

S27C0063

In the
Supreme Court of Georgia

3M COMPANY, EIDP, INC. F/K/A E.I. DU PONT DE NEMOURS
AND CO. ET AL.,

Petitioners,

v.

BRANDON GIBSON ET AL.,

Respondents.

Georgia Court of Appeals Case Number A26I0237

**BRIEF OF AMICUS CURIAE NATIONAL ASSOCIATION
OF MANUFACTURERS IN SUPPORT OF CERTIORARI**

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INTERESTS OF AMICUS CURIAE

The National Association of Manufacturers (NAM) is the largest manufacturing association in the United States, representing small and large manufacturers in all fifty states and in every industrial sector. Manufacturing employs nearly 13 million people, contributes \$2.96 trillion to the economy annually, has the largest economic impact of any major sector, and accounts for over half of all private-sector research and development in the nation, fostering the innovation that is vital for this economic ecosystem to thrive. The NAM is the voice of the manufacturing community and leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the United States.

Recently, litigation over per- and polyfluoroalkyl substances (“PFAS”) has exploded in Georgia, with plaintiffs advancing novel theories of negligence and nuisance law that promise years of ruinously expensive litigation, threaten billions of dollars in liability, and imperil the presence and growth of the manufacturing industry in Georgia. Despite that, defendants in these cases have had their legal arguments rebuffed, with no appellate precedent to guide trial courts in the PFAS context. This case presents that opportunity.

Thus, NAM submits this amicus brief to urge this Court to grant certiorari and establish a precedent in this important field.

INTRODUCTION

This Court’s “increased capacity to focus on legal questions with a broader application” matters. *Coleman v. State*, --- S.E.2d ----, 26A0859, slip op. at *13 (Ga. Aug. 13, 2026) (Peterson, C.J., concurring, joined by Bethel, Ellington, McMillian, Colvin, Pinson, Land, J.J.) (quoting *Hart v. State*, 322 Ga. 1, 10 (2025)). Litigants, businesses, and citizens generally stand to benefit from the certainty of clear and consistent precedent afforded by such increased institutional capacity. And the questions presented by the Supplier-Defendants’ Petition here are precisely the sort of “legal questions with a broader application” that the Court is now better positioned to address. *Id.* Indeed, there is a staggering mismatch between the amount of PFAS litigation pending in Georgia’s trial courts—with dozens of cases pending in multiple circuits, in addition to individual matters and consolidated multi-district litigation hinging upon Georgia law and pending in federal district courts—and the dearth of on-point appellate precedent concerning the important and recurring questions of negligence and nuisance law at issue here.

In this case, as in many that came before it, Petitioners moved to dismiss, arguing that Respondents’ claims are barred by settled principles of Georgia tort law. And here, *also* as in many of those cases, the trial court denied the motion in a two-page, unreasoned order. Yet, *unlike* in any of those other cases, Judge Davis of the Gwinnett Superior Court granted a certificate of immediate review.

Without explanation, the Court of Appeals declined review. The continued avoidance of the important issues raised here simply perpetuates the uncertainty in litigation of this sort, which involves years of extraordinarily costly litigation with astronomical stakes, putting defendants under enormous pressure to settle regardless of the merits and without regard to settled principles of tort law which trial courts have, to date, refused to apply in dispositive motions.

In the face of this proliferating litigation, manufacturing firms can be certain only of one thing: operating in Georgia promises costly, drawn-out litigation, and threatens ruinous liability without any predictability on the applicable legal standards. There will always be an incentive for creative lawyers to hypothesize new and expansive theories of mass tort liability. And, without correction, there is every reason to expect those cases will play out like this one—avoiding questions of law while the costs of litigation continue to mount—threatening Georgia’s manufacturing industry, along with the jobs, revenue, and products it provides.

Put simply, this is a “case[] of great concern, gravity, [and] importance to the public,” Ga. S. Ct. R. 40(1), even at the motion to dismiss stage, and even despite (perhaps even more so because of) the Court of Appeals’s failure to review it. Granting this Petition will allow this Court to provide much needed clarity on the matter—an opportunity which may not come again in the foreseeable future. Thus, for the reasons that follow, NAM respectfully requests this Court grant a writ of certiorari.

REASONS FOR GRANTING THE WRIT

I. **PFAS litigation is widespread and growing in Georgia, with no on-point appellate guidance to date.**

“[T]he aim of certiorari review” is to “ensur[e] that our courts’ interpretation of the law of Georgia is correct, settled, and ultimately uniform with respect to important legal issues that courts and litigants are likely to see in the future.” *State v. Roman*, 322 Ga. 571, 572 (2025) (Pinson, J., concurring in the denial of certiorari, joined by Warren and Bethel, J.J.). The “focus in assessing whether a case warrants the exercise of . . . certiorari jurisdiction is . . . its potential impact on the law of Georgia.” *Id.* PFAS litigation is widespread and quickly growing, with no on-point appellate guidance to speak of. That is the sort of problem this Court’s certiorari review exists to correct.

The proliferation of PFAS litigation has substantially burdened this state’s trial courts. *See, e.g. Brooks v. City of Calhoun*, No. 24-CV-74289 (Gordon Cnty. Super. Ct.); *Moss Land Co. v. City of Calhoun*, No. 24-CV-73929 (Gordon Cnty. Super. Ct.); *Town of Lyerly, v. 3M Company et al.*, No. 24SCA4052 (Chattooga Cnty. Super. Ct.); *Catoosa County v. Shaw Indus., Inc.*, No. 25-C-00548-S3 (Gwinnett Cnty. State Ct.); *Murray County v. Shaw Indus., Inc.*, No. 24-C-12330-S3 (Gwinnett Cnty. State Ct.); *Gordon County v. Shaw Indus., Inc.*, No. 25-C-00780-S2 (Gwinnett Cnty. State Ct.); *Dan Bramblett, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-06321-8 (Gwinnett Cnty. Super. Ct.); *Kelly Brown*,

et al. v. Shaw Industries, Inc., et al., Civil Action No. 25-A-11763-8 (Gwinnett Cnty. Super. Ct.); *Jamie Cordle, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-05410-8 (Gwinnett Cnty. Super. Ct.); *Darren Brown, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-11755-8 (Gwinnett Cnty. Super. Ct.); *Jerry Harrott, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-06367-8 (Gwinnett Cnty. Super. Ct.); *Carl Loudermilk, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-06289-8 (Gwinnett Cnty. Super. Ct.); *James Lyles, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-05396-8 (Gwinnett Cnty. Super. Ct.); *Dave Powers, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-11758-8 (Gwinnett Cnty. Super. Ct.); *Whitney Wilkie, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-06293-8 (Gwinnett Cnty. Super. Ct.); *Priscilla Cronon, et al. v. Shaw Industries, Inc., et al.*, Civil Action No. 25-A-05401-8 (Gwinnett Cnty. Super. Ct.); *Aladdin Mfg Co. et al. v. 3M Co. et al.* 24CI01575 (Whitfield Cnty. Super. Ct.).

These cases already stretch from Catoosa County in Georgia's far northwest corner, down through the Murray–Gordon–Chattooga carpet belt, and southeast into the Gwinnett County courts outside Atlanta—and there is every reason to think their reach will grow.

There are similar claims pending in federal district courts, as well, *See Mayor and Aldermen of the City of Savannah v. 3M Co., et al.*, 4:25-CV-58 (S.D. Ga.); *City of Blakely v. 3M Company*, No. 1:26-cv-00008-LAG (M.D. Ga.); *Paris v. 3M Company*, No. 4:21-cv-40-TWT (N.D. Ga.); *DeKalb*

Cnty. v. 3M Co., et al., No. 2:23-cv-04903 (D.S.C.); *Cobb County-Marietta Water Authority v. 3M Co., et al.*, No. 2:24-cv-00464 (D.S.C.), including a federal multi-district litigation (“MDL”) governed by Georgia law pending in the District of South Carolina. *See generally In re: Aqueous Film-forming Foams Products Liability Litig.*, MDL No. 2:18-mn-2873 (D.S.C.).

Despite that, the issues raised in the Petition—the scope of the duties owed by a product manufacturer or supplier, the person(s) to whom such duty is owed, and nuisance liability in the absence of control over a product once it is sold—have never been addressed by Georgia appellate courts in the PFAS context. Instead, litigants have been debating the legal merits of claims like these based on a pair of federal court decisions which, themselves, ventured conflicting *Erie* guesses based on the Restatement of Torts. *Compare Parris v. 3M Co.*, 595 F.Supp.3d 1288, 1329 (N.D. Ga. 2022) (expanding negligence liability), *with Johnson v. 3M*, 563 F. Supp. 3d 1253, 1320–25 (N.D. Ga. 2021) (limiting the scope of negligence liability).

As this Court has said before, the rule of law requires a system which “yields a body of law that is . . . stable, predictable, and reliable[.]” *Wasserman v. Franklin Cnty.*, 320 Ga. 624, 645 (2025). Granting certiorari here will further the development of that stable and predictable body of law that businesses need to succeed and that our judicial system is designed to foster. On this, the Plaintiffs below should agree too. “Even

in simpler times uncertainty has been regarded as incompatible with the Rule of Law. Rudimentary justice requires that those subject to the law must have the means of knowing what it prescribes.” Antonin Scalia, *The Rule of Law As A Law of Rules*, 56 U. Chi. L. Rev. 1175, 1179 (1989). Yet, as it stands, firms represented by the NAM are left guessing as to the scope of their liability in these sorts of cases.

Indeed, the only thing they *can* be certain of is that these cases will continue and the costs of litigation will steadily increase. This Court can provide some certainty by reviewing this case now.

II. Continued uncertainty threatens the sustainability and growth of Georgia’s Manufacturing industry.

Manufacturing is one of Georgia’s largest economic sectors, employing more than 426,000 Georgians. *See* U.S. Bureau of Lab. Stat., *All Employees: Manufacturing in Georgia (GAMFG)*, FRED, Fed. Rsrv. Bank of St. Louis, <https://fred.stlouisfed.org/series/GAMFG> (last visited Aug. 14, 2026). And this sector continues to grow, accounting for more than 46% of new jobs in fiscal year 2025, outpacing the rest of the Southeast, in part because of “a pro-business climate” that “help[s] manufacturers accelerate innovation and scale globally.” Ga. Dep’t of Econ. Dev., *Manufacturing in Georgia*, <https://georgia.org/industries/manufacturing> (last visited Aug. 14, 2026). For example:

- Georgia’s automotive manufacturing sector provides more than 78,000 jobs, at 206 automotive-related facilities. *See Automotive Manufacturing*, Ga. Power Econ. Dev.,

<https://www.selectgeorgia.com/discover-georgia/industries/automotive-in-georgia/> (last visited Aug. 14, 2026);

- Metal manufacturing accounts for some 46,940 jobs, *see Metal Manufacturing*, Ga. Power Econ. Dev., <https://www.selectgeorgia.com/discover-georgia/industries/metals-georgia/> (last visited Aug. 14, 2026);
- Aerospace manufacturing is responsible for 38,000 jobs, at 84 related facilities. *See Aerospace Manufacturing*, Ga. Power Econ. Dev., <https://www.selectgeorgia.com/discover-georgia/industries/aerospace-in-georgia/> (last visited Aug. 14, 2026); and
- Chemical manufacturing accounts for almost 19,000 “direct jobs,” *Georgia Chemistry Council*, <https://georgiachemistry.com/> (last visited Aug. 14, 2026).

The unresolved issues at the heart of this case threaten this growth. PFAS may be present in all manner of products or processes used by manufacturers—from aviation and aerospace, to automotive, to building and construction, to chemicals, to plastics, all the way to textiles and lumber. *See* Interstate Tech. & Regul. Council, *PFAS Technical and Regulatory Guidance Document* tbl. 2-6 (updated Jan. 2026), https://pfas-1.itrcweb.org/2-5-pfas-uses/#table_2_6. If manufacturers cannot have confidence in the rules governing duty and liability for tort claims like these, locating and remaining in Georgia will become a less attractive proposition, and Georgia will lose out on the stable employment such manufacturers provide. *See* U.S. Chamber Inst. for Legal Reform, *2019 Lawsuit Climate Survey: Ranking the States* (2019), <https://institute-for-legalreform.com/research/2019-lawsuit-climate-survey-ranking-the->

states/ (in a 2019 survey of in-house general counsel, senior litigators, and senior executives, “89%[] report that a state’s litigation environment is likely to impact important business decisions at their companies, such as where to locate or to do business.”)

Georgia has made great strides in this area in recent years. *See Georgia Gov. Kemp Signs Legal Reform Bill to Protect Businesses and Consumers*, Inst. for Legal Reform (Apr. 23, 2025), <https://instituteformlegalreform.com/blog/georgia-gov-kemp-signs-legal-reform-bill-to-protect-businesses-and-consumers/> (last visited August 14, 2026). But no amount of legislative change will ever be enough to protect the economic benefits of legal stability if appellate courts allow this sort of legal uncertainty—uncertainty concerning the application of foundational principles governing common law tort and nuisance liability—to fester without precedential guidance.

J.P. Morgan Chase & Co.’s CEO, Jamie Dimon, said it best: “We need a pro-growth policy environment from the government that provides a degree of certainty around longstanding issues that have proved frustratingly elusive to solve.” Jaime Dimon, Chairman & CEO Letter to Shareholders, JPMorgan Chase & Co. (Apr. 4, 2017), <https://reports.jpmorganchase.com/investor-relations/2016/ar-ceo-letters.htm> (last visited August 14, 2026). The continued uncertainty around the negligence and nuisance claims at issue here is a fitting case-in-point—but the point goes well beyond the PFAS context. There is no reason to think

that plaintiffs’ lawyers will run out of creative ideas for engineering mass tort claims like this one any time soon. And, in the absence of precedential guidance, existing or prospective Georgia firms will continue shadowboxing against an unknown scope of potential plaintiffs to whom they owe undefined duties: a surefire way to reverse course on the growth and stability in Georgia’s manufacturing sector.

III. This case is cert worthy even at the motion to dismiss stage, and despite the Court of Appeals’s refusal to take it.

This Court has “encourage[d] trial courts” to certify orders for immediate review “when issues of immediate importance appear to be present.” *Jones v. Peach Trader Inc.*, 302 Ga. 504, 509 n.4 (2017). The trial court—despite denying Petitioners’ motion to dismiss—heeded that instruction, but the Court of Appeals refused to take the handoff. This Court’s necessary intervention should not be deterred by either aspect of this procedural posture.

This Court has historically been willing to grant certiorari from the denial of a motion to dismiss. *See, e.g., Star Residential, LLC v. Hernandez*, 311 Ga. 784, 784 (2021); *City of Atlanta v. Mitchum*, 296 Ga. 576, 576–77 (2015). For example, in *Star Residential*, the plaintiff was shot and injured by unknown assailants on the way into his apartment, and he sued the owner of the complex under the Georgia Street Gang Terrorism and Prevention Act. 311 Ga. at 784. The trial court denied the motion to dismiss, and the Court of Appeals affirmed. This Court granted

certiorari “to determine whether the Court of Appeals properly construed the civil liability provision” of an applicable statute, and reversed. *Id.* This case merits review for similar reasons—before there is any just cause for discovery, there is a preliminary question about whether the plaintiffs’ claims are viable under Georgia law. Answering this question is especially important given the prevalence of PFAS litigation, the lack of on-point precedent, and the threat that this uncertainty poses to one of Georgia’s largest industries.

Further, while not an everyday occurrence, this Court has granted certiorari at interlocutory stages in appropriate circumstances. *See Cato Oil and Grease Co. v. Lewis*, 250 Ga. 24, 25 (1982); *Evans v. Heard*, 264 Ga. 239, 239 (1994); *Hanson v. State*, 271 Ga. 145, 145 (1999).¹ If those cases qualified, then surely the PFAS problem does as well.

¹ Further, review in this posture does not implicate any jurisdictional concerns. *See Hart*, 322 Ga. at 20–21 (Pinson, J., concurring). The Constitution allows this Court to “review by certiorari cases *in* the Court of Appeals which are of gravity or great public importance.” Ga. Const. Art. VI Sec. VI, Para. V. There is no requirement that the Court of Appeals have issued a reasoned opinion on the merits—this Court has always understood a decision rendered in the case to be enough. *See, e.g., Arthur Andersen & Co. v. Wilson*, 256 Ga. 849, 849 (1987) (granting certiorari from the dismissal of an application for interlocutory appeal as improvidently granted); *Evans*, 264 Ga. 239; *Southeastern Sec. Ins. Co. v. Empire Banking Co.*, 268 Ga. 45 (1997) (jurisdictional dismissal); *Hanson*, 271 Ga. 145; *Schumacher v. City of Roswell*, 301 Ga. 635, 635 (2017); *In the Interest of K.S.*, 303 Ga. 542, 543 (2018); *Mobuary v. State*, 312 Ga. 337, 338 (2021).

For starters, if the Court of Appeals denied review in *this* case, there is no reason to expect that it will step in to provide necessary guidance in a later case. Indeed, if trial courts were reticent to grant certificates of immediate review before, why would they bother now?

Next, this lack of precedent is a compounding problem because the lack of appellate guidance incentivizes trial courts to issue unreasoned orders. After all, if a trial court issues an opinion explaining its order denying a motion to dismiss, it necessarily states the legal premises on which its ruling is based. Those premises are then subject to de novo appellate review, and they give defendants a target to shoot at—as well as a clear, ascertainable task for the Court of Appeals. By contrast, an *un*reasoned order comes with the presumption of regularity, and is protected by the “right for any reason” rule. *See, e.g., Walker v. Gowen Stores, LLC*, 322 Ga. App. 376, 377 (2013) (citing *Gillis v. American Gen. Life & Accident Ins. Co.*, 222 Ga. App. 891, 892 (1996)). That gives both the defendants *and* the appellate courts more work and harder work—and it is no doubt a much less attractive proposition for a court that is demonstrably “overworked” and “underpaid,”² with a full docket of cases it *doesn’t* have the unfettered discretion to refuse.

² Alex Anteau, *Overworked, Underpaid: Georgia Court of Appeals Judges Talk Legislative Priorities*, Daily Rep. (July 30, 2026), <https://www.law.com/dailyreportonline/2026/07/30/overworked-underpaid-georgia-court-of-appeals-judges-talk-legislative-priorities/> (last visited August 14, 2026) (title case removed).

As such, this precedential gap will most likely remain open until (1) this Court steps in or (2) some defendant resists the overwhelming pressure to settle and obtains a ruling at summary or final judgment. Defendants in these cases will undergo years of burdensome discovery and litigation—under the threat of billions of dollars in liability—without any fair notice of the rubric by which this Court will ultimately judge these cases on appeal. Perhaps, eventually, *some* cases will produce directly reviewable rulings—but every *in terrorem* settlement entered in the meantime undermines the basic purposes of common law tort liability, to say nothing of the need for stable and predictable precedent. *Cf. Cisco Systems, Inc. v. Doe I*, 609 U.S. ----, 146 S. Ct. 1882, 1892 n.2 (2026) (“While few plaintiffs have successfully litigated ATS suits to final judgment, may more have sued and obtained large settlements Shutting off the possibility of additional ATS liability thus also provides clarity to defendants.”)

The Court of Appeals’s refusal to hear this case heightens the need for this Court’s review. Granted, “it may be hard to figure out whether some bright-line rule can be fashioned in these cases (and if so, where to draw it),” but that “does not mean [the Court] should not try.” *Sanoh v. MARTA*, --- S.E.2d ----, S26C0559, slip op. at *5 (Ga. Aug. 18, 2026) (Pinson, J., dissenting from the denial of certiorari, joined by Peterson, C.J., Ellington & Land, JJ.). On behalf of the manufacturing community, the NAM respectfully urges this Court to grant the Petition for a Writ of

Certiorari.

CONCLUSION

For these reasons, this Court should grant the Petition for a Writ of Certiorari.

Respectfully submitted this 20th day of August, 2026.

This submission does not exceed the word-count limit imposed by Rule 20(5).

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