

SUPERIOR COURT OF PENNSYLVANIA

---

1000 WDA 2025

---

CARDINAL MIDSTREAM II, LLC

*Plaintiff-Appellee*

v.

ENERGY TRANSFER LP, f/k/a Energy Transfer Operating, L.P., f/k/a  
Energy Transfer Partners, L.P., and ETC NORTHEAST PIPELINE, LLC,  
f/k/a ETC Northeast Midstream, LLC, f/k/a ETC Cardinal Midstream, LLC

*Defendants-Appellants*

---

**AMICUS CURIAE BRIEF OF THE TEXAS CIVIL JUSTICE LEAGUE  
IN SUPPORT OF APPELLANTS**

---

Appeal from the Judgment of the Court of Common Pleas of Beaver County  
in Case No. 10523 of 2021 entered March 10, 2025

---

George S. Christian  
TEXAS CIVIL JUSTICE LEAGUE  
400 West 15<sup>th</sup> Street, Suite 1400  
Austin, Texas 78701

*Counsel for the Texas Civil Justice League*

## TABLE OF AUTHORITIES

|  | Page(s) |
|--|---------|
| <b>CASES</b>   |         |
| <i>In re ADM Inv'r Servs., Inc.</i><br>304 S.W.3d 371, 374-75 (Tex. 2010) (orig. proceeding).....  | 4       |
| <i>In re Apex Tool Group, LLC</i> ,<br>No. 01-23-00780-CV (Houston [1 <sup>st</sup> ] Court of Appeals, March 7, 2024)...  | 4       |
| <i>Atlantic Marine Constr. Co. v. United States District Court for the<br/>Western District of Texas</i> ,<br>571 U.S. 49 (2013).....  | 2       |
| <i>In re Automated Collections Techs., Inc.</i> ,<br>156 S.W.3d 557, 559 (Tex. 2004).....  | 4       |
| <i>In re Fisher and Boudreaux</i> ,<br>433 S.W.3d 523 (Tex. 2014).....   | 4, 5    |
| <i>In re Int'l Profit Assocs., Inc.</i> ,<br>274 S.W.3d 672, 677 (Tex. 2009) (orig. proceeding).....   | 4       |
| <i>Pinto Technology Ventures, L.P. v. Sheldon</i> ,<br>526 S.W.3d 428 (Tex. 2017).....   | 4       |
| <i>In re Lyon Fin. Servs., Inc.</i> ,<br>257 S.W.3d 228 (Tex. 2008).....   | 4       |
| <i>Stellar Restoration Services, LLC v. Charles F. McLallen a/k/a Charles<br/>McLallen III and Gymnastics Elite Training Center, LLC</i> ,<br>No. 05-20-00570-CV (Dallas Court of Appeals, July 18, 2022)..... | 4       |

## STATUTES

Tex. Civ. Prac. & Rem. Code § 15.020.....4, 5

## ARTICLES

Ronald Mann, “Argument Analysis: Justices signal strong support for forum-selection clauses,” October 11, 2013.  
<https://www.scotusblog.com/2013/10/argument-analysis-justices-signal-strong-support-for-forum-selection-clauses/>; accessed October 31, 2025..3

## STATEMENT OF INTEREST<sup>1</sup>

The Texas Civil Justice League (“TCJL”) is a non-profit association of Texas businesses, health care providers, professional and trade associations, and individuals dedicated to maintaining a fair, stable, and predictable civil justice system. Since its formation in 1986, TCJL has participated as *amicus curiae* in matters before federal and state courts that have a significant, pervasive impact on its members and the Texas business climate.

### ARGUMENT

#### **I. States whose courts enforce forum-selection clauses should reasonably expect that the courts in other states will do the same.**

Virtually every TCJL member company conducts business across the country and commonly negotiates forum-selection clauses to facilitate the resolution of contract disputes in an efficient, predictable, and consistent manner. They implicitly rely on state and federal courts, wherever they are located, to recognize and enforce these provisions to reduce the risks of duplicative litigation and forum shopping, as well as to promote interstate commerce and comity between the states.

States whose courts enforce outbound forum-selection clauses, such as the one at issue in this case should reasonably expect that the courts in

---

<sup>1</sup> No party’s counsel authored this brief in whole or in part, and no person or entity, other than the amicus, its members, or its counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

other states will do the same. The national economy depends on the free flow of goods and services across statelines. The free flow of goods and services in turn depends on maintaining mutual respect and deference for each state's judicial system. Consequently, when one state negates the freedom of sophisticated parties to make agreements specifying the appropriate forum in which to litigate their disputes, other state courts, particularly those whose domestic entities have been deprived of that freedom by another state court, may no longer feel bound by comity to defer to the law of that state.

As Justice Alito wrote, “[w]hen parties have contracted in advance to litigate disputes in a particular forum, courts should not unnecessarily disrupt the parties’ settled expectations. A forum-selection clause, after all, may have figured centrally in the parties’ negotiations and may have affected how they set monetary and other contractual terms; it may, in fact, have been a critical factor in their agreement to do business together in the first place. In all but the most unusual cases, therefore, the ‘interest of justice’ is served by holding parties to their bargain.” *Atlantic Marine Construction Co. v. United States District Court for the Western District of Texas*, 571 U.S. 49, 66 (2013). All of this is true in this case: (1) the parties negotiated and agreed to a Texas forum in advance, thus creating “settled expectations,” and (2) there is nothing “most unusual” about this dispute that should allow one party to escape the bargain that party freely made.

Justice Alito’s analysis asks (and answers) the right question: why should a sophisticated party with a battery of contract lawyers dedicated to

negotiating the best possible terms for their client get off the hook when they get into a dispute and seek what they view as a more favorable forum than the one to which they previously agreed? The Defendants, who now seek to hold the Plaintiff to the terms of their bargain, negotiated the forum-selection provision in good faith and paid good money for it. If they or entities like them cannot count on another state's court to compel the other party to keep its word, why would they even risk conducting business in that state?

The Court's questions during oral argument in *Atlantic Marine* provide illumination on this point. When counsel for the plaintiff tried to rationalize his client's decision to file suit in Texas where the contract was performed, rather than in Virginia as the forum-selection clause specified, Justice Kagan interrupted: "But [counselor], where you agreed not to bring it." Later she added, "You got something for the fact that you accepted inconvenience when you brought a suit. And ... the court has to take that into account, that this was a negotiated contract....The end. You have to live with your contract." Chief Justice Roberts added, "The reason for these clauses—the enforceability of these clauses is critically important to a lot of modern commerce....[A] lot of times your company [is] doing business now all across the country, and ... I'm only going to do business with people who are willing to say: If I have a problem, I will sue you right there."<sup>2</sup> In short,

---

<sup>2</sup> These exchanges are reported in Ronald Mann, "Argument Analysis: Justices signal strong support for forum-selection clauses," October 11, 2013. <https://www.scotusblog.com/2013/10/argument-analysis-justices->

contracts matter, and, barring extraordinary circumstances, the courts should not bail out disgruntled parties unhappy with their deal.

We understand that the trial court evidently relied on a New York federal district court decision purporting to apply Texas law, rather than directly referring to Texas law itself. That law has been ably briefed by the Appellants, so we need not belabor it here, except to emphasize the strong presumption in Texas law in favor of enforcement of forum-selection clauses.<sup>3</sup> In addition to that presumption, the Texas Supreme Court has authorized a party to obtain mandamus relief to enforce such a provision in contract disputes arising from “major transactions,” defined by statute as having an aggregate stated value of at least \$1 million. *In re Fisher and Boudreaux*, 433 S.W.3d 523, 528 (Tex. 2013); TEX. CIV. PRAC. & REM.

---

signal-strong-support-for-forum-selection-clauses/; accessed October 31, 2025.

<sup>3</sup> The Texas Supreme Court and Texas intermediate courts of appeals have consistently enforced forum-selection clauses virtually identical to the one at issue in this case. See, for example: *Pinto Technology Ventures, L.P. v. Sheldon*, 526 S.W.3d 428 (Tex. 2017); *In re Int’l Profit Assocs., Inc.*, 274 S.W.3d 672 (Tex. 2009); *In re Automated Collections Techs., Inc.*, 156 S.W.3d 557 (Tex. 2004) (in which the Court enforced a forum-selection clause specifying Montgomery County, Pennsylvania); *In re ADM Inv’r Servs., Inc.* 304 S.W.3d 371 (Tex. 2010); *In re Lyon Fin. Servs., Inc.*, 257 S.W.3d 228 (Tex. 2008); *In re Apex Tool Group, LLC*, No. 01-23-00780-CV (Houston [1<sup>st</sup>] Court of Appeals, March 7, 2024); *Stellar Restoration Services, LLC v. Charles F. McLallen a/k/a Charles McLallen III and Gymnastics Elite Training Center, LLC*, No. 05-20-00570-CV (Dallas Court of Appeals, July 18, 2022).

CODE § 15.020(a).<sup>4</sup> The Texas Legislature and Texas Supreme Court have thus made it crystal clear that the policy of this state favors freedom to contract in all but the most extreme circumstances. TCJL urges this Court to recognize and apply that policy to a contract freely made by two Texas entities with the expectation that Texas law would control in the event of a dispute.

### CONCLUSION

The Court should reverse the trial court's judgment and dismiss this action for improper venue under the mandatory forum selection clause of the parties' agreement.

November 12, 2025

Respectfully submitted,

TEXAS CIVIL JUSTICE LEAGUE

/s/ George S. Christian

George S. Christian

400 West 15<sup>th</sup> Street, Ste. 1400

Austin, TX 78701

*Counsel for the Texas Civil  
Justice League*

---

<sup>4</sup> In response to Plaintiff-Appellee's argument that the forum-selection clause in this case was "permissive," we would note that the Texas Supreme Court construed a venue selection clause that read "any proceeding arising out of or relating to this Agreement *may* be brought in the courts of the State of Texas, Tarrant County, or ..., in the United States District Court for the Northern District as Texas, and each of the parties irrevocably submits to the non-exclusive jurisdiction of each such court" as mandatory, not permissive. *Fisher*, 433 S.W.3d at 532.



## **CERTIFICATE OF COMPLIANCE**

1. I certify that this document complies with the word limit of Pa.R.A.P. 531(b)(3) because, excluding the parts of the document exempted by Pa.R.A.P. 2135(b), this document contains 1,483 words.

2. I certify that this filing complies with the provisions of the Case Records Public Access Policy of the United Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

/s/ George S. Christian

George S. Christian

Texas Civil Justice League

400 West 15<sup>th</sup> Street, Ste. 1400

Austin, TX. 78701

(512) 791-1429

george@tcjl.com

November 12, 2025

**CERTIFICATE OF SERVICE**

I certify that on November 12, 2025, I am serving the attached brief  
by electronic mail addressed as follows:

Mark K. Dausch  
James V. Corbelli  
Andrew C. DeGory  
Devlin E. Carey  
BABST, CALLAND, CLEMENTS AND ZOMNIR, P.C.  
Two Gateway Center, 6<sup>th</sup> Floor  
603 Stanwix Street  
Pittsburgh, PA. 15222  
[mdausch@babstcalland.com](mailto:mdausch@babstcalland.com)  
[jcorbelli@babstcalland.com](mailto:jcorbelli@babstcalland.com)  
[adegory@babstcalland.com](mailto:adegory@babstcalland.com)  
[dcarey@babstcalland.com](mailto:dcarey@babstcalland.com)

Joel Reese  
Pete Marketos  
Joshua Russ  
Adam Sanderson  
Whitney Wendel  
REESE MARKETOS LLP  
750 N. Saint Paul Street, Suite 600  
Dallas, TX 75201  
[joel.reese@rm-firm.com](mailto:joel.reese@rm-firm.com)  
[pete.marketos@rm-firm.com](mailto:pete.marketos@rm-firm.com)  
[josh.russ@rm-firm.com](mailto:josh.russ@rm-firm.com)  
[adam.sanderson@rm-firm.com](mailto:adam.sanderson@rm-firm.com)  
[whitney.wendel@rm-firm.com](mailto:whitney.wendel@rm-firm.com)

*Counsel for Plaintiff-Appellee*

Robert L. Byer  
Robert M. Palumbos  
DUANE MORRIS LLP  
625 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222-3112  
[RLByer@duanemorris.com](mailto:RLByer@duanemorris.com)  
[RMPalumbos@duanemorris.com](mailto:RMPalumbos@duanemorris.com)

Jason Dennis  
Lynn Pinker Hurst & Schwegmann  
2100 Ross Avenue, Suite 2700  
Dallas, Texas. 75201  
[jdennis@lynnllp.com](mailto:jdennis@lynnllp.com)

/s/ George S. Christian  
George S. Christian