No. 15-549

IN THE
Supreme Court of the United States

DIRECT DIGITAL, LLC,
Petitioner,

v.

VINCE MULLINS,
Respondent.

On Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

BRIEF OF THE PRODUCT LIABILITY ADVISORY COUNCIL, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

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BRIEF OF THE PRODUCT LIABILITY ADVISORY COUNCIL, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONER

The Product Liability Advisory Council ("PLAC") respectfully submits this brief as *amicus curiae* in support of petitioner Direct Digital, LLC.[1]

STATEMENT OF INTEREST

PLAC is a non-profit association with over 100 corporate members representing a broad cross-section of American and international product manufacturers.[2] These companies seek to contribute to the improvement and reform of law in the United States and elsewhere, with emphasis on the law governing the liability of manufacturers of products. PLAC's perspective is derived from the experiences of a corporate membership that spans a diverse group of industries in various facets of the manufacturing sector. In addition, several hundred of the leading product-liability defense attorneys in the country are sustaining (non-voting) members of PLAC.

Since 1983, PLAC has filed more than 1,000 briefs as *amicus curiae* in both state and federal courts, including this Court, presenting the broad perspective

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[1] Pursuant to Supreme Court Rule 37.6, counsel for *amicus curiae* states that no counsel for a party authored this brief in whole or in part, and no party or counsel for a party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission. Pursuant to Supreme Court Rule 37.2, *amicus curiae* states it timely notified counsel of record of its intent to file this brief and that it obtained written consent to file from both petitioner and respondent.

[2] A list of PLAC's current corporate membership is attached to this brief as Appendix A.

of product manufacturers seeking fairness and balance in the application and development of the law as it affects product manufacturers.

PLAC's members have an interest in this case because the decision below undercuts important procedural safeguards that are central to class action practice. Ignoring that the class-action rule is a neutral procedural rule, the Court of Appeals departed from the precedents of its sister circuits and adopted a rule of ascertainability that elevates a single consideration – the purported desirability of class actions to vindicate low-dollar claims – over all competing factors. Under the Court of Appeals' framework, courts could freely certify classes despite clear indications that litigating the case to conclusion would impose great costs on parties and the judicial system and likely offer little or no relief to prevailing class members, nullifying the benefits that the class-action rule is aimed to secure. As a practical matter, defendants would face insurmountable pressure to settle class claims, even though certification of the class violated the letter and spirit of the federal class-action procedure. The resulting increase in litigation costs would be passed on to consumers and stifle business innovation. The Court should grant review and reverse because the decision below creates a stark conflict among the Circuits and contradicts the clear mandate of the federal class-action rule.

INTRODUCTION AND SUMMARY OF ARGUMENT

This case presents an opportunity for the Court to resolve a circuit split and clarify the principle of ascertainability – i.e., that class members in a class action must be readily identifiable based on objective criteria. As many federal courts have recognized, careful application of the ascertainability requirement provides a critical safeguard designed both to ensure that class actions do not devolve into individualized proceedings whose costs far outstrip any possible recovery and to protect defendants' due-process rights.

The Court of Appeals departed from this better-reasoned authority, concluding that concerns about identifying class members can be put off until the end of litigation – whatever the cost of ascertaining class membership might be. Its decision will force courts to permit all manner of suits to be certified and litigated through to the end, only then to conclude that the action never should have been certified in the first place because the task of identifying class members proves impractical.

The Court of Appeals rested its misguided approach on its paramount concern that class actions be available for vindication of low-dollar claims. But the court's justification contravenes this Court's precedents, which are clear that the class-action rule is a neutral procedural standard that does not place a thumb on the scales in favor of certification. By deferring core questions of administrability and damages disbursement until after the liability determination is concluded, the Court of Appeals' approach would yield a procedure that either violates

defendants' due-process rights or destroys the efficiencies that the class-action rule is supposed to secure.

Class actions are a procedural tool intended to allow legitimately common claims to be tried efficiently. They are not intended to subvert the fundamental premise of civil litigation – i.e., that a civil lawsuit must involve identifiable, aggrieved plaintiffs suing a defendant that allegedly wronged them. In effect, the Seventh Circuit's approach to ascertainability would turn federal courts into regulatory bodies that serve to punish and deter bad corporate behavior even if no identifiable consumer is damaged. Notably, the Seventh Circuit has admitted as much in prior cases. *See Hughes v. Kore of Indiana Enterprise*, 731 F.3d 672, 678 (7th Cir. 2013) (allowing class action to proceed even though "the amount of damages that each class member can expect to recover is probably too small to even warrant the bother, slight as it may be, of submitting a proof of claim in the class action proceeding" because "[a] class action . . . has a deterrent as well as a compensatory objective" and "the attorneys' fee that the court will award if the class prevails, will make the suit a wake-up call for [the defendant] and so have a deterrent effect on future violations"). This is a misuse of the class action process.

Not only does the Court of Appeals' approach contravene the settled purposes of the class-action rule, but it also shifts the attendant costs to American consumers. Specifically, the Court of Appeals' approach will place increasing pressure on American corporations to settle class-action lawsuits even where it is clear at the outset that there would be no practicable way to identify class members. The real

loser in this scenario would be the consumers who would bear the brunt of increased costs in the form of heightened prices and stifled innovation.

For all of these reasons, the Court should grant the petition and reverse the judgment below.

ARGUMENT

I. The Seventh Circuit's Decision Creates A Circuit Split And Frustrates The Purposes Of The Federal Class-Action Rule.

In determining whether certification of a class is proper under Federal Rule of Civil Procedure 23, courts have reached a consensus that "'an essential prerequisite . . . is that the class must be currently and readily ascertainable based on objective criteria.'" *Carrera v. Bayer Corp.*, 727 F.3d 300, 305 (3d Cir. 2013) (citation omitted); see also *Mullins v. Direct Digital, LLC*, 795 F.3d 654, 657 (7th Cir. 2015) ("We and other courts have long recognized an implicit requirement under Rule 23 that a class must be defined clearly and that membership be defined by objective criteria rather than by, for example, a class member's state of mind."). Faithful application of this "ascertainability" requirement vindicates the purposes of the federal class-action rule. In particular, it serves at least three critical objectives: (1) "it eliminates serious administrative burdens that are incongruous with the efficiencies expected in a class action by insisting on the easy identification of class members"; (2) "it protects absent class members by facilitating the best notice practicable under Rule 23(c)(2) in a Rule 23(b)(3) action"; and (3) "it protects defendants by ensuring that those persons who will be bound by the final judgment are clearly identifiable." *Carrera*, 727 F.3d at 305-06.

While courts generally agree that a class must be ascertainable to support certification and that the ascertainability requirement furthers the aims of the class-action rule, circuits have split over the precise standards that govern the inquiry. The Third Circuit has taken the lead in employing a "rigorous" ascertainability analysis at the class-certification stage. *Carrera*, 727 F.3d at 307. Under the Third Circuit's test, a plaintiff must establish ascertainability prior to certification by "demonstrat[ing that] his purported method for ascertaining class members is reliable and administratively feasible, and permits a defendant to challenge the evidence used to prove class membership." *Id.* at 308. "'Administrative feasibility,'" per the Third Circuit's standard, "'means that identifying class members is a manageable process that does not require much, if any, individual factual inquiry,'" or judicial proceedings, merely to determine class membership. *Id.* at 307-08 (citation omitted).

The Third Circuit has adopted its ascertainability standard, with a focus on administrative feasibility, to protect the "significant benefits of a class action," most prominently the conservation of resources. *Id.* And because these benefits are lost if a "class cannot be ascertained in an economical and 'administratively feasible' manner," the Third Circuit has recognized that "a trial court should ensure that class members can be identified 'without extensive and individualized fact-finding or "mini-trials" . . . at the class certification stage.'" *Id.* (citation omitted). The Third Circuit's approach to ascertainability also safeguards defendants' due-process rights "to challenge the proof used to demonstrate class membership" by "requiring that a defendant be able to test the reliability of the evidence submitted to prove class membership." *Id.*

Accordingly, the court rejected arguments that class members can be identified by way of affidavit attesting to class membership on the ground that due process demands that defendants have the right to challenge statements made in such affidavits and resolving such challenges is not administratively feasible. *Id.* at 309.

Both the Fourth and Eleventh Circuits have followed the Third Circuit's lead and adopted ascertainability requirements that emphasize administrative feasibility. See *Karhu v. Vital Pharm., Inc.*, --- F. App'x ----, 2015 WL 3560722, at *2 (11th Cir. June 9, 2015) ("In order to establish ascertainability, the plaintiff must propose an administratively feasible method by which class members can be identified."); *EQT Production Co. v. Adair*, 764 F.3d 347, 359 (4th Cir. 2014) (rejecting argument that identification of class members "affect[s] [only] the plaintiffs' entitlement to royalties, not the ascertainability of class membership" such that the identification can be accomplished "at the back-end").

The Court of Appeals in this case departed from its sister circuits and rejected the requirement that a plaintiff demonstrate an administratively feasible way to identify class members as part of the pre-certification ascertainability inquiry. See *Mullins*, 795 F.3d at 657. The underlying premise of the court's decision was the supposed importance of facilitating class treatment in "cases involving relatively low-cost goods or services, where consumers are unlikely to have documentary proof of purchase." *Id.* at 658 (noting also that "[t]hese are cases where the class device is often essential 'to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting

his or her rights.'") (citation omitted). The Court of Appeals criticized the Third Circuit for "skewing the balance that district courts must strike when deciding whether to certify classes" by "effectively bar[ring] low-value consumer class actions, at least where plaintiffs do not have documentary proof of purchases, and sometimes even when they do." *Id.* at 658, 662.

The Court of Appeals thus encouraged district courts to defer concerns about the administrative feasibility of identifying class members until "after settlement or judgment." *Id.* at 664. At that point, the court held, "if a problem is truly insoluble, the court may decertify the class." *Id.* The Seventh Circuit did recognize that defendants have a due-process right to challenge an individual's "claim to class membership and to contest the amount owed each claimant." *Id.* at 671. But it concluded that a court could safeguard those rights by allowing putative class members to submit affidavits stating that they come within the class definition and then giving defendants the right to challenge each person's claim of class membership. *Id.* at 671. The Sixth Circuit has since joined the Seventh Circuit's rejection of the plurality rule. See *Rikos v. Procter & Gamble Co.*, 799 F.3d 497, 525 (6th Cir. 2015) ("We see no reason to follow *Carrera*, particularly given the strong criticism it has attracted from other courts.").

This Court should grant the petition to correct the Seventh Circuit's flawed interpretation of the class-action rule and adopt the approach followed by the Third, Fourth, and Eleventh Circuits for several reasons.

First, the Court of Appeals plainly misapprehended this Court's precedent by announcing that class

actions must be available for the vindication of low-dollar claims. See *Mullins*, 795 F.3d at 662, 664. Because many low-dollar class actions might not satisfy the more rigorous ascertainability requirement, the court opted for a watered-down approach that abandoned the need to demonstrate administrative feasibility before certification. See *id.* at 664 ("In many cases where the heightened ascertainability requirement will be hardest to satisfy, there realistically is no other alternative to class treatment.").

But the Court of Appeals' subordination of all other considerations in order to ensure that low-dollar claims receive class treatment ignores this Court's pellucid pronouncements that the federal class-action rule is neutral and does not tip the scales in favor of (or against) class certification. As this Court has emphasized, the federal class-action rule does not "guarantee an affordable procedural path to the vindication of every claim." *Am. Express Co. v. Italian Colors Rest.*, 133 S. Ct. 2304, 2309 (2013); see also, *e.g.*, *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 470 (1978) (explaining that "policy arguments" about the "desirability of the small-claim class action" are properly addressed to the legislature, not the courts). Quite the contrary, Rule 23 "imposes stringent requirements for certification that in practice exclude most claims." *Italian Colors*, 133 S. Ct. at 2310. As such, the Seventh Circuit's reliance on its own policy judgments regarding the desirability of class treatment of low-value claims read into Rule 23 a requirement that this Court has expressly and repeatedly repudiated. See, *e.g.*, *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 622 (1997) ("Federal courts, in any case, lack authority to substitute for Rule 23's

certification criteria a standard never adopted – that if a settlement is 'fair,' then certification is proper.").

Second, the Seventh Circuit's ruling sets the stage for proceedings that will cost more to litigate than could ever be recovered. As other courts have recognized, ascertainability problems arise when class membership can only be proven by individual class member attestations because due process demands that the defendant be given the opportunity to test those statements by cross-examination and the presentation of evidence. *E.g.*, *Carrera*, 727 F.3d at 307 ("A defendant has a similar, if not the same, due process right to challenge the proof used to demonstrate class membership as it does to challenge the elements of a plaintiff's claim."). That right, in turn, makes class treatment infeasible because it would "require[] a 'series of mini-trials just to evaluate the threshold issue of which [persons] are class members.'" *Karhu*, 2015 WL 3560722, at *3 (alteration in original) (citation omitted); see also *In re Nexium Antitrust Litig.*, 777 F.3d 9, 35 (1st Cir. 2015) (Kayatta, J., dissenting) (cataloguing problems with procedure whereby defendants at damages phase challenge affidavits purportedly establishing membership in class: "[W]hat happens if tens or hundreds of thousands of Nexium purchasers file affidavits? How exactly will defendants exercise their acknowledged right to 'challenge individual damage claims at trial'? Will the defendants seek to depose everyone who has returned an affidavit, effectively challenging plaintiffs' counsel to a discovery game of chicken?"). A rigorous ascertainability requirement avoids this problem by barring certification where case-by-case identification of class members would require an ex-

pensive and cumbersome procedure, negating the benefits of classwide litigation.

On this point, too, the Seventh Circuit failed to offer a meaningful response. Despite tacitly recognizing that its approach might waste resources by forcing courts and parties to entertain unascertainable classes at the outset only to decertify them once the inevitable problem of identifying class members finally comes home to roost, the Court of Appeals commanded district judges simply to "wait and see how serious the problem may turn out to be after settlement or judgment." *Mullins*, 795 F.3d at 664. This wait-and-see approach threatens to undercut the very virtues that the class-action rule is designed to capture:

> "'The class-action device saves the resources of both the courts and the parties by permitting an issue potentially affecting every [class member] to be litigated in an economical fashion under Rule 23.' "If a class cannot be ascertained in an economical and "administratively feasible" manner, significant benefits of a class action are lost. Accordingly, a trial court should ensure that class members can be identified "without extensive and individualized fact-finding or 'mini-trials,'" a determination which must be made at the class certification stage.

Carrera, 727 F.3d at 307 (alteration in original) (citations omitted); see also *EQT Production*, 764 F.3d at 359-60. "[S]imply kick[ing] the can down the road," *Nexium*, 777 F.3d at 33 (Kayatta, J., dissenting), by

refusing to address administrative feasibility before certification, thus frustrates the efficiency and conservation-of-resources rationales that underpin the class-action rule.

Not only does the Court of Appeals' standard vitiate the objectives of the federal class-action rule, but it does not actually benefit the class members themselves. The decision below recognized that "only a tiny fraction of eligible claimants ever submit claims for compensation in consumer class actions." *Mullins*, 795 F.3d at 667. Common sense suggests that if "only a tiny fraction" of class members will fill out a simple form to submit a claim and wait to receive their check in the mail, virtually none will endure the time and expense of proving their membership in the class by attending a deposition or testifying at a damages hearing to receive only a few dollars. Moreover, because of the preclusive effect of class actions, absent class members who do not respond could be forever barred from bringing suit should an actual problem with their product emerge in the future. Thus, far from vindicating low-dollar claims to the advantage of class members who have suffered damages, the Court of Appeals' framework likely will result in class counsel as the lone victor.

Certainly, it makes no sense, as a practical matter, to invest extensive time and resources in determining class membership when only a tiny percentage of class members have any interest in participating. This is a problem with which the Seventh Circuit is quite familiar. In *Eubank v. Pella*, another Seventh Circuit case involving allegedly defective windows, only 1,276 class members (less than six percent) submitted claims for compensation despite the fact that 225,000 notices had been sent to the class. *Eu-*

bank v. Pella Corp., 753 F.3d 718, 726 (7th Cir. 2014). Needless to say, had the case been litigated to trial, the costs of litigation would have swamped class recoveries, especially if damages had been litigated on an individual basis, as the Seventh Circuit contemplated in its order approving class certification. *Pella Corp. v. Saltzman*, 606 F.3d 391, 394 (7th Cir. 2010). That math simply makes no sense.

For all these reasons, the Seventh Circuit's approach is fatally flawed and needlessly created a circuit split on this important issue. The Court should grant the petition and reverse.

II. The Rule Adopted By The Seventh Circuit Is Damaging To American Businesses And Consumers.

The Court also should grant certiorari and reverse the decision below because the Court of Appeals' loose ascertainability requirement will cause substantial harm to U.S. businesses and consumers.

As a general matter, permissive certification requirements raise the stakes of litigation and the risk of gargantuan verdicts through settlement or judgment on the merits. See, *e.g.*, Mark Moller, *The Anti-Constitutional Culture of Class Action Law*, Regulation 50, 53 (Summer 2007). This is so because certification "really often is the decisive point in a class action," following which "class actions often head straight down the settlement path because of the very high cost for everybody concerned, courts, defendants, plaintiffs of litigating a class action." Bruce Hoffman, Remarks, *Panel 7: Class Actions as an Alternative to Regulation: The Unique Challenges Presented by Multiple Enforcers and Follow-On Lawsuits*, 18 Geo. J. Legal Ethics 1311, 1329 (2005)

(panel discussion statement of Bruce Hoffman, then Deputy Director of the Federal Trade Commission's Bureau of Competition).

The pressure to settle after certification often means that businesses incur significant losses even though class claims lack merit. See, *e.g.*, Robert G. Bone, *Walking the Class Action Maze: Toward a More Functional Rule 23*, 46 U. Mich. J.L. Reform 1097, 1110 (2013) ("By making massive damages liability turn on the outcome of a single suit, the class action can increase litigation risks so dramatically that defendants might settle even frivolous or weak class actions rather than take their chances at trial."); Keith N. Hylton, *The Law and Economics of Products Liability*, 88 Notre Dame L. Rev. 2457, 2512 (2013) ("For a class action, lawyers are aware that having a large class puts settlement pressure on defendants. Even if the defendant thinks that the chance that he will be held liable is only one percent, the risk of high damages from trial becomes significant as the plaintiff class size grows.").

This Court, too, has observed that class treatment "greatly increases risks to defendants" and exerts almost irresistible pressure on them to settle even dubious claims. *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333, 334, 339 (2011) ("[W]hen damages allegedly owed to tens of thousands of potential claimants are aggregated and decided at once, the risk of an error will often become unacceptable. Faced with even a small chance of a devastating loss, defendants will be pressured into settling questionable claims."). Other courts similarly have referred to the compulsion to settle in the face of a risk of an "all-or-nothing verdict" as "judicial blackmail." *Cas-*

tano v. Am. Tobacco Co., 84 F.3d 734, 746 (5th Cir. 1996).

Given these practicalities of class-action procedure, the upshot of the Court of Appeals' approach – which will promote certification by lowering the ascertainability bar – will be to increase the pressure to settle. As such, the Seventh Circuit's wait-and-see approach to ascertainability virtually guarantees that ascertainability problems will never be addressed. After all, defendants would have to incur potentially huge losses before a court operating under the Seventh Circuit's framework actually conducts the administrative feasibility inquiry and determines that the class never should have been certified. That class actions infrequently progress past certification through trial underscores the need to make a definitive conclusion whether all of the class-action requirements – including ascertainability – are met before ruling on a motion to certify.[3]

In addition, consumers and the nation's economic wellbeing would suffer if the Court of Appeals' approach were allowed to stand. Losses incurred as a result of litigating class actions can destroy or severely damage some businesses. Matthew Grimsley, *What Effect Will Wal-Mart v. Dukes Have on Small Businesses?*, 8 Ohio St. Entrepreneurial Bus. L.J. 99, 99-100 (2013) (noting that class actions could "potentially lead" to the "demise" of small businesses and that "[m]any [businesses] believe class actions are

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[3] This is all the more true because certifying an unascertainable class also makes it extremely difficult for defendants to properly assess the risk associated with such actions or to fairly calculate the settlement value since they do not even know who or how many people are in the class.

unfair, particularly in situations in which defendants are forced to settle regardless of the claim's merits to avoid the threat of bankruptcy, should a defendant lose in court. Furthermore, even if a business litigates and wins, class actions can be extremely damaging to the business's finances and reputation."). The businesses that survive must recover the funds spent litigating and settling class actions "through higher prices for goods and services, which ultimately affect the economy as a whole." Sarah Rajski, In re Hydrogen Peroxide: *Reinforcing Rigorous Analysis for Class Action Certification*, 34 Seattle U.L. Rev. 577, 607 (2011). Thus, the Seventh Circuit's rush to save low-value claims will serve only to make it harder to deliver low-priced goods. See also Lisa Litwiller, *Why Amendments to Rule 23 Are Not Enough: A Case for the Federalization of Class Actions*, 7 Chap. L. Rev. 201, 202 (2004) ("Businesses spend millions of dollars each year to defend against the filing and even the threat of frivolous class action lawsuits. Those costs, which could otherwise be used to expand business, create jobs, and develop new products, instead are being passed on to consumers in the form of higher prices.").

CONCLUSION

For the foregoing reasons, and those stated by petitioner Direct Digital, LLC, the Court should grant the petition for a writ of certiorari.

Respectfully submitted,

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APPENDIX A

Corporate Members Of The Product Liability Advisory Council

3M
Altec, Inc.
Altria Client Services LLC
Astec Industries
Bayer Corporation
BIC Corporation
Biro Manufacturing Company, Inc.
BMW of North America, LLC
The Boeing Company
Bombardier Recreational Products, Inc.
Boston Scientific Corporation
Bridgestone Americas, Inc.
Bristol-Myers Squibb Company
C. R. Bard, Inc.
Caterpillar Inc.
CC Industries, Inc.
Celgene Corporation
Chevron Corporation
Cirrus Design Corporation
Continental Tire the Americas LLC
Cooper Tire & Rubber Company
Crane Co.
Crown Cork & Seal Company, Inc.
Crown Equipment Corporation
Daimler Trucks North America LLC
Deere & Company
Delphi Automotive Systems
Discount Tire
The Dow Chemical Company
E.I. duPont de Nemours and Company
Eisai Inc.
Emerson Electric Co.

Endo Pharmaceuticals, Inc.
Exxon Mobil Corporation
FCA US LLC
Ford Motor Company
Fresenius Kabi USA, LLC
General Electric Company
General Motors LLC
Georgia-Pacific LLC
GlaxoSmithKline
The Goodyear Tire & Rubber Company
Great Dane Limited Partnership
Harley-Davidson Motor Company
The Home Depot
Honda North America, Inc.
Hyundai Motor America
Illinois Tool Works Inc.
Isuzu North America Corporation
Jaguar Land Rover North America, LLC
Jarden Corporation
Johnson & Johnson
Kawasaki Motors Corp., U.S.A.
KBR, Inc.
Kia Motors America, Inc.
Kolcraft Enterprises, Inc.
Lincoln Electric Company
Magna International Inc.
Mazak Corporation
Mazda Motor of America, Inc.
Medtronic, Inc.
Merck & Co., Inc.
Meritor WABCO
Michelin North America, Inc.
Microsoft Corporation
Mine Safety Appliances Company
Mitsubishi Motors North America, Inc.

Mueller Water Products
Novartis Pharmaceuticals Corporation
Novo Nordisk, Inc.
NuVasive, Inc.
Pella Corporation
Pfizer Inc.
Pirelli Tire, LLC
Polaris Industries, Inc.
Porsche Cars North America, Inc.
RJ Reynolds Tobacco Company
Robert Bosch LLC
SABMiller Plc
The Sherwin-Williams Company
St. Jude Medical, Inc.
Stanley Black & Decker, Inc.
Subaru of America, Inc.
Takeda Pharmaceuticals U.S.A., Inc.
TAMKO Building Products, Inc.
TASER International, Inc.
Techtronic Industries North America, Inc.
Teleflex Incorporated
TK Holdings Inc.
Toyota Motor Sales, USA, Inc.
TRW Automotive
U-Haul International
Vermeer Manufacturing Company
The Viking Corporation
Volkswagen Group of America, Inc.
Volvo Cars of North America, Inc.
Wal-Mart Stores, Inc.
Western Digital Corporation
Whirlpool Corporation
Yamaha Motor Corporation, U.S.A.
Yokohama Tire Corporation
Zimmer, Inc.