Filed: 11/3/2022 12:48 PM

IN THE
SUPREME COURT OF INDIANA

Court of Appeals Case No. 22A-CR-578

STATE OF INDIANA, *Appellant (Plaintiff below)*, v. $2,435 IN UNITED STATES CURRENCY and ALUCIOUS KIZER, *Appellees (Defendants below)*.	Appeal from the Allen Circuit Court Case No. 02C01-2109-MI-825 The Honorable Wendy W. Davis, Judge

APPELLEES' PETITION TO TRANSFER

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QUESTION PRESENTED ON TRANSFER

Whether the defendant in an action brought under Indiana's Civil Forfeiture Statute has the right to a trial by jury.

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INTRODUCTION

Article 1, Section 20, of the Indiana Constitution provides, "In all civil cases, the right of trial by jury shall remain inviolate." Construing similar language in the U.S. Constitution, federal courts have secured the right to jury trials in civil-forfeiture cases in federal court. Fourteen state supreme courts have construed their constitutions similarly. So, too, did the trial court below. On interlocutory appeal, however, the court of appeals held it "well-settled" that civil-forfeiture actions in Indiana are "outside of Article 1, Section 20, and are instead equitable claims to be tried by the court." That decision breaks with this Court's precedent. And as a published opinion, it now binds trial courts statewide. *In re M.W.*, 130 N.E.3d 114, 116 (Ind. Ct. App. 2019). The State's original arguments for interlocutory review thus apply with added force in support of transfer: This appeal "involves a substantial question of law" with implications not just for this case, but for "other similar cases" across Indiana. Transfer is warranted.

Appellees' right to a jury trial is secured by the U.S. Constitution also, though this argument is currently foreclosed by federal precedent. *E.g.*, *Osborn v. Haley*, 549 U.S. 225, 252 n.17 (2007) ("[T]he Seventh Amendment . . . is inapplicable to proceedings in state court."). If this Court does not rule in their favor on state-law grounds, Appellees ask that the Court confirm that their federal argument is foreclosed by precedent of the U.S. Supreme Court, so that they may seek relief from that Court.

BACKGROUND AND PRIOR TREATMENT OF ISSUES ON TRANSFER

1. In September 2021, officers with the Fort Wayne Police Department arrested Alucious Kizer and seized $2,435. *State v. $2,435*, 194 N.E.3d 1227, 1228 (Ind. Ct. App. 2022). The State of Indiana then sued to forfeit the currency under the state Civil Forfeiture

Statute. Appellant's App. Vol. II pp. 14-15. As its basis for forfeiture, the State alleged that Kizer's money either had been "furnished or intended to be furnished" in exchange for a crime or had been "used to facilitate" a crime or was "traceable as proceeds" of a crime. Appellant's App. Vol. II pp. 14-15. *But see* Appellant's App. Vol. II p.10 ("Kizer advised Detective Harmeyer that he was working for his cousin, remodeling homes. He stated that when his cousin gets paid, the cousin will then pay him in cash. Kizer advised that he was last paid approximately one week ago and he was paid $400 cash.").

Unrepresented by counsel, Kizer filed an answer. In it, he requested a trial by jury. Appellant's App. Vol. II pp. 21, 24; Def.'s Answer 1, 4 (Oct. 20, 2021).[1]

The State moved to strike Kizer's jury demand. As a matter of federal law, the State remarked that "there is no federal constitutional right to a jury trial in state forfeiture cases" because "the Seventh Amendment has not been 'incorporated' by the due process clause of the Fourteenth Amendment." Appellant's App. Vol. II p.29. As for state law, the State contended that "there exists no right to jury trial under Rule TR. 38 or Article I, Section 20 of the Indiana Constitution because [the civil-forfeiture action] is equitable in nature." Appellant's App. Vol. II p.31.

Four days later, the trial court granted the State's motion to strike. But following a request from Kizer, the court reconsidered. The court noted that the Seventh Amendment's civil-jury guarantee is "not binding on the states." Appellant's App. Vol. II p.39; *see also* Order 3 (Jan. 27, 2022). The court observed, however, that the Seventh Circuit has construed the Seventh Amendment to secure the right to trial by jury in forfeiture cases in federal

[1] Some documents in the State's electronic appendix appear to be corrupted. For those, a parallel citation to the trial-court record is included in this petition.

court. Appellant's App. Vol. II p.39. (The federal courts have concluded that "cases of forfeiture of articles seized on land for violation of federal statutes" were historically handled by district courts "as courts of common law according to the course of the Exchequer on informations in rem with trial by jury." *United States v. One 1976 Mercedes Benz*, 618 F.2d 453, 463 (7th Cir. 1980) (citation omitted).) In part based on that authority, the trial court determined that the Indiana Constitution likewise secures a right to jury trials in these types of cases. Appellant's App. Vol. II, pp. 38-39. "[U]ntil Indiana courts address the issue to give this Court further guidance," the court "f[ound] it appropriate to adopt the approach of the federal courts and err on the side of awarding Defendants more rights and due process by honoring the right to jury trial in civil forfeiture cases, if timely requested." Appellant's App. Vol. II p.39.

2. The State requested an interlocutory appeal. Whether civil-forfeiture defendants are entitled to trial by jury, the State said, is "a substantial question of law" and one "that will reoccur." Appellant's App. Vol. II pp. 41-42. The trial court granted the State's motion and stayed further proceedings pending resolution of the appeal. Appellant's App. Vol. II pp. 43-44.

3. The State then asked the court of appeals to accept jurisdiction. Mot. to Accept Jurisdiction Over Interlocutory Appeal (Ind. Ct. App. Mar 15, 2022). The State maintained that the jury-trial issue "involves a substantial question of law that is best determined at the outset of the case" (*id.* 3); that the court of appeals' intervention would "avoid unnecessary expense being incurred by the parties and the potential waste of judicial resources" (*id.* 4); and, more broadly, that "[p]rompt resolution of this issue will greatly aid in facilitating the resolution of this case and other similar cases." *Id.* 1.

Kizer filed a handwritten brief in opposition. "The key issue," he argued, "is, 'Are forfeitures equitable in nature or triable by jury at Law?'" Opp. to Mot. to Accept Jurisdiction Over Interlocutory Appeal 3 (Ind. Ct. App. Mar. 29, 2022).

4. The court of appeals accepted jurisdiction and later reversed the trial court's order. Because Kizer did not file an appellee's brief after it granted review, the court of appeals noted that it would "not 'develop an argument'" on his behalf. *$2,435*, 194 N.E.3d at 1229. Even so, the court observed that the jury-trial issue "presents a pure question of law," and it addressed that question directly. *Id.* (citation omitted). To start, the court accepted that the Indiana Constitution "preserves the right to a jury trial only as it existed at common law, and a party is not entitled to a jury trial on equitable claims." *Id.* (citation omitted). With that as its baseline, the court then held that civil-forfeiture defendants are not entitled to jury trials. *Id.* In support of that view, the court relied on a 1909 decision from this Court, *Campbell v. State*, which involved an action to confiscate not lawful property, but contraband. *Id.* (citing 171 Ind. 702, 87 N.E. 212, 214-15 (1909)). The court also drew on one of its opinions from the mid-1990s, which did not involve jury trials but which described forfeiture cases as "resembl[ing] an equitable action for disgourgement or restitution." *Id.* (citation omitted). On these grounds, the court held it "well-settled" that "the State's civil forfeiture complaints are outside of Article 1, Section 20, and are instead equitable claims to be tried by the court." *Id.* Its opinion was published.

ARGUMENT

The Court should grant transfer and hold that property owners have the right to trial by jury in civil-forfeiture cases.

Alucious Kizer is entitled to a trial by jury under both the Indiana Constitution and the U.S. Constitution. Transfer should be granted, and the Court should so hold.

A. Civil-forfeiture defendants have the right to trial by jury under Article 1, Section 20, of the Indiana Constitution and Trial Rule 38.

1. The court of appeals' decision conflicts with the precedent of this Court and with analogous holdings from fourteen other state supreme courts.

a. Article 1, Section 20, of the Indiana Constitution provides, "In all civil cases, the right of trial by jury shall remain inviolate." Much like its federal counterpart, this provision "secure[s] . . . a pre-existing right." *Reynolds v. State*, 61 Ind. 392, 407 (1878). Under the 1851 Constitution—like the 1816 Constitution and the Northwest Ordinance before that—civil litigants have the right to a jury trial "as it existed at common law." *Songer v. Civitas Bank*, 771 N.E.2d 61, 63 (Ind. 2002). Historically, actions at law were heard in the common-law courts (in England, the Court of Exchequer), where parties had the right to a trial by jury. Causes in equity, by contrast, were heard in the Courts of Chancery, where "the right to a trial by jury did not exist." *Carmichael v. Adams*, 91 Ind. 526, 526 (1883). That dividing line would be codified in Indiana's "earliest written law"—the Northwest Ordinance of 1787—under which "'trial by jury' was to be had by the inhabitants of [the northwest] territory, 'according to the course of the common law.'" *Reynolds*, 61 Ind. at 407. The same dividing line would be preserved in Indiana's first constitution. *Id.* ("[W]hen it was provided in the [1816 Constitution], that 'the right of trial by jury shall remain inviolate,' it was meant and intended thereby, that the right, as it then existed under the ordinance of 1787, should remain inviolate, 'according to the course of the common law.'"). The line was preserved

again in 1851, with Article 1, Section 20. *Norristown, Hope & St. Louis Tpk. Co. v. Burket*, 26 Ind. 53, 61 (1866).

It remains in force to this day. As this Court observed in 2002, Article 1, Section 20, draws "from English common law roots and England's symbiotic system of law courts and equity courts." *Songer*, 771 N.E.2d at 63. For "equitable claims," then, it is "well-settled" that "a party is not entitled to a jury trial." *Id.* But if a cause of action would have been "known under the common law of England," then "the right to a jury trial . . . is fully protected by article 1, § 20." *Warren v. Ind. Tel. Co.*, 217 Ind. 93, 26 N.E.2d 399, 403 (1940); *see also Millers Nat'l Ins. Co. v. Am. State Bank of E. Chi.*, 206 Ind. 511, 190 N.E. 433, 435 (1934); *Anderson v. Caldwell*, 91 Ind. 451, 454-55 (1883) (Elliott, J., concurring); *see generally Songer*, 771 N.E.2d at 63 ("This principle is embodied in Ind. Trial Rule 38(A).").

These principles apply straightforwardly here. Under the Civil Forfeiture Statute, the State may sue to forfeit property that is linked to a crime. Ind. Code § 34-24-1-1. And historically, civil actions to forfeit property "used in violation of law" were tried, not in Courts of Chancery, but in the Courts of Exchequer—whose "jurisdiction was absorbed by the common law courts" of the American colonies. *C.J. Hendry Co. v. Moore*, 318 U.S. 133, 137, 139 (1943). After the founding, therefore, the Supreme Court "repeatedly declared" that such cases were to be heard by "courts of common law according to the course of the Exchequer on informations in rem with trial by jury." *Id.* at 153. John Marshall, for his part, was emphatic: "In the trial of all cases of seizure, on land"—he wrote—"the Court sits as a Court of

common law," and "[i]n all cases at common law, the trial must be by jury." *The Sarah*, 21 U.S. 391, 394 (1823).[2]

Against that backdrop, the trial court was correct to conclude that Alucious Kizer is entitled to a jury trial. The common law for purposes of Article 1, Section 20, is the same common law canvassed in cases like *C.J. Hendry Co*. *Compare United States v. Wonson*, 28 F. Cas. 745, 750 (C.C.D. Mass. 1812) (Story, J.), *with, e.g.*, *Songer*, 771 N.E.2d at 63. With that history as the baseline, the State's suit to forfeit Kizer's property "is essentially legal in nature." *Midwest Sec. Life Ins. Co. v. Stroup*, 730 N.E.2d 163, 169 (Ind. 2000) (Boehm, J., concurring). In fact—and as the Seventh Circuit has remarked—"[i]t is difficult to imagine how a proceeding to enforce a statutory forfeiture can resemble in any respect a suit in equity." *United States v. One 1976 Mercedes Benz*, 618 F.2d 453, 458-59 (7th Cir. 1980). That reasoning applies with equal force here, and "[w]here a cause of action is not such as to invoke equity jurisdiction, it is considered to be an action at law subject to trial by jury." *Fager v. Hundt*, 610 N.E.2d 246, 253 n.5 (Ind. 1993).

Precedent from other jurisdictions drives home the point. Federal courts have construed the Seventh Amendment to enshrine a common-law right to jury trials in federal forfeiture actions. *One 1976 Mercedes Benz*, 618 F.2d at 458-59; *see also United States v. One Lincoln*

[2] Seizures on navigable waters could be heard by courts in admiralty, where the trial would not be by jury. *The Sarah*, 21 U.S. 391, 394 (1823). But "admiralty jurisdiction . . . extends only to seizures on navigable waters, not to seizures on land." *United States v. Winchester*, 99 U.S. 372, 374 (1878); *id.* ("The difference is important, as cases in admiralty are tried without a jury, whilst in cases at law the parties are entitled to a jury, unless one is waived.").

Navigator, 328 F.3d 1011, 1014 n.2 (8th Cir. 2003). Construing their own constitutions, at least fourteen state supreme courts have held similarly.[3] The same result should obtain here.

b. The court of appeals offered two reasons why, in its view, Article 1, Section 20, does not apply to civil-forfeiture cases. Both lack merit.

First, the court read this Court's opinion in *Campbell v. State* to mean that forfeiture actions writ large are exempt from Article 1, Section 20. *State v. $2,435*, 194 N.E.3d 1227, 1229 (Ind. Ct. App. 2022) (quoting 171 Ind. 702, 87 N.E. 212, 214-15 (1909)). That draws too much from too little. To start, *Campbell* devoted a bare sentence to the jury-trial question; evidently, it was "not argued" on appeal. 87 N.E. at 214. More importantly, the proceeding in *Campbell* differed fundamentally from an action under the Civil Forfeiture Statute. The State in *Campbell* sought to confiscate not lawful property, but contraband—alcohol. *Id.* at 213; *see also $2,435*, 194 N.E.3d at 1229 (acknowledging that *Campbell* involved "illegal property"). That difference matters: Unlike with property that is lawful to own (like currency), "[t]he forfeiture of contraband *per se* is a proceeding *in rem* to which no right to jury trial exists." *State ex rel. Dugger v. $12,000.00*, 155 P.3d 858, 862 (Okla. Civ. App. 2007). As a result, many of the courts that secure jury trials in civil-forfeiture actions have

[3] *People v. One 1941 Chevrolet Coupe*, 231 P.2d 832, 844 (Cal. 1951); *In re Forfeiture of 1978 Chevrolet Van*, 493 So. 2d 433, 436 (Fla. 1986); *Idaho Dep't of Law Enforcement v. Free*, 885 P.2d 381, 386 (Idaho 1994); *People ex rel. O'Malley v. 6323 N. LaCrosse Ave.*, 634 N.E.2d 743, 746 (Ill. 1994); *State v. One 1981 Chevrolet Monte Carlo*, 728 A.2d 1259, 1261 (Me. 1999); *Commonwealth v. One 1972 Chevrolet Van*, 431 N.E.2d 209, 212 (Mass. 1982); *State v. Items of Real Prop.*, 383 P.3d 236, 245 (Mont. 2016); *State v. One 1990 Honda Accord*, 712 A.2d 1148, 1157 (N.J. 1998); *Vergari v. Marcus*, 257 N.E.2d 652, 652 (N.Y. 1970); *Keeter v. State*, 198 P. 866, 868 (Okla. 1921); *State v. 1920 Studebaker Touring Car*, 251 P. 701, 704 (Or. 1926); *Commonwealth v. One 1984 Z-28 Camaro Coupe*, 610 A.2d 36, 41 (Pa. 1992); *Medlock v. 1985 Ford F-150*, 417 S.E.2d 85, 87 (S.C. 1992); *State v. One 1969 Blue Pontiac Firebird*, 737 N.W.2d 271, 276-77 (S.D. 2007).

easily distinguished cases involving contraband.[4] There is no reason to think Indiana's constitution applies differently.

Below, the State harnessed *Campbell* for an even broader proposition: that because civil-forfeiture actions are "statutory," Article 1, Section 20, cannot apply. State Br. 10. Under that view, however, "parties filing suit under any statutory scheme that has been developed since 1852 would not be entitled to a jury trial." *Midwest Sec. Life Ins. Co.*, 730 N.E.2d at 170 (Boehm, J., concurring). Unsurprisingly, "[n]o case seems to suggest that result." *Id.*

If anything, precedent suggests the opposite. In construing Trial Rule 38's precursor, for instance, this Court held that statutorily authorized suits *were* triable by jury if they "did not come into existence as a suit of equitable cognizance, but as a statutory action." *Puterbaugh v. Puterbaugh*, 131 Ind. 288, 30 N.E. 519, 521 (1892). And in applying Article 1, Section 20, modern courts have rejected the view that it is inapplicable to suits authorized by statute. "[T]he key determination to be made," rather, "is whether the claim involved is legal or equitable in character." *Cardinal Health Ventures, Inc. v. Scanameo*, 85 N.E.3d 637, 640 (Ind. Ct. App. 2017) (citation omitted), *trans. denied*. Applying that framework, the court of appeals has affirmed the "constitutional right to a jury trial" in litigation under Indiana's securities-fraud statute. *Id.* at 641. The court held similarly in a suit for municipal penalties, even though "the ordinances at issue did not exist prior to 1852." *Gates v. City of Indianapolis*, 991 N.E.2d 592, 595 (Ind. Ct. App. 2013), *trans. denied*. The State itself concedes that "[w]hen a specific cause of action did not exist at common law in 1852, '[t]he appropriate question is whether the essential features of the suit are equitable.'" State Br. 11. Even if there may be circumstances where the legislature has so abrogated the common law that ju-

[4] *E.g.*, *One 1941 Chevrolet Coupe*, 231 P.2d at 843; *Items of Real Prop.*, 383 P.3d at 244; *6323 N. LaCrosse Ave.*, 634 N.E.2d at 745-46; *1920 Studebaker Touring Car*, 251 P. at 705-06.

ry trials can no longer be had by right, actions under the Civil Forfeiture Statute are not among them.[5]

Second, the court of appeals seized on a comment in one of its own precedents to the effect that "an action for forfeiture resembles an equitable action for disgourgement or restitution." *$2,435*, 194 N.E.3d at 1229 (quoting *Caudill v. State*, 613 N.E.2d 433, 437 (Ind. Ct. App. 1993)). But *Caudill* held simply that civil-forfeiture actions are civil, not criminal. 613 N.E.2d at 437. That truism says nothing about whether the actions are suits in equity—i.e., suits that would have been heard in the Chancery Courts. The State's comments below illustrate the point. In the court of appeals, the State acknowledged that civil-forfeiture actions "hav[e] some punitive aspect" and serve in part to "deter the defendant's future illegal acts." State Br. 12, 14. So framed, the suits are rightly classified as ones of law, not equity. For historically, "[r]emedies intended to punish culpable individuals, as opposed to those intended simply to extract compensation or restore the status quo, were issued by courts of law, not courts of equity." *Tull v. United States*, 481 U.S. 412, 422 (1987).

Similarly without merit is the State's bid to liken this action to a suit in equity for "remov[ing] illegally obtained profits." State Br. 12. Even for money earned illegally, an action to confiscate it *to benefit the State* (rather than victims) is not a suit in equity. *Cf. Liu v. SEC*, 140 S. Ct. 1936, 1948 (2020) ("The equitable nature of the profits remedy generally

[5] Many of the states catalogued above have also rejected the view that "because forfeiture is a creature of statute, [the defendant] has no common-law right to a jury trial." *One 1990 Honda Accord*, 712 A.2d at 1150; *see also Items of Real Prop.*, 383 P.3d at 242-44; *1978 Chevrolet Van*, 493 So. 2d at 434; *1920 Studebaker Touring Car*, 251 P. at 704. The few supreme courts to have held that their constitutions do not secure jury trials in civil-forfeiture cases have done so mainly on the theory that the relevant statutes postdate their constitutions' ratification. *State v. $17,515*, 670 N.W.2d 826, 827-28 (N.D. 2003); *Swails v. State*, 431 S.E.2d 101, 103 (Ga. 1993); *In re One Chevrolet Automobile*, 87 So. 592, 593 (Ala. 1921); *accord Helms v. Tenn. Dep't of Safety*, 987 S.W.2d 545, 549 (Tenn. 1999).

requires the SEC to return a defendant's gains to wronged investors for their benefit."). In any event, the State does not seek relief solely on the theory that Kizer's moneys were the "proceeds" of crime. Rather, the complaint alleges that—whatever its provenance—the property should be forfeit because it was "intended" for crime or "used to facilitate" crime. Appellant's App. Vol. II pp. 14-15; State Br. 12 n.2 (describing the money as an "instrumentality"). This is an action at law and triable by jury, and the court of appeals' contrary holding warrants correction.[6]

2. The question presented is important and warrants review in this case.

a. As the number of state high courts to have addressed it suggests, the right to a trial by jury in civil-forfeiture cases is an important question. Recognizing that "[t]he right to a jury trial holds a special place in the system of justice," *Songer*, 771 N.E.2d at 63, this Court has repeatedly taken cases to clarify Article 1, Section 20. And the need for clarity is acute here. Civil-forfeiture actions unite a "constellation of unique characteristics" that disadvantage property-owner defendants. *Abbott v. State*, 183 N.E.3d 1074, 1087 (Ind. 2022) (Rush, C.J., concurring in part and dissenting in part). Forfeitures also risk being imposed "in a measure out of accord with the penal goals of retribution and deterrence." *State v. Timbs*, 134 N.E.3d 12, 38 (Ind. 2019) (citation omitted). In this sphere, the jury is an important check on the power to punish. It "stands as a shield between the individual and the State." *State v. One 1990 Honda Accord*, 712 A.2d 1148, 1157 (N.J. 1998). Whether civil-

[6] Below, the State posited that, as a statutory matter, the legislature "intended forfeitures under [the Civil Forfeiture Statute] to be tried to the court," not a jury. State Br. 9. The statute is better read as silent on that point. I.C. § 34-24-1-4. Even were the State's reading correct, however, "[t]he Legislature can not curtail the right guaranteed by [Article 1, Section 20, of] the Constitution." *Redinbo v. Fretz*, 99 Ind. 458, 459 (1884).

forfeiture defendants can demand a jury is thus a "significant issue of Law" (to borrow the State's words), and it merits this Court's review. Appellant's App. Vol. II p.41.

b. As the court of appeals observed, Alucious Kizer did not file an appellee's brief after that court accepted jurisdiction. *$2,435*, 194 N.E.3d at 1229. That does not make the case any less a candidate for this Court's review. For one thing, Kizer (then *pro se*) submitted an appellate filing that staked out his position clearly. *See* p.11, above. More importantly—and as the court of appeals acknowledged—his right to a jury trial "presents a pure question of law." *$2,435*, 194 N.E.3d at 1229 (citation omitted). The court of appeals addressed that question head-on. *See McClure v. Cooper*, 893 N.E.2d 337, 339 (Ind. Ct. App. 2008) ("[W]e review de novo questions of law, regardless of the appellee's failure to submit a brief."). In doing so, it viewed this Court's precedent as "clear" and "well-settled." *$2,435*, 194 N.E.3d at 1229. It then held as a matter of law that "civil forfeiture complaints are outside of Article 1, Section 20." *Id.* Cementing that holding, it designated its opinion for publication—thereby binding trial courts statewide. This Court's intervention is warranted.

B. Civil-forfeiture defendants have the right to trial by jury under the Seventh Amendment to the United States Constitution.

Alucious Kizer's right to a jury trial is secured not only by Indiana law, but by the U.S. Constitution. The Seventh Amendment provides that "[i]n Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved . . . ." As construed by federal courts, that provision applies to civil-forfeiture actions much like this one. *See* p.14, above.

Appellees acknowledge that this federal-law argument is foreclosed by U.S. Supreme Court precedent, which holds that "the Seventh Amendment . . . is inapplicable to proceedings in state court." *Osborn v. Haley*, 549 U.S. 225, 252 n.17 (2007); *accord McDonald v. City of*

Chicago, 561 U.S. 742, 765 n.13 (2010) ("Our governing decisions regarding . . . the Seventh Amendment's civil jury requirement long predate the era of selective incorporation."). Appellees also acknowledge that the Supreme Court enjoys the "prerogative alone to overrule one of its precedents." *Bosse v. Oklahoma*, 137 S. Ct. 1, 2 (2016) (per curiam) (citation omitted). If this Court does not rule in their favor on the state-law grounds above, therefore, Appellees ask that the Court confirm that the Seventh Amendment argument is foreclosed by precedent of the U.S. Supreme Court, so that they may seek relief in that forum. *See Jarchow v. State Bar*, No. 19-3444, 2019 WL 8953257, at *1 (7th Cir. Dec. 23, 2019).

CONCLUSION

Appellees' petition to transfer should be granted.

Dated: November 3, 2022.

Respectfully submitted,

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WORD COUNT CERTIFICATE

I verify that this petition contains no more than 4,200 words (excluding the parts of the petition that are exempted by Indiana Rule of Appellate Procedure 44(C)), according to the word-count function of the word-processing program used to prepare the document.

/s/ Marie Miller
Marie Miller

CERTIFICATE OF SERVICE

I certify that on November 3, 2022, I electronically filed the foregoing document using the Indiana E-filing System (IEFS). I hereby certify that a copy of the foregoing was served on the following persons using the IEFS:

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