

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 21-1365

Caption [use short title]

Motion for: Leave to file Brief Amicus Curiae for Business Executives in support of Appellants

In re SELINA SOULE, a minor, by Bianca Stanescu, her mother, et al., Appellants,

Set forth below precise, complete statement of relief sought: Leave to file brief amicus curiae for the named business executives in support of Appellants

v. Connecticut Association of Schools, Inc. d/b/a Connecticut Interscholastic Athletic Conference, et al.,

MOVING PARTY: Amici
[ ] Plaintiff [ ] Defendant
[ ] Appellant/Petitioner [ ] Appellee/Respondent

OPPOSING PARTY: Appellees

MOVING ATTORNEY: Jonathan R. Whitehead
[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: Linda L. Yoder, Esq.,

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Shipman & Goodwin LLP; 1 Constitution Plaza Hartford CT 06103 | (and others)

Court-Judge/Agency appealed from: US District Court for the District of Connecticut (Hon. Robert N. Chantigny)

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1): [x] Yes [ ] No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below? [ ] Yes [ ] No
Has this relief been previously sought in this Court? [ ] Yes [ ] No

Opposing counsel's position on motion: [ ] Unopposed [ ] Opposed [x] Don't Know

Does opposing counsel intend to file a response: [ ] Yes [ ] No [x] Don't Know

Requested return date and explanation of emergency:

Is oral argument on motion requested? [ ] Yes [x] No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? [ ] Yes [x] No If yes, enter date:

Signature of Moving Attorney: Jonathan R. Whitehead Date: 7/15/2021

Service by: [x] CM/ECF [ ] Other [Attach proof of service]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

In re SELINA SOULE, a minor,  
by Bianca Stanescu, her mother, *et*  
*al.*,

Appellants,

*vs.*

Connecticut Association of  
Schools, Inc. d/b/a Connecticut  
Interscholastic Athletic  
Conference, *et al.*,  
Appellees.

APPEAL NO. 21-1365

MOTION FOR LEAVE TO  
FILE BRIEF AMICUS  
CURIAE IN SUPPORT OF  
APPELLANTS

Your proposed *amici*, a group of 40 business executives, by their attorney, Jonathan R. Whitehead, moves the Court for an order granting them leave to file their brief *amicus curiae* in support of Appellants. The proposed brief is attached as an exhibit to the motion, and a complete list of *amici* is attached to this motion.

In further support, the proposed *amici* state:

1. The *amici* are current or retired business executives. They have significant experience in American business leadership and hiring practices. As executives, they represent a wide range of experience and industries. They are each familiar with the hiring practices of their employers and their industries, and with the skills and acumen necessary to

succeed in competitive business.

2. In light of their experience, *amici* wish to bring to the Court's attention the academic and professional consensus that labor market success is positively associated with athletic participation and athletic success. In the view of *amici*, the decision of the Court will impact the role that athletic records in their hiring practices. Therefore, your *amici* have an interest in making sure that athletic records of men and women continue to provide relevant hiring information, and in making sure that the records are set and retained using the same level of fairness for men and women.
3. Your *amici* believe the position of the female-athletes secures this fundamental fairness.
4. Counsel for amici have notified counsel for each party of their intent to file. At least one counsel for the parties indicated they were out of the office and would not be able to respond before the deadline. Therefore, Fed. R. App. P. 29 requires *amici* to file this motion for leave.
5. For the foregoing reasons, *amici* respectfully request that the Court accept and grant this motion for leave to file a brief

*amicus curiae.*

Date: July 16, 2021

Respectfully submitted,

LAW OFFICES OF JONATHAN  
R. WHITEHEAD, LLC

/s/ Jonathan R. Whitehead  
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ATTORNEY FOR AMICI  
BUSINESS EXECUTIVES

CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

Date: July 16, 2021

s/Jonathan R. Whitehead  
ATTORNEY FOR AMICI

## **Addendum A – List of Individual *Amici***

List of individual *amici*, including relevant experience and company:

1. Gary Archer, President, Let's Play Sports, Texas
2. Ken Auer, Founder & Owner of RoleModel Software, Inc. and Owner & CEO of Rock Solid Warrior LLC, North Carolina
3. Shannon Badger, Managing Partner, Badger CPA
4. Scott Barr, Steward of Southwest Exteriors in Texas
5. James Benton, Enterprise Service Delivery Manager, California
6. Robert Bortins, CEO, Classical Conversations
7. Lewis Brazelton, President/Founder, Brazelton Auto, Texas
8. Scotty Carroll, President/Owner, Trammel Creek Management, Inc., Tennessee
9. Stephen Casey, CEO, Datapoint Media Group
10. Jeff Davidson, co-CEO, Camp Gladiator, Texas
11. Ally Davidson, co-CEO, Camp Gladiator, Texas
12. Peter Demos, President and Attorney with Demos' Restaurants in Tennessee
13. Lisa A Fullerton – President/CEO A Novel Idea, LLC, Texas
14. Anthony, Hahn, President/CEO, Conestoga Wood Specialties Corporation, Pennsylvania
15. Jay Harris, CEO, Harris Beverages, LLC, North Carolina
16. Al Hartman, President & CEO, Hartman Income REIT Management, Inc., Texas
17. Douglas Hunter, CEO, Doug Hunter, LLC, South Carolina
18. Joseph Hurt, President of PBP Fabrication, Inc., Odessa, Texas
19. Simon Lee. CEO. EIS Office Solutions, Inc., Texas
20. John Lochner, Partner, Legacy Group of America Foundation, Wisconsin

21. Salvatore LoDico, CEO, Trinity HR Consulting, Inc, New Jersey
22. Michael R. Manzie, President, Code 3 Protective Services, California
23. Joelle Marquis, Managing Partner, Legacy In Action Companies, Residential & Commercial Construction, Florida
24. Ken Marquis, Partner, Legacy In Action Companies, Residential & Commercial Construction, Florida
25. Nathan Meyer President/Owner Glasco & Co. Landscaping, Inc. Texas
26. Thomas Okarma, Tom Okarma Consulting, Arizona
27. Joe A. Patterson, Jr., Vice President, Crockett National Bank, Texas
28. John T. Rogers, President, Performance Pulsation Control, Inc., Texas
29. James Ruder, President/Owner, L&R Pallet Service Inc., Denver, Colorado
30. Sam Rust, Manager, Life Bridge Capital, Colorado
31. Nicole Sdao, Founder/CEO - LetsTHRIVE360, Wisconsin
32. Brian Searcy, Founder - President, Paratus Group, Texas
33. Dennis Sledge, Owner, Specified Industrial Products, Texas
34. Dan Stege, Founder / CEO, Distinct Defense, LLC
35. Suzanne Tacconelly, Founder & CEO of Blessings in the Breeze, Texas
36. Samuel P Thevanayagam, CEO, Parts Life Inc., New Jersey
37. Jeff Thomas, Founder/CEO, Archetype Wealth Partners, Texas
38. Jay Toslma, Managing Partner, ELO CPAs & Advisors, South Dakota
39. Debra Van Essen, owner of Van Essen Insurance Agency, Manteca, California
40. Richard Williams, CEO, Lineage

Institutions of individual *amici* listed for identification purposes only. The opinions expressed are those of the individual *amici*, and not necessarily of their affiliated institutions.

# 21-1365

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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In re SELINA SOULE, a minor, by Bianca Stanescu, her mother, *et al.*,  
Appellants,

v.

Connecticut Association of Schools, Inc. d/b/a Connecticut Interscholastic  
Athletic Conference, *et al.*,  
Appellees.

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On Appeal from the United States District Court  
for the District of Connecticut Civil Case No. 3:20-cv-00201  
(Hon. Robert N. Chatigny)

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**BRIEF *AMICUS CURIAE* OF  
40 BUSINESS EXECUTIVES IN SUPPORT OF APPELLANTS**

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July 16, 2021

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## Corporate Disclosure Statement

Pursuant to Fed. R. App. P. 26.1, this brief represents the interests of the named individuals, and does not necessarily represent the interests of their past or present employers, which are named for identification and to show relevant experience. *Amici*, as individuals, do not have parent companies, subsidiaries, or affiliates, and the *amici* do not issue shares to the public.

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### Interests of the *Amici Curiae*<sup>1</sup>

The *amici* are 40 current or retired business executives. They have significant experience in American business leadership and hiring practices. As executives, they represent a wide range of experience and industries. They are each familiar with the hiring practices of their employers and their industries, and with the skills and acumen necessary to succeed in competitive business.

These *amici* are also familiar with the role that athletic participation and accomplishment play in hiring decisions. Athletic participation and accomplishment has a high association with labor market success. Achievement under a fair Title IX standard is a remarkably strong indicator of the skills necessary to lead teams. Therefore, your *amici* have an interest in making sure that athletic records of men and women continue to provide relevant hiring information, and in making sure that the records are set and

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<sup>1</sup> Pursuant to Fed. R. App. 29(a)(4)(E), no party's counsel authored this brief in whole or in part; no party or a party's counsel contributed money that was intended to fund preparing or submitting the brief; and no person other than the *amici* and their counsel contributed money that was intended to fund preparing or submitting the brief. Pursuant to Fed. R. App. P. 29(a)(2), *amici* have filed for leave to file this brief, having been unable to obtain the consent of counsel for all parties before filing.

retained using the same level of fairness for men and women. Your *amici* believe the position of the female-athletes secures this fundamental fairness.

The *amici* appear here as individuals. While present or past employers are noted to show the *amici*'s relevant experience, the statements here are not made on behalf of persons or businesses other than the *amici*.

## **SUMMARY OF ARGUMENT**

1. Athletic participation is highly correlated with labor market success and gender equality.
2. Athletic accomplishment is also correlated with labor market success.
3. The lower court erred in suggesting athletic achievement records “might well have no bearing” on employment prospects.
4. Appellants’ position ensures that men and women’s sports are equally subject to social concerns about transgender athlete participation.

## ARGUMENT

### I. SCHOOL ATHLETIC PARTICIPATION IS HIGHLY CORRELATED WITH SUCCESS IN THE LABOR MARKET.

Academic study after academic study confirms what your *amici* know through experience: participation in high-school athletics is correlated with career success. A 2015 study showed that hiring managers associate participation in athletics with higher leadership, self-confidence and self-respect compared to students that participate in non-athletic extracurricular activities. *See* Kevin Kniffin, Brian Wansink, & Mitsuru Shimizu, *Sports at Work: Anticipated and Persistent Correlates of Participation in High School Athletics*, J. LEADERSHIP & ORGANIZATIONAL STUD., May 2015 at 217–230 (2015). The same study also used biodata to show that male varsity athletes continued to have higher-status careers *sixty years* after high school. *Id.* Varsity athletes also showed more pro-social behaviors, like frequently volunteering their time. *Id.*

In 2000, three scholars found evidence that athletic participation directly increases wages and educational attainment. *See* John M. Barron, Bradley T. Ewing & Glen R. Waddell, *The Effects of High School Athletic*

*Participation on Education and Labor Market Outcomes*, 82 REV. ECON. & STAT., at 409-421.

In 1998, Bradley T. Ewing, now a professor at Texas Tech University, published a seminal analysis showing former high school athletes are more likely to be in jobs associated with better labor market outcomes than non-athletes. Bradley T. Ewing, *Athletes and Work*, ECON. LETTERS, Apr. 1998, at 113.

In another study by Professor Ewing, in 2007, high school athletes were found to fare better in terms of compensation structure (*i.e.*, wages and fringe benefits) than their non-athlete counterparts. See Bradley T. Ewing, *The Labor Market Effects of High School Athletic Participation: Evidence from Wage and Fringe Benefit Differentials*, J. SPORTS ECON., Jun. 2007, at 255–265.

Title IX plays an important part in ensuring women receive these benefits. Betsey Stevenson’s groundbreaking 2010 analysis of the impact of Title IX is widely cited by scholars. Professor Stevenson currently teaches at the University of Michigan, and she was the chief economist of the U.S. Department of Labor from 2010 to 2011. See <https://fordschool.umich.edu/faculty/betsey-stevenson>, last accessed July 7, 2021). The study “reveal[ed] that a 10-percentage point rise in state-level

female sports participation generates a 1 percentage point increase in female college attendance and a 1 to 2 percentage point rise in female labor force participation. Furthermore, greater opportunities to play sports leads to greater female participation in previously male-dominated occupations, particularly in high-skill occupations.” Betsey Stevenson, *Beyond the Classroom: Using Title IX to Measure the Return to High School Sports*, 92 REV. ECON. & STAT., at 284-301 (2010) (full text available at <https://www.nber.org/papers/w15728>, last accessed July 7, 2021).

## **II. ATHLETIC ACCOMPLISHMENT IS ALSO CORRELATED WITH LABOR MARKET SUCCESS.**

Your *amici* also observe that athletic accomplishment is important to hiring decisions. In their experience, participation in high school athletics involves certain skills that predict career success. There is an intuitive, corresponding increase in those skills as athletes compete and succeed at higher levels. Successfully competing at elite levels in high school leads to higher levels of competition in college — and can lead to professional or Olympic competition. These higher levels of competition are good markers of business leadership and executive talent. Especially for elite athletes like

Appellants, correct records of their accomplishments will open opportunities for higher level jobs.

*Amici's* personal experiences are supported by academic and professional studies. It has been easier to show that athletic participation is correlated with better labor market outcomes using statistical surveys. But a smaller number of studies indicate that *higher achievement* or participation at *higher levels* within athletics also affects labor market outcomes. So, not only does it matter that a student participates in athletics, the student athlete receives some market benefits from athletic wins and participating at higher levels.

For example, a 2020 study conducted by Gallup for the NCAA showed that collegiate athletes fared better on several important outcomes after college. *See* GALLUP, INC., A STUDY OF NCAA STUDENT-ATHLETES: UNDERGRADUATE EXPERIENCES AND POST-COLLEGE OUTCOMES (2020), at 3 (available at <https://www.gallup.com/file/education/312941/NCAA%20Student-Athlete%20Outcomes.pdf>, last accessed July 7, 2021). College athletes were more likely to earn advanced degrees than non-athlete students. And college

athletes were slightly more likely to have a good job waiting for them after graduation. *Id.*

A 2012 study by Daniel Bowen and Jay Greene explored the relationship between academic success and a high school's success in sports. Daniel Bowen & Jay Greene, *Does Athletic Success Come at the Expense of Academic Success?*, J. RES. IN EDUC., Fall 2012, at 2-23 (full text available at <https://eric.ed.gov/?id=EJ1098405>) (last accessed July 7, 2021). High Schools with more wins are correlated positively with academic achievement for students in the school, even after controlling for demographics. So, far from detracting students from academics, students in a school focused on athletic achievement can also expect higher performance academically.

Thus, elite success opens doors to elite jobs. These effects are particularly strong for women athletes, who can use the fair playing field of school athletics to show competitive success. From 2013 to 2016, corporate services firm Ernst & Young worked with male and female corporate leaders to study the effects of participation and success on the careers of women athletes. *See* ERNST & YOUNG, *HOW CAN WINNING ON THE PLAYING FIELD PREPARE YOU FOR SUCCESS IN THE BOARDROOM?* March 2020 (available at [8](https://www.ey.com/en_us/women-fast-forward/how-can-</a></p></div><div data-bbox=)

winning-on-the-playing-field-prepare-you-for-success-in-the-boardroom, last accessed July 7, 2021). They report an “undeniable correlation between athletic and business success.” In their survey, 94% of women executives had some background in sports, and over half had participated at university levels. 80% of women Fortune 500 executives had played competitive sports. 74% of all executives believed playing sports helped a woman progress faster. *Id.*

### **III. THE LOWER COURT ERRED IN SUGGESTING ATHLETIC ACHIEVEMENT RECORDS “MIGHT WELL HAVE NO BEARING” ON EMPLOYMENT PROSPECTS.**

Given the overwhelming academic consensus that participation and achievement in women’s athletics correlates to labor market success, the lower court’s standing analysis missed the mark.

The lower court agreed that the requested injunction would have changed the records of Appellants Mitchell, Soule, Nicoletti and Smith. Mitchell, for example, would have won four more first-place finishes in elite events. *Chelsea Soule by Stanescu v. Connecticut Ass'n of Sch., Inc.*, No. 3:20-CV-00201 (RNC), 2021 WL 1617206, at \*7 (D. Conn. Apr. 25, 2021). But then the court

concluded that the changes in the records “might well have no bearing on [] employment prospects ... [and] requires guesswork” about independent decision-makers. *Id.*

In order to reach this conclusion, the court raises a hypothetical and a distinction. But both fail under closer examination.

Hypothetically, the lower court suggests, a future employer might find that someone else “won” a race before the records are corrected, and so might neutralize the effect of the remedy. *Id.* But Appellants are not asking for a ruling denying that other people with faster times exist; men’s records will often show faster times, but that does not lessen the proven labor market effect of women succeeding in their own competitions. Rather, Petitioners are seeking to correct records so they show the results under the fair, non-discriminatory standards of women’s athletics required under Title IX. There is a long history of correcting records when competitors are found inelligible, even when eligibility was affected by unintentional or well-intentioned conduct.

For example, in 2001, Little League officials discovered that Danny Almonte was two years older than his parents and coaches had stated.<sup>2</sup> Almonte's team forfeited all their wins, not because of their own actions, but because Almonte's guardians wanted him to be able to compete and succeed at a high level. Corrected records do not deny what happened on the field. Rather, sportsmanship requires the records about particular events to show the truth of eligibility and fair standards. It is not "inevitable" or even likely that employers will discount Appellants' success in corrected records. There may be faster male athletes in a given competition, but the market continues to reward women who have recorded achievements in women's athletics.

The lower court also tried to distinguish between erroneous athletics records and erroneous disciplinary records. The court suggested "a student's disciplinary record is always relevant to college recruiters and prospective employers," but it questioned the relevance of athletic records. *Soule*, 221 WL 16117206 at \*7. But the ability to imagine a nonconformist employer does not

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<sup>2</sup> See, e.g., *Bronx Team Forfeits Wins Due to Overage Player*, CNN.Com, August 31, 2001 (available at <https://www.cnn.com/2001/US/08/31/almonte.age/>, last accessed July 6, 2021).

render athletic records less important than disciplinary records. In fact, there is a substantial effort to convince employers to treat school disciplinary records as irrelevant. The “Ban the Box” movement has led the Department of Education and others to encourage schools and employers to ignore many student disciplinary records because the records allegedly reflect racial or other disparities. See U.S. DEP’T OF ED., *Beyond the Box: Increasing Access to Higher Education for Justice-Involved Individuals* (2016) (available at <https://www2.ed.gov/documents/beyond-the-box/guidance.pdf> , last accessed July 6, 2021). The fact that some employers might consciously disregard a disciplinary record does not deprive a student of standing to challenge the incorrect record. And the fact that some employer might treat a corrected record as less reliable does not deprive a student of standing to challenge the incorrect record. The interest of the student in correcting a record valuable to most employers or institutions remains the same and is not guesswork.

Perhaps a closer analogy is the long line of cases where students seek to challenge decisions about athletic eligibility decisions. Students have been able to challenge those decisions, especially where the student alleges more than the mere desire to participate, but can point to future benefits. See *Boyd v. Bd. of Directors of McGehee Sch. Dist. No. 17*, 612 F. Supp. 86, 93 (E.D. Ark. 1985);

*Hall v. Univ. of Minn.*, 530 F. Supp. 104 (D. Minn. 1982) (applications for admission into a degree program had been denied, and whose athletic eligibility had been lost as a result, damaging prospects of basketball career). *See also Nat'l Collegiate Athletic Ass'n v. Lasege*, 53 S.W.3d 77, 83 (Ky. 2001)(vacating injunction but determining athletes should have access to courts to challenge eligibility decisions). Most of these cases arise under arbitrary and capricious review, and so are difficult to win, but courts mostly agree eligibility decisions are amenable to litigation. Here, Appellants are asking for corrected records that show their achievements when the proper criteria are used.

**IV. APPELLANTS' POSITION ENSURES THAT MEN AND WOMEN'S SPORTS ARE TREATED EQUALLY WITH RESPECT TO PARTICIPATION AND ACCOMPLISHMENT.**

Title IX is not a law to ensure that women can *participate* in athletics, as beneficial as participation in athletics can be. Title IX prohibits discrimination on the basis of sex in school activities, and its enabling regulations require equal athletic opportunity for fair *competition* and *public recognition*. *See* 34 C.F.R. § 106.41(c)(1), (10).

A pair of seemingly contradictory phrases describe the long, philosophical debate about the meaning of athletic competition. Pierre de Coubertin, founder of the modern Olympic Games, once said “the most important thing in the Olympic Games is not to win but to take part, just as the most important thing in life is not the triumph but the struggle.” On the other hand, Vince Lombardi is popularly credited with saying, “Winning isn’t everything. Men, it’s the only thing.” But these aphorisms are not contradictory; they capture two different ideas. There is something universal about the benefits of striving and personal improvement that comes from ‘taking part.’ But it is also true that winning and success inspires humanity, too, and it benefits careers. *See Chang v. Univ. of Rhode Island*, 606 F. Supp. 1161, 1256 (D.R.I. 1985)(“...there is an objective evaluation scheme in the coaching domain: the won-lost record.”) True, there is something universally pleasant about watching (or playing) basketball or football, but there is another feeling altogether to win an NCAA Championship or the Super Bowl – where the winner takes home the Lombardi Trophy. And in no small irony, even when trying to deny victory the upper hand, Coubertin thought it important to declare participation the victor.

This Court does not have to decide whether participation or victory is the higher aspiration; it need not pick between Coubertin or Lombardi. But Appellants correctly point out that Title IX requires men and women's athletics events to retain both participation and fair competition. "Nondiscrimination" in this area is not satisfied by letting everyone participate. And nondiscrimination is not satisfied merely by teams labeled the "men's team" and "the women's team." Title IX is not satisfied when women are denied fair competition, recognition, and public acclaim. The athletic offerings to each sex must allow that sex an opportunity to participate in competitions that accommodate the abilities of women, in a way that lets them earn victories and be recognized for their achievements. *See* 34 C.F.R. § 106.41(c)(1), (10).

Your *amici* note that *only women's competitions* have been disadvantaged by CIAC's participation policy. Cisgender males can benefit from participation and pursue the glories of success in a men's activity. But CIAC suggests females should be satisfied with the joys of participation and personal betterment, by failing to offer competitions that accommodate the abilities of women. This differential treatment on the basis of sex violates Title IX.

Your *amici* are concerned that the clear signals sent by records of athletic participation and success will be less reliable in the future. Only Appellants' position ensures fair treatment under Title IX, and continues the clear signals that have allowed high-achieving female athletes to have successful careers.

### CONCLUSION

Participation in sports, and the records related to participation, are important to career success. The lower court was incorrect to suggest the correlation between athletic records and career success is "guesswork," as there are clear, rigorous studies detailing the labor market benefits to athletes like Appellants. Only the Appellants' position will continue to ensure this fairness to female athletes. Your *amici* respectfully urge the Court to preserve the accuracy of these records, which are important to career success for women.

Respectfully submitted,

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### **Addendum A - List of Individual *Amici***

List of individual *amici*, including relevant experience and company:<sup>3</sup>

1. Gary Archer, President, Let's Play Sports, Texas
2. Ken Auer, Founder & Owner of RoleModel Software, Inc. and  
Owner & CEO of Rock Solid Warrior LLC, North Carolina
3. Shannon Badger, Managing Partner, Badger CPA
4. Scott Barr, Steward of Southwest Exteriors in Texas
5. James Benton, Enterprise Service Delivery Manager, California
6. Robert Bortins, CEO, Classical Conversations
7. Lewis Brazelton, President/Founder, Brazelton Auto, Texas
8. Scotty Carroll, President/Owner, Trammel Creek Management,  
Inc., Tennessee
9. Stephen Casey, CEO, Datapoint Media Group
10. Jeff Davidson, co-CEO, Camp Gladiator, Texas

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<sup>3</sup> Institutions of individual *amici* are listed for identification purposes only. The opinions expressed are those of the individual *amici*, and not necessarily of their affiliated institutions.

11. Ally Davidson, co-CEO, Camp Gladiator, Texas
12. Peter Demos, President and Attorney with Demos' Restaurants in Tennessee
13. Lisa A Fullerton – President/CEO A Novel Idea, LLC, Texas
14. Anthony, Hahn, President/CEO, Conestoga Wood Specialties Corporation, Pennsylvania
15. Jay Harris, CEO, Harris Beverages, LLC, North Carolina
16. Al Hartman, President & CEO, Hartman Income REIT Management, Inc., Texas
17. Douglas Hunter, CEO, Doug Hunter, LLC, South Carolina
18. Joseph Hurt, President of PBP Fabrication, Inc., Odessa, TX
19. Simon Lee. CEO. EIS Office Solutions, Inc., TX
20. John Lochner, Partner, Legacy Group of America Foundation, Wisconsin
21. Salvatore LoDico, CEO, Trinity HR Consulting, Inc, New Jersey
22. Michael R. Manzie, President, Code 3 Protective Services, California

23. Joelle Marquis, Managing Partner, Legacy In Action Companies, Residential & Commercial Construction, Florida
24. Ken Marquis, Partner, Legacy In Action Companies, Residential & Commercial Construction, Florida
25. Nathan Meyer President/Owner Glasco & Co. Landscaping, Inc. Texas
26. Thomas Okarma, Tom Okarma Consulting, Arizona
27. Joe A. Patterson, Jr., Vice President, Crockett National Bank, Texas
28. John T. Rogers, President, Performance Pulsation Control, Inc., Texas
29. James Ruder, President/Owner, L&R Pallet Service Inc., Denver, Colorado
30. Sam Rust, Manager, Life Bridge Capital, Colorado
31. Nicole Sdao, Founder/CEO - LetsTHRIVE360, Wisconsin
32. Brian Searcy, Founder - President, Paratus Group, Texas
33. Dennis Sledge, Owner, Specified Industrial Products, Texas

34. Dan Stege, Founder / CEO, Distinct Defense, LLC
35. Suzanne Tacconelly, Founder & CEO of Blessings in the Breeze,  
Texas
36. Samuel P Thevanayagam, CEO, Parts Life Inc., New Jersey
37. Jeff Thomas, Founder/CEO, Archetype Wealth Partners, Texas
38. Jay Toslma, Managing Partner, ELO CPAs & Advisors, South  
Dakota
39. Debra Van Essen, owner of Van Essen Insurance Agency,  
Manteca, California
40. Richard Williams, CEO, Lineage

**Addendum B - Certificates**

**Certificate of Compliance with Rule 32(G)**

1. This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7) because this brief contains 3,112 words, excluding the parts of the motion exempted by Fed. R. App. P. 32(f).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced, roman typeface with serifs (Equity) using Microsoft Word, set in 14 points.

Date: July 16, 2021  
s/Jonathan R. Whitehead  
ATTORNEY FOR *AMICI*

**Certificate of Service**

I hereby certify that on July 16, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

Date: July 16, 2021  
s/Jonathan R. Whitehead  
ATTORNEY FOR *AMICI*