.*, No. CV 15-108-RGA, 2022 WL 4465376, at *25 (D. Del. Sept. 26, 2022) ("[T]here is no requirement that ICP join each coconspirator as a defendant, nor that ICP specifically name each coconspirator as a coconspirator in its complaint.").

This approach is not limited to antitrust cases. In other types of cases, this Court has recognized that the specific names of individuals involved are not needed to plausibly state a claim. *See Close It!*, 248 A.3d at 141 (holding that that where plaintiffs alleged tortious interference with business relations, the trial court erred in dismissing their claims because they did not "allege the exact business or contractual relationships that were supposedly damaged by the statements"); *Williams v. D.C.*, 9 A.3d 484, 491-93 (D.C. 2010) (reversing dismissal of a defamation claim that did not name the person who made the statement and holding that plaintiff's claim should not be "foreclosed before any discovery has been conducted"); *see also Freeman v. Giuliani*, No. CV 21-3354 (BAH), 2022 WL 16551323, at *11 n.6 (D.D.C. Oct. 31, 2022) (noting plaintiff need not name all co-conspirators in complaint alleging civil conspiracy); *Young v. D.C. Hous. Auth*., 31 F. Supp. 3d 90, 99 (D.D.C. 2014) (rejecting argument that complaint by Deaf–REACH alleging that the D.C. Housing Authority (DCHA) failed to make its programs accessible to people with hearing disabilities should be dismissed because it did not contain "any factual statements explaining who [plaintiff] has helped navigate DCHA's services; who at DCHA [plaintiff] has contacted regarding those services; the nature and purpose of those contacts; when these interactions occurred," and other facts); *Arnold v. Moore*, 980 F. Supp. 28, 37 (D.D.C. 1997) (denying motion to dismiss

excessive force claims where complaint did not name or identify officers who allegedly beat plaintiff and noting "[t]he plaintiff has had no discovery in this case").

One reason this level of specificity is not required at the pleading stage is that "[t]he federal rules contemplate that the process of defining and narrowing the issues raised in the pleadings will be accomplished through discovery and other pretrial procedures." *William Inglis & Sons**Error! Bookmark not defined.***, 668 F.2d at 1053; *see In re Libor-Based Fin. Instruments Antitrust Litig.*, No. 11 MDL 2262 NRB, 2015 WL 4634541, at *39 (S.D.N.Y. Aug. 4, 2015) (suggesting co-conspirator could be identified through discovery), *amended sub nom. In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11 MDL 2262 (NRB), 2015 WL 13122396 (S.D.N.Y. Oct. 19, 2015).

Here, in finding that the lack of specific names rendered the District's complaint inadequate, the Superior Court noted that it did not contain the same "detailed factual allegations" that were in the complaint in *Frame-Wilson v. Amazon.com, Inc.*, 591 F. Supp. 3d 975 (W.D. Wash. 2022), *reconsideration denied*, No. 2:20-CV-00424-RAJ, 2022 WL 4240826 (W.D. Wash. Aug. 2, 2022). *See* Superior Ct. Op. at 14 (JA 374). However, the court in *Frame-Wilson* did not rely on these allegations in denying Amazon's motion to dismiss, and it certainly did not hold that such detail was *necessary* in order for the complaint to state a claim. To the contrary, the court stated allegations that "a 'relevant market' exists and that the

defendant has power within that market" "need not be pled with specificity." *Frame-Wilson*, 591 F. Supp. 3d at 989; *see Close It!*, 248 A.3d at 138 ("The plaintiff is not required . . . to include 'detailed factual allegations.'") (footnote omitted); *see also United States ex rel. Owsley v. Fazzi Assocs., Inc*., 16 F.4th 192, 197 (6th Cir. 2021) (explaining plaintiff in one case is not required to allege all facts found sufficient in another case; "[T]he facts of a particular case should not be mistaken for its rule."), *cert. denied sub nom. United States v. Fazzi Assocs., Inc.*, 143 S. Ct. 362 (2022).

Likewise, in this case it was not necessary for the District of Columbia to name third-party sellers and first-party sellers in its complaint. The complaint provided a sufficiently detailed description of the agreements at issue to put Amazon on notice of the District's claims.

II. Requiring a plaintiff to name specific direct victims in the complaint will chill antitrust enforcement.

Moreover, requiring that complaints name specific companies will chill antitrust enforcement. Numerous courts, including the U.S. Supreme Court, have recognized that entities with the most direct relationship with an antitrust violator may be afraid to come forward because they do not want to risk a critical relationship. *See Illinois Brick Co. v. Illinois*, 431 U.S. 720, 746 (1977) ("We recognize that direct purchasers sometimes may refrain from bringing a treble-damages suit for fear of disrupting relations with their suppliers.").

Numerous state courts have cited direct purchasers' reluctance to sue based on fear of retaliation as a reason to allow indirect purchasers to bring suits under state antitrust statutes. In *Comes v. Microsoft Corp*., 646 N.W.2d 440 (Iowa 2002), the court recognized direct purchasers' fear of suing technology giant Microsoft. The court observed, "[e]ven the majority in *Illinois Brick* recognized that direct purchasers likely will not enforce antitrust laws out of fear of retaliation by their suppliers, such as Microsoft—the sole supplier of a popular operating system." *Id.* at 450. The existence of such fear was demonstrated by the fact that no direct purchaser had, in fact, sued Microsoft. *See id.* Based in part on the recognition that direct purchasers were afraid to sue, the court held that indirect purchasers could sue for violations of the Iowa Competition law. *See id.* at 451*; see also Arthur v. Microsoft Corp.*, 676 N.W.2d 29, 38 (Neb. 2004) ("Direct purchasers may not be inclined to jeopardize their major source of supply of the operating systems contained within the personal computers they manufacture and distribute."); *Sherwood v. Microsoft Corp*., No. M2000-01850-COA-R9CV, 2003 WL 21780975, at *30 (Tenn. Ct. App. July 31, 2003) ("[O]ften indirect purchasers are the only ones who will sue[.]").[2]

[2] *See also Bunker's Glass Co. v. Pilkington, PLC*, 75 P.3d 99, 109 n.9 (Ariz. 2003) ("An auto dealer who relies on the manufacturer for delivery of popular models of cars does not strike us as likely to sour the relationship with the manufacturer by suing over a price increase . . . ."); *Freeman Indus., LLC v. Eastman Chem. Co*., 172 S.W.3d 512, 520 (Tenn. 2005) ("[D]irect purchasers likely will not bring suit due to

Like Microsoft, Amazon is a technology giant, and sellers are particularly likely to fear retaliation by Amazon because of its dominant role in e-commerce. Amazon is "the world's largest online retailer." *Frame-Wilson.*, 591 F. Supp. 3d at 980 (internal quotation marks and citation omitted); *De Coster v. Amazon.com, Inc*., No. C21-693RSM, 2023 WL 372377, at *1 (W.D. Wash. Jan. 24, 2023) ("Amazon operates the largest online retail marketplace in the United States."). "Most TPSs believe that to successfully sell online, it is imperative that they have a presence on Amazon's online marketplace. Moreover, Amazon accounts for between 50-70% of all online sales in the United States." D.C. Compl. ¶3 (JA 11).[3] "[B]anishment of the TPS from the Amazon online marketplace . . . can result in devastating economic

---

fear of retaliation by their suppliers."); *Report of the American Bar Association Section of Antitrust Law Task Force to Review the Supreme Court's Decision in California v. Arc American Corp.*, 59 Antitrust L.J. 273, 290 (1990) ("A number of commentators . . . note that direct purchasers are usually middlemen who stand in a customer-supplier relationship with the wrongdoer, a relationship that is often vital to the continued viability of the direct purchaser's business. According to these commentators, few direct purchasers will jeopardize this relationship by filing an antitrust claim against the supplier.").

[3] *See also De Coster*, 2023 WL 372377, at *1 ("At the time the pleading was drafted, Amazon's marketplace accounted for over 50% of all online retail sales revenue in the United States. By comparison, Amazon's two closest competitors, eBay and Walmart, accounted for only 6.1% and 4.6%, respectively, of that revenue."); Subcommittee on Antitrust, Commercial and Administrative Law of the Committee on the Judiciary, 117th Congress, *Investigation of Competition in Digital Markets: Majority Staff Report and Recommendations*, 213 (Comm. Print 2022), *available at* https://www.govinfo.gov/content/pkg/CPRT-117HPRT47832/pdf/CPRT-117HPRT47832.pdf ("Judiciary Report") ("Amazon . . . reportedly controls about 65-70 percent of all U.S. online marketplace sales.").

consequences for the TPS." D.C. Compl. ¶9 (JA 13); *De Coster*, 2023 WL 372377, at *1 ("Amazon is critical to the financial success of its third-party merchants.").

Fear of retaliation by Amazon is well documented. For example, a recent U.S. House of Representatives report stated: "Because of the severe financial repercussions associated with suspension or delisting, many Amazon third-party sellers live in fear of the company."[4] This conclusion was based on testimony from numerous witnesses, including one who said, "Due to Amazon's stature, influence, and bullying nature, we are afraid of retaliation" such that "[m]y pregnant wife had to visit the ER due to increased anxiety and fear for the future . . . ."[5] Stacy Mitchell, co-director of the Institute for Local Self Reliance (ILSR), which conducted in-depth research on Amazon, testified that most executives and business owners interviewed by ILSR "insisted on anonymity because they are fearful of the power that Amazon holds over their companies."[6]

---

[4] Judiciary Report at 227-28.

[5] *Id.* at 228 n. 1681. Another source said, "[Amazon] know[s] that small sellers have no power and no ability to avoid them," because "they are the powerhouse giant in the transaction and they could crush us." *Id.*

[6] Testimony of Stacy F. Mitchell, Co-Director, Institute for Local-Self Reliance, Before the U.S. House of Representatives Committee on the Judiciary at 2 (July 16, 2019), *available at* https://docs.house.gov/meetings/JU/JU05/20190716/109793/HHRG-116-JU05-Wstate-MitchellS-20190716.pdf.

Another witness, the owner of the business PopSockets, which ultimately terminated its relationship with Amazon, testified before the House about Amazon's "bullying" of retailers and its retaliation against PopSockets specifically.[7] Amazon "regularly dress[es] up requests as demands, using language . . . that someone in a position of power uses with someone of inferior power."[8] "[M]ost brands cannot afford to leave Amazon. They evidently have no choice but to endure tactics that would be rejected out of hand in any ordinary relationship . . . ."[9]

The fear of retaliation is well founded. Amazon did in fact retaliate against PopSockets when it ended its relationship with Amazon. PopSockets planned to sell to distributors, including iServe, who would sell PopSockets's products in Amazon's third-party marketplace. However, in response to PopSockets' ending its relationship with Amazon Retail, "Amazon removed all of iServe's PopSockets product listings, causing significant financial harm to [PopSockets] and iServe."[10]

---

[7] Statement of David Barnett, *Online Platforms and Market Power, Part 5: Competitors in the Digital Economy*, Hearing Before the Subcommittee on Antitrust, Commercial, and Administrative Law of the Committee on the Judiciary, U.S. House of Representatives at 20 (Jan, 17, 2020), *available at* https://www.govinfo.gov/content/pkg/CHRG-116hhrg40788/pdf/CHRG-116hhrg40788.pdf.

[8] *Id.*

[9] *Id.*

[10] *Id.*

Moreover, after PopSockets ended its relationship with Amazon, it continued to have difficulty collecting money Amazon owed it.[11]

This well-documented, well-founded fear of retaliation by Amazon will deter third-party and first-party sellers from coming forward with complaints about Amazon or providing evidence in litigation against Amazon if a plaintiff is required to disclose their names in complaints. And it will deter government agencies from carrying out their mission of protecting consumers and market players.

Moreover, in addition to hampering government enforcers, the heightened pleading standard required by the lower court will completely eviscerate the ability of private plaintiffs, who lack the pre-complaint investigatory tools available to government enforcers, to bring antitrust cases that can survive motions to dismiss.

CONCLUSION

The Superior Court erred when it required the District of Columbia to disclose names of specific third-party sellers and first-party sellers in its Complaint against Amazon; such specificity is not required to plead a plausible claim for relief. Moreover, if the Superior Court's decision is allowed to stand, it will chill both public and private enforcement of the antitrust laws to the detriment of competition and consumers. For the foregoing reasons, the judgment below should be reversed.

[11] *Id.* at 21.

Dated: January 30, 2023

Respectfully submitted,

/S/ VICTORIA SIMS
VICTORIA SIMS
CUNEO GILBERT & LADUCA
4725 WISCONSIN AVENUE NW, SUITE 200
WASHINGTON, DC 20016
PHONE: (202) 789-3960
VICKY@CUNEOLAW.COM

JESSICA KHAN*
FINE, KAPLAN AND BLACK, R.P.C.
ONE SOUTH BROAD STREET, 23RD FLOOR
PHILADELPHIA, PA 19107
PHONE: (215) 567-6565
JKHAN@FINEKAPLAN.COM

KRISTEN G. MARTTILA (MN #0346007)*
LOCKRIDGE GRINDAL NAUEN P.L.L.P.
100 WASHINGTON AVENUE SOUTH, SUITE 2200
MINNEAPOLIS, MN 55401
TEL: (612) 339-6900
KGMARTTILA@LOCKLAW.COM

** Motion to appear pro hac vice pending*

Attorneys for Amicus Curiae the Committee to Support the Antitrust Laws

REDACTION CERTIFICATE DISCLOSURE FORM

I certify that I have reviewed the guidelines outlined in Administrative Order No. M-274-21 and Super. Ct. Civ. R. 5.2, and removed the following information from my brief:

1. All information listed in Super. Ct. Civ. R. 5.2(a); including:

- An individual's social-security number

- Taxpayer-identification number

- Driver's license or non-driver's' license identification card number

- Birth date

- The name of an individual known to be a minor

- Financial account numbers, except that a party or nonparty making the filing may include the following:

(1) the acronym "SS#" where the individual's social-security number would have been included;

(2) the acronym "TID#" where the individual's taxpayer identification number would have been included;

(3) the acronym "DL#" or "NDL#" where the individual's driver's license or non-driver's license identification card number would have been included;

(4) the year of the individual's birth;

(5) the minor's initials; and

(6) the last four digits of the financial-account number.

2. Any information revealing the identity of an individual receiving mental-health services.

3. Any information revealing the identity of an individual receiving or under evaluation for substance-use-disorder services.

4. Information about protection orders, restraining orders, and injunctions that "would be likely to publicly reveal the identity or location of the protected party," 18 U.S.C. § 2265(d)(3) (prohibiting public disclosure on the internet of such information); see also 18 U.S.C. § 2266(5) (defining "protection order" to include, among other things, civil and criminal orders for the purpose of preventing violent or threatening acts, harassment, sexual violence, contact, communication, or proximity) (both provisions attached).

5. Any names of victims of sexual offenses except the brief may use initials when referring to victims of sexual offenses.

6. Any other information required by law to be kept confidential or protected from public disclosure.

/s/ Victoria Sims	22-CV-0657
Signature	Case Number
Victoria Sims	January 30, 2023
Name	Date
vicky@cuneolaw.com	
Email Address	

CERTIFICATE OF SERVICE

I hereby certificate that on this 30th day of January, 2023, I electronically filed the foregoing with the Clerk of the Court in accordance with procedures established by the court. Counsel for all parties to the case are registered users of the court's e-filing system and will be served by the court's e-filing system.

Date: January 30, 2023

/S/ VICTORIA SIMS
VICTORIA SIMS
CUNEO GILBERT & LADUCA
4725 WISCONSIN AVENUE NW, SUITE 200
WASHINGTON, DC 20016
PHONE: (202) 789-3960