

No. 21-51178

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**In the United States Court of Appeals  
for the Fifth Circuit**

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NETCHOICE, L.L.C., A 501(C)(6) DISTRICT OF COLUMBIA ORGANIZATION  
DOING BUSINESS AS NETCHOICE; AND COMPUTER & COMMUNICATIONS IN-  
DUSTRY ASSOCIATION, A 501(C)(6) NON-STOCK VIRGINIA CORPORATION  
DOING BUSINESS AS CCIA,

*Plaintiffs-Appellees,*

*v.*

KEN PAXTON, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF TEXAS,

*Defendant-Appellant.*

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On Appeal from the United States District Court  
for the Western District of Texas, Austin Division  
Civil Action No. 1:21-cv-00840-RP

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**APPELLEES' UNOPPOSED MOTION TO FILE AN OVERLENGTH  
RESPONSE TO APPELLANT'S OVERLENGTH MOTION**

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Steven P. Lehotsky  
Jonathan D. Urick  
Gabriela Gonzalez-Araiza  
Jeremy Evan Maltz  
LEHOTSKY KELLER LLP  
200 Massachusetts Avenue, NW  
Washington, DC 20001

Scott A. Keller  
Matthew H. Frederick  
Todd Disher  
LEHOTSKY KELLER LLP  
919 Congress Ave.  
Austin, TX 78701  
scott@lehotskykeller.com  
T: (512) 693-8350  
F: (833) 233-2202  
*Counsel for Plaintiffs-Appellees*

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## CERTIFICATE OF INTERESTED PERSONS

No. 21-51178

NetChoice, L.L.C., a 501(c)(6) District of Columbia organization doing business as NetChoice; and Computer & Communications Industry Association, a 501(c)(6) non-stock Virginia Corporation doing business as CCIA,  
*Plaintiffs-Appellees,*

*v.*

Ken Paxton, in his official capacity as Attorney General of Texas,  
*Defendant-Appellant.*

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. Plaintiffs-Appellees CCIA and NetChoice have no parent corporations and no publicly held corporation owns 10% or more of their respective stock. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

### **Plaintiffs-Appellees:**

NetChoice, L.L.C., a 501(c)(6) District of Columbia organization doing business as NetChoice; and Computer & Communications Industry Association, a 501(c)(6) non-stock Virginia Corporation doing business as CCIA

### **Counsel for Plaintiffs-Appellees:**

Scott A. Keller (lead counsel)

Steven P. Lehotsky

Matthew H. Frederick

Todd Disher  
Jonathan Urick  
Gabriela Gonzalez-Araiza  
Jeremy Evan Maltz  
LEHOTSKY KELLER LLP

**Defendant-Appellant:**

Ken Paxton, in his official capacity as Attorney General of Texas

**Counsel for Defendant-Appellant:**

Judd Edward Stone II  
Ryan Baasch  
Benjamin S. Lyles  
Benjamin S. Walton  
Christopher D. Hilton  
Courtney Brooke Corbello  
OFFICE OF THE ATTORNEY GENERAL

**Amici in Support of Plaintiffs-Appellees:**

Chamber of Progress; Connected Commerce Council; CTA; Engine Advocacy; Information Technology & Innovation Foundation; National Black Justice Coalition; Progressive Policy Institute; TechNet; Washington Center for Technology Policy; Hispanic Technology and Telecommunications Partnership

**Counsel for Chamber of Progress, et al.:**

William Reid Wittliff  
WITTLIFF CUTTER P.L.L.C.

**Amici in Support of Plaintiffs-Appellees:**

The Reporters Committee for Freedom of the Press; The American Civil Liberties Union; The Center for Democracy and Technology; and American Civil Liberties Union of Texas

**Counsel for The Reporters Committee for Freedom of the Press, et al.:**

Catherine Lewis Robb

Laura Lee Prather

HAYNES AND BOONE, LLP

**Amicus in Support of Plaintiffs-Appellees:**

TechFreedom

**Counsel for TechFreedom:**

Corbin K. Barthold

TECHFREEDOM

**Amicus in Support of Plaintiffs-Appellees:**

Electronic Frontier Foundation

**Counsel for Electronic Frontier Foundation:**

David Greene

Mukund Rathi

ELECTRONIC FRONTIER FOUNDATION

Thomas S. Leatherbury

VINSON & ELKINS LLP

**Amici in Support of Defendant-Appellant:**

Texas Public Policy Foundation, The Babylon Bee; Not the Bee; Giganews, Inc.; and Golden Frog, Inc.

**Counsel for Texas Public Policy Foundation, et al.:**

W. Scott McCollough

MCCOLLOUGH LAW FIRM, P.C.

Evan Miles Goldberg

EVAN MILES GOLDBERG, PLLC

Robert Henneke

TEXAS PUBLIC POLICY FOUNDATION

*/s/ Scott A. Keller*

SCOTT A. KELLER

*Counsel of Record for*

*Plaintiffs-Appellees*

**UNOPPOSED MOTION TO FILE OVERLENGTH RESPONSE TO  
APPELLANT’S OVERLENGTH MOTION**

Plaintiffs-Appellees respectfully request an extension of the word limit—from 5,200 words to 7,000 words—for their response to Defendant-Appellant’s 7,000-word motion to stay the preliminary injunction pending appeal.

This case concerns Texas House Bill 20 (“HB20”)—a content-, viewpoint-, and speaker-based law that violates the First Amendment by eviscerating editorial discretion, compelling and chilling speech, and imposing onerous disclosures on a select few disfavored Internet social-media platforms. The district court correctly preliminarily enjoined Defendant from enforcing HB20, and Defendant has moved to stay that injunction pending appeal. This Court granted Defendant an extension of his word limit on that motion, from 5,200 words to 7,000 words.

To adequately respond to Defendant’s 7,000-word motion, Plaintiffs respectfully request a corresponding extension of their word limit. HB20 plainly violates centuries of constitutional principles and decades of the Supreme Court’s precedents. But Defendant has used his overlength 7,000-word motion to raise myriad arguments—including some that Defendant barely raised below—trying to evade those principles and precedents.<sup>1</sup> An

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<sup>1</sup> In his motion to extend, Defendant noted the voluminous briefing in the district court. That briefing included two claims that the district court did

extension will permit Plaintiffs to both explain HB20's plain flaws and respond to Defendant's arguments.

Counsel for Plaintiffs conferred with Defendant's counsel on December 22, 2021. Defendant does not oppose the relief requested in this motion.

### CONCLUSION

Plaintiffs respectfully request this Court extend Plaintiffs' word limit to respond to Defendant's motion to stay preliminary injunction pending appeal to 7,000 words.

DATED: December 23, 2021

Steven P. Lehotsky  
Jonathan D. Urick  
Jeremy Evan Maltz  
Gabriela Gonzalez-Araiza  
LEHOTSKY KELLER LLP  
200 Massachusetts Avenue, NW  
Washington, DC 20001

Respectfully submitted,  
/s/ Scott A. Keller

Scott A. Keller  
Matthew H. Frederick  
Todd Disher  
LEHOTSKY KELLER LLP  
919 Congress Ave.  
Austin, TX 78701  
scott@lehotskykeller.com  
T: (512) 693-8350  
F: (833) 233-2202  
*Counsel for Plaintiffs-Appellees*

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not evaluate in its preliminary-injunction motion: HB20's violation of the Commerce Clause and HB20's preemption under 47 U.S.C. § 230.

**CERTIFICATE OF CONFERENCE**

On December 22, 2021, counsel for Plaintiffs-Appellees conferred by e-mail with counsel for Defendant-Appellant, who stated that Defendant-Appellant does not oppose the relief requested in this motion.

/s/ Scott A. Keller

Scott A. Keller

### CERTIFICATE OF SERVICE

On December 23, 2021, this brief was served via CM/ECF on all registered counsel and transmitted to the Clerk of the Court. Counsel further certifies that: (1) any required privacy redactions have been made in compliance with Fifth Circuit Rule 25.2.13; and (2) the document has been scanned with the most recent version of a commercial virus scanning program and is free of viruses. No paper copies were filed in accordance with the COVID-19 changes ordered in General Docket No. 2020-3.

/s/ Scott A. Keller  
Scott A. Keller

### CERTIFICATE OF COMPLIANCE

This brief complies with: (1) the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 278 words, excluding the parts of the brief exempted by Rule 27(a)(2)(B); and (2) the typeface and type style requirements of Rule 27(d)(1)(E) because it has been prepared in a proportionally spaced typeface (14-point Palatino Linotype) using Microsoft Word (the same program used to calculate the word count).

/s/ Scott A. Keller  
Scott A. Keller