

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

NETCHOICE, LLC, et al.,)	
)	
<i>Plaintiffs-Appellees,</i>)	No. 21-12355
)	
ATTORNEY GENERAL, STATE OF)	
FLORIDA, et al.,)	
)	
<i>Defendants-Appellants.</i>)	

JOINT MOTION TO STAY THE ISSUANCE OF THE MANDATE

This case involves Florida’s social media law that, like a pending appeal in the Fifth Circuit involving a similar law from Texas, presents “issues of great importance that will plainly merit [Supreme Court] review.” *NetChoice v. Paxton*, 142 S. Ct. 1715, 1715-16 (2022) (Alito, J., dissenting from grant of application to vacate stay); *see also id.* at 1715 (granting application). The parties share the view that further review in the Supreme Court is warranted and have asked the District Court to stay proceedings pending disposition of forthcoming petition(s) for a writ of certiorari. The parties now jointly request that this Court stay the mandate pursuant to Federal Rule of Appellate Procedure 41.

A stay of the mandate is warranted because a petition for certiorari from this case will plainly “present a substantial question,” and “good cause” exists to preserve the status quo while the parties seek further clarity on the important issues in this case. Fed. R. App. P. 41(d)(1).

GROUND FOR A STAY

This Court may stay its mandate pending the filing of a petition for certiorari upon a showing “that the petition would present a substantial question and that there is good cause for a stay.” Fed. R. App. P. 41(d)(1). This case satisfies both requirements.

First, this case plainly presents important questions that warrant Supreme Court review. Under review in this case is a “first-of-its-kind law” that regulates social media platforms. Op.3. Whether and to what extent states may regulate social media platforms is an issue of profound importance. The Supreme Court, indeed, vacated the Fifth Circuit’s order staying a preliminary injunction involving Texas’s similar social media law, *see Paxton*, 142 S. Ct. at 1715—a disposition that required the Court to conclude that it “very likely would” grant review, *Coleman v. Paucar, Inc.*, 424 U.S. 1301, 1304 (1976) (Rehnquist, J., in chambers). And at least three of the dissenting Justices observed—in the very first sentence of the dissent—that “[t]his application concerns issues of great importance that will plainly merit this Court’s review.” *Paxton*, 142 S. Ct. at 1715 (Alito, J., joined by Thomas, J., and Gorsuch, J., dissenting). The parties agree with that assessment. Florida plans to file a petition for certiorari; Plaintiffs expect to acquiesce in that petition and file a cross-petition. Under those circumstances, plenary review by the Supreme Court is

highly likely. On top of that, developments in the Fifth Circuit create a very strong possibility of a circuit split in the near-term, further cementing the case for certiorari.

Second, good cause exists for a stay of the mandate to preserve the status quo. The Florida law has been subject to a preliminary injunction since before its effective date. The Supreme Court recently acted to preserve the status quo and prevent the Texas law from going into effect pending Supreme Court review. The parties agree that maintaining the status quo while they seek clarity on whether and to what extent a state may regulate social media platforms would conserve resources and is appropriate under the circumstances. The parties have jointly requested that the District Court stay all further proceedings while the parties pursue further review in the Supreme Court.

CONCLUSION

For the foregoing reasons, the Court should stay the issuance of the mandate pending the disposition of timely filed petitions for a writ of certiorari.

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June 17, 2022

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**CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT**

Pursuant to 11th Cir. R. 26.1, Appellees hereby certify that NetChoice has no parent corporation and that no publicly held corporation owns ten percent or more of its stock. Appellees certify that the Computer & Communications Industry Association (CCIA) has no parent corporation and that no publicly held corporation owns ten percent or more of its stock.

Pursuant to 11th Cir. R. 26.1, Appellees certify that the following is a complete list of attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this particular case on appeal:

1. Allen, Jason Todd, *Defendant/Appellant*
2. Allen, Kenneth Winn, *Attorney for Plaintiffs/Appellees*
3. American Civil Liberties Union of Florida, *Amicus Curiae*
4. American Civil Liberties Union, *Amicus Curiae*
5. Authors Guild Inc., *Amicus Curiae*
6. Barnes, Brian W., *Attorney for Defendant/Appellant*
7. Bassett, Glenn Allen, *Attorney for Defendants/Appellants*
8. Bell, Daniel William, *Attorney for Defendants/Appellants*
9. Blacklock, Evelyn, *Attorney for Plaintiffs/Appellees*
10. Burhans Jr., Glenn T., *Attorney for Plaintiff/Appellee*
11. Carome, Patrick J., *Attorney for Amicus Curiae*

12. Center for Democracy and Technology, *Amicus Curiae*
13. Chamber of Progress, *Amicus Curiae*
14. Clark, Christopher Roy, *Attorney for Plaintiff/Appellee*
15. Clement, Paul D., *Attorney for Plaintiffs/Appellees*
16. Computer & Communications Industry Association, *Plaintiff*
17. Connected Commerce Council, *Amicus Curiae*
18. Consumer Technology Association, *Amicus Curiae*
19. Cooper, Charles J., *Attorney for Defendant/Appellant*
20. Cooper & Kirk, PLLC, *Attorneys for Defendant/Appellant*
21. DLA Piper US LLP, *Attorneys for Plaintiff/Appellee*
22. Eisenstein, Ilana Hope, *Attorney for Plaintiff/Appellee*
23. Electronic Frontier Foundation, *Amicus Curiae*
24. Engine Advocacy, *Amicus Curiae*
25. Esparza, Servando, *Declarant*
26. Fabens-Lassen, Ben, *Attorney for Plaintiff/Appellee*
27. Florida Department of Management Services, *Defendant/Appellant*
28. Florida Elections Commission, *Defendant/Appellant*
29. Florida Office of the Attorney General, *Attorneys for Defendants/Appellants*
30. Gillespie, Patrick, *Defendant/Appellant*
31. Goldstein, Leonid, *Amicus Curiae*

32. Green, Jonathan Allen, *Attorney for Plaintiff/Appellee*
33. Greene, David Allen, *Attorney for Amicus Curiae*
34. Hayes, John Martin, *Defendant/Appellant*
35. Hinkle, Judge Robert L., *District Court Judge*
36. Holtzblatt, Ari, *Attorney for Amicus Curiae*
37. Homer, Bonner, *Attorneys for Amicus Curiae*
38. Homer, Peter Winslow, *Attorney for Amicus Curiae*
39. Hopkins, Christopher, *Attorney for Amici Curiae*
40. Information Technology & Innovation Foundation, *Amicus Curiae*
41. Internet Association, *Amicus Curiae*
42. Johnson, Steffen N., *Attorney for Plaintiff/Appellee*
43. Karanjia, Peter, *Attorney for Plaintiff/Appellee*
44. Kilby, Douglas Lamar, *Attorney for Plaintiff/Appellee*
45. Kirkland & Ellis LLP, *Attorneys for Plaintiffs/Appellees*
46. Mackey, Aaron, *Attorney for Amicus Curiae*
47. Masterman, Joseph, *Attorney for Defendant/Appellant*
48. McDonald Hopkins LLC, *Attorneys for Amicus Curiae*
49. Media Law Resource Center Inc, *Amicus Curiae*
50. Mitchell, Kasdin M., *Attorney for Plaintiffs/Appellees*
51. Moody, Ashley B., *Defendant/Appellant*

52. Morrison, Danielle T., *Attorney for Plaintiff/Appellee*
53. National Black Justice Coalition, *Amicus Curiae*
54. NetChoice LLC, *Plaintiff*
55. Oprison, Christopher George, *Attorney for Plaintiff/Appellee*
56. Opsahl, Kurt, *Attorney for Amicus Curiae*
57. Pavlovic, Corinne, *Declarant*
58. Pen American Center Inc., *Amicus Curiae*
59. Phillips, Joseph Trumon, *Attorney for Plaintiff/Appellee*
60. Poitier, Joni Alexis, *Defendant/Appellant*
61. Potts, Neil, *Declarant*
62. Progressive Policy Institute, *Amicus Curiae*
63. Protect Democracy Project, Inc., *Amicus Curiae*
64. Reporters Committee For Freedom of the Press, *Amicus Curiae*
65. Rumenap, Stacie D., *Declarant*
66. Schruers, Matthew, *Declarant*
67. Shullman, Deanna K, *Attorney for Amici Curiae*
68. Shullman, Fugate PLLC, *Attorneys for Amici Curiae*
69. Siekkinen, Nury Agudo, *Attorney for Amici Curiae*
70. Smith, Kymberlee Curry, *Defendant/Appellant*
71. Smitha, Bridget Kellogg, *Attorney for Plaintiff/Appellee*

72. Stearns Weaver Miller Alhadeff & Sitterson, P.A., *Attorneys for Plaintiff/Appellee*
73. Szabo, Carl, *Declarant*
74. Szoka, Berin Michael, *Attorney for Amicus Curiae*
75. TechFreedom, *Amicus Curiae*
76. Technet, *Amicus Curiae*
77. Thompson, David H., *Attorney for Defendant/Appellant*
78. Tienken, John W., *Attorney for Defendant/Appellant*
79. Treadwell, Raymond Frederick, *Attorney for Defendant/Appellant*
80. Uthmeier, James William, *Attorney for Defendant/Appellant*
81. Veitch, Alexandra, *Declarant*
82. Walters Law Group, *Attorneys for Amicus Curiae*
83. Walters, Lawrence G., *Attorney for Amicus Curiae*
84. Washington Center for Technology Policy Inclusion, *Amicus Curiae*
85. Whitaker, Henry C., *Attorney for Defendants/Appellants*
86. White, Lauren Gallo, *Attorney for Plaintiff/Appellee*
87. Willen, Brian M., *Attorney for Plaintiff/Appellee*
88. Wilmer Cutler Pickering Hale and Dorr LLP, *Attorneys for Amicus Curiae*
89. Wilson Sonsini Goodrich & Rosati, P.C., *Attorneys for Plaintiff/Appellee*

90. Winship, Blaine H., *Attorney for Defendants/Appellants*

91. Wolfson, Paul R., *Attorney for Amicus Curiae*

92. Xi, James, *Attorney for Plaintiffs/Appellees*

93. Yang, Meng Jia, *Attorney for Plaintiff/Appellee*

94. ZwillGen, *Attorneys for Amici Curiae*

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 563 words as determined by the word counting feature of Microsoft Word 2016.

June 17, 2022

s/Paul D. Clement

Paul D. Clement

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2022, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eleventh Circuit by using the CM/ECF system. I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/Paul D. Clement

Paul D. Clement