No. 26-30123

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

MILITARY-VETERANS ADVOCACY INCORPORATED; LAW OFFICE OF JOHN B. WELLS,

*Plaintiffs-Appellees/Cross-Appellants,*

*v.*

LIZ MURRILL, IN HER OFFICIAL CAPACITY AS ATTORNEY GENERAL OF THE STATE OF LOUISIANA,

*Defendant-Appellant/Cross-Appellee.*

On Appeal from the United States District Court for the Middle District of Louisiana, Baton Rouge

BRIEF OF NATIONAL ASSOCIATION FOR VETERANS RIGHTS AS *AMICUS CURIAE* IN SUPPORT OF DEFENDANT-APPELLANT/CROSS-APPELLEE AND REVERSAL OR VACATUR

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## CERTIFICATE OF INTERESTED PERSONS

*Military Vet Advocacy v. Murrill* (No. 26-30123)

Pursuant to Fifth Circuit Rule 29.2, the undersigned counsel of record certifies that the following listed persons and entities, in addition to those listed in the briefs of the parties, have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

*Amicus curiae*: National Association for Veterans Rights.

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The National Association for Veterans Rights is a national trade association. NAVR has no stock or parent corporation.

*/s/ Lide E. Paterno*

*Counsel of record for* Amicus Curiae
*National Association for Veterans Rights*

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## STATEMENT OF INTEREST OF *AMICUS CURIAE*[1]

The National Association for Veterans Rights ("NAVR" or "the Association") is a national trade association dedicated to protecting veterans' rights, preserving veterans' freedom to choose among lawful forms of assistance when pursuing disability benefits from the U.S. Department of Veterans Affairs ("VA"), and promoting ethical standards for such assistance. Its members include claims-consulting companies committed to operating transparently, ethically, and in compliance with applicable federal and state law.

NAVR is a leading national voice on issues affecting veterans' pursuit of the disability benefits they have honorably earned through their military service. The Association regularly works with policymakers, veterans' organizations, industry stakeholders, and government officials on matters relating to veterans-benefits assistance and the regulation of claims-assistance services. Through those efforts and its members' experiences, NAVR has developed significant expertise regarding the operation of the federal accreditation regime, the distinction between VA-accredited representatives and non-accredited claims consultants, and the emerging state regulatory frameworks governing claims-assistance services.

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[1] Pursuant to Federal Rule of Appellate Procedure 29(a)(4)(E), *amicus* states that no party's counsel has authored this brief in whole or in part, and that no party, party's counsel, or person other than *amicus*, its members, and its counsel has contributed money to fund the preparation or submission of this brief.

NAVR has a substantial interest in this litigation because the questions presented bear directly on the legal framework governing claims-assistance services in Louisiana and nationwide. NAVR supports Louisiana Act 479 because it strikes the right balance between shielding veterans from unscrupulous business practices while also protecting their right to choose to benefit from claims assistance that is ethical and effective. NAVR's members operating in Louisiana—companies that are committed to high standards of service to the veteran community—already carry out business practices that are consistent with the state's commonsense law, and would be regulated by that statute if the district court's ruling is reversed or vacated.[2]

Indeed, NAVR's members operate in several states that have adopted legislation similar to Louisiana's Act 479, and the Association has participated extensively in legislative and policy discussions concerning the regulation of claims-assistance services. Drawing on that background, NAVR submits this brief to assist the Court in evaluating the distinction between federally accredited representatives and non-accredited claims consultants. Act 479 is best construed to regulate the

[2] The district court denied a motion for leave to file an amicus brief by Veterans Guardian VA Claim Consulting, LLC, one of NAVR's member companies, based on a misunderstanding that Act 479 "limits reimbursement for veterans' attorneys fees, but not consultant fees such as those accrued by for-profit companies such as Veterans Guardian[.]" ECF No. 56, at 3. As explained below, that construction is incorrect: The challenged provisions of Act 479, including the fee cap, apply to non-accredited claims consultants that "advis[e], assist[], or consult[]" veterans who submit their own claims, rather than to accredited attorneys and agents that represent veterans before the VA. La. R.S. § 29:296(C).

latter and not the former. That distinction is directly relevant to the disposition of this case, given that the district court's preemption and First Amendment holdings are premised on a misunderstanding that Act 479 applies to VA-accredited attorneys.

NAVR's *amicus* brief complements, but does not duplicate, the Attorney General's arguments. Although the Attorney General acknowledges in a footnote that the challenged provisions of Act 479 likely do not apply to VA-accredited attorneys and agents and instead principally aim "to close the gap created by federal law's lack of regulations for unaccredited actors attempting to assist veterans," Appellant Br. 23-24 n.3, the Attorney General's brief does not develop the point. NAVR thus submits this brief to assist the Court by explaining (i) the industry and regulatory contexts supporting that reasonable construction of the Louisiana law, (ii) why that interpretation undermines the district court's judgment, and (iii) how such a reading provides a path to resolving this case without needing to reach the more difficult issues on which the Attorney General's brief focuses.

## INTRODUCTION AND SUMMARY OF ARGUMENT

Louisiana's Preserving Lawful Utilization of Services for Veterans Act ("Act 479") reflects a balanced legislative judgment that veterans should remain free to choose among several lawful sources of assistance when pursuing disability-benefits claims, while at the same time receiving the protections of reasonable consumer safeguards. To that end, the statute regulates non-accredited claims consultants that provide advice and assistance to veterans regarding claims for disability benefits without acting as a veteran's representative before the U.S. Department of Veterans Affairs. Many veterans find those professional services to be a critical form of support as they navigate the complex VA claims process. So Louisiana reasonably chose to preserve veterans' access to them while imposing commonsense consumer-protection measures to restrain any bad actors who might otherwise seek to take advantage of the lack of federal regulation over the unaccredited claims-consulting industry.

Plaintiffs—a veterans advocacy organization comprising VA-accredited attorneys and a law firm comprising a single VA-accredited attorney—challenged Act 479 as preempted by federal law and violative of the First Amendment. The district court agreed and entered an injunction based on a misconstruction of the statute's scope. The federal accreditation regime governs individuals and organizations that represent veterans before the VA. Act 479, by contrast, governs non-accredited claims consultants that provide advice and assistance to veterans who submit (and otherwise retain control over) their own claims. By conflating those distinct industry participants, the district court concluded that Act 479 interferes with federal law and imposes unconstitutional burdens on the federally accredited Plaintiffs. But Act 479's purpose and text, as well as the canon of constitutional avoidance, all support construing the statute to regulate only non-accredited claims consultants who fall outside the federal regulatory scheme. That proper interpretation of the Act's scope negates the foundation of the district court's Supremacy Clause and First Amendment rulings. This Court should therefore reverse or vacate the district court's order granting summary judgment to Plaintiffs-Appellees and denying Defendant-Appellant's cross-motion for summary judgment.

## ARGUMENT

### I. FEDERAL ACCREDITATION LAWS GOVERN REPRESENTATIVES WHO ACT ON BEHALF OF VETERANS BEFORE THE VA

Veterans left disabled by their military service are eligible to receive benefits from the federal government. To obtain those benefits, veterans generally must submit a claim showing that (1) they have a disability, (2) they suffered an event, injury, or disease in service, and (3) there is a link or nexus between the disability and their service. *See* Brandy Disbennett-Albrecht, *A Primer on Veterans' Disability Benefits*, 68 THE PRAC. LAW., no. 6, 2022. If, after reviewing a veteran's claim (including related evidence), the VA determines that the veteran has satisfied the required elements, the VA assigns a rating for the disability and determines the corresponding amount of monthly benefits to be conferred based on several additional factors. *See generally* 38 C.F.R. §§ 3.1 *et seq.,* 4.1 *et seq*. A veteran who disagrees with the VA's decision may appeal to the Board of Veterans' Appeals, request a higher-level review of the claim, or file a supplemental claim with new and relevant evidence. *See generally* 38 C.F.R. § 3.2500.

Although veterans may pursue claims without assistance, many want help in navigating the complicated and overwhelming process. Assistance based on in-depth knowledge of the process, keen awareness of the appropriate materials to compile, and an expert understanding of the most effective ways to sincerely communicate how individualized and technical circumstances tie a particular condition to a particular service-related disability may help a veteran to more effectively and quickly demonstrate his or her entitlement to a greater amount of monthly benefits. Veterans generally turn to three different sources when preparing their claims.

The first category consists of unpaid actors—including VA-recognized veterans service organizations ("VSOs") and state and county veterans service officers—who may serve as the "claimant's representative" before the VA. 38 U.S.C. § 5902(c). These organizations generally must "[m]aintain a policy" of "providing complete claims service to each claimant requesting representation," must "submit evidence of [their] capability to represent claimants before Department of Veterans Affairs regional offices and before the Board of Veterans' Appeals," and must file a "power of attorney" with the VA in connection with each representation. *Id.* § 5902(b); 38 C.F.R. §§ 14.628(d), 14.631. Pursuant to that authorization, the representative may access the veteran's VA account, obtain information and materials directly from the VA on behalf of the veteran, sign documents on the veteran's behalf, and otherwise directly represent the veteran before the VA. *See* 38 C.F.R. § 14.631(a). These representatives may not charge for their services. *See* 38 U.S.C. § 5902(b)(1)(A). But like other free-assistance programs, VSOs and similar organizations are often resource-constrained, understaffed, and burdened by high caseloads, which can lead to delayed, inconsistent, or ineffective support.[3]

Veterans can also choose to work with an agent or attorney. Congress authorizes the VA to "recognize any individual as an agent or attorney" to "practice before the Department" on behalf of veterans in the claim process, and the VA may also "suspend or exclude" any such person's practice. 38 U.S.C. §§ 5904(a)(1), (b). Like VSO representatives, accredited agents and attorneys "represent a claimant before [the] VA" pursuant to federal standards and a power of attorney that must be submitted to the VA, which authorizes them to access the veteran's VA account, obtain information and materials directly from the VA on behalf of the veteran, and sign documents on the veteran's behalf. *See* 38 C.F.R. § 14.631(a) (requiring submission of "Appointment of Attorney or Agent as Claimant's Representative" Form, VA Form 21-22a); *see also id.* § 14.632(b) (providing that agents, attorneys,

[3] The VA is also authorized to recognize individuals for one-time representation under the same general parameters as VSOs and other organizations in this first category. *See* 38 U.S.C. § 5903(a)(1); 38 C.F.R. § 14.630.

and other representatives shall "[p]rovide claimants with competent representation before VA," including, *e.g.*, "responding promptly to VA requests for information," among other "standards of conduct for persons providing representation before the Department") (formatting omitted); *id.* § 14.629(b) (specifying that training on "representation before VA" is a "condition of initial accreditation" for "both agents and attorneys"). As a general matter, "[a]ll transactions concerning the claim will be conducted exclusively with the recognized [VSO or VSO] representative, agent, or attorney of record until notice of a change, if any, is received by the appropriate office of [the] VA." *Id.* § 14.631(e)(1).

Unlike VSO representatives, however, accredited agents and attorneys may be compensated in certain circumstances. Specifically, they may charge fees only for services rendered after the VA issues an initial decision on a veteran's claim. *See* 38 U.S.C. § 5904(c)(1); 38 C.F.R. § 14.636(c)(1). If the veteran succeeds on appeal, the agent or attorney may receive a specified percentage of the veteran's past-due benefits dating back to notice of the veteran's intent to file an initial claim, with compensation increasing as additional backpay accrues during the appeal period. *See* 38 C.F.R. §§ 14.636(e), (f). The federal compensation structure thus ties compensation for accredited agents and attorneys to success on appeal rather than success at the initial-claim stage, creating little economic incentive for agents and attorneys to provide effective assistance before the VA issues its first decision.

Given the practical limitations on these first two options for free representation with respect to initial claims, many veterans seek valuable advice and assistance from experienced consulting companies. Unlike VSOs and accredited agents and attorneys, these claims consultants do not engage directly with the VA as representatives of their veteran clients. Instead, pursuant to transparent service agreements, these consultants provide individualized advice and assistance to veterans who remain responsible for presenting and prosecuting their own claims (and who can still elect to be represented by a VSO or accredited agent or attorney to do so). For most of these companies, the "core of what [they] do[]" is "deliver[] professional services by speaking and writing" directly with their veteran clients—*i.e.*, "advis[ing] clients about how to claim benefits: what disabilities to claim, what evidence to include, and how to fill out forms"—rather than represent the clients before the VA. *Veterans Guardian VA Claim Consulting LLC v. Platkin*, 133 F.4th 213, 219, 221 (3d Cir. 2025). A veteran that chooses to work with one of these companies generally agrees to pay it a reasonable contingency fee if the veteran obtains an increase in disability benefits as a result of the company's assistance.

Claims consultants that do not provide representative services are not governed by the federal scheme. Congress limited the federal accreditation requirement (and corresponding conditions on fees, standards, training, etc.) to individuals that "act *as an agent or attorney* in the preparation, presentation, or prosecution of any claim under laws administered by the [VA]." 38 U.S.C. § 5901(a) (emphasis added). The VA's regulations mirror that limitation, providing that "[n]o individual may assist claimants in the preparation, presentation, and prosecution of claims for VA benefits *as an agent or attorney* unless he or she has first been accredited by VA for such purpose." 38 C.F.R. § 14.629(b)(1) (emphasis added).

Consistent with the role that VSO representatives and accredited agents and attorneys play under the federal regulatory scheme, Congress's deliberate use of "agent," a term with a "well-established and long-standing common-law meaning," reinforces that the accreditation regime applies to those who have and who exercise "authority to act on [another's] behalf." *O'Neill v. Department of Hous. & Urb. Dev.*, 220 F.3d 1354, 1360, 1363 (Fed. Cir. 2000) (construing phrase "act as an agent or attorney" in different statute to carry common-law definition); *see also United States ex rel. Bias v. Tangipahoa Par. Sch. Bd.*, 816 F.3d 315, 325 (5th Cir. 2016) (construing statutory term "agent" by looking to the "common law definition of 'agency,'" which "anticipates 'a consensual relationship in which one person acts as a representative of another with power to affect the legal rights and duties of the other person'" (ellipses omitted) (quoting RESTATEMENT (THIRD) OF AGENCY § 1.01, cmt. c (2006) ("Restatement")); *Agent*, BLACK'S LAW DICTIONARY (12th ed. 2024) (defining "agent" as "[s]omeone who is authorized to act for or in place of another; a representative"). That specified category does not include claims consultants that do not represent veterans before the VA but instead provide advice and assistance to veterans who deal with the VA directly. *See* Restatement § 1.01 cmt. c ("If a service provider simply furnishes advice and does not interact with third parties as the representative of the recipient of the advice, the service provider is not acting as an agent."); *Griffin v. United States*, 588 F.2d 521, 528 (5th Cir. 1979) ("[A]n essential characteristic of an agency is the power of the agent to commit his principal to business relationships with third parties."); *see also, e.g.*, *United States v. Cisneros*, 825 F. App'x 429, 433 (9th Cir. 2020) (finding no evidence that defendant "acted as [an] agent within the term's common law meaning" even though defendant "assisted and aided" another "in his dealings with government officials").

To be sure, federal law at one point had a broader reach. Before 2006, Congress imposed penalties on anyone who "solicit[ed], contract[ed] for, charge[d], or receive[d] . . . [a] fee or compensation except as provided in section[] 5904 . . . ." 38 U.S.C. § 5905 (1991). Section 5904, in turn, authorized only agents and attorneys to charge fees, and only after the Board of Veterans' Appeals made a final decision in a veteran's case (assuming the agent or attorney was retained within a year of that decision). 38 U.S.C. § 5904(c)(1) (1998). Read together, those provisions effectively barred unaccredited persons from charging veterans for claims assistance, regardless of whether the assistance involved representation.

That is not the law today. In 2006, Congress repealed the applicable clause of section 5905. Pub. L. No. 109-461, § 101(g), 120 Stat. 3403 (2006). Today, Section 5905 penalizes only the wrongful withholding of benefits owed to a claimant or beneficiary. *See* 38 U.S.C. § 5905. By eliminating the provision that broadly prohibited compensated claims assistance outside section 5904, Congress narrowed the federal regulatory regime to reach only those who act as representatives before the VA. So long as a consultant does not act in a representational capacity, federal law does not prohibit the consultant from providing claims-related advice or charging for those services.

Since Congress made that choice, a substantial industry has emerged to provide veterans with valuable non-representative claims assistance, offering veterans a critical option for support at the initial-claim stage. The vast majority of those claims consultants provide legitimate services that are ethical and effective. But a minority of bad actors have sought to take advantage of veterans through predatory business practices. *See* NAVR, *Good vs. Bad Actors In The Veterans Claims Industry*.[4] As a result, several states adopted sensible laws meant to prevent potentially exploitative activities while preserving veterans' ability to choose among multiple sources of legitimate, scrupulous claims-assistance providers. *See, e.g.*,

[4] https://navr.org/wp-content/uploads/2026/03/NAVR_good_vs_bad_updated.pdf (last visited July 20, 2026).

Florida (FL. STAT. § 501.9741 (2025)); South Dakota (H.B. 1238, 100th Leg., Reg. Sess. (S.D. 2025)); Tennessee (S.B. 362, 114th Gen. Assemb., 1st Sess. (Tenn. 2025)); Oklahoma (H.B. 2836, 60th Leg., 1st Sess. (Okla. 2025)); North Carolina (S.B. 118, Gen. Assemb., Reg. Sess. (N.C. 2025)); Alabama (S.B. 206, 2025 Leg., Reg. Sess. (Ala. 2025)).

Other states have adopted laws that completely ban paid advice and assistance from unaccredited claims consultants. *See, e.g.*, N.J. STAT. ANN. § 56:8-228; ME. STAT. tit. 37-B, § 12. Those flat prohibitions have faced legal challenges, and the only appellate court to have considered such a law expressed "serious[] doubt that it is constitutional": While a state may have "a strong interest in protecting veterans from fraud and predatory pricing," it "could use less-restrictive alternatives" to advance that interest rather than a complete bar on those paid services, such as "requir[ing] paid advisers to tell veterans that they can get free help elsewhere." *Veterans Guardian VA Claim Consulting LLC*, 133 F.4th at 221-222.

## II. ACT 479 IS BEST CONSTRUED AS GOVERNING NON-ACCREDITED CLAIMS CONSULTANTS

Louisiana was among the first states to enact the sort of "targeted solution" that the Third Circuit has contemplated, *Veterans Guardian*, 133 F.4th at 222 —*i.e.*, balanced legislation that puts in place sensible guardrails around, but not a complete ban on, an industry that Congress permitted but left largely unregulated. The text of Act 479 reflects that purpose, governing non-accredited claims consultants rather than federally accredited representatives. If there were any doubt, that construction would be compelled by the canon of constitutional avoidance, as interpreting the challenged provisions to apply only to claims consultants who are not accredited by the federal government would skirt the difficult constitutional questions the district court engaged in this case.

**A.** Act 479's enactment history leaves little doubt that it was intended to regulate non-accredited claims consultants operating outside the federal accreditation regime—not agents and attorneys already subject to comprehensive federal oversight. The Louisiana Legislature considered two proposals that presented a distinct choice: regulate non-accredited claims consultants through targeted consumer-protection guardrails that permit ethical and effective claims assistance while preventing predatory practices; or prohibit the unaccredited claims-consulting industry altogether. The Legislature chose the former path, as the Attorney General explains. *See* Appellant Br. 8-9.

Alongside the bill that became Act 479 ("the Senate Bill"), lawmakers considered a competing proposal ("the House Bill") that would have permitted only accredited agents and attorneys to "receive compensation for coaching, consulting, advising, or assisting any individual with regard to any veterans benefits matter." *See* H.B. 979, 2024 Leg., Reg. Sess. (La. 2024). Had it been enacted, the House Bill would have effectively prohibited non-accredited claims consultants from operating in Louisiana. Indeed, at a hearing of the Judiciary Committee of the House of Representatives, a representative of a claims-consulting company, testifying against the House Bill and in favor of the Senate Bill, explained that the House Bill would "eliminate an entire industry (our industry) [and] the services that we provide." *See Hearing on H.B. 979 Before the H. Judiciary Comm.*, 2024 Leg., Reg. Sess. at 1:16:42-1:16:45 (La. 2024) ("Judiciary Committee Hearing") (testimony of Ray Colas).[5] Comparing the two bills, he explained that "[i]f it is the intent to prohibit us from being able to operate in the State, then the House Bill accomplishes that. If you want to address some of the unscrupulous and bad actors that currently exist in the industry, that's what [the] Senate Bill seeks to address." *Id.* at 3:30:35-3:30:51.

Witnesses made clear how the competing bills would interact with the federal regulatory scheme. The same representative of a claims-consultant company observed that, insofar as the House Bill would have eliminated unaccredited claims assistance and imposed obligations on agents and attorneys accredited by the VA, "the guardrails that it [would] . . . provid[e] [were] only regulating an *already regulated industry*." Judiciary Committee Hearing at 1:16:45-1:16:50 (emphasis

[5] *Available at* https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2024/may/0501_24_JU. In addition, proponents of the Senate Bill included (among others) former Acting Secretary of the Department of Veterans Affairs Peter O'Rourke, currently the President of NAVR, and Milford Monroe, a Navy veteran and client of NAVR member Veterans Guardian. *See* Judiciary Committee Hearing at 3:37:45-3:41:40, 3:47:42-3:49:12.

added) (testimony of Ray Colas). He contrasted that with the Senate Bill, which would "put[] real parameters within [an] industry that is currently *unregulated*," *id.* at 3:30:52-3:30:55 (emphasis added), thereby "separat[ing] the bad actors from the good actors," *id.* at 1:17:05-1:17:07. The Senate Bill sponsor expressed the same understanding, emphasizing that the services provided by accredited representatives would "continue to exist" and that the purpose of the legislation was to ensure veterans had "every option available to try to maximize the benefits that they are entitled to from the VA." *Id.* at 3:48:27-3:48:30, 3:49:00-3:49:07 (testimony of Sen. Stewart Cathey Jr.).

Across nearly two hours of testimony—including from the sponsors of both bills and numerous witnesses on each side of the debate—not a single participant suggested that the Senate Bill would regulate accredited agents or attorneys, interfere with the federal accreditation regime, or impose state-law restrictions on federally accredited representatives. The Louisiana Legislature was focused on regulating non-accredited claims consultants—not federally accredited representatives—through consumer-protection safeguards rather than a flat prohibition. Indeed, the statutory title of Act 479 conveys that objective: "Preserving lawful utilization of services for veterans." As noted, several other states followed Louisiana's balanced approach by enacting laws similarly intended to protect both veterans' right to choose to receive assistance from lawful claims consultants and their right to be free from predatory behavior. *See* pp. 12-13, *supra*.

**B.** The text of Act 479 reflects that purpose, demonstrating that the provisions challenged in this case regulate only non-representative claims consultants. While federal law governs those who act as an "agent" or "attorney"—that is, those who enter into a representational relationship with a veteran and act on the veteran's behalf before the VA, *see* pp. 9-12, *supra*—Act 479 makes no mention of attorneys and only a single reference to agents, *see* La. R.S. § 29:296(H)(4). That sole reference *distinguishes* the subject of the Louisiana statute from a "previously assigned 'agent of record.'" *Id.* An "agent of record" is understood under the federal regulatory scheme to be the VA-accredited "attorney or agent that is designated by the claimant as the attorney or agent of record." 85 Fed. Reg. 9,435, 9,436 (Feb. 19, 2020). The Louisiana statute does not impose any obligations on that accredited person.[6]

Instead, Act 479 places reasonable duties on persons and entities that receive compensation for "advising," "assisting," or "consulting" veterans regarding

[6] Act 479's references to "Veterans Service Office[s]," "veterans' service organization[s], and other federally chartered veterans' service organizations" similarly make clear that the law does not impose any obligations on those organizations (and their officials) who may represent veterans before the VA under the federal scheme, but instead requires that claims consultants "direct the individual seeking services" to them. La. R.S. § 29:296(E).

benefits claims—rather than for representing them before the VA. *See* La. R.S. §§ 29:296(C), (E). The statute's reporting requirements, which apply only to entities "assisting veterans with their *initial* disability claims," reinforce the point. *Id.* § 29:296(H) (emphasis added). As explained, the federal scheme bars accredited agents and attorneys from charging for services provided in relation to an initial claim, instead linking their compensation to a successful appeal. These provisions are thus best read as being directed at the industry participants with the financial incentive to furnish effective assistance with initial claims: unaccredited claims consultants, rather than an "assigned 'agent of record'" already subject to comprehensive federal oversight and prohibited from imposing fees for initial-claims services. *Id.* § 29:296(H)(4).

**C.** Even if Act 479 were susceptible to more than one interpretation, the canon of constitutional avoidance would compel the conclusion that the statute governs only non-accredited claims consultants. Under settled principles of statutory construction, courts should "shun an interpretation that raises serious constitutional doubts and instead adopt an alternative that avoids those problems." *Turtle Island Foods, S.P.C. v. Strain*, 65 F.4th 211, 219 (5th Cir. 2023) (applying "constitutional-avoidance canon" in vacating injunction of Louisiana law); *see also, e.g.*, *United States v. CITGO Petroleum Corp.*, 801 F.3d 477, 483 n.6 (5th Cir. 2015) (applying canon of constitutional avoidance to "preclude[] [an] interpretation" that "engenders constitutional issues if a reasonable alternative interpretation poses no constitutional question"). Similarly, "[p]rinciples of judicial restraint must be employed before a federal court may declare a state law unconstitutional." *Turtle Island Foods*, 65 F.4th at 219.

Those principles have particular force here because the constitutional concerns identified by the district court arise only if Act 479 is construed to regulate federally accredited representatives. Indeed, the district court's Supremacy Clause and First Amendment holdings are premised on a (mis)understanding that Act 479 imposes state-law requirements on accredited agents and attorneys (like Plaintiffs-Appellees) already governed by a comprehensive federal accreditation regime. *See* ROA.3613-ROA.3616. Those concerns disappear if Act 479 is construed as regulating only non-accredited claims consultants. Under that reading, Act 479 does not conflict with the federally prescribed qualifications, duties, or compensation of accredited representatives. Instead, it operates as a consumer-protection measure applicable to an industry that Congress chose not to subject to the federal accreditation system. Because that construction is at least "plausible" in light of the text and purpose of the statute, and avoids the constitutional difficulties identified by the district court, it "should prevail." *Clark v. Martinez*, 543 U.S. 371, 381 (2005).

## III. BECAUSE THE DISTRICT COURT'S RULINGS REST ON AN ERRONEOUS CONSTRUCTION OF ACT 479, ITS ORDER SHOULD BE REVERSED OR VACATED

The district court's preemption and First Amendment holdings both rest on the same threshold premise that Act 479 applies to federally accredited attorneys and agents. Because that premise is mistaken, neither ruling can stand.

**A.** The district court's conflict-preemption holding rests entirely on its conclusion that Act 479 regulates federally accredited representatives. In denying the Attorney General's motion to dismiss, the district court rejected the argument that Act 479 governs non-accredited claims consultants and thus "fills a gap unregulated by federal laws," and instead concluded that the statute applies to accredited representatives. *See Military-Veterans Advoc., Inc. v. Landry*, 2025 WL 2810667, at *13-14 (M.D. La. Sept. 29, 2025). The court later relied on that same premise in holding that Act 479 interferes with Congress's objective of ensuring veterans' access to qualified representatives before the VA. *See* ROA.3613-ROA.3616.

As explained above, however, Act 479 regulates only non-accredited claims consultants operating outside the federal accreditation system. It neither determines who may represent veterans before the VA nor imposes additional qualifications, compensation restrictions, or disclosure requirements on federally accredited agents and attorneys. That distinction is dispositive here. Conflict preemption exists only where state law "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Arizona v. United States*, 567 U.S. 387, 399 (2012). Because Act 479 does not regulate accredited representatives, it cannot interfere with Congress's regulation of accredited representatives.

To be sure, federal law would preempt a state statute that imposed conflicting restrictions on accredited representatives already subject to federal regulation or that imposed a blanket prohibition on the non-accredited and non-representative claims-assistance services that Congress's 2006 amendment to the federal law permits. *See Crosby v. National Foreign Trade Council*, 530 U.S. 363, 373 (2000). But Act 479 does neither. So the district court correctly "refrain[ed] from finding that the field of regulating federal veterans' benefits claims agent[s] is preempted to such an extent that an intent to displace state law altogether can be inferred." ROA.3616 (internal quotation marks omitted). Once Act 479 is correctly understood as regulating non-accredited claims consultants rather than federally accredited representatives, the relevant question is whether Louisiana may impose reasonable consumer-protection safeguards on conduct occurring outside the federal accreditation regime.

The answer is yes. Regulation of consumer protection "is a field traditionally regulated by the states." *General Motors Corp. v. Abrams*, 897 F.2d 34, 41-42 (2d Cir. 1990) (explaining that "compelling evidence of an intention to preempt is required in this area"), *quoted in Castro v. Collecto, Inc.*, 634 F.3d 779, 785 (5th Cir.

2011). Congress chose to regulate representation before the VA through the federal accreditation system; it did not extend that system to non-accredited claims consultants (beyond making clear that they should not be completely barred from providing paid advice and assistance in a non-representative capacity). Moreover, as the Attorney General explains (Appellant Br. 44-46), both Act 479 and the federal accreditation regime ultimately serve the same basic objective: protecting veterans while preserving their access to legitimate, ethical, and effective sources of assistance in pursuing benefits. Because the state and federal schemes operate in different spheres and advance compatible purposes, Act 479 does not create the type of obstacle required for conflict preemption.

**B.** The district court's First Amendment ruling rests on the same mistaken understanding as its preemption analysis. The district court invalidated Act 479's disclosure requirement as applied to Plaintiffs because it understood Plaintiffs to be among the parties regulated by the statute. ROA.3609-ROA.3610. But as explained above, Act 479 is best construed to regulate only non-accredited claims consultants operating outside the federal regulatory framework. Under that proper reading, accredited agents and attorneys are not subject to the challenged disclosure requirement. The foundation of the district court's First Amendment ruling therefore disappears.

In fact, the same error is fatal to Plaintiffs' standing. The district court concluded that Act 479 "applies to Plaintiffs" because, in the court's view, it regulates accredited representatives. *Military-Veterans Advoc., Inc.*, 2025 WL 2810667, at *7-8. But, as the Attorney General acknowledges, Act 479 imposes no disclosure obligation on federally accredited agents and attorneys, whose compensation is linked to "represent[ing] veterans in appeals of claims decisions." Appellant Br. 23 n.3. Because Plaintiffs comprise accredited representatives not subject to the provisions they challenge, they cannot establish the injury-in-fact required by Article III. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-561 (1992). At a minimum, the district court's First Amendment ruling should be vacated on that basis alone.

## CONCLUSION

For the foregoing reasons, this Court should reverse or vacate the district court's grant of summary judgment.

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Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2026, I electronically filed the foregoing with the Clerk of the Court of the United States Court of Appeals for the Fifth Circuit using the appellate CM/ECF system. Counsel for all parties to the case are registered CM/ECF users and will be served by the CM/ECF system.

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## CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitation of Federal Rules of Appellate Procedure 29(a)(5) because it contains 5,177 words, excluding the parts of the brief exempted by Federal Rule of Appellate Procedure 32(f).

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it was prepared in a proportionally spaced typeface using Microsoft Word Version 2016, 14-point Times New Roman font.

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