EN BANC ARGUMENT SCHEDULED FOR MAY 19, 2014

No. 13-5281

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMERICAN MEAT INSTITUTE, *et al*.
Plaintiffs-Appellants,

v.

UNITED STATES DEPARTMENT OF AGRICULTURE, *et al*.,
Defendants-Appellees,

UNITED STATES CATTLEMEN'S ASSOCIATION, *et al*.,
Intervenor-Defendants-Appellees.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BRIEF OF CENTER FOR FOOD SAFETY AND ANIMAL LEGAL DEFENSE FUND AS *AMICI CURIAE* IN SUPPORT OF DEFENDANTS-APPELLEES

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CORPORATE DISCLOSURE STATEMENT

Amici Center for Food Safety and Animal Legal Defense Fund are nonprofit corporations, have no parent corporations, and do not issue stock.

STATEMENT OF AUTHORSHIP AND FINANCIAL CONTRIBUTIONS

No party's counsel authored this brief in whole or in part, and no person—other than *Amici* or their counsel—contributed money that was intended to fund preparing or submitting this brief.

INTRODUCTION

The Supreme Court extended the First Amendment to commercial speech in part to protect labels' informational value to consumers. Accordingly, a company's constitutional interest in *not* providing factual information to the market is minimal, and disclosures that improve market efficiency by informing consumers are generally preferred to outright restrictions. As a result, while *restrictions* on commercial speech receive intermediate scrutiny under *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, 447 U.S. 557 (1980), factual commercial *disclosures* are subject to less restrictive rational-basis review under *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985). No market could function properly without this common sense distinction, as consumers would be left to guess at, rather than be given, facts that allow informed decision making.

By *Zauderer*'s terms, factual commercial disclosure requirements are constitutional if they remedy a "*possibility* of consumer *confusion* or deception," *id.* at 651 (emphases added), through statement or omission. Here, the country-of-origin labeling (COOL) rule remedies confusion about meats' origins, which bears on consumers' health and values.

That said, under *Zauderer*, preventing potential consumer confusion or deception is a *sufficient*, but not a *necessary*, government interest. Instead, there are many important government interests—*e.g.*, promoting human health or environmental protection—that justify factual commercial disclosure requirements, which improve market efficiency in those specific areas deemed necessary by legislators and regulators, who in turn represent consumers. Governments can and do act with more than one interest in mind, and in furthering those interests through commercial disclosures they must choose which areas of information, from among all the possible facts of a particular good or service, to bring to light. The government may have legitimate interests in consumers knowing more about a product's health or environmental attributes, for example, and it must be free to further those interests by giving consumers that information. In other words, the government must be free to use specific areas of market information to further its various legitimate interests.

Besides two divided panels of this Court and the lower court cases relying on those Circuit opinions, no other court has ever decided that *Zauderer* excludes important government interests beyond preventing deception. Further, restricting *Zauderer*'s rational-basis standard to just one government interest is contrary not only to an informed market, but also to basic principles of constitutional scrutiny. In other constitutional contexts, every level of review—rational basis,

intermediate, and strict—recognizes myriad government interests. This is not the place to rewrite the basic scheme of constitutional review. The Supreme Court has nowhere indicated that *Zauderer* review is so different from other rational-basis analyses as to justify this Circuit's disqualification of all legitimate government interests save one. Overly confining *Zauderer* could expose thousands of existing and future government disclosure requirements (*e.g.*, for nutrition facts, or pesticide use) to costly legal challenges.

In *American Meat Institute v. U.S. Department of Agriculture*, No. 13-5281, 2014 WL 1257959 (D.C. Cir. Mar. 28, 2014) [hereinafter *AMI v. USDA*], companies seek to withhold purely factual information that the government deemed highly protective of consumers' interests in promoting their own health and supporting American ranchers. In considering whether to interpret *Zauderer* to apply only to preventing deception, this Court will decide either to allow companies to keep consumers ignorant about salient facts, or instead to assist governments that are providing specific areas of information to the market and thereby protecting human health and American values. *Amici* respectfully urge this Court to do the latter, and thus to affirm *AMI v. USDA*.

INTERESTS OF *AMICI*

I. Center for Food Safety

Amicus Center for Food Safety (CFS) is a nationwide consumer and environmental nonprofit organization dedicated to protecting public health and the environment by ameliorating the harmful impacts of industrial agriculture and instead promoting sustainable agriculture. A pillar of CFS's fundamental mission is protecting and furthering the public's right to know how their food is produced, through labeling and other means. CFS has half a million members across the country.

II. Animal Legal Defense Fund

Amicus Animal Legal Defense Fund (ALDF) is a national nonprofit organization of attorneys and more than 100,000 members and supporters pursuing a mission of working within the legal system to protect the lives and advance the interests of animals, including animals used in food production. A portion of ALDF's members and supporters consume animal products and are concerned about the treatment of animals when purchasing such products. ALDF advocates its members' and supporters' concerns by working to improve consumer information, which helps to create efficient markets that respond to the public's interest in protecting animal welfare.

ARGUMENT

I. The bright line between *Zauderer* review and *Central Hudson* review is the fundamental difference between disclosing speech and restricting speech, not the type of governmental interests involved.

Whether a law that affects commercial speech is subject to *Zauderer* or *Central Hudson* is not predicated on the type of governmental interest that is in play. Rather, *Zauderer* applies to factual commercial disclosures, and *Central Hudson* to commercial restrictions.

Commercial speech differs from other messaging, and receives substantially less First Amendment protection, because the government's authority over commercial transactions "justifies its concomitant power to regulate commercial speech that is linked inextricably to those transactions." *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 499 (1996) (internal quotation marks omitted). Commercial speech thus occupies a "subordinate position in the scale of First Amendment values." *Ohralik v. Ohio State Bar Ass'n*, 436 U.S. 447, 456 (1978).

Further, a company receives less protection from mandated disclosures than from restrictions. This is because "the extension of First Amendment protection to commercial speech is justified principally by the value to *consumers* of the information such speech provides." *Zauderer*, 471 U.S. at 651 (emphasis added). Accordingly, a company's constitutional interest "in *not* providing any particular factual information" is merely "minimal." *Id.* (emphasis in original).

Thus within commercial speech there are "material differences between disclosure requirements and outright prohibitions on speech." *Id.* at 650. Whereas prohibitions on commercial speech prevent a company from "conveying information to the public," commercial disclosures merely "provide somewhat more information than [the company] might otherwise be inclined to present." *Id.*; *id.* at 651 (explaining that "in virtually all our commercial speech decisions to date, we have emphasized that . . . disclosure requirements trench much more narrowly on an advertiser's interests than do flat prohibitions on speech"). Consequently, the First Amendment interests affected by a disclosure requirement are "substantially weaker than those at stake when speech is actually suppressed." *Id.* at 651 n.14.

Predictably, then, commercial disclosures merit different levels of constitutional scrutiny than commercial restrictions—*i.e.*, respectively, rational-basis review under *Zauderer*, and intermediate scrutiny under *Central Hudson*. *Disc. Tobacco City & Lottery, Inc. v. United States*, 674 F.3d 509, 552 (6th Cir. 2011) (asserting that "[l]aws that restrict speech are fundamentally different than laws that require disclosures, and so are the legal standards governing each type of law," and explaining that *Central Hudson* "set[s] forth the standard for restricting commercial speech," while *Zauderer* "set[s] forth the standard for requiring commercial-speech disclosures"); *accord United States v.*

Marzzarella, 614 F.3d 85, 96 (3d Cir. 2010); *Nat'l Elec. Mfrs. Ass'n v. Sorrell*, 272 F.3d 104, 115 (2d Cir. 2001); *see Spirit Airlines, Inc. v. U.S. Dep't of Transp.*, 687 F.3d 403, 413 (D.C. Cir. 2012) (recognizing that factual disclosure requirements "are not the kind of limitations that the Court refers to when invoking the *Central Hudson* standard of review").

Consequently, *Amici* respectfully urge this Court to moor its *en banc* opinion to this cardinal distinction between commercial restrictions and disclosures.[1] The COOL rule establishes an accurate disclosure that, like other food-related labeling, simply states the product and production facts, such as how, when, and where a food was produced. *Zauderer* review should thus apply.

II. The *Zauderer* standard applies when there is even a reasonable possibility that consumers are confused or have been misled.

A second key principle is that the *Zauderer* standard is not limited to outright deception, because commercial speech that is "misleading" or "inherently likely to deceive" receives no First Amendment protection. *In re R.M.J.*, 455 U.S. 191, 202–03 (1982). There is no constitutional interest in a confused marketplace.

[1] *Zauderer* applies only to commercial disclosures, and only where such disclosures are "purely factual," instead of expressing opinions or ideologies. *See, e.g.*, *Sorrell*, 272 F.3d at 113. A disclosure is purely factual and uncontroversial if it provides accurate, non-opinion-based information, regardless of whether a company would prefer to withhold that information. *N.Y. State Rest. Ass'n v. N.Y. City Bd. of Health*, 556 F.3d 114, 132–34 (2d Cir. 2009).

Instead, *Zauderer* applies to factual disclosures that remedy the "possibility of consumer confusion or deception." 471 U.S. at 651; *see Spirit Airlines*, 687 F.3d at 413 (recognizing that *Zauderer* merely requires "the *possibility* of deception") (emphasis in original). In other words, under *Zauderer* review, a disclosure need only relate to a non-speculative "likelihood of deception," or a "tendency to mislead." *Milavetz, Gallop & Milavetz, P.A. v. United States*, 559 U.S. 229, 251 (2010); *Zauderer*, 471 U.S. at 652–53. A government may therefore mandate a factual disclosure to address consumers' "confusion" about a product—including the possibility of confusion via the omission of highly relevant information, which naturally can arise without specific industry wrongdoing or intent.

For example, the Tenth Circuit held under *Zauderer* that a disclosure requirement remedied a possibility of consumers being misled where the requirement mandated that stock publicists disclose that they receive consideration from companies they promote. *United States v. Wenger*, 427 F.3d 840, 850 (10th Cir. 2005). In other words, that requirement remedied potential deception by mandating full disclosure of information that was highly relevant to consumer purchasing decisions. In short, government-mandated factual disclosures are constitutional when they fill important informational gaps that otherwise would potentially confuse consumers.

Here, as the district court recognized, a "common sense" review, *see Spirit Airlines*, 687 F.3d at 413 (explaining that a "common sense" assessment of surrounding circumstances of a disclosure is sufficient to establish a possibility of deception),[2] underscores that the COOL rule remedies the possibility that consumers are confused or have been misled about the national origins of meat, and whether meats have been subject to a single—and perhaps, specifically American—standard of production, ensuring uniform protection against consumer exposure to pathogens and other food safety risks. *See Am. Meat Inst. v. U.S. Dep't of Agric.*, No. 13-CV-1033, 2013 WL 4830778, at * 7–8 (D.D.C. Sept. 11, 2013) (identifying "common sense" as evincing that the COOL rule "was intended to address the possibility of consumer confusion regarding the origin of covered commodities"). Because the COOL rule furthers a government interest in preventing the potential confusion of consumers, it passes muster under *Zauderer*.

[2] Similarly, a disclosure requirement is sufficient even if it is "under-inclusive" or "piecemeal." *Zauderer*, 471 U.S. at 651 n.14 (holding that governments can so act unless a fundamental right is implicated, and that a commercial speaker's desire "not to divulge accurate information regarding his services is not such a fundamental right.")

III. Cabining *Zauderer* review to only one governmental interest is contrary to basic principles of constitutional scrutiny.

Levels of constitutional review (rational basis, intermediate scrutiny, and strict scrutiny) are not limited to single government interests. Instead, each level of scrutiny encompasses numerous interests, and this case is not an appropriate occasion to rewrite the basic scheme of constitutional review.

For example, the Supreme Court has recognized a variety of state interests as "substantial" under *Central Hudson* scrutiny. 447 U.S. at 564, 568 (conserving energy); *see, e.g.*, *Rubin v. Coors Brewing Co.*, 514 U.S. 476, 485 (1995) ("promoting health, safety, and welfare" by preventing brewers from competing on the basis of alcohol content); *Edenfield v. Fane*, 507 U.S. 761, 769 (1993) (ensuring the "accuracy of commercial information in the market-place").

Similarly, under both First- and Fourteenth-Amendment strict-scrutiny analyses, the Supreme Court has identified a great number of government interests as "compelling." *See e.g.*, *United States v. Alvarez*, 132 S.Ct. 2537, 2549 (2012) (integrity of the military honors system); *Roberts v. U.S. Jaycees*, 468 U.S. 609, 624-25 (1984) (equal access to public accommodations); *New York v. Ferber*, 458 U.S. 747, 756-57 (1982) (protecting children from abuse).

Rational-basis review is no different—the Supreme Court has recognized numerous government interests as legitimate under First- and Fourteenth-Amendment rational-basis analyses. *See, e.g.*, *Ysursa v. Pocatello Educ.*

Ass'n, 555 U.S. 353, 359 (2009) ("avoiding the reality or appearance of government favoritism or entanglement with partisan politics"); *Saenz v. Roe*, 526 U.S. 489, 506 (1999) (state's interest in saving money); *Minnesota v. Clover Leaf Creamery Co.*, 449 U.S. 456, 461–63 (1981) (promoting resource conservation, easing solid waste disposal problems, and conserving energy).

Zauderer review differs from *Central Hudson* review based on the *level* of scrutiny, not some radical shift in how constitutional scrutiny is structured that would shackle rational-basis review under *Zauderer* to a single governmental interest. *Zauderer* established rational-basis review for purely factual compelled commercial disclosures. *See R.J. Reynolds Tobacco Co. v. U.S. Food & Drug Admin.*, 696 F.3d 1205, 1212 (D.C. Cir. 2012) [hereinafter *RJR*] (characterizing *Zauderer* standard as "akin to rational-basis review"). Under the rational-basis standard, "legislation is presumed to be valid," *Lawrence v. Texas*, 539 U.S. 558, 579 (2003), and a court must "uphold regulation so long as it bears a rational relationship to a legitimate governmental purpose," *Dist. of Columbia v. Heller*, 554 U.S. 570, 687–88 (2008) (internal quotation marks omitted).

The Supreme Court has nowhere indicated that *Zauderer* review is so different from set rational-basis, or any other, analyses as to justify this Circuit's disqualification of all legitimate government interests save one. Rather, as with other applications of constitutional scrutiny, *Zauderer*'s rational-basis review can

be satisfied by various legitimate government interests, in addition to, intertwined with, and beyond preventing potential consumer confusion or deception.

IV. Governments have numerous rational-basis interests in addition to preventing potential confusion and deception.

As many courts have recognized, governments have numerous legitimate reasons for requiring factual commercial disclosures. In other words, governments may further various interests through enhancing specific areas of information in the market, beyond the rather basic interest of preventing consumer confusion. *See, e.g.*, *Sec. & Exch. Comm'n v. Wall Street Publ'g Inst., Inc.*, 851 F.2d 365, 373–74 (D.C. Cir. 1988) (stating that *Zauderer* extends to interests "other than preventing deception," and that rejecting other interests is "impermissibly paternalistic" because "zeal to protect the public from too much information could not withstand First Amendment scrutiny") (internal quotation marks omitted).

For example, several circuits have acknowledged important governmental interests related to human health. The Second Circuit affirmed a legitimate state interest in protecting public health via nutrition disclosures that "promote informed consumer decision-making so as to reduce obesity and the diseases associated with it." *N.Y. State Rest. Ass'n v. N.Y. City Bd. of Health*, 556 F.3d 114, 133–34 (2d Cir. 2009); *see Entm't Software Ass'n v. Blagojevich*, 469 F.3d 641, 651–52 (7th Cir. 2006) (identifying as constitutional mandated "warning and nutritional

information labels"). Similarly, the First Circuit held that Maine has legitimate interests in promoting human health by "ensuring that its citizens receive the best and most cost-effective health care possible" and "increasing public access to prescription drugs." *Pharm. Care Mgmt. Ass'n v. Rowe*, 429 F.3d 294, 310 (1st Cir. 2005).[3]

Public health is intimately related to—and directly influenced by—environmental harms. Thus the Second Circuit held under *Zauderer* that "Vermont's interest in protecting human health and the environment from mercury poisoning is a legitimate and significant public goal." *Sorrell*, 272 F.3d at 115. And, although in a somewhat different context, the Ninth Circuit recognized as "legitimate" and consistent with the First Amendment an agency's interest in requiring storm sewer providers to educate the public about impacts from stormwater discharge into water bodies and the hazards of improper waste disposal, through warnings or other means. *Envtl. Def. Ctr., Inc. v. U.S. Envtl.*

[3] The First Circuit rejected the argument that *Zauderer* was limited only to preventing possible consumer deception, holding that "we have found no cases limiting *Zauderer* in such a way." *Rowe*, 429 F.3d at 310 n.8. Of all circuits, it appears that only the two split panel decisions of this Court, and then lower court cases interpreting those decisions, have asserted that *Zauderer* is limited to government interests in preventing consumer confusion or deception. *But see Nat'l Ass'n Mfrs. v. Sec. & Exch. Comm'n*, No. 13-5252, 2014 WL 1408274, at *10–11 (D.C. Cir. Apr. 14, 2014) (Srinivasan, J., concurring in part) (declining to join *Zauderer* section); *AMI v. USDA*, 2014 WL 1257959, at *6–7 (discussing prior dicta in the *RJR* majority opinion, 696 F.3d at 1212). No court outside this Circuit that has considered this issue has so limited *Zauderer*.

Prot. Agency, 344 F.3d 832, 849 (9th Cir. 2003); *see Dex Media W., Inc. v. City of Seattle*, 790 F. Supp. 2d 1276, 1287–88 (W.D. Wash. 2011) (analyzing and approving under *Zauderer* a city's interests in reducing paper waste and maintaining resident privacy). The government therefore uses market information to further various legitimate interests.

As those courts have already recognized, *Zauderer* simply established that a government interest in preventing consumer deception is *sufficient* to satisfy rational-basis review—not that this interest is *necessary*. 471 U.S. at 650–51; *accord RJR*, 696 F.3d at 1227 n.6 (Rogers, J., dissenting); *see Disc. Tobacco City*, 674 F.3d at 556 ("*Sorrell* shows that *Zauderer*'s framework can apply even if the required disclosure's purpose is something other than or in addition to preventing consumer deception.").

In *AMI v. USDA*, the panel correctly held that the COOL rule advances important, "non-frivolous" government interests in protecting consumers' rights to choose foods (1) that are consistent with their patriotic values, and (2) that they reasonably perceive as the safest.[4] 2014 WL 1257959, at *7 ("Obviously [the

[4] The standard for evaluating the legitimacy of a governmental public health interest is whether that interest protects consumers' reasonable perceptions of enhanced food safety (or other health effects), not whether a product meets some baseline federal safety standard for human use or consumption. *See AMI v. USDA*, 2014 WL 1257959, at *7 (stating that consumers' patriotic values and reasonable food safety perceptions are neither "trivial" nor "misguided"). That is, the First Amendment does not prioritize industry desires to withhold purely factual product

COOL rule] enables a consumer to apply patriotic or protectionist criteria in the choice of meat. And it enables one who believes that United States practices and regulation are better at assuring food safety than those of other countries, or indeed the reverse, to act on that premise.").

More broadly, labeling production-method information on foods is especially critical because where, as here, the market for conventional food products has failed to inform consumers about significant production criteria (*i.e.*, food origins, impacts, treatments, and regulation at production stages), consumers otherwise cannot ascertain this potentially highly relevant information. For example, absent the COOL rule, consumers cannot determine whether meat products come from a foreign country, and thus possibly have pathogen susceptibilities determined by non-U.S. laws and standards. And, without that rule, consumers who reasonably prefer to buy meat produced in the United States cannot select products consistent with their values and food safety preferences.

V. Severely limiting *Zauderer* has wide-ranging implications.

Severely limiting *Zauderer* to recognize only an interest in preventing deception has "potentially wide-ranging implications." *Sorrell*, 272 F.3d at 116. That is, "[i]nnumerable federal and state regulatory programs require the

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information over government interests in protecting consumers by providing them with facts that allow them to optimize their health and safety.

disclosure of product and other commercial information." *Id.*; *see, e.g.*, 2 U.S.C. § 434 (election campaign contribution reporting); 7 U.S.C. § 136(q)(1)(G) (pesticide labeling); 15 U.S.C. § 78l (securities disclosures); 21 U.S.C. § 343(q)(1) (nutritional labeling); 27 U.S.C. § 215(a) (alcohol labeling); 33 U.S.C. § 1318 (pollutant discharge reporting); 42 U.S.C. § 7671j(d)(1) (ozone-depleting chemical warnings); 42 U.S.C. § 11023 (toxic substance release reporting); 16 C.F.R. § 1511.7(a) (warnings on household products—*e.g.*, baby pacifiers); 21 C.F.R. § 172.804(e)(2) (warnings about food additives—*e.g.*, aspartame); 21 C.F.R. § 202.1 (prescription drugs); 21 C.F.R. § 740.1(a) (cosmetics warnings); 29 C.F.R. § 1910.1200 (workplace hazard notifications).

All of those disclosure requirements—and many others—remedy incomplete consumer information and also further legitimate government interests, such as positioning consumers to make purchase and use decisions that, among other things, promote human health or environmental protection. Limiting *Zauderer* to preventing deception could thus potentially subject literally thousands of long-standing disclosure requirements to new legal challenges.

VI. *International Dairy Foods Ass'n v. Amestoy* is irrelevant and inapposite.

A 1996 Second Circuit case applied *Central Hudson* to a law requiring a factual disclosure on milk produced by cows that were treated with recombinant growth hormone. *Int'l Dairy Foods Ass'n v. Amestoy*, 92 F.3d 67 (2d Cir. 1996); *see AMI v. USDA*, 2014 WL 1257959, at *5 (discussing *Amestoy*). However, that case is entirely inapposite.

First, the government in *Amestoy* failed to put forth any argument that *Zauderer* provided the proper standard of review, and instead the court simply assumed that *Central Hudson* applied.[5] Second, that Circuit has subsequently held (1) that *Zauderer* is the proper standard for factual commercial disclosures, and (2) that such disclosures can encompass legitimate government interests beyond preventing deception. *Conn. Bar Ass'n v. United States*, 620 F.3d 81, 96 n.16 (2d Cir. 2010); *N.Y. State Rest. Ass'n*, 556 F.3d at 134; *Sorrell*, 272 F.3d at 115. Third, the Second Circuit has circumscribed *Amestoy* by expressly limiting its precedential effect to instances "in which a state disclosure requirement is supported by *no interest* other than the gratification of '*consumer curiosity*.'" *Sorrell*, 272 F.3d at 115 n.6 (emphases added) (quoting *Amestoy*, 92 F.3d at 73). Here, because the COOL rule furthers several legitimate government interests, *Amestoy* is irrelevant.

[5] *See Int'l Dairy Foods Ass'n v. Amestoy*, *Brief for Defendants-Appellees*, No. 95-7819 (2d Cir. Oct. 19, 1995).

CONCLUSION

For the foregoing reasons, *Amici* respectfully request that the judgment of the district court be affirmed.

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CERTIFICATE OF COMPLIANCE WITH RULES 29(C)(5), 29(D), 32(A)

1. Pursuant to Rule 29(c)(5) of the Federal Rules of Appellate Procedure, *Amici* state that (a) no party's counsel authored the brief in whole or in part; (b) no party or party's counsel contributed money that was intended to fund preparing or submitting the brief; and (c) no person—other than *Amici*, their members, or their counsel—contributed money that was intended to fund preparing or submitting the brief.

2. With respect to the type-volume limitations of Fed. R. App. P. 29(d) and 32(a)(7)(B), this brief contains 3674 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

3. This brief complies with the typeface requirements of Fed. R. App. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionately spaced typeface using Microsoft Word 2010 in 14-point Times New Roman.

Respectfully submitted,

Dated: April 21, 2014

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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2014, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system, with the exception of the following parties, who have been served by United States Postal Service:

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